

16.5 NEGLECT OF A CHILD

§ 827.03(2)(b), Fla. Stat.
(Great Bodily Harm, Permanent Disability,
or Permanent Disfigurement)

To prove the crime of Neglect of a Child Causing [Great Bodily Harm] [Permanent Disability] [Permanent Disfigurement], the State must prove the following four elements beyond a reasonable doubt:

1. (Defendant)

Give as applicable.

- a. [willfully] [by culpable negligence] failed or omitted to provide (victim) with the care, supervision, and services necessary to maintain (victim's) physical or mental health.
 - b. failed to make a reasonable effort to protect (victim) from abuse, neglect, or exploitation by another person.
2. In so doing, (defendant) caused [great bodily harm] [permanent disability] [permanent disfigurement] to (victim).
 3. (Defendant) was a caregiver for (victim).
 4. (Victim) was under the age of 18 years.

Neglect of a child may be based on repeated conduct or on a single incident or omission that resulted in, or reasonably could have been expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

Definition. Give in all cases.

“Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.

Definition. Give if applicable.

I will now define what is meant by the term “culpable negligence”: Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. For negligence to be called culpable negligence, it must be gross and flagrant. The negligence must be committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily harm.

Great bodily harm. Wheeler v. State, 203 So. 3d 1007 (Fla. 4th DCA 2016).

“Great bodily harm” means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

Lesser Included Offenses

NEGLECT OF A CHILD CAUSING GREAT BODILY HARM, PERMANENT DISABILITY OR PERMANENT DISFIGUREMENT— 827.03(2)(b)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Child neglect		827.03(3)(d)	16.6
Culpable Negligence Inflicting Injury, if culpable negligence is charged		784.05	8.9
Culpable Negligence Exposing Another to Injury, if culpable negligence is charged		784.05	8.9

Comment

This instruction was adopted in 2002 [824 So. 2d 881] and amended in 2013 [122 So. 3d 263], and 2019.