

one cannot be read without the other, or, if embodied in a subsequent clause, section, or statute, they are so incorporated with the words used to define the offense that they become a part of the definition, it is necessary, in the absence of statute, to negative them, so that the description of the offense in the indictment may correspond with the description and elements in the statute. *United States v Cook* (US) 17 Wall 168, 21 L Ed 538.

negating exceptions. See **negating defenses.**

negatoire. See **action negatoire.**

negatum. Denied.

Ne gist en le bouche. It does not lie in the mouth, it is not for one to say.

neglect. Verb: To omit to do or perform some work, act, or duty, required in one's business or occupation, or required as a legal obligation, such as that of making a payment. Noun: Omission to act or perform.

The word does not generally imply carelessness or imprudence, but simply an omission to do or perform some work, duty or act. *Rosenplaenter v Roessle*, 54 NY 262, 268.

neglected child. A child not cared for in the manner that the circumstances justly demand whether the failure lies in a wilful or unintentional disregard of duty, comprehending not alone a denial of that which is necessary to satisfy ordinary physical needs, but also the affection, guidance, and consideration required for the development of moral principles and ethical concepts in the mind of the child. 31 Am J Rev ed Juv Ct § 37.

A minor child who is not supplied with necessary medical and surgical care is "neglected" so as to

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subject the parents to the penalties imposed by law therefor. *Eggleston v Landrum*, 210 Miss 645, 50 So2d 364, 23 ALR2d 696.

An infant prevented by its parents from receiving a blood transfusion necessary to save its life or to prevent a permanent mental impairment is a "neglected child" within the meaning of a statute defining such child as one who "has not proper parental care" and authorizing transfer of custody of the child to an appointed guardian, although the parents have not failed in their duty in other respects. *People ex rel. Wallace v Labrenz*, 411 Ill 618, 104 NE2d 769, 30 ALR2d 1132.

neglect of child. The want of reasonable care of a child by the parent, that is, the omission of such steps as a reasonable parent would take, such as are usually taken in the ordinary experience of mankind, provided the parent has such means as would enable him to take the necessary steps. 39 Am J1st P&C§104.

See **wilful neglect of child.**

neglect of duty. The omission of one to perform a duty resting upon him. The neglect or failure on the part of a public officer to do and perform a duty or duties laid on him as such by virtue of his office or required of him by law. *State ex rel. Hardy v Coleman*, 115 Fla 119, 155 So 129, 92 ALR 988.

See **gross neglect of duty.**

neglect to prosecute. See **want of prosecution.**

negligence. A word of broad significance which may not readily be defined with accuracy. *Jamison v Encarnacion*, 281 US 635, 74 L Ed 1082, 50 S Ct 440. The lack of due diligence or care. A wrong characterized by the absence of a positive intent to inflict injury but from which injury nevertheless results. *Haser v Maryland Casualty Co.* 78 ND 893, 53 NW2d 508, 33 ALR 1018. In the legal sense, a violation of the duty to use care. *Fort Smith Gas Co. v Cloud* (CAS Ark) 75 F2d 413, 97 ALR 833.

The failure to perform an established duty which proximately causes injury to the plaintiff. Northern Indiana Transit v Burk, 228 Ind 162, 89 NE2d 905, 17 ALR2d 572. The failure to exercise the degree of care demanded by the circumstances; the want of that care which the law prescribes under the particular circumstances existing at the time of the act or omission which is involved. The omission to do something which a reasonable man, guided by those considerations which ordinarily regulate human affairs, would do, or doing something which a prudent and reasonable man would not do. 38 Am J1st Negl § 2. More particularly, the failure of one owing a duty to another to do what a reasonable and prudent person would ordinarily have done under the circumstances, or doing what such person would not have done, which omission or commission is the proximate cause of injury to the other. 28 Am J1st Negl § 2.

A negligent act is one from which an ordinarily prudent person would foresee such an appreciable risk of harm to others as to cause him not to do the act, or to do it in a more careful manner. Haralson v Jones Truck Lines, 223 Ark 813, 270 SW2d 892, 48 ALR2d 248.

What constitutes "operation" or "negligence in operation" within statute making owner of motor vehicle liable for negligence in its operation. Anno: 13 ALR2d 378.

negligence as a matter of law. An undisputed fact or facts, so conclusive of negligence in conduct or omission in violation of a standard of care which is clear in its requirements and in its application to the case, that there is no question to be submitted to the jury and the court must declare that negligence is established. 38 Am J1st Negl § 344.

See **negligence per se**.

negligence of bailee. The failure of a bailee to exercise that degree of diligence and care in respect to the property in his possession under the bailment which the nature of his employment, the character of the bailment, and the attendant circumstances make it reasonable to expect of him. 8 Am J2d Bailm § 198.

negligence per se. Literally, that which is negligence in itself. Negligence without question, negligence involving no debatable issue as to its existence, because the law, ordinarily the law in the form of statute or ordinance, has established the duty of the defendant toward the plaintiff which has been violated by the defendant to the injury of the plaintiff. 38 Am J1st Negl § 158.

Negligence per se results from a breach of a positive standard of conduct imposed by statute. Lavalley v Kaupp, 240 Minn 360, 61 NW2d 223.

negligent. Being guilty of negligence.

See **negligence**.

negligent escape. An escape occurring without the consent of, but through the carelessness of, the officer entrusted with the custody of the prisoner. Adams v Turrentine, 30 NC (8 Ired L) 147, 150.

negligent homicide. Causing the death of a person, without apparent intent to kill, but in doing an unlawful act or performing a lawful act in a careless or negligent manner, the danger of causing death being apparent. Barfield v State, 118 Tex Crim 394, 43 SW2d 106. The offense under modern statutes of the operation of a motor vehicle in reckless disregard of the safety of others, thereby causing the death of another. 7 Am J2d Auto § 291. Gross or culpable negligence in operating or driving a vehicle of any kind whereby a person is killed. 7 Am J2d Auto § 292.

See **manslaughter**.

negligentia. (Civil law.) Negligence; carelessness.

Negligentia semper habet infortunium comitem. Negligence always has misfortune for a comrade.

negligent waste. Same as **permissive waste**.