

29.1 DISORDERLY INTOXICATION

§ 856.011, Fla. Stat.

To prove the crime of Disorderly Intoxication, the State must prove the following two elements beyond a reasonable doubt:

Give a or b as applicable.

- a. 1. (Defendant) was intoxicated, and**
2. [He] [She] endangered the safety of another [person] [property].
- b. 1. (Defendant) was intoxicated or drank any alcoholic beverage in a [public place] [in or upon a public conveyance] and**
2. [He] [She] caused a public disturbance.

Definition.

“Intoxication” means more than merely being under the influence of an alcoholic beverage. Intoxication means that the defendant must have been so affected from the drinking of an alcoholic beverage as to have lost or been deprived of the normal control of either [his] [her] body or [his] [her] mental faculties, or both. Intoxication is synonymous with “drunk.”

Optional Definition.

A “public place” is any place intended or designed to be frequented or resorted to by the public.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comments

As of October 2020, the term “in a public place” has not been defined for purposes of this statute by the Florida Supreme Court or a District Court of Appeal. Similarly, neither the Florida Supreme Court nor any District Court of Appeal have determined whether cells or common areas inside of a jail or a prison are “in a public place.” The term “public place” has been interpreted to include the inside of a vehicle that is located in a public parking lot and the inside of a stall in a public restroom if freely visible from a public area. *See State v. Folks*, 723 So. 2d 369 (Fla. 4th DCA 1998) and *Ward v. State*, 636 So. 2d 68 (Fla. 5th DCA 1994). When crafting a special instruction for unique circumstances, trial judges may also want to consider § 876.11, Fla. Stat., which provides a definition of “public place” that includes all walks, alleys, streets, boulevards, avenues, lanes, roads, highways or other ways or thoroughfares dedicated to public use or owned or maintained by public authority, and all grounds and buildings owned, leased by, operated, or maintained by public authority.

This instruction was adopted in 1981 and amended on November 20, 2020.