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## FLORIDA SEXUAL BATTERY/RAPE LAWS



### ACCORDING TO FLORIDA LAW:

- Sexual Battery/Rape is the: “Oral, anal or vaginal penetration by, or union with a sexual organ of another or anal/vaginal penetration of another by any other object.”
- The sexual act(s) is/are performed without the victim’s consent.
- An individual who is mentally incapacitated, asleep, physically helpless or unconscious due to alcohol or other drug consumption is considered unable to give consent.
- The same definition applies regardless of whether the assailant is a stranger or a non-stranger.
- The type of force employed may involve physical violence, coercion or threat of harm to the victim. The victim is not required to physically fight back.

### DEFINITIONS

- **“Consent”** means intelligent, knowing, and voluntary consent and does not include coerced submission or submission out of fear. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.
- **“Mentally incapacitated”** means temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance.
- **“Physically helpless”** means unconscious, asleep, or for any other reason physically unable to communicate consent or lack of consent.
- **“Physically incapacitated”** means bodily impaired or handicapped and substantially limited in ability to resist or flee.



*Florida Sexual Battery Statutes: [www.leg.state.fl.us/Statutes](http://www.leg.state.fl.us/Statutes) (Chapter 794).*



# Victim Advocacy and Violence Prevention

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## ADDITIONAL FLORIDA STATUTES



### DOMESTIC VIOLENCE

741.28 Domestic violence; definitions:

- (2) **“Domestic violence”** means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.
- (3) **“Family or household member”** means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

### STALKING

784.048 Stalking; definitions:

- (2) A person who **willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person** commits the offense of stalking, a misdemeanor.
- (3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree.
- (1) As used in this section, the term:
  - (a) **“Harass”** means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
  - (b) **“Course of conduct”** means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose.
  - (c) **“Credible threat”** means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm.
  - (d) **“Cyberstalk”** means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

### DATING VIOLENCE (not a crime, but is defined because victims can petition for protective injunction)

784.046 Action by victim of **dating violence for protective injunction**:

- 1) As used in this section, the term:
  - (d) **“Dating violence”** means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:
    - 1. A dating relationship must have existed within the past 6 months;
    - 2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
    - 3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.