

Florida Jury Instructions

6.2 ATTEMPTED MURDER — FIRST DEGREE (PREMEDITATED)

§§ 782.04(1)(a) and 777.04, Fla.Stat.

To prove the crime of Attempted First Degree Premeditated Murder, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **did some act intended to cause the death of (victim) that went beyond just thinking or talking about it.**
2. (Defendant) **acted with a premeditated design to kill (victim).**
3. **The act would have resulted in the death of (victim) except that someone prevented (defendant) from killing (victim) or [he] [she] failed to do so.**

Definition

A premeditated design to kill means that there was a conscious decision to kill. The decision must be present in the mind at the time the act was committed. The law does not fix the exact period of time that must pass between the formation of the premeditated intent to kill and the act. The period of time must be long enough to allow reflection by the defendant. The premeditated intent to kill must be formed before the act was committed.

The question of premeditation is a question of fact to be determined by you from the evidence. It will be sufficient proof of premeditation if the circumstances of the attempted killing and the conduct of the accused convince you beyond a reasonable doubt of the existence of premeditation at the time of the attempted killing.

It is not an attempt to commit first degree premeditated murder if the defendant abandoned the attempt to commit the offense or otherwise prevented its commission under circumstances indicating a complete and voluntary renunciation of [his] [her] criminal purpose.

Category One Lessers for Attempted First Degree

Attempt second degree (depraved mind) murder
Attempt voluntary manslaughter

6.4 ATTEMPTED SECOND DEGREE MURDER

§§ 782.04(2) and 777.04, Fla.Stat.

To prove the crime of Attempted Second Degree Murder, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant) **intentionally committed an act which would have resulted in the death of (victim) except that someone prevented (defendant) from killing (victim) or [he] [she] failed to do so.**

2. The act was imminently dangerous to another and demonstrating a depraved mind without regard for human life.

Definitions

An "act" includes a series of related actions arising from and performed pursuant to a single design or purpose.

An act is "imminently dangerous to another and demonstrating a depraved mind" if it is an act or series of acts that:

1. a person of ordinary judgment would know is reasonably certain to kill or do serious bodily injury to another, and
2. is done from ill will, hatred, spite, or an evil intent, and
3. is of such a nature that the act itself indicates an indifference to human life.

In order to convict of Attempted Second Degree Murder, it is not necessary for the State to prove the defendant had an intent to cause death.

It is not an attempt to commit second degree murder if the defendant abandoned the attempt to commit the offense or otherwise prevented its commission under circumstances indicating a complete and voluntary renunciation of [his] [her] criminal purpose.

(No Category One Lessers)

6.6 ATTEMPTED VOLUNTARY MANSLAUGHTER

§§ 782.07 and 777.04, Fla. Stat.

To prove the crime of Attempted Voluntary Manslaughter, the State must prove the following element beyond a reasonable doubt:

(Defendant) intentionally committed an act [or procured the commission of an act], which would have resulted in the death of (victim) except that someone prevented (defendant) from killing (victim) or [he] [she] failed to do so.

However, the defendant cannot be guilty of Attempted Voluntary Manslaughter by committing a merely negligent act or if the attempted killing was either excusable or justifiable as I have previously explained those terms.

I will now define "negligence" for you. Each of us 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.

It is not an attempt to commit manslaughter if the defendant abandoned the attempt to commit the offense or otherwise prevented its commission under circumstances indicating a complete and voluntary renunciation of [his] [her] criminal purpose.

Give only if procurement is alleged and proven.

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

In order to convict of Attempted Voluntary Manslaughter it is not necessary for the State to prove that the defendant had an intent to cause death, only an intent to commit an act which would have caused death and was not justifiable or excusable attempted homicide.