

N.C.P.I.—CRIM 239.55D
FELONIOUS CHILD ABUSE (RECKLESS DISREGARD—SERIOUS PHYSICAL
INJURY). FELONY, MISDEMEANOR
GENERAL CRIMINAL VOLUME
JUNE 2014
N.C. Gen. Stat. §§ 14-318.4(a5), 14-318.2

239.55D FELONIOUS CHILD ABUSE (RECKLESS DISREGARD—SERIOUS
PHYSICAL INJURY). FELONY; MISDEMEANOR.

*NOTE WELL: Use N.C.P.I.—Crim. 239.55C if serious bodily injury
is alleged.*

The defendant has been charged with felonious child abuse by reckless
disregard for human life in the care of a child resulting in serious physical
injury.

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

First, that the defendant was [the parent of] [[a person providing
[care to] [supervision of]]¹ the child.

Second, that at that time the child had not yet reached the child's
sixteenth birthday.

Third, that the defendant:

- a) willfully (*describe conduct*)²; or
- b) willfully (*describe conduct*) which amounted to a grossly
negligent omission.³ A grossly negligent omission is a wanton
omission done with conscious or reckless disregard for the rights

¹ See *State v. Carrilo*, 149 N.C. App. 543, 562 S.E.2d 47 (2002) (concluding that man who lived with the child's mother, who shared a bedroom with mother and child, and who cared for the child for short periods of time over a two month period provided supervision to the child under N.C. Gen. Stat. § 14-318.4).

² See N.C. Gen. Stat. § 14-318.4(d)(1).

³ A grossly negligent omission is a "reckless disregard for the rights and safety of others." See *Bullins v. Schmidt*, 322 N.C. 580, 581, 369 S.E.2d 601, 603 (1988). For purposes of this section, a "grossly negligent omission" in providing care to or supervision of a child includes the failure to report a child as missing to law enforcement as provided in N.C. Gen. Stat. § 14-318.4(b).

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and safety of others.⁴

Fourth, that the defendant's [willful conduct] [grossly negligent omission] resulted in serious physical injury to the child. Serious physical injury is physical injury that causes great pain and suffering (including serious mental injury).

And Fifth, that the defendant's [willful conduct] [grossly negligent omission] in the care of the child was a reckless disregard for human life.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was [the parent of] [[a person providing [care for] [supervision of]]] the child and that the child had not reached the child's sixteenth birthday, and that the defendant's [willful act] [grossly negligent omission] in the care of the child was a reckless disregard for human life and resulted in serious physical injury to the child, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

⁴ See *Greene v. City of Greenville*, 736 S.E.2d 833, 835 (N.C. Ct. App. 2012).