

29.13 AGGRAVATED ANIMAL CRUELTY

§ 828.12(2), Fla. Stat.

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

1. (Defendant) [intentionally committed an act to an animal] [or] [owned or had custody or control of an animal and failed to act].
2. (Defendant's) [act] [or] [failure to act] resulted in [excessive or repeated infliction of unnecessary pain or suffering to the animal] [or] [the animal's cruel death].

Florida law defines an “animal” as every living dumb creature.

Give if applicable. Enhancement. § 828.12(2)(a), Fla. Stat.

If you find (defendant) **guilty of Aggravated Animal Cruelty**, you must then determine whether the State proved beyond a reasonable doubt that [he] [she] knowingly and intentionally tortured or tormented an animal, and in so doing, [injured] [mutilated] [killed] the animal.

Give if applicable. Scoresheet multiplier in § 921.0024, Fla. Stat., if Aggravated Animal Cruelty is the primary offense.

If you find (defendant) **guilty of Aggravated Animal Cruelty**, you must then determine whether the State proved beyond a reasonable doubt that [he] [she] knowingly and intentionally tortured or tormented an animal, and in so doing, [injured] [mutilated] [killed] the animal. For purposes of this finding only, the animal cannot be either an animal used for agricultural purposes or captive wildlife for which someone was allowed to possess pursuant to a permit issued by the Florida Fish and Wildlife Conservation Commission.

Definition of “cruelty”, if cruel death charged. § 828.02, Fla. Stat. Read definition for “Torture” or “Torment” only when State seeks sentencing enhancements pursuant to § 828.12(2)(a), Fla. Stat. or the scoresheet multiplier.

“Cruelty” [“Torture”] [“Torment”] includes any act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue when there is reasonable remedy or relief, except when done in the interest of medical science.

Lesser Included Offense

AGGRAVATED ANIMAL CRUELTY — 828.12(2)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Animal Cruelty	828.12(1)	29.13(a)
	Attempt	777.04(1)	5.1

Comments

§ 828.12(2)(b), Fla. Stat., contains increased penalties, including a mandatory minimum 6 month sentence, for a second or subsequent violation of Aggravated Animal Cruelty. As of August 2025, the courts had not determined whether this provision requires a jury finding regarding the existence of a prior violation or whether the state may prove the existence of a prior violation to the judge under the preponderance of the evidence standard because it is based on recidivism.

§ 828.12(3) Fla. Stat. A person who commits multiple acts of Aggravated Animal Cruelty against an animal may be convicted of multiple counts of Aggravated Animal Cruelty. Also, a person who commits Aggravated Animal Cruelty against more than one animal may be convicted of multiple counts of Aggravated Animal Cruelty.

This instruction was adopted in 2008 [976 So. 2d 1081] and amended in 2014 [143 So. 3d 893], and on September 12, 2025.