

7.7(a) AGGRAVATED MANSLAUGHTER

§ 782.07(2), § 782.07(3), and § 782.07(4), Fla. Stat.

In the absence of an express concession that the homicide was not excusable or justified, the trial judge must also read Instruction 7.1, Introduction to Homicide.

Use for cases where the alleged victim was an elderly person, a disabled adult, or a child. § 782.07(2) or § 782.07(3), Fla. Stat.

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

(Defendant), **by culpable negligence, neglected** (victim).

As a result, (defendant) **caused the death of** (victim).

At the time, (defendant) **was a caregiver for** (victim) **and** (victim) **was [an elderly person] [a disabled adult] [a child].**

Use for cases where the alleged victim was an officer, firefighter, an EMT, or a paramedic. § 782.07(4), Fla. Stat.

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

(Defendant), **by culpable negligence, caused the death of** (victim).

At the time, (victim) **was a[n] [officer] [firefighter] [emergency medical technician] [paramedic] who was performing duties that were within the course of [his] [her] employment.**

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 Aggravated Manslaughter by causing a death because of a merely negligent act.

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.

The defendant cannot be guilty of Aggravated Manslaughter if the killing was either justifiable or excusable homicide, as I have previously instructed you.

Give as applicable only if alleged victim was an elderly person or disabled adult.
§ 825.101, Fla. Stat.

“Caregiver” means a person who has been entrusted with or has assumed responsibility for the care or the property of [an elderly person] [or] [a disabled adult]. “Caregiver” includes, but is not limited to, relatives, court-appointed or voluntary guardians, adult household members, neighbors, health care providers, and employees and volunteers of facilities.

“Elderly person” means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age, organic brain damage, or physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.

“Disabled adult” means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.

“Facility” means any location providing day or residential care or treatment for elderly persons or disabled adults. The term “facility” may include, but is not limited to, any hospital, training center, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, group home, mental health treatment center, or continuing care community.

§ 825.102, Fla. Stat.

Neglect of a[n] [elderly person] [disabled adult] means:

- 1. A caregiver’s failure or omission to provide [an elderly person] [a disabled adult] with the care, supervision, and services necessary to maintain [an elderly person’s] [a disabled adult’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 [elderly person] [disabled adult];**

or

2. A caregiver's failure to make reasonable effort to protect [an elderly person] [a disabled adult] from abuse, neglect, or exploitation by another person.

Neglect of a[n] [elderly person] [disabled adult] may be based on repeated conduct or on a single incident or omission by a caregiver that results in, or could reasonably be expected to result in, serious physical or psychological injury, or a substantial risk of death to [an elderly person] [a disabled adult].

Give only if alleged victim was a child.

§ 827.01, Fla. Stat.

"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 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.

Definitions for designated personnel.

§ 943.10, Fla. Stat. See § 943.10, Fla. Stat., for further definitions.

“Officer” means any person employed or appointed as a full-time, part-time or auxiliary law enforcement officer, correctional officer, or correctional probation officer.

§ 112.191 and § 633.35, Fla. Stat.

“Firefighter” means any full-time duly employed uniformed firefighter employed by an employer, whose primary duty is the prevention and extinguishing of fires, the protection of life and property therefrom, the enforcement of municipal, county, and state fire prevention codes, as well as the enforcement of any law pertaining to the prevention and control of fires, who is certified by the Division of State Fire Marshal of the Department of Financial Services, who is a member of a duly constituted fire department of such employer or who is a volunteer firefighter.

§ 401.23, Fla. Stat.

“Emergency Medical Technician” means a person who is certified by the Department of Health to perform basic life support.

§ 401.23, Fla. Stat.

“Paramedic” means a person who is certified by the Department of Health to perform basic and advanced life support.

Lesser Included Offenses

AGGRAVATED MANSLAUGHTER — 782.07(2), 782.07(3), AND 782.07(4)			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Manslaughter		782.07	7.7
	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*			
Neglect of a[n] [Elderly Person] [Disabled Adult] [Child]		825.102(3)(b) or 827.03(2)(b)	29.22 or

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Causing Great Bodily Harm, Permanent Disability, or Permanent Disfigurement			16.5
Neglect of a[n] [Elderly Person] [Disabled Adult] [Child] Without Causing Great Bodily Harm, Permanent Disability, or Permanent Disfigurement		827.03(2)(d)	Or 16.6
Culpable Negligence Inflicting Injury		784.05(2)	8.9
Culpable Negligence Exposing Another to Injury		784.05(1)	8.9

Comments

*Non-homicide lesser-included offenses do not have to be given if the parties agree causation is not in dispute and that the victim is dead. *Carver v. State*, 348 So. 3d 1214 (Fla. 5th DCA 2022).

There is no statutory requirement that the defendant have knowledge of victim's status and as of August 2025, there was no case law addressing that issue.

This instruction was adopted in 2017 [213 So. 3d 680] and amended in 2018 [236 So. 3d 282], and on September 12, 2025.