

Ala. Code 1975, § 13A-10-123

Intimidating a Witness

The defendant is charged with intimidating a witness.

A person commits the crime of intimidating a witness if he/she attempts, by use of a threat directed to a witness or a person he/she believes will be called as a witness in any official proceedings, to **[Read as appropriate]**:

- (1) Corruptly influence the testimony of that person;
- (2) Induce that person to avoid legal process summoning him/her to testify; **(OR)**
- (3) Induce that person to absent himself/herself from an official proceeding to which he/she has been legally summoned.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant directed a threat **[describe]**, to a witness or a person he/she believed would be called as a witness **[name]**, in an official proceeding **[describe]**;
- (2) The defendant, by use of the threat, attempted to **[read as appropriate]**:
 - (a) Corruptly influence the testimony of that person;
 - (b) Induce that person to avoid legal process summoning him/her to testify; **(OR)**
 - (c) Induce that person to absent himself/herself from an official proceeding to which he/she has been legally summoned; **(AND)**
- (3) The defendant did so intentionally.

Threat means, without legal authority, to threaten to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his/her will to do an unlawful act or refrain from doing a lawful act. [13A-10-123(b) & 13A-6-25]

Official Proceeding is any proceeding heard before any legislative, judicial, administrative or other government agency or official authorized to hear evidence under oath. [13A-10-100(b)(5)]

[Insert the instruction for Attempt 13A-4-2]

Testimony includes oral or written statements, documents or any other material that may be offered as evidence in an official proceeding. [13A-10-120(b)(2)]

A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of intimidating a witness, then you shall find the defendant guilty of intimidating a witness.

If you find that the State has failed to prove any one or more of the elements of intimidating a witness, then you cannot find the defendant guilty of intimidating a witness.

[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]

[Approved 6-17-16.]