

**Ala. Code 1975, § 13A-6-2(a)(1)**

**Murder**  
**(Intentional)**

The defendant is charged with murder.

A person commits the crime of murder if, with intent to cause the death of another person, he/she causes the death of that person or of another person.

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

- (1) A person, **[insert name of deceased]**, is dead;
- (2) The defendant caused the death of **[insert name of deceased]** by **[describe the act, such as shooting him/her]; (AND)**
- (3) The defendant did so intentionally.

**[Read as appropriate]:** A *person*, when referring to the victim, means a human being, including an unborn child in utero at any stage of development, regardless of viability. [13A-6-1(a)(3)]

A person acts *intentionally* when it is his/her purpose to cause the death of another person. [13A-2-2(1)]

**[Read as appropriate - Transferred Intent]:** A person acts *intentionally* when it is his/her purpose to cause the death of a specific person, regardless of whether the deceased person is actually the person whose death the defendant allegedly wished to cause. See *Ex parte Jackson*, 614 So. 2d 405, 406-407 (Ala. 1993); *Farrior v. State*, 728 So. 2d 691, 695-696 (Ala. Crim. App. 1998).

**[Read all appropriate - Intoxication]:** A person who creates a risk, but is unaware that he/she has created that risk solely because of voluntary intoxication, acts recklessly with regards to that risk. *Intoxication* includes a disturbance of mental or physical capacities resulting from the introduction of any substance into the body. *Voluntary intoxication* means intoxication caused by substances that the actor knowingly introduced into his/her body, the tendency of which to cause intoxication he/she knows or ought to know, unless he/she introduces them under circumstances that would afford a defense to the charge. *Intoxication* in itself does not constitute mental disease or defect. *Intoxication* is generally not a defense. However, *involuntary intoxication* is a defense if as a result the actor lacks capacity either to appreciate the criminality of his/her conduct or to conform his/her conduct to the requirements of law. *Intoxication*, whether voluntary or involuntary, is admissible in evidence whenever it is relevant to negate an element of the offense charged. When recklessness establishes an element of an offense and the

actor is unaware of a risk because of *voluntary intoxication*, his/her unawareness is immaterial in a prosecution for that offense. [13A-3-2]

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

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

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

### **Use Notes**

If there is evidence that the defendant was intoxicated at the time of the murder, the defendant is entitled to an instruction on applicable lesser included offense(s). See *Peterson v. State*, 520 So. 2d 238 (Ala. Crim. 1987); *Saunders v. State*, 10 So. 3d 53 (Ala. Crim. 2007).

For unborn child exceptions see 13A-6-1(b) through (e).

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