

N.C.P.I.-Crim. 240.75
DOMESTIC ABUSE OF A [DISABLED] [ELDER] ADULT INFLICTING
SERIOUS [MENTAL] [PHYSICAL] INJURY. FELONY.
GENERAL CRIMINAL VOLUME
JUNE 2015
N.C. Gen. Stat. § 14-32.3

240.75 DOMESTIC ABUSE OF A [DISABLED] [ELDER] ADULT INFLICTING
SERIOUS [MENTAL] [PHYSICAL] INJURY.

The defendant has been charged with Domestic Abuse of a [Disabled] [Elder] Adult Inflicting Serious [Mental] [Physical] Injury.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt.

First, that the defendant was a caretaker of the alleged victim. A caretaker is a person who has the responsibility for the care of a [disabled] [elder] adult as a result of a family relationship or who has assumed the responsibility for the care of a [disabled] [elder] adult [voluntarily] [by contract.]

Second, that the alleged victim was a [disabled] [elder] adult. [A disabled adult is a person eighteen years of age or older, who is present in the State of North Carolina, and who is [physically] [mentally] incapacitated due to mental retardation, cerebral palsy, epilepsy, autism, organic brain damage, caused by advanced age or other physical degeneration in connection therewith, or due to conditions incurred at any age which are the result of [accident] [organic brain damage] [[mental] [physical] illness] [continued consumption or absorption of substances.] [An elder adult is a person sixty years of age or older who is not able to provide for the social, medical, psychiatric, psychological, financial or legal services necessary to safeguard the person's rights and resources to maintain the person's physical and mental well-being.]

Third, that the alleged victim was residing in a domestic setting. A

domestic setting is any residential setting other than a health care facility or residential care facility.¹

Fourth, that the defendant knowingly and willfully [assaulted] [failed to provide [medical] [hygienic] care to the alleged victim] [[confined] [restrained] the alleged victim]. To [confine] [restrain] is to imprison or restrict the freedom of movement of the alleged victim, in a place or under a condition that was cruel or unsafe.

Fifth, that the defendant's conduct was with malice aforethought. Malice means not only hatred, ill-will, or spite as it is ordinarily understood, but it also is a condition of mind which prompts a person to intentionally cause injury to another person without just cause, excuse or justification.

And Sixth, that as a result, the alleged victim suffered a serious [mental] [physical] injury.²

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was a caretaker of the alleged victim, the alleged victim was a [disabled] [elder] adult, the alleged victim was residing in a domestic setting, that the defendant knowingly and willfully [assaulted] [failed to provide [medical] [hygiene] care to the alleged victim] [[confined] [restrained] the alleged victim [in a place] [under a condition] that was cruel or unsafe], the defendant's conduct was with malice aforethought, and as a result the alleged victim suffered a serious [mental] [physical] injury, it would be your duty to return a verdict of guilty of Domestic Abuse of a [Disabled] [Elder] Adult Inflicting

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Serious [Mental] [Physical] Injury. If you do not so find or have a reasonable doubt as to one or more of these things you would not return a verdict of guilty, but would consider whether the defendant is guilty of Domestic Abuse of a [Disabled] [Elder] Adult Inflicting [Mental] [Physical] Injury. This latter offense differs from the former in that the [mental] [physical] injury need not be serious.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was a caretaker of the alleged victim, the alleged victim was a [disabled] [elder] adult, the alleged victim was residing in a domestic setting, that the defendant knowingly and willfully [assaulted] [failed to provide [medical] [hygiene] care to the alleged victim] [[confined] [restrained] the alleged victim [in a place] [under a condition] that was cruel or unsafe], the defendant's conduct was with malice aforethought, and as a result the alleged victim suffered [mental] [physical] injury, 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.

1 N.C. Gen. Stat. § 14-32.3 defines "domestic setting".

2 N.C.P.I. 120.12 defines serious injury as "injury that causes great pain and suffering." For mental injury constituting serious injury see *S. v. Boone*, 307 N.C. 198 (1982).