

239.25 CONTRIBUTING TO DELINQUENCY AND NEGLECT BY PARENTS AND OTHERS. MISDEMEANOR.

The defendant has been charged with contributing to the [abuse] [neglect] [delinquency] [undisciplined status] of a juvenile.<sup>1</sup>

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

First, that the defendant was at least 16 years old.

Second, that the defendant [caused]<sup>2</sup> [encouraged] [aided] the juvenile [to be in a place or condition]<sup>3</sup> [to commit an act] whereby the juvenile could be adjudicated [abused] [neglected] [delinquent] [undisciplined].

*NOTE WELL: Trial Court must choose at least one of the terms below and must provide the definition of the term to the jury. Only state the subsection of the definition that is applicable to the case. If subsection (d) is relevant, you must provide a shorthand definition of the applicable crime to the jury. Try to be as specific as possible by using the indictment to determine how the behavior created the abuse or neglect.*

*"Abused juvenile" is defined in N.C. Gen. Stat. § 7B-101(1). An abused juvenile is "any juvenile less than 18 years of age whose parent, guardian custodian or caretaker [(a) inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means] [(b) creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means] [(c) uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior] [(d) commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: [first degree rape]<sup>4</sup> [rape of a child by an adult offender]<sup>5</sup> [second degree rape]<sup>6</sup> [first degree sexual offense]<sup>7</sup> [sexual offense with a child by an adult offender]<sup>8</sup> [second degree sexual offense]<sup>9</sup> [sexual act by a custodian]<sup>10</sup> [unlawful sale, surrender, or purchase of a*

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*minor*<sup>11</sup> [*crime against nature*]<sup>12</sup> [*incest*]<sup>13</sup> [*preparation of obscene photographs, slides, or motion pictures of the juvenile*]<sup>14</sup> [*employing or permitting the juvenile to assist in a violation of the obscenity laws*]<sup>15</sup> [*dissemination of obscene material to the juvenile*]<sup>16</sup> [*displaying or disseminating material harmful to the juvenile*]<sup>17</sup> [*first and second degree sexual exploitation of the juvenile*]<sup>18</sup> [*promoting the prostitution of a juvenile*]<sup>19</sup> [*taking indecent liberties with the juvenile*]<sup>20</sup> [(e) *creates or allows to be created serious emotional damage*<sup>21</sup> *to the juvenile*] [(f) *encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile*] [(g) *commits or allows to be committed an offense under [human trafficking]*<sup>22</sup> [*involuntary servitude*]<sup>23</sup> [*sexual servitude against the child.*]<sup>24</sup>” “*Abused juvenile*” includes any juvenile less than 18 years of age who is a victim or is alleged to be a victim of an offense under N.C. Gen. Stat. 14-43.11 (human trafficking), 14-43.12 (involuntary servitude), or 14-43.13 (sexual servitude), regardless of the relationship between the victim and the perpetrator.<sup>25</sup>

“*Neglected juvenile*” is defined in N.C. Gen. Stat. § 7B-101(15). A neglected juvenile is “a juvenile [who does not receive proper care, supervision or discipline from the juvenile’s parent, guardian, custodian, or caretaker] [who has been abandoned] [who lives in an environment injurious to the juvenile’s welfare] [who has been placed for care or adoption in violation of laws.] In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.”

“*Delinquent juvenile*” is defined in N.C. Gen. Stat. § 7B-1501(7). A delinquent juvenile is “any juvenile, who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws, or who commits indirect contempt by a juvenile as defined in N.C. Gen. Stat. § 5A-31.”

“*Undisciplined juvenile*” is defined in N.C. Gen. Stat. § 7B-1501(27). An undisciplined juvenile is either “[a] juvenile who, while less than 16 years of age but at least 6 years of age, [is

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*unlawfully absent from school] [is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian] [is regularly found in places where it is unlawful for a juvenile to be] [has run away from home for a period of more than 24 hours]] [(b) a juvenile who is 16 or 17 years of age and [who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian] [is regularly found in places where it is unlawful for a juvenile to be] [has run away from home for a period of more than 24 hours.]]"*

Third, that (*name juvenile*) was a juvenile. [In the case of a(n) [abused] [neglected] juvenile, a juvenile is a person who has not reached his or her 18th birthday and is not married, emancipated, or a member of the armed forces of the United States.] [In the case of a(n) [delinquent] [undisciplined]<sup>26</sup> juvenile, a juvenile is a person who is less than 16 years of age but at least 6 years of age.]

And Fourth, that the defendant acted knowingly or willfully.<sup>27</sup>

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was at least 16 years old, that (*name juvenile*) was a juvenile, and that the defendant knowingly or willfully [caused] [encouraged] [aided] the juvenile [to be in a place or condition] [to commit an act] whereby the juvenile could be adjudicated [abused] [neglected] [delinquent] [undisciplined], 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.

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1 N.C. Gen. Stat. § 7B-101(14) defines a juvenile as "[a] person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States."

2 In order to explain the "cause" element in terms of aiding and abetting, see N.C.P.I.—Criminal 202.20.

3 N.C. Gen. Stat. § 14-316.1 provides, "It is not necessary for the district court...to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person...under this section." It has been held that a defendant may be prosecuted under this section for encouraging a juvenile to commit a criminal offense, even though the juvenile does not actually do so. *S. v. Worley*, 13 N.C. App. 198 (1971).

4 As provided in N.C. Gen. Stat. § 14-27.2

5 As provided in N.C. Gen. Stat. § 14-27.2A

6 As provided in N.C. Gen. Stat. § 14-27.3

7 As provided in N.C. Gen. Stat. § 14-27.4

8 As provided in N.C. Gen. Stat. § 14-27.4A

9 As provided in N.C. Gen. Stat. § 14-27.5

10 As provided in N.C. Gen. Stat. § 14-27.7

11 As provided in N.C. Gen. Stat. § 14-43.14

12 As provided in N.C. Gen. Stat. § 14-177

13 As provided in N.C. Gen. Stat. § 14-178

14 As provided in N.C. Gen. Stat. § 14-190.5

15 As provided in N.C. Gen. Stat. § 14-190.6

16 As provided in N.C. Gen. Stat. § 14-190.7 and N.C. Gen. Stat. § 14-190.8

17 As provided in N.C. Gen. Stat. § 14-190.14 and N.C. Gen. Stat. § 14-190.15

18 As provided in N.C. Gen. Stat. § 14-190.16 and N.C. Gen. Stat. § 14-190.17

19 As provided in N.C. Gen. Stat. § 14-205.3(b)

20 As provided in N.C. Gen. Stat. § 14-202.1

21 Serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others. N.C. Gen. Stat. § 7B-101(f).

22 As provided in N.C. Gen. Stat. § 14-43.11

23 As provided in N.C. Gen. Stat. § 14-43.12

24 As provided in N.C. Gen. Stat. § 14-43.13

25 N.C. Gen. Stat. § 7B-101.

26 See N.C. Gen. Stat. § 7B-1501(27)(b) for situations in which an undisciplined juvenile may be 16 or 17 years of age.

27 A person acts "knowingly" when the person is aware or conscious of what he or she is doing.

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N.C. Gen. Stat. §§ 14-316.1; 7B-101(1); 7B-101(15); 7B-1501(7); 7B-1501(27)

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A person acts “willfully” when the act is done intentionally and without an honest belief that there is an excuse or justification for it.

*North Carolina Crimes: A Guidebook on the Elements of Crime*, Smith, Seventh edition, 2012, *School of Government, The University of North Carolina at Chapel Hill*.

