

13A-6-194(a)(2)
ELDER ABUSE AND NEGLECT THIRD DEGREE
(Reckless & Emotional Abuse)

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

A person commits the crime of elder abuse and neglect in the third degree if he/she recklessly emotionally abuses any elderly person.

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

- (1) The defendant emotionally abused an elderly person, **[Insert Name of Injured Person]; (AND)**
- (2) The defendant acted recklessly.

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)]

[Read As Appropriate] *Emotional Abuse* is the intentional or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care of any elderly person. [13A-8-1(4)]

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

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)]

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 third degree, then you shall find the defendant guilty of elder abuse and neglect in the third 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 third degree, then you cannot find the defendant guilty of elder abuse and neglect in the third 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-6-194 for any acts or omissions constituting the practice of medicine. [13A-6-201]

[Approved 01-31-25]