

**Ala. Code 1975, § 13A-6-20(a)(3)**  
**Assault First Degree**  
**(Extreme Indifference to Human Life)**

The defendant is charged with assault in the first degree.

A person commits the crime of assault in the first degree if, under circumstances manifesting extreme indifference to the value of human life, he/she recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to any person.

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

- (1) The defendant caused serious physical injury to another person, **[Insert name of injured person]**;
- (2) The defendant was acting under circumstances manifesting extreme indifference to the value of human life; **(AND)**
- (3) The defendant recklessly engaged in conduct which created a grave risk of death to another person.

**[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)]

*Serious physical injury* is physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ. [13A-1-2(14)]

*Physical injury* is impairment of physical condition or substantial pain. [13A-1-2(12)]

A person acts with *extreme indifference* to human life if, under the circumstances, he/she recklessly engages in conduct which creates a grave risk of death to a person other than himself/herself.

*Extreme indifference to human life* means demonstrating extreme indifference to human life in general, but has no deliberate intent to kill or injure any particular individual. (See *Thomas v. State*, 517 So. 2d 640 (Ala. Crim. App. 1987).)

A person acts *recklessly* in regards to his/her conduct if:

- (1) The actor is aware that there is a substantial and unjustifiable risk that death will occur;

- (2) The risk of death is so great that the actor's failure to recognize this risk is a gross deviation from the standard of behavior to which a reasonable person would hold himself/herself in the same situation; **(AND)**
- (3) The actor consciously disregards this substantial and unjustifiable risk.  
[See 13A-2-2(3)]

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

If you find that the State has failed to prove any one or more of the elements of the offense of assault in the first degree, then you cannot find the defendant guilty of assault in the first degree.

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

**Use Note**

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

[Approved 10-14-15.]