

Ala. Code 1975, § 13A-4-1

CRIMINAL SOLICITATION

The defendant is charged with criminal solicitation.

A person commits the crime of criminal solicitation if, with the intent that another person engage in conduct constituting a crime, he/she does any of the following:

- (a) solicits;
- (b) requests;
- (c) commands; **(OR)**
- (d) importunes, which means to urge persistently,

the other person to engage in such conduct.

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

- (1) the defendant
 - (a) solicited;
 - (b) requested;
 - (c) commanded; **(OR)**
 - (d) importuned

[Insert name of person solicited] to commit the crime of **[Insert name of crime solicited]**; **(AND)**

- (2) the defendant did so with the intent that another person engage in conduct constituting a crime.

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 commits the crime of **[Insert name of crime solicited]** if **[Insert instruction for that crime]**.

[Read if appropriate - Corroboration] – A person may not be convicted of criminal solicitation on the uncorroborated testimony of **[Insert name of person solicited]**. Such testimony, to be sufficient, must be corroborated by other proof of circumstances tending to show both:

- (1) the defendant solicited him/her to commit the crime of **[Insert name of crime solicited]**; **(AND)**

- (2) the defendant did so with the requisite intent that the person be caused to commit the crime of **[Insert name of crime solicited]**.

[Read if appropriate - Renunciation] – A person is not guilty of criminal solicitation if he/she voluntarily and completely renounced his/her criminal intent by both:

- (1) notifying the person solicited of his/her renunciation; **(AND)**
- (2) either:
 - (a) giving timely and adequate warning to law enforcement; **(OR)**
 - (b) making a substantial effort to prevent the criminal conduct solicited.

The burden of raising this issue is on the defendant, but this does not shift the burden of proof to the defendant.

[Read if appropriate - Incidental] – A person is not guilty of criminal solicitation when his/her solicitation constitutes conduct of a kind that is necessarily incidental to the commission of the offense solicited. When the solicitation constitutes an offense other than criminal solicitation which is related to but separate from the offense solicited, the defendant may be found guilty of the related offense only and not of the criminal solicitation.

[Read if appropriate - Solicited Person] – It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the offense solicited because of any of the following:

- (1) criminal irresponsibility or other legal incapacity or exemption;
- (2) unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose; **(OR)**
- (3) any other factor precluding the mental state required for the commission of the offense in question.

[Read if appropriate - Incapable] – It is no defense to a prosecution for criminal solicitation that the defendant is legally incapable of committing the solicited offense.

[Read if appropriate - Completed] – It is no defense to a prosecution for criminal solicitation that the solicited offense was actually committed. [13A-4-5]

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

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements, then you cannot find the defendant guilty of this offense.

[Adopted 10-17-14.]