

16.4 CONTRIBUTING TO CHILD [DELINQUENCY] [DEPENDENCY] [IN NEED OF SERVICES]

§ 827.04(1), Fla. Stat.

To prove the crime of Contributing to a Child's Becoming a [Delinquent Child] [Dependent Child] [Child in Need of Services], the State must prove the following element beyond a reasonable doubt:

Give if § 827.04(1)(a), Fla. Stat., is charged.

(Defendant) **knowingly** (read act alleged from charge), **which** [caused] [tended to cause] [encouraged] [contributed to] (victim) **to become a** [delinquent] [dependent] child [in need of services].

Give if § 827.04(1)(b), Fla. Stat., is charged.

(Defendant), **knowingly, by** [act] [threat] [command] [or] [persuasion], [induced] [endeavored to induce] (victim) **to** [commit or perform an act] [follow a course of conduct] [live in a manner] **that caused or tended to cause** (victim) **to** [become] [remain] a [delinquent] [dependent] child [in need of services].

Definition. § 827.01(2), Fla. Stat.

“Child” means any person under the age of 18 years.

State v. Shamrani, 370 So. 2d 1 (Fla. 1979). The option of “remain” applies only if § 827.04(1)(b), Fla. Stat., is charged.

“Knowingly” means that (defendant) **created a substantial and unjustifiable risk that** [his] [her] act[s] [caused] [or] [tended to cause] (victim) **to** [become] [remain] a [delinquent] [dependent] child [in need of services].

Give as applicable.

§ 984.03(9), Fla. Stat. If the allegation involves habitual truancy from school, a special instruction regarding § 1003.26, Fla. Stat., and 1003.27, Fla. Stat., will be needed.

“Child in need of services” means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Children and Families for an adjudication of dependency or delinquency. The child must also be found by the court:

- a. **To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Families;**
- b. **To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to law and through voluntary participation by the child's parents or legal custodians and by the child in**

family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Families; or

- c. To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.

§ 984.03(11), and § 985.03(53), Fla. Stat.

“Delinquent Child” means a child who committed a violation of any law [of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance] which would be punishable by incarceration if the violation were committed by an adult [or direct or indirect contempt of court,] [except that this definition shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding pursuant to Chapter 984 of Florida Statutes]. (Name of violation of law) is such a violation of law.

Give if the child has yet to be found delinquent by a court.

The elements of this violation of law are: *(define the elements of the crime).*

§ 984.03(12), Fla. Stat.

“Dependent child” means a child who, pursuant to Chapter 984 of Florida Statutes, is found by the court:

- a. To have been abandoned, abused, or neglected by the child's parents or other custodians.
- b. To have been surrendered to the former Department of Health and Rehabilitative Services, the Department of Children and Families, or a licensed child-placing agency for purpose of adoption.
- c. To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the former Department of Health and Rehabilitative Services, or the Department of Children and Families, after which placement, under the requirements of Chapter 984, a case plan has expired and the parent or parents have failed to substantially comply with the requirements of the plan.
- d. To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption and a natural parent or parents signed a consent pursuant to the Florida Rules of Juvenile Procedure.
- e. To have no parent, legal custodian, or responsible adult relative to provide supervision and care.
- f. To be at substantial risk of imminent abuse or neglect by the parent or parents or the custodian.

Lesser Included Offenses

**CONTRIBUTING TO CHILD DELINQUENCY OR DEPENDENCY OR TO CHILD IN NEED
OF SERVICES — 827.04(1)**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comment

This instruction was adopted in 1981 and amended in 1989, 1992 [603 So. 2d 1175], and 2016.