

ABUSE/NEGLECT OF A CHILD
(N.J.S.A. 9:6-8.21; N.J.S.A. 9:6-3)

Count _____ of the indictment charges defendant with [abusing] [neglecting] a child.

The statute upon which this count of the indictment is based states in pertinent part:

Any parent or guardian¹ who shall abuse or neglect
such child . . . is guilty of a crime.

In order to find defendant guilty of this crime, the State must prove beyond a reasonable
doubt

1. That the victim was a child.
2. That the defendant was a parent or guardian.
3. That the defendant knowingly² [abused] [neglected] the victim.

The first element that the State must prove beyond a reasonable doubt is that (name of child)
is a child. A “child” means any person under the age of eighteen (18) years at the time of the
offense.

The second element that the State must prove beyond a reasonable doubt is that the defendant
was a parent or guardian of (name of child). A parent or guardian means [**choose appropriate**]
[natural parent] [adoptive parent] [resource family parent] [stepparent] [paramour of any parent]
[any person who has assumed responsibility for the care, custody or control of a child] [any person
upon whom there is a legal duty for the care, custody or control of a child] [teacher] [employee or
volunteer, whether compensated or uncompensated of an institution responsible for the child’s
welfare] [staff person of an institution] [teaching staff member of a day school³] [employee, whether

¹ The definition of parent or guardian includes any person who has assumed responsibility for the care,
custody of the child or upon whom there is a legal duty for such care. N.J.S.A. 9:6-8.21a.

² The State must prove that the defendant’s conduct was knowing to convict of a Title 9 criminal
offense. State v. Overton, 357 N.J. Super. 387, 393 (App. Div.), certif. denied, 177 N.J. 219 (2003).

³ Day school means a public or private school which provides general or special education services to

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compensated or uncompensated, of a day school].

The third element that the State must prove beyond a reasonable doubt is that defendant knowingly [abused] [neglected] (name of child) by⁴

1. inflicting or allowing to be inflicted upon (him/her) physical injury by other than accidental means which caused or created a substantial risk of death, or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ.

OR

2. creating or allowing to be created a substantial or ongoing risk of physical injury to (him/her) by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ.

OR

3. committing or allowing to be committed an act of sexual abuse against (him/her).

OR

4. impairing or placing in imminent danger of being impaired (his/her) physical, mental or emotional condition by failing to exercise a minimum degree of care in **[choose appropriate]**

day students in grades kindergarten through 12. N.J.S.A. 9:6-8.21h. It does not include a residential facility which provides 24 hour care. Id.

⁴ No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited

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- a. supplying (him/her) with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so.

OR

- b. providing (him/her) with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment.

OR

- c. committing any other acts involving (him/her) of a similarly serious nature requiring the aid of the court.
5. abandoning (him/her).
 6. using excessive physical restraint upon (him/her) under circumstances which did not indicate that (his/her) behavior was harmful to (himself/herself), others or property.

OR

[IF VICTIM IS IN AN INSTITUTION]

7. a. placing (him/her) in an institution inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to (his/her) mental or physical well-being. Institution means a public or private facility in the State which provides children with out of home care, supervision or maintenance. Institution includes, but is not limited to, a correctional facility, detention facility, treatment facility, day care center, residential school, shelter and hospital.⁵

OR

- b. isolating (him/her) from ordinary social contact under circumstances which indicate emotional or social deprivation. Institution means a public or private facility in the State which provides children with out of home care, supervision or maintenance. Institution includes, but is not limited to, a

practitioner thereof may not, for that reason alone, be considered to be abused or neglected.

⁵ The acts described in paragraph 7 are inapplicable to acts or omissions which occur in a day school. Day school means a public or private school which provides general or special education services to day students in grades kindergarten through 12. N.J.S.A. 9:6-8.21h. It does not include a residential facility which provides 24 hour care. Id.

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correctional facility, detention facility, treatment facility, day care center, residential school, shelter and hospital.⁶

A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that the conduct is of that nature or that such circumstances exist or the person is aware of a high probability of their existence. A person acts knowingly with respect to a result of the conduct if he/she is aware that it is practically certain that the conduct will cause such a result. “Knowing,” “with knowledge,” or equivalent terms have the same meaning.

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from defendant’s conduct, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she did a particular thing.

It is within your power to find that such proof has been furnished beyond a reasonable doubt by inferences which may arise from the nature of his/her acts and conduct and from all he/she said and did at the particular time and place and from all surrounding circumstances established by the evidence.

If you find that the State has proven every element of the offense beyond a reasonable doubt, then you must find defendant guilty. If you find that the State has failed to prove any element beyond a reasonable doubt, then you must find defendant not guilty.

⁶ No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof may not, for that reason alone, be considered to be abused or neglected.