

Proposal #5

13.2 POSSESSION OF BURGLARY TOOLS

§ 810.06, Fla.Stat.

To prove the crime of Possession of Burglary Tools, the State must prove the following three ~~four~~ elements beyond a reasonable doubt:

1. (Defendant) intended to commit a burglary or trespass.
1. ~~2.~~ (Defendant) had in [his] [her] possession a [tool] [machine] [implement]; that [he] [she] intended to use, or allow to be used, in the commission of the burglary or trespass.
2. ~~(Defendant) intended to use the tool in the commission of a burglary or trespass.~~
3. ~~(Defendant) intended to commit a burglary or trespass.~~
4. 3. (Defendant) **did some overt act toward the commission of a burglary or trespass.**

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comment

This instruction was adopted in 1981 and amended in 1989 and 1995, and 2005.