

**8.24 VIOLATION OF AN INJUNCTION FOR PROTECTION AGAINST [STALKING]
[CYBERSTALKING]
§ 784.0487(4), Fla. Stat.**

To prove the crime of Violation of an Injunction for Protection Against [Stalking] [Cyberstalking], the State must prove the following two elements beyond a reasonable doubt:

1. An injunction for protection against [stalking] [cyberstalking] was issued by a court against (defendant) for the benefit of (victim).
2. (Defendant) willfully violated the injunction by:

*Give as alleged.**

- a. going to, or being within 500 feet of, (victim's) residence, school, place of employment, or a specified place frequented regularly by (victim) and any named family members or individuals closely associated with (victim).
- b. committing an act of stalking against (victim).
- c. committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to (victim).
- d. telephoning, contacting, or otherwise communicating with (victim), directly or indirectly, unless the injunction specifically allows indirect contact through a third party.
- e. knowingly and intentionally coming within 100 feet of (victim's) motor vehicle, whether or not that vehicle is occupied.
- f. destroying (victim's) personal property, including (victim's) motor vehicle.
- g. refusing to surrender firearms or ammunition if ordered to do so by the court.

“Willfully” means knowingly, intentionally, and purposely.

If the allegation involves the defendant committing an act of stalking against victim, give the elements of stalking from Instruction 8.6.

Give if applicable if the jury finds the defendant guilty of Violation of Domestic Violence Injunction. § 784.0487(4)(b), Fla. Stat.

Now that you have found the defendant guilty of Violation of an Injunction for Protection Against [Stalking] [Cyberstalking], 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 INJUNCTION FOR PROTECTION AGAINST [STALKING]
[CYBERSTALKING] – 784.0487(4)**

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

Comments

*The courts require a unanimous verdict for each alternative way to violate an injunction for protection against stalking or cyberstalking. *See Jacobs v. State*, 272 So. 3d 838 (Fla. 2d DCA 2019).

This instruction can be used for Violation of an Injunction for Protection Against [Stalking] [Cyberstalking] based on prior convictions. For Felony Violation of an Injunction for Protection Against [Stalking] [Cyberstalking] 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 an Injunction for Protection Against [Stalking] [Cyberstalking] 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 an Injunction for Protection Against [Stalking] [Cyberstalking], 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 2013 [131 So. 3d 755] and amended in 2016 [206 So. 3d 14], and on June 6, 2022.