

8.7(a) AGGRAVATED STALKING

§ 784.048(3), Fla. Stat.

To prove the crime of Aggravated Stalking, the State must prove the following two elements beyond a reasonable doubt:

- 1. (Defendant) willfully, maliciously, and repeatedly [followed] [harassed] [or] [cyberstalked] (victim); and**
- 2. (Defendant) made a credible threat to (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.

Give in all cases. § 784.048(1)(c), Fla. Stat.

“Credible threat” means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm.

It is not necessary for the State to prove that the person making the threat had the actual intent to carry out the threat; however, the State is required to prove beyond a reasonable doubt that the defendant was aware that a reasonable person who heard or saw the threat could regard it as a serious expression of an intent to commit an act of violence.

Give if applicable.

The present incarceration of the person making the threat is not a bar to prosecution.

Lesser Included Offenses

AGGRAVATED STALKING — 784.048(3)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Stalking		784.048(2)	8.6
	Attempt	777.04(1)	5.1
	Assault	784.011	8.1
	Improper exhibition of dangerous weapon	790.10	10.5
	Harassment based on religious or ethnic heritage	784.0493	8.32

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], on December 15, 2021, and on March 8, 2024.