

8.9 CULPABLE NEGLIGENCE

§ 784.05, Fla.Stat.

To prove the crime of Culpable Negligence, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant)

Give 1a or 1b as applicable.

a. [exposed (victim) to personal injury].

b. [inflicted actual personal injury on (victim)].

2. [He] [She] did so through culpable negligence.

Give if 1a alleged.

Actual injury is not required.

Definition

I will now define "culpable negligence" for you. Each of us has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care for others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard for human life, or for the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard for the safety and welfare of the public, or shows such an indifference to the rights of others as is equivalent to an intentional violation of such rights.

Lesser Included Offenses

| CULPABLE NEGLIGENCE — 784.05(2) | | | |
|------------------------------------|--------------|------------|----------|
| CATEGORY ONE | CATEGORY TWO | FLA. STAT. | INS. NO. |
| Culpable negligence | | 784.05(1) | 8.9 |
| | None | | |

Comment

This instruction was adopted in 1981 and amended in 1985.