
239.35 FAILURE TO REPORT [ABUSE] [NEGLECT] [DEPENDENCY]
[DEATH] DUE TO MALTREATMENT OF A JUVENILE. MISDEMEANOR.

The defendant has been charged with failure to report [abuse] [neglect] [dependency] [death] due to maltreatment of a juvenile.¹

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt.

First, that (*name juvenile*) was a juvenile. A juvenile is an individual under the age of eighteen.

Second, that the defendant had cause to suspect that (*name juvenile*) was [abused]² [neglected]³ [dependent]⁴ [deceased] as a result of (*describe maltreatment*).

Third, that the defendant [knowingly] [wantonly] [[failed to report] [prevented another person from making a report]] of such [abuse] [neglect] [dependency] [death] due to maltreatment to the director of social services in county where the juvenile resides.⁵

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant had cause to suspect that (*name juvenile*) was [abused] [neglected] [dependent] [deceased] as a result of maltreatment and that the defendant [knowingly] [wantonly] [[failed to report] [prevented another person from making a report]] of such [abuse] [neglect] [dependency] [death] due to maltreatment to the director of social services in county where the juvenile resides, it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1 A juvenile is a person who has not yet reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States. N.C. Gen. Stat. § 7B-101. If there is evidence that the juvenile was emancipated or was a member of the Armed Forces, then adjust the instruction accordingly. A "child" is defined to be under the age of sixteen. N.C. Gen. Stat. 7B-101.

2 "Abused juvenile" is defined in N.C. Gen. Stat. § 7B-101(1). An abused juvenile is "any juvenile less than 18 years of age whose parent, guardian custodian or caretaker [(a) inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means] [(b) creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means] [(c) uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior] [(d) commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: [first degree rape] [rape of a child by an adult offender] [second degree rape] [first degree sexual offense] [sexual offense with a child by an adult offender] [second degree sexual offense] [sexual act by a custodian] [unlawful sale, surrender, or purchase of a minor] [crime against nature] [incest] [preparation of obscene photographs, slides, or motion pictures of the juvenile] [employing or permitting the juvenile to assist in a violation of the obscenity laws] [dissemination of obscene material to the juvenile] [displaying or disseminating material harmful to the juvenile] [first and second degree sexual exploitation of the juvenile] [promoting the prostitution of a juvenile] [taking indecent liberties with the juvenile]] [(e) creates or allows to be created serious emotional damage to the juvenile] [(f) encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile] [(g) commits or allows to be committed an offense under [human trafficking] [involuntary servitude] [sexual servitude against the child.]]" "Abused juvenile" includes any juvenile less than 18 years of age who is a victim or is alleged to be a victim of an offense under N.C. Gen. Stat. 14-43.11 (human trafficking), 14-43.12 (involuntary servitude), or 14-43.13 (sexual servitude), regardless of the relationship between the victim and the perpetrator.

3 "Neglected juvenile" is defined in N.C. Gen. Stat. § 7B-101(15). A neglected juvenile is "a juvenile [who does not receive proper care, supervision or discipline from the juvenile's parent, guardian, custodian, or caretaker] [who has been abandoned] [who lives in an environment injurious to the juvenile's welfare] [who has been placed for care or adoption in violation of laws.] In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home."

4 "Dependent juvenile" is defined in N.C. Gen. Stat. § 7B-101(9). A dependent juvenile is "a juvenile in need of assistance or placement because (i) the juvenile has no parent, guardian, or custodian responsible for the juvenile's care or supervision or (ii) the juvenile's parent, guardian, or custodian is unable to provide for the juvenile's care or supervision and lacks an appropriate alternative child care arrangement."

5 The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the

juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the department's assessment of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

