

16.12 LEAVING A CHILD UNATTENDED OR UNSUPERVISED IN A MOTOR VEHICLE

§ 316.6135, Fla. Stat.

To prove the crime of Leaving a Child Unattended or Unsupervised in a Motor Vehicle, the State must prove the following [three] [four] elements beyond a reasonable doubt:

1. (Defendant) was a [parent of] [legal guardian for] [person responsible for] (victim).
2. (Victim) was younger than 6 years of age.

Give 3a and/or 3b as applicable.

3. (Defendant) left (victim) **unattended or unsupervised in a motor vehicle**
 - a. **for a period in excess of 15 minutes.**

Give 3b, if applicable, only when the crime charged is a violation of § 316.6135(4), Fla. Stat.

- b. **for any period of time if [the motor of the vehicle was running] [the health of the child was in danger] [the child appeared to be in distress].**

Give if crime charged is a violation of § 316.6135(4), Fla. Stat.

4. **In so doing, (defendant) caused [great bodily harm] [a permanent disability] [permanent disfigurement] to (victim).**

Definition. § 316.003(44), Fla. Stat. Some of these terms have their own statutory definitions, which should be given if necessary.

“Motor vehicle” means a self-propelled vehicle not operated upon rails or guideway[, but not a bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped].

§ 316.003(103), Fla. Stat.

“Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway[, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks].

Great bodily harm. Wheeler v. State, 203 So. 3d 1007 (Fla. 4th DCA 2016).

“Great bodily harm” means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

Lesser Included Offenses

**LEAVING A CHILD UNATTENDED OR UNSUPERVISED IN A MOTOR VEHICLE —
316.6135(4)**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Leaving a Child Unattended if § 316.6135(4), Fla. Stat. is charged.		316.6135(1)(a)	16.12
	Attempt	777.04(1)	5.1

Comment

This instruction was adopted in 2009 [3 So. 3d 1172] and amended in 2013 [131 So. 3d 755], 2019 [262 So. 3d 59], and on October 2, 2020.