

29.15 INTERRUPTING OR DISTURBING A [SCHOOL] [RELIGIOUS ASSEMBLY] [ASSEMBLY ACKNOWLEDGING THE DEATH OF AN INDIVIDUAL] [LAWFUL ASSEMBLY] [WITH A CREDIBLE THREAT]

§ 871.01(1), Fla. Stat.

To prove the crime of Interrupting or Disturbing a [School] [Religious Assembly] [Assembly Acknowledging the Death of an Individual] [Lawful Assembly] [With a Credible Threat], the State must prove the following element beyond a reasonable doubt:

(Defendant) **willfully and maliciously interrupted or disturbed**

Give as applicable.

- a. a school.**
- b. an assembly of people meeting for the worship of God.**
- c. an assembly of people meeting for the purpose of acknowledging the death of an individual.**
- d. an assembly of people meeting for any lawful purpose.**

“Willfully” means knowingly, intentionally, and purposely.

As of August 2023, it was unclear whether the statute requires actual malice or legal malice. In the absence of clarification from the legislature or an appellate court, trial judges must choose one of the following:

“Maliciously” means intentionally and without any lawful justification or excuse.

“Maliciously” means with ill will, hatred, spite, or an evil intent.

Give if § 871.01(1)(b), Fla. Stat. is charged.

If you find (defendant) guilty of Interrupting or Disturbing a [School] [Religious Assembly] [Assembly Acknowledging the Death of an Individual] [Lawful Assembly], you must further determine if the State proved beyond a reasonable doubt that in doing the interrupting or disturbing, the defendant made a credible threat.

§ 784.048(1), Fla. Stat.

“Credible threat” means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat, however, the State is required to prove the defendant was aware that

a reasonable person could consider the threat as a serious expression of an intent to commit an act of violence.

Lesser Included Offenses*

**INTERRUPTING OR DISTURBING A [SCHOOL] [RELIGIOUS ASSEMBLY]
[ASSEMBLY ACKNOWLEDGING THE DEATH OF AN INDIVIDUAL] [LAWFUL
ASSEMBLY] WITH A CREDIBLE THREAT – 871.01(1)(b)**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Interrupting or Disturbing a School, Assembly (no credible threat)		871.01(1)(a)	29.15
	Attempt	777.04(1)	5.1

Comments

*When the third-degree felony in § 871.01(1)(b), Fla. Stat., is charged, most judges will likely require the jurors to answer an interrogatory on the verdict form about whether the defendant made a credible threat. If so, there would be no lesser included crime of the first-degree misdemeanor in § 871.01(1)(a), Fla. Stat.

To commit an offense under § 871.01, Fla. Stat., a person must have deliberately acted to create a disturbance. That is, he must act with the intention that his behavior impedes the successful functioning of the assembly in which he has intervened, or with reckless disregard of the effect of his behavior. The acts complained of must be such that a reasonable person would expect them to be disruptive. Finally, the acts must, in fact, significantly disturb the assembly. These elements are inherent in the statute as drafted. See *S.H.B. v State*, 355 So.2d 1176, 1178 (Fla. 1978).

This instruction was adopted in 2008 [976 So. 2d 1081] and amended on September 8, 2023.