

Think Twice Before Pointing a Gun at Someone in Florida

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/EINPresswire.com/ -- If one [points a gun at someone in Florida](#), they can be imprisoned and fined. If undocumented or on a visitor visa and convicted, they will be deported. It doesn't matter whether the gun that was pointed is loaded or not; it's still aggravated assault.

In Florida, what is aggravated assault?

In Florida, assault is defined as "an intentional, unlawful threat to do violence to another person by way of word or act, coupled with an apparent ability to do so, and committing some act that creates a well-founded fear of such violence is imminent."

Battery and assault are separate offenses. Battery involves touching, striking, or otherwise causing physical harm, while assault refers only to the threat of harm.

An assault with a firearm is considered aggravated assault, which is more serious than a simple assault. Florida Statute 784.021 defines aggravated assault as "an assault using a deadly weapon without an intent to kill or commit a felony."

If convicted of a basic assault, it is a second-degree misdemeanor. If the assault involves a deadly weapon such as a gun, the offense is elevated to a third-degree felony. One could face up to five years in prison, probation for five years, and/or a fine of \$5,000.

According to statutory law, courts are required to impose minimum prison sentences for many violent crimes. Aggravated assault used to be punishable by a three-year minimum prison sentence. However, when CS/SB 228 became law in 2016, the legislature changed this policy, removing aggravated assault from the list of convictions that carry a minimum prison sentence.

Florida aggravated assault defenses: what are they?



Michael Kelley, Esq.

There are a number of factors that contribute to aggravated assault charges, including accidental, unintentional, and misrepresentation. Oftentimes, people charged with aggravated assault have very valid reasons for drawing their weapon, which they may be able to use in court as a defense.

If a gun was drawn on someone as an act of self-defense, we could present evidence in court to support that claim. To prove self-defense, we must prove the following:

- If the defendant or someone else was in immediate danger of serious injury or death;
- It seemed that the only way to avoid the attack was to use force; and
- There was no excessive use of force (only a threat of force was used).

We can also use the following defenses to defeat charges of aggravated assault:

- If wrongly accused; for example, the alleged victim lied or mistook the defendant for someone else.
- A gun was not pointed at anyone; for example, the object the defendant was holding wasn't a gun, the defendant was holding a gun but wasn't pointing it at anyone, etc.
- It was not the intention to harm anyone.

Often, if it is unlikely that a conviction will be avoided, we can negotiate with the prosecutor and get the charges reduced to a lesser offense, such as improperly displaying a dangerous weapon or firearm (a first-degree misdemeanor under Florida Statute § 790.10 or discharging firearms in public (also a first-degree misdemeanor under Florida Statute § 790.15).

Talk to an [experienced criminal defense attorney](#) about a case as soon as possible if arrested for pointing a gun at someone. A good attorney can help devise a [criminal defense strategy](#).

Legal Eagles

Mario Gunde Peters & Kelley

+1 321-631-0506

admin@legal-eagles.com

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