

8.22(a) THREAT TO [KILL] [DO SERIOUS BODILY HARM TO] A [PUBLIC OFFICIAL] [FAMILY MEMBER OF A PUBLIC OFFICIAL]

§ 836.12(2), Fla. Stat.

To prove the crime of Threat to [Kill] [Do Serious Bodily Harm to] a [Public Official] [Family Member of a Public Official], the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **knowingly and willfully threatened to [kill] [do serious bodily harm to]** (person receiving threat).
2. **At the time**, (person receiving threat) **was a[n] [family member of a[n]] [law enforcement officer] [state attorney] [assistant state attorney] [firefighter] [judge] [justice] [judicial assistant] [a clerk of court or clerk personnel] [elected official] [general magistrate] [special magistrate] [child support enforcement hearing officer] [administrative assistant].**
3. **At the time**, (defendant) **knew** (person receiving threat) **was a[n] [family member of a[n]] [law enforcement officer] [state attorney] [assistant state attorney] [firefighter] [judge] [justice] [judicial assistant] [a clerk of court or clerk personnel] [elected official] [general magistrate] [special magistrate] [child support enforcement hearing officer] [administrative assistant].**

“Willfully” means intentionally and purposely.

Virginia v. Black, 538 U.S. 343 (2003); *Romero v. State*, 314 So. 3d 699 (Fla. 3d DCA 2021).

“Threatened” means to communicate, by word or act, a serious expression of an intent to commit an act of violence to a particular individual.

It is not necessary for the State to prove that (defendant) **intended to actually commit the threatened act of violence.**

Give as applicable.

“Family member” means:

1. **An individual related to another individual by blood or marriage; or**
2. **An individual who stands in loco parentis to another individual. “In loco parentis” means in place of a parent.**

“Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

Definitions for part-time and auxiliary law enforcement officers can be found in § 943.10, Fla. Stat.

“Law enforcement officer” includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

Federal law enforcement officer.

“Law enforcement officer” includes a person who is employed by the Federal Government as a full-time law enforcement officer as defined by federal law, who is empowered to effect an arrest for violations of the United States Code, who is authorized to carry firearms in the performance of her or his duties, and who has received law enforcement training equivalent to that prescribed for state law enforcement officers.

“Administrative assistant” means a court employee assigned to the office of a specific general magistrate, special magistrate, or child support enforcement hearing officer.

“Judicial assistant” means a court employee assigned to the office of a specific judge or justice responsible for providing administrative, secretarial, and clerical support to the assigned judge or justice.

“Firefighter” means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal under Florida law.

§ 836.12, Fla. Stat. The section below can be used if a prior violation is not treated as a recidivist fact that can be proven to a judge at sentencing. If the prior violation is an element of the felony crime, it is error to inform the jury of the prior violation until the verdict on the underlying crime is rendered. Therefore, if the information or indictment contains an allegation of a prior violation, that allegation must not be read to the jury before the verdict and the information or indictment must not be given to the jurors before the verdict. If the defendant is found guilty, the historical fact of a prior violation shall be determined separately by the jury in a bifurcated proceeding. See State v. Harbaugh, 754 So. 2d 691 (Fla. 2000).

Now that you have found the defendant guilty of Threat to [Kill] [Do Serious Bodily Harm to] a [Public Official] [Family Member of a Public Official], you must further determine whether the State has proven beyond a reasonable doubt that the defendant was previously convicted of the same crime.

“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 Offenses

THREAT TO [KILL] [DO SERIOUS BODILY HARM TO] A [PUBLIC OFFICIAL] [FAMILY MEMBER OF A PUBLIC OFFICIAL] — 836.12(2)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Assault on a law enforcement officer	784.07(2)(a)	8.10
	Assault	784.011	8.1
	Attempt	777.04(1)	5.1

Comments

As of February 2026, it is unclear whether the courts will require the state to prove either that the victim felt threatened or that a reasonable person in victim's position would have felt threatened.

This instruction was adopted in 2017 [217 So. 3d 965] and amended on April 5, 2021, on January 7, 2022, on December 15, 2023, and on March 20, 2026.