

### 8.13 AGGRAVATED BATTERY ON LAW ENFORCEMENT OFFICER, FIREFIGHTER, ETC.

§ 784.07(2)(d), Fla. Stat.

To prove the crime of Aggravated Battery on a [Law Enforcement Officer] [Firefighter] [Emergency Medical Care Provider] [Traffic Accident Investigation Officer] [Traffic Infraction Enforcement Officer] [Parking Enforcement Specialist] [Security Officer Employed by the Board of Trustees of a Community College] [Law Enforcement Explorer] [Non-sworn Law Enforcement Agency Employee Certified as an Agency Inspector] [Blood Alcohol Analyst] [Breath Test Operator] [Railroad Special Officer] [Licensed Security Officer], the State must prove the following five elements beyond a reasonable doubt. The first element is a definition of battery.

1. (Defendant)

[intentionally touched or struck (victim) against [his] [her] will].  
[intentionally caused bodily harm to (victim)].

*Give 2a and/or 2b as applicable.*

2. (Defendant), in committing the battery,

a. intentionally or knowingly caused

[great bodily harm to (victim)].  
[permanent disability to (victim)].  
[permanent disfigurement to (victim)].

b. used a deadly weapon.

3. (Victim) was a [law enforcement officer] [firefighter] [emergency medical care provider] [traffic accident investigation officer] [traffic infraction enforcement officer] [parking enforcement specialist] [security officer employed by the board of trustees of a community college] [law enforcement explorer] [non-sworn law enforcement agency employee who was certified as an agency inspector] [blood alcohol analyst] [breath test operator while such employee was in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who was detained or under arrest for DUI] [licensed security officer who wore a uniform that bore at least one patch or emblem that was visible at all times that clearly identified the employing agency and that clearly identified the person as a licensed security officer] [railroad special officer].

4. (Defendant) knew (victim) was a [law enforcement officer] [firefighter] [emergency medical care provider] [traffic accident investigation officer] [traffic infraction enforcement officer] [parking enforcement specialist] [security officer employed by the board of trustees of a community college] [law enforcement explorer] [non-sworn law enforcement agency employee who was certified as an agency inspector] [blood alcohol analyst] [breath test operator] [railroad special officer] [licensed security officer].

5. (Victim) was engaged in the lawful performance of [his] [her] duties when

**the battery was committed against [him] [her].**

*For cases where the alleged victim is a law enforcement officer, do not refer to the victim by name when instructing on the sentence below. Instead, the instruction must state the class of officers to which the victim belongs, e.g., deputy sheriff, probation officer, correctional officer. See Wright v. State, 586 So. 2d 1024 (Fla. 1991).*

**The court now instructs you that a (name of official position of victim designated in charge) is a law enforcement officer.**

*For cases involving other types of victims, insert definitions from § 784.07(1)(a), Fla. Stat., as appropriate.*

*Give if element 2b alleged.*

**A weapon is a “deadly weapon” if it is used or threatened to be used in a way likely to produce death or great bodily harm.**

#### **Lesser Included Offenses**

<b>AGGRAVATED BATTERY ON LAW ENFORCEMENT OFFICER, FIREFIGHTER, ETC. — 784.07(2)(d)</b>			
<b>CATEGORY ONE</b>	<b>CATEGORY TWO</b>	<b>FLA. STAT</b>	<b>INS. NO.</b>
Aggravated battery		784.045	8.4
Felony battery*		784.041	8.5
Battery on a law enforcement officer		784.07(2)(b)	8.11
Battery		784.03	8.3
	Attempt	777.04(1)	5.1

#### **Comments**

\*The lesser included offense of Felony Battery is only applicable if element 2a is charged and proved.

See *Spurgeon v. State*, 114 So. 3d 1042 (Fla. 5th DCA 2013)(holding that a conviction for a violation of § 784.07(2), Florida Statutes, had to be vacated because the statute does not include physicians, employees, agents, or volunteers of facilities that do not satisfy the definition of a hospital under chapter 395).

This instruction was adopted in 1992 [603 So. 2d 1175] and was amended in 1995 [657 So. 2d 1152], 2007 [962 So. 2d 310], 2008 [994 So. 2d 1038], and 2015.