

7.7 MANSLAUGHTER

§ 782.07, Fla. Stat.

It is fundamental error not to instruct on justifiable and excusable homicide in the absence of an express concession that the homicide was not excusable or justified. See State v. Spencer, 216 So. 3d 481 (Fla. 2017).

To prove the crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

- 1. (Victim) is dead.**

Give as applicable.

- 2. a. (Defendant) intentionally committed an act or acts that caused the death of (victim).**
 - b. (Defendant) intentionally procured an act that caused the death of (victim).**
 - c. The death of (victim) was caused by the culpable negligence of (defendant).**

Every person 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. The defendant cannot be guilty of Manslaughter by committing a merely negligent act or if the killing was either justifiable or excusable homicide, as I have previously instructed you.

To convict of Manslaughter, it is not necessary for the State to prove that the defendant had an intent to cause death, only an intent to commit an act that was not merely negligent, justified, or excusable, and which caused death.

Give only if element 2b is applicable.

To “procure” means to persuade, induce, prevail upon or cause a person to do something.

Give only if element 2c is applicable.

I will now define “culpable negligence” for you. As I have said, every person 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 toward 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.

Lesser Included Offenses

MANSLAUGHTER - 782.07			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Vehicular homicide	782.071	7.9
	Vessel homicide	782.072	7.9
	Third Degree Felony Murder	782.04(4)	7.6
	Death Caused by the Unlawful Distribution by a Person Less than 18 Years of Age of [Name of Enumerated Controlled Substance(s)]	782.04(5)(b)	7.3(b)
	Non-homicide lessers*		
	Attempt**	777.04(1)	5.1
	Aggravated assault	784.021	8.2
	Battery	784.03	8.3
	Assault	784.011	8.1
	Culpable negligence	784.05	8.9

Comments

*Non-homicide lesser-included offenses do not have to be given if the parties agree that causation is not in dispute and that the victim is dead. *Carver v. State*, 348 So. 3d 1214 (Fla. 5th DCA 2022). *See Eversley v. State*, 748 So. 2d 963 (Fla. 1999), in any case in which causation is an issue to determine if a special jury instruction on causation is needed.

**Attempted Manslaughter by Culpable Negligence does not exist. *See Taylor v. State*, 444 So. 2d 931 (Fla. 1983).

In the event of any reinstruction on Manslaughter, the instructions on justifiable and excusable homicide (instruction #7.1) as previously given should be given at the same time. *Hedges v. State*, 172 So. 2d 824 (Fla. 1965).

This instruction was adopted in 1981 and amended in 1985 [477 So. 2d 985], 1992 [603 So. 2d 1175], 1994 [636 So. 2d 502], 2005 [911 So. 2d 1220], 2006 [946 So. 2d 1061], 2008 [997 So. 2d 403], 2010 [41 So. 3d 853], 2011 [75 So. 3d 210], 2017 [213 So. 3d 680], 2018 [236 So. 3d 282], and on September 12, 2025.