

Ala. Code 1975, § 26-15-3.1

Aggravated Child Abuse

The defendant is charged with aggravated child abuse.

A person commits the crime of aggravated child abuse if he/she is a responsible person and he/she violates provisions of Section 26-15-3 by acts taking place on more than one occasion; or he/she violates Section 26-15-3 and in so doing also violates a court order concerning the parties or injunction; or he/she violates the provisions of Section 26-15-3 which causes serious physical injury to the child.

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 violated Section 26-15-3: **[Read all appropriate]**
 - (A) By acts taking place on more than one occasion;
 - (B) And in so doing also violated a court order concerning the parties or injunction; **(OR)**
 - (C) Which caused serious physical injury to the child.

[Insert instructions for § 26-15-3.]

[Read as appropriate] *Serious physical injury* is physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ. [§ 13A-1-2(14)]

[Read as appropriate] *Physical injury* is impairment of physical condition or substantial pain. [§ 13A-1-2(12)]

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

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

[Approved 9-25-15.]