

[WITHDRAWN]

1 ~~[14-625. Jury procedure for various degrees of child abuse resulting in death of a child~~
2 ~~under twelve years of age.~~

3 ~~You have been instructed on the crimes of intentional child abuse resulting in the death of~~
4 ~~a child under twelve (12) years of age, and child abuse with reckless disregard resulting in the~~
5 ~~death of a child under twelve (12) years of age. You must consider each of these crimes. You~~
6 ~~should be sure that you fully understand the elements of each crime before you deliberate further.~~

7 ~~You will then discuss and decide whether the defendant is guilty of intentional child abuse~~
8 ~~resulting in the death of a child under 12 years of age. If you unanimously agree that the defendant~~
9 ~~is guilty of intentional child abuse resulting in the death of a child under 12 years of age, you will~~
10 ~~return a verdict of guilty of intentional child abuse resulting in the death of a child under 12 years~~
11 ~~of age. If you do not agree, you should discuss the reasons why there is a disagreement.~~

12 ~~If, after reasonable deliberation, you do not agree that the defendant is guilty of intentional~~
13 ~~child abuse resulting in the death of a child under 12 years of age, you should move to a discussion~~
14 ~~of child abuse with reckless disregard resulting in the death of a child under 12 years of age. If you~~
15 ~~unanimously agree that the defendant is guilty of child abuse with reckless disregard resulting in~~
16 ~~the death of a child under 12 years of age, you will return a verdict of guilty of child abuse with~~
17 ~~reckless disregard resulting in the death of a child under 12 years of age.~~

18 ~~You may not find the defendant guilty of more than one of the foregoing crimes. If you~~
19 ~~have a reasonable doubt as to whether the defendant committed any one of the crimes, you must~~
20 ~~determine that he is not guilty of that crime. If you find him not guilty of all of these crimes, you~~
21 ~~must return a verdict of not guilty.]~~

[WITHDRAWN]

1 [Adopted by Supreme Court Order No. 15-8300-001, effective for all cases filed or pending on or
2 after April 3, 2015; withdrawn by Supreme Court Order No. 20-8300-004, effective for all cases
3 pending or filed on or after December 31, 2020.]

4 **Committee commentary.** ~~See *State v. Montoya*, 2015 NMSC 010, ¶¶ 41-42, ___ P.3d~~
5 ~~___ (holding that reckless child abuse resulting in the death of a child under twelve is a lesser-~~
6 ~~included offense of intentional child abuse resulting in the death of a child under 12 and that the~~
7 ~~use of a step-down instruction therefore is appropriate).]~~

8 [Adopted by Supreme Court Order No. 15-8300-001, effective April 3, 2015; withdrawn by
9 Supreme Court Order No. 20-8300-004, effective for all cases pending or filed on or after
10 December 31, 2020.]