

8.16 BATTERY ON PERSON 65 YEARS OF AGE OR OLDER

§ 784.08(2)(c), Fla. Stat.

To prove the crime of Battery on a Person 65 Years of Age or Older, the State must prove the following two elements beyond a reasonable doubt:

Give 1a and/or 1b depending on the charging document.

1. (Defendant)

a. actually and intentionally touched or struck (victim) against [his] [her] will.

b. intentionally caused bodily harm to (victim).

2. (Victim) was at the time 65 years of age or older.

§ 784.08(2), Fla. Stat.

It is not necessary for the State to prove that (defendant) knew or had reason to know the age of (victim).

Give only if applicable. Fey v. State, 125 So. 3d 828 (Fla. 4th DCA 2013).

An intentional touching or striking includes situations where a defendant knows that a touch or strike is substantially certain to result from his or her act.

Give only if applicable. Clark v. State, 783 So. 2d 967 (Fla. 2001).

A battery may be found as a result of the intentional touching or intentional striking of something other than the actual body of the person. However, the object that is touched or struck must have such an intimate connection with the person that it is to be regarded as a part or as an extension of the person. [For example, in cases where a person intentionally drove into another occupied vehicle, it is for you to determine whether the vehicle that was struck should be considered as a part or as an extension of the person inside that vehicle. This determination may include consideration about whether the person was “touched” through the force of impact by being jostled or otherwise impacted through the transfer of energy from the collision.]

Lesser Included Offenses

| BATTERY ON PERSON 65 YEARS OF AGE OR OLDER — 784.08(2)(c) | | | |
|---|--------------|------------|----------|
| CATEGORY ONE | CATEGORY TWO | FLA. STAT. | INS. NO. |
| Battery | | 784.03 | 8.3 |
| | Attempt | 777.04(1) | 5.1 |

Comment

This instruction was adopted in 1997 [697 So. 2d 84] and amended in 2018.