

6.6 ATTEMPTED MANSLAUGHTER BY ACT

§§ 782.07 and 777.04, Fla. Stat.

To prove the crime of Attempted Manslaughter by Act, the State must prove the following two elements beyond a reasonable doubt:

(Defendant) **intentionally committed an overt act that could have resulted in the death of (victim) but did not result in (victim's) death.**

The overt act went beyond mere preparation.

Berger v. State, 259 So. 3d 933 (Fla. 5th DCA 2018); State v. Coker, 452 So. 2d 1135 (Fla. 2d DCA 1984).

The line between mere preparation and an overt act is a question of fact for you to decide. Mere preparation consists of devising or arranging the means or measures necessary to commit the crime. An overt act consists of some movement toward committing the crime after mere preparation. An overt act need not be the last possible act toward completing the crime.

However, the defendant cannot be guilty of Attempted Manslaughter by Act by committing a merely negligent act. Every person has a duty to act reasonably and use ordinary care toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence.

The explanations of justifiable attempted homicide and excusable attempted homicide are in Instruction 6.1, Introduction to Attempted Homicide.

To convict of Attempted Manslaughter by Act, it is not necessary for the State to prove the defendant had an intent to cause death, only an intent to commit an overt act that could have caused death and was not justifiable or excusable attempted homicide, as I have previously instructed you].

Lesser Included Offenses

ATTEMPTED MANSLAUGHTER BY ACT—782.07 AND 777.04

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Attempted aggravated battery (intentionally cause great bodily harm)		784.045(1)(a)1 and 777.04	8.4 and 5.1
Attempted battery (intentionally cause bodily harm)		784.03(1)(a)2 and 777.04	8.3 and 5.1

	Felony battery	784.041	8.5
	Battery	784.03	8.3
	Assault	784.011	8.1

Comments

In the event of any reinstruction on Attempted Manslaughter by Act, the instructions on justifiable and excusable attempted homicide as previously given should be given at the same time. *Hedges v. State*, 172 So. 2d 824 (Fla. 1965).

There is no crime of Attempted Manslaughter by Culpable Negligence. See *Taylor v. State*, 444 So. 2d 931 (Fla. 1983).

See Instruction 5.1 for the affirmative defense of renunciation.

This instruction was adopted in 1994 [636 So. 2d 502] and amended in 2014 [132 So. 3d 1124], 2017 [213 So. 3d 680], 2018 [236 So. 3d 282], on December 15, 2023, and on June 12, 2026.