

8.5(a) DOMESTIC BATTERY BY STRANGULATION

§ 784.041(2)(a), Fla. Stat.

To prove the crime of Domestic Battery by Strangulation, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **knowingly and intentionally impeded the normal [breathing] [or] [circulation of the blood] of (victim), against [his] [her] will, [by applying pressure on the throat or neck of (victim)] [or] [by blocking the nose or mouth of (victim)].**
2. **In so doing, (Defendant) [created a risk of great bodily harm] [or] [caused great bodily harm] to (victim).**
3. (Defendant) **was [a family or household member of (victim)] [or] [in a dating relationship with (victim)].**

Give as applicable.

“Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

“Dating relationship” means a continuing and significant relationship of a romantic or intimate nature.

Wheeler v. State, 203 So. 3d 1007 (Fla. 4th DCA 2016).

“Great bodily harm” means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

Lesser Included Offenses

DOMESTIC BATTERY BY STRANGULATION – 784.041(2)(a)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Battery by Strangulation		784.031	8.5(b)
Battery		784.03	8.3
	<u>Attempt</u>	<u>777.04(1)</u>	<u>5.1</u>

Comment

This instruction was adopted in 2008 [994 So. 2d 1038] and amended in 2019 [267 So. 3d 980], and on March 8, 2024.