

16.2 FAILURE TO PROVIDE FINANCIAL SUPPORT

§ 827.06, Fla. Stat.

To prove the crime of Failure to Provide Financial Support, the State must prove the following five elements beyond a reasonable doubt:

1. (Defendant) **willfully failed to provide financial support for** (victim).
2. **At the time,** (victim) **was the [child] [spouse] of** (defendant).
3. **At the time,** (defendant) **was legally obligated to provide financial support for** (victim).
4. **At the time,** (defendant) **knew [he] [she] was legally obligated to provide financial support for** (victim).
5. **At the time,** (defendant) **had the ability to provide financial support for** (victim).

§ 827.06(3), Fla. Stat. \$5000 or more. Give if applicable.

If you find (defendant) **guilty of Failure to Provide Financial Support**, you must further determine if the State proved beyond a reasonable doubt whether the defendant owed, for more than one year, financial support to (victim) in an amount equal to or greater than \$5,000.

§ 827.06(5)(a), Fla. Stat. Give if applicable.

Evidence that the defendant willfully failed to make sufficient good faith efforts to legally acquire the resources to pay legally ordered support may be sufficient to prove that [he] [she] had the ability to provide financial support but willfully failed to do so.

§ 827.06(5)(b), Fla. Stat., § 88.1011(22), Fla. Stat. Give if applicable.

You may conclude that (defendant) **knew [he] [she] was legally obligated to provide financial support for** (victim) if you find that a court or tribunal entered an order that obligated the defendant to provide financial support to (victim). “Tribunal” means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Definition.

Patterson v. State, 512 So. 2d 1109 (Fla. 1st DCA 1987).

“Willfully” means intentionally, knowingly, and purposely.

Lesser Included Offenses

FAILURE TO PROVIDE FINANCIAL SUPPORT (\$5000 or more) — 827.06(3)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Failure to Provide Financial Support		827.06(2)	16.2

FAILURE TO PROVIDE FINANCIAL SUPPORT (4th or subsequent offense) — 827.06(3)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Failure to Provide Financial Support		827.06(2)	16.2

Comments

It is error to inform the jury of prior convictions for Failure to Provide Financial Support. Therefore, if the information or indictment contains an allegation of three or more prior Failure to Provide Financial Support convictions, do not read that allegation and do not send the information or indictment into the jury room. If the defendant is found guilty of Failure to Provide Financial Support, the historical fact of previous Failure to Provide Financial Support convictions shall be determined beyond a reasonable doubt in a bifurcated proceeding. *State v. Harbaugh*, 754 So. 2d 691 (Fla. 2000).

This instruction was adopted in 2014.