

**8.33 BATTERY BY [THROWING] [TOSSING] [PROJECTING] [EXPELLING]
[BLOOD] [SEMINAL FLUID] [URINE] [OR] [FECES] ON A CHILD**

§ 784.085, Fla. Stat.

To prove the crime of Battery by [Throwing] [Tossing] [Projecting] [Expelling] [Blood] [Seminal Fluid] [Urine] [or] [Feces] on a Child, the State must prove the following three elements beyond a reasonable doubt:

1. (Defendant) **[knowingly caused] [or] [attempted to cause]** (victim) **to come into contact with [blood] [seminal fluid] [urine] [or] [feces].**
2. (Defendant) **did so by [throwing] [tossing] [projecting] [or] [expelling] such [fluid] [or] [material[s]].**
3. **At the time, (victim) was under 18 years of age.**

Lesser Included Offenses

**BATTERY BY [THROWING] [TOSSING] [PROJECTING] [EXPELLING] [BLOOD]
[SEMINAL FLUID] [URINE] [OR] [FECES] ON A CHILD — 784.085**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Battery	784.03	8.3
	Attempted Battery	777.04, 784.03	5.1, 8.3
	Assault	784.011	8.1
	Attempted Assault	777.04, 784.011	5.1, 8.1

Comments

Because the statute contains an exception clause for the defendant's age, the Committee on Standard Jury Instructions in Criminal Cases concluded it is likely the courts will determine that § 784.085(1), Fla. Stat. creates an affirmative defense, not an element, that the defendant was under the age of 18.

This instruction was adopted on May 21, 2024.