

29.5 [DISORDERLY CONDUCT] [BREACH OF THE PEACE]

§ 877.03, Fla. Stat.

To prove the crime of [Disorderly Conduct] [Breach of the Peace], the State must prove the following element beyond a reasonable doubt:

(Defendant)

Give a–d as applicable.

- a. committed an act or acts that [was] [were] of a nature that corrupted the public morals; [or]
- b. outraged the sense of public decency; [or].
- c. affected the peace and quiet of persons who witnessed the act or acts; [or]
- d. engaged in [brawling or fighting].

Lesser Included Offense

[DISORDERLY CONDUCT] [BREACH OF THE PEACE] — § 877.03

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

The statute often raises constitutional concerns. When a defendant claims that his or her conduct constituted protected speech, a special instruction will likely be necessary to ensure the jury does not convict a person for exercising a constitutional right. *See Chandler v. State*, 744 So. 2d 1058 (Fla. 4th DCA 1999).

A defendant who does not initiate a fight and acts to protect himself from the attacker may assert self-defense to the charge of Disorderly Conduct. *S.D.G. v. State*, 919 So. 2d 704, 705 (Fla. 5th DCA 2006).

This instruction was adopted in 2018.