

8.18 VIOLATION OF AN INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE

§ 741.31(4)(a), Fla. Stat.

To prove the crime of Violation of an Injunction for Protection Against Domestic Violence, the State must prove the following two elements beyond a reasonable doubt:

1. A temporary or final injunction for protection against domestic violence was issued by a court against (defendant) for the benefit of (victim).
2. (Defendant) willfully violated the injunction by (alleged violation* of section 741.31(4)(a)).

“Willfully” means knowingly, intentionally, and purposely.

If the allegation involves the defendant committing an act of domestic violence, define “domestic violence” from § 741.28(2), Fla. Stat.

Give if applicable if the jury finds the defendant guilty of Violation of Domestic Violence Injunction. § 741.31(4)(c), Fla. Stat.

Now that you have found the defendant guilty of Violation of Domestic Violence Injunction, you must further determine whether the State has proven beyond a reasonable doubt that the defendant was previously convicted two times or more of Violation of an Injunction against the same person.

“Conviction” means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

Lesser Included Offense

VIOLATION OF DOMESTIC VIOLENCE INJUNCTION – 741.31

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

Comments

*If more than one method of violating the injunction is alleged, the courts will likely require a unanimous verdict for each alternative. *Jacobs v. State*, 272 So. 3d 838 (Fla. 2d DCA 2019).

This instruction can be used for the Violation of a Domestic Violence Injunction based on prior convictions. For Felony Violation of a Domestic Violence Injunction based on prior convictions, it is error to inform the jury of prior Violation of Injunction convictions until the verdict on the underlying Violation of a Domestic Violence Injunction is rendered. Therefore, if the information or indictment contains an allegation of prior Violation of Injunction convictions, do not read that allegation and do not send the information or indictment into the jury room. If the defendant is found guilty of Violation of a Domestic Violence Injunction, the historical fact of prior convictions shall be determined separately by the jury in a

bifurcated proceeding. *See State v. Harbaugh*, 754 So. 2d 691 (Fla. 2000).

This instruction was adopted in 2007 [965 So. 2d 811] and amended in 2016 [206 So. 3d 14], and on June 6, 2022.