

**Ala. Code 1975, § 13A-6-21(a)(7)**

**Assault Second Degree**  
**(Administration of Drugs)**

The defendant is charged with assault in the second degree.

A person commits the crime of assault in the second degree if, for a purpose other than lawful medical or therapeutic treatment, he/she intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to him/her, without his/her consent, a drug, substance or preparation capable of producing the intended harm.

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

- (1) The defendant administered a drug, substance or preparation capable of producing the intended harm to a person, **[Insert name of person]**, without his/her consent;
- (2) The defendant did so for a purpose other than lawful medical or therapeutic treatment; **(AND)**
- (3) The defendant intentionally caused stupor, unconsciousness, or other physical or mental impairment or injury to that 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)]

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

*Drugs* are: **[Read as appropriate]:**

1. Substances that are recognized as drugs by the official United States pharmacopoeia, by the official homeopathic pharmacopoeia of the United States, or any official national formulary or supplement to any of the above lists;
2. Substances that are intended for use in diagnosing diseases, curing diseases, alleviating the symptoms or spread of diseases, treating diseases, or preventing diseases in either humans or animals;
3. Substances besides food that are intended to affect the structure, or any function of the body of, humans or animals; **(OR)**

4. Substances that are intended to be used in conjunction with the treatments/administrations listed above. These “substances” do not include devices, or their components, parts, or accessories. [ 20-3-2(4); 27-45-2(12); 34-23-1(5)]

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).

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of assault in the second degree, then you shall find the defendant guilty of assault in the second 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 second degree, then you cannot find the defendant guilty of assault in the second degree.

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

#### Use Notes

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

[Approved 10-14-15.]