

13A-6-192

ELDER ABUSE AND NEGLECT FIRST DEGREE

The defendant is charged with elder abuse and neglect in the first degree.

A person commits the crime of elder abuse and neglect in the first degree if he/she intentionally abuses or neglects any elderly person and the abuse or neglect causes serious physical injury to the elderly person.

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

- (1) The defendant caused serious physical injury to an elderly person, **[Insert Name of Injured Person]**;
- (2) The defendant caused the injury by means of abuse or neglect of the elderly person; **(AND)**
- (3) The defendant acted with intent to cause serious physical injury to an elderly person.

An *Elderly Person* is a person 60 years of age or older. [13A-6-191(3)]

A *Person* is a human being. [13A-6-191(8)]

Serious physical injury is physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of any bodily organ, or a penetrating gunshot wound inflicted by a firearm. [13A-1-2(14)]

Physical Injury is impairment of physical condition or substantial pain. [13A-1-2(12)]

[Read As Appropriate] A *Firearm* is a weapon from which a shot is discharged by gunpowder. [13A-8-1(5)]

[Read As Appropriate] A person acts *Recklessly* with respect to a result or to a circumstance described by a statute define an offense when he/she is aware of and conspicuously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]

[Read As Appropriate] A person who creates a risk but is unaware thereof solely by reason of intoxication acts recklessly. [13A-2-2(3)]

[Read As Appropriate] *Neglect* is the failure of a caregiver to provide food, shelter, clothing, medical services, medication, or health care for an elderly person. [13A-6-191(7)]

[Read As Appropriate] A *Caregiver* is an individual who has the responsibility for the care of an elderly person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, for pecuniary gain, by contract, or as a result of the ties of friendship. [13A-6-191(1)]

A person acts *Intentionally* when it is his/her purpose to cause serious physical injury to another person. [See 13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of elder abuse and neglect in the first degree, then you shall find the defendant guilty of elder abuse and neglect in the first degree.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of elder abuse and neglect in the first degree, then you cannot find the defendant guilty of elder abuse and neglect in the first degree.

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

Use Notes

There is no definition of abuse provided in the statute.

No physician, as defined under Section 34-24-50.1, who is licensed to practice

medicine in this state, shall be subject to Sections 13A-6-192 for any acts or omissions constituting the practice of medicine. [13A-6-201]

[Approved 01-31-25]