

8.22 WRITTEN THREAT TO [KILL] [DO BODILY INJURY]

§ 836.10, Fla. Stat.

To prove the crime of Written Threat to [Kill] [Do Bodily Injury], the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) [wrote] [composed] a[n] [letter] [electronic communication] [inscribed communication].
2. The [letter] [electronic communication] [inscribed communication] contained a threat to [kill] [do bodily injury to] [(victim)] [any member of (victim's) family].
3. (Defendant) [sent] [procured the sending of] that [letter] [electronic communication] [inscribed communication] to (victim).

Give if applicable.

It is not necessary for the State to prove that the [letter] [electronic communication] [inscribed communication] had been signed.

Definitions. Give if applicable.

An “inscribed communication” is a communication that is written or printed.

To “procure” means to persuade, induce, prevail upon, or cause a person to do something.

Lesser Included Offenses

WRITTEN THREAT TO KILL OR DO BODILY INJURY – 836.10			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1
	Assault	784.011	8.1

Comments

It is not necessary for the State to prove the defendant had the actual intent to do harm or the ability to carry out the threat. *Saidi v. State*, 845 So. 2d 1022 (Fla. 5th DCA 2003).

The name of (victim) in elements 2 and 3 must be the same person.

There is no statutory definition for the term “electronic communication.” In the absence of case law, trial judges will have to fashion their own definition, perhaps by looking at Fla. Stat. 934.02(12) and Fla. Stat. 668.602(7). The definition for inscribed communication comes from the dictionary definition of the word inscribed. The definition of procure comes from the manslaughter standard instruction.

This instruction was adopted in 2013.