

8.6 STALKING

§ 784.048(2), Fla. Stat.

To prove the crime of Stalking, the State must prove the following element beyond a reasonable doubt:

(Defendant) **willfully, maliciously, and repeatedly [followed] [harassed] [or] [cyberstalked]** (victim).

Patterson v. State, 512 So. 2d 1109 (Fla. 1st DCA 1987).

“Willfully” means knowingly, intentionally, and purposely.

Seese v. State, 955 So. 2d 1145 (Fla. 4th DCA 2007).

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

Give if applicable.

§ 784.048, Fla. Stat.; *Pallas v. State*, 636 So. 2d 1358 (Fla. 3d DCA 1994).

“Harass” means to engage in a course of conduct directed at (victim), **that**

- 1. served no legitimate purpose;**
- 2. would cause substantial emotional distress to a reasonable person;**
and
- 3. did cause substantial emotional distress to** (victim).

“Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose.

“Cyberstalk” means [to engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person,] [or] [to access or attempt to access the online accounts or Internet-connected home electronic systems of another person without that person’s permission,] serving no legitimate purpose, causing substantial emotional distress to that person, and that would cause substantial emotional distress to a reasonable person.

Lesser Included Offense

STALKING — 784.048(2)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Harassment based on Religious or Ethnic Heritage	784.0493	8.32
	Attempt	777.04(1)	5.1

Comments

A special instruction will be necessary if the defendant claims that his or her behavior was protected by the First Amendment.

This instruction was approved in 1995 [657 So. 2d 1152] and amended in 2007 [953 So. 2d 495], 2013 [131 So. 3d 755], 2020 [288 So. 3d 530], and on December 15, 2021, and on March 8, 2024.