

16.5 NEGLECT OF A CHILD BY A CAREGIVER CAUSING [GREAT BODILY HARM] [PERMANENT DISABILITY] [PERMANENT DISFIGUREMENT]

§ 827.03(2)(b), Fla. Stat.

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

1. (Defendant), **willfully or by culpable negligence, neglected** (victim).
2. **In so doing**, (defendant) **caused [great bodily harm] [permanent disability] [permanent disfigurement] to** (victim).
3. **At the time**, (defendant) **was a caregiver for** (victim).
4. **At the time**, (victim) **was under the age of 18 years**.

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

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

Neglect of a child means that a caregiver willfully failed or omitted to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child. The term includes a caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

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.

Neglect of a child does not include a caregiver allowing a child to engage in independent and unsupervised activities unless allowing such activities constitutes willful and wanton conduct that endangers the health and safety of the child. Such independent and unsupervised activities include, but are not limited to, traveling to and from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home or any other locations for a reasonable period of time.

“Willfully” means intentionally, knowingly, and purposely.

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 culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life or a grossly careless disregard for the safety and welfare of the public. The negligent act or omission must have been committed with an utter disregard for the safety of another. Culpable negligence is consciously doing an act or following a course of conduct that the defendant knew or reasonably should have known was likely to cause death or great bodily injury.

“Great bodily harm” means harm that is more than slight, trivial, minor, or moderate.

Lesser Included Offenses

NEGLECT OF A CHILD BY A CAREGIVER 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

Comments

There is no definition for “abuse, neglect, or exploitation” in Chapter 827. However, those terms are defined elsewhere, such as in Chapters 39, 415, and 984. Also, § 827.03, Fla. Stat., defines “child abuse” and “neglect of a child.” Trial judges will need to draft a special instruction if further explanation of the phrase “abuse, neglect, or exploitation” is necessary.

This instruction was adopted in 2002 [824 So. 2d 881] and amended in 2013 [122 So. 3d 263], 2019 [267 So. 3d 980], and on September 12, 2025.