

Ala. Code 1975, § 13A-10-15(a)(1)*

Making A Terrorist Threat

(*This instruction applies only to offenses committed on or after July 1, 2018.)

The defendant is charged with making a terrorist threat.

A person commits the crime of making a terrorist threat when he/she credibly, based on objective evaluation, threatens to commit a crime of violence against a person or to damage any property by use of a bomb, explosive, weapon of mass destruction, firearm, deadly weapon, or other mechanism, and **[read as appropriate]**:

- (1) The threat causes the evacuation of any real property, as defined under this section;
- (2) The threat causes the disruption of school, church, or government activity;
(OR)
- (3) The threat is with intent to retaliate against the victim because of his or her involvement or participation as any of the following:
 - a. A witness or party in any judicial or administrative proceeding;
 - b. A person who produced records, documents, or other objects in a judicial or administrative proceeding; **(OR)**
 - c. A person who provided to a law enforcement officer, adult or juvenile probation officer, prosecuting attorney, or judge any information relating to the commission or possible commission of an offense under the laws of this state, of the United States, or a violation of conditions of bail, pretrial release, probation, or parole.

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

- (1) The defendant threatened to commit a crime of violence, **[identify crime]**, against a person **[insert name of person]**, or to damage property **[identify property]**;
- (2) The defendant threatened to do so by use of a bomb, explosive, weapon of mass destruction, firearm, deadly weapon, or other mechanism;
- (3) **[Read as appropriate]**:

- (a) The threat caused the evacuation of real property, as defined under this section **[identify property]**;
- (b) The threat caused the disruption of school, church, or government activity **[describe]**; **(OR)**
- (c) The threat was with intent to retaliate against the victim **[name person]**, because of his/her involvement or participation as any of the following **[read as appropriate]**:
 - 1. A witness or party in any judicial or administrative proceeding;
 - 2. A person who produced records, documents, or other objects in a judicial or administrative proceeding; **(OR)**
 - 3. A person who provided to a law enforcement officer, adult or juvenile probation officer, prosecuting attorney, or judge any information relating to the commission or possible commission of an offense under the laws of this state, of the United States, or a violation of conditions of bail, pretrial release, probation, or parole;
- (4) The threat was credible, based on objective evaluation; **(AND)**
- (5) The defendant acted intentionally and knowingly.

A person *threatens* another if all of the following occur:

- a. The person intentionally and knowingly makes a statement verbally, in writing, by means of an electronic communication device, or by any other means to harm a person or property;
- b. The statement is communicated to another person;
- c. Under the circumstances, the threatened harm is credible and imminent;
- d. The statement, on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat; **(AND)**
- e. The statement causes the person to reasonably be in sustained fear for his/ her own safety or for the object of the threat. [13A-10-15(b)(2)]

[Read as appropriate]: *Property* is any real or personal property, including books, records, and documents. [13A-10-1(6)]

[Read as appropriate]: *Personal or real property* includes, but is not limited to, any of the following buildings or real property:

- a. A church, mosque, synagogue, or other religious real property;

- b. A public or private school. [13A-10-15(b)(1)]

[Read as appropriate]: *Weapons of mass destruction* are any of the following:

- a. A destructive device as defined in 18 U.S.C. § 921;
- b. A weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals;
- c. A weapon involving a biological agent, toxin, or vector, as those terms are defined in 18 U.S.C. § 178;
- d. A weapon that is designed to release radiation or radioactivity at a level dangerous to human life. [13A-10-15(b)(3)]

[Read as appropriate]: The term *destructive device* means **[read as appropriate]:**

- (A) any explosive, incendiary, or poison gas-
 - (i) bomb,
 - (ii) grenade,
 - (iii) rocket having a propellant charge of more than four ounces,
 - (iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (v) mine, or
 - (vi) device similar to any of the devices described in the preceding clauses;
- (B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and
- (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 7684(2), 7685, or 7686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

[18 U.S.C. § 921(a)(4), as amended effective Feb. 1, 2019.]

[Read as appropriate]: The term *biological agent* means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious

substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of causing-

- (A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;
- (B) deterioration of food, water, equipment, supplies, or material of any kind; or
- (C) deleterious alteration of the environment. [18 U.S.C. § 178(1)]

[Read as appropriate]: The term *toxin* means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes-

- (A) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or
- (B) any poisonous isomer or biological product, homolog, or derivative of such a substance. [18 U.S.C. § 178(2)]

[Read as appropriate]: The term *vector* means a living organism, or molecule, including a recombinant or synthesized molecule, capable of carrying a biological agent or toxin to a host. [18 U.S.C. § 178(4)]

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)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

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

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

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

Use Notes

This statute was amended and became effective July 1, 2018. [Ala. Act 2018-553]

[Approved 10-9-18.]