

Ala. Code 1975, § 26-15-3

Child Abuse

The defendant is charged with child abuse.

A person commits the crime of child abuse if he/she is a responsible person and tortures, willfully abuses, cruelly beats, or otherwise willfully maltreats a child under the age of 18 years.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant was a responsible person, **[describe]**; **(AND)**
- (2) The defendant: **[Read as appropriate]**
 - (A) Tortured;
 - (B) Willfully abused;
 - (C) Cruelly beat; **(OR)**
 - (D) Otherwise willfully maltreated;
- (3) A child under the age of 18 years, **[insert name]**.

A *responsible person* is a child's natural parent, stepparent, adoptive parent, legal guardian, custodian, or any other person who has the permanent or temporary care or custody or responsibility for the supervision of a child. [§ 26-15-2(4)]

A *willful* act is one done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently. *Padgett v. State*, 36 Ala. App. 355, 56 So. 2d 116 (1952)

A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense, when his/her purpose is to cause that result or to engage in that conduct. [§ 13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of child abuse, then you shall find the defendant guilty of child abuse.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of child abuse, then you cannot find the defendant guilty of child abuse.

[If lesser-included offenses are included, the Court should instruct on these offenses at this point.]

Use Notes

Child abuse requires intentional conduct. *Pearson v. State*, 601 So. 2d 1119, 1126 (Ala. Crim. App. 1992). A discussion of “willfully” can be found in *Phelps v. State*, 439 So. 2d 727 (Ala. Crim. App. 1983). The child abuse statute encompasses acts of omission, as well as those of commission. *See Phelps*, at 734.

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