False Imprisonment

False imprisonment is the unlawful restraint of a person against her will by someone without legal authority or justification. Anyone who intentionally restrains another person’s freedom of movement without their consent and without legal justification may be liable for false imprisonment, including police officers, security guards, store owners, medical professionals, employers, and other individuals. Moreover, false imprisonment may occur in a number of settings, such as in a room, on the streets, or even in a moving vehicle.

False imprisonment is both a crime and a civil wrong. A person claiming false imprisonment typically seeks to be freed and may recover damages for the interference with his or right to move freely. Civil damages may take the form of compensatory damages (for any injuries sustained), nominal damages (a small sum to acknowledge the harm that was done), and/or punitive damages (to punish the wrongdoer).

Elements of a False Imprisonment Claim

All states have false imprisonment laws to protect against unlawful confinement. To prove false imprisonment claim in a civil lawsuit, the following elements must be present:

- There must have been a willful detention;
- The detention must have been without consent; and
- The detention was unlawful.

False imprisonment can come in many forms, including any act of threat or use of authority that confines you against your will. While physical force is often used, it is not required. Moreover, the restraint of a person may be imposing by physical barriers (such as being locked in a car) or by unreasonable duress (such as holding someone “within the bounds of a fixed area” over a long period of time).

A person claiming false imprisonment must reasonably believe that he was being confined. A court will determine whether his belief was reasonable by determining whether a reasonable prudent person under similar circumstances would do or believe.

In addition, the person doing the confinement must have intended to confine, and not have the privilege to do so, such as shopkeepers who are lawfully investigating shoplifting at a store or civilians who have witnessed a felony.

Examples of false imprisonment may include:

- A person locking another person in a room without their permission
- A person holding something of value to another person with the intent to make the person stay in a certain place, and without the consent of the person whose valuables are being held
- A person grabbing onto another person without their consent, and holding them so that they cannot leave
- A security guard or store owner who detains you for an unreasonable amount of time based on the way you look or dress
- An employer who detains someone for questioning for an unreasonable amount of time for suspected theft
- Nursing home staff who medicates a patient without their consent under physical or emotional threat

Conversely, things that do not constitute false imprisonment may include:

- A claim that you were falsely imprisoned simply because you were found innocent of a crime
- A person who grabs your arm but you know you can free yourself from his grip without fear of retaliation

Torts and Personal Injuries

Assault, Battery and Intentional Torts (torts-and-personal-injuries/assault-battery-intentional-torts)

Deformation, Libel and Slander (torts-and-personal-injuries/libel-slander)

Dog Bites and Animal Attacks (torts-and-personal-injuries/dog-bites-animal-attacks)

Emotional Distress and Stalking (torts-and-personal-injuries/emotional-distress-stalking)

Nuisance Home Abuse (torts-and-personal-injuries/nuisance-home-abuse)

Slip and Fall Injuries (torts-and-personal-injuries/slip-fall-injuries)

Travel and Aviation Accidents (torts-and-personal-injuries/travel-and-aviation-accidents)

Wrongful Death (torts-and-personal-injuries/wrongful-death)
A storekeeper who detains you for a reasonable amount of time for questioning based on probably cause, such as if she saw you take a concealed item out of the store without paying for it.

A person who closes the front door and asks you not to leave, but you know you can leave through an open side door.

**Defenses to a False Imprisonment Claim**

Defenses to false imprisonment claims often turn on whether a person claiming the imprisonment gave consent either actual or implied or whether a person who confines another had reasonable grounds to justify the imprisonment. Below are common defenses to a false imprisonment claim.

**Voluntary Consent**

A person who consents to confinement, without duress, coercion, or fraud, may not later claim false imprisonment. Therefore, voluntary consent to confinement is often a defense to false imprisonment.

**Police Privilege**

In all states, police officers have the right to detain someone they have probable cause to believe has engaged in wrongdoing, or when they believe a crime has been committed.

**Shopkeeper's Privilege**

Many states have laws protecting merchants from false imprisonment claims. These laws typically allow merchants to detain retail patrons for a brief period of time when they have a reasonable basis to believe that the person has committed retail theft (http://criminal.findlaw.com/criminal-charges/shoplifting.html). In many instances, a shopkeeper is limited to detaining a person to request or verify identification, make a reasonable inquiry into whether the person has purchased the merchandise, and/or to hold the person in custody until a police officer arrives.

In determining liability, a court will look at whether the store's actions under the circumstances were reasonable. A guilty shoplifter can still sue for false imprisonment even if the detention was unreasonable.

**Citizen's Arrest**

In some instances, a person who is not a law enforcement official can make a "citizen's arrest" by calling for a peace officer when a crime is committed or attempted in their presence, although this defense is not meant to give citizens the right to take the place of law enforcement.

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