

Ala. Code 1975, § 13A-6-90.1

Stalking Second Degree

The defendant is charged with stalking in the second degree.

A person commits the crime of stalking in the second degree if he/she, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his/her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct.

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

- (1) The defendant, acting with an improper purpose, repeatedly followed, harassed, telephoned, or initiated communication, verbally, electronically, or otherwise, with:
 - (a) Another person **[Insert name]**;
 - (b) A member of the other person's immediate family, **[Insert name]**;
(OR)
 - (c) A third party with whom the other person is acquainted, **[INSERT NAME]**;
- (2) The defendant caused:
 - (a) Material harm to the mental or emotional health of the other person;
(OR)
 - (b) Such person to reasonably fear that his/her employment, business, or career was threatened;
- (3) The defendant was previously informed to cease that conduct; **(AND)**
- (4) The defendant acted intentionally.

To *harass* is to engage in an intentional course of conduct directed at a specified person which alarms or annoys that person, or interferes with the freedom of movement of that person, and which serves no legitimate purpose. The course of conduct must be

such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress. [13A-6-92(c)]

A *course of conduct* is a pattern of conduct composed of a series of acts over a period of time which evidences a continuity of purpose. [13A-6-92(a)]

A *threat* is any word or action, expressed or implied, made with the intent to cause a person who is the target of the threat to fear for his/her safety or for the safety of a family member and to cause reasonable mental anxiety, anguish or fear. [13A-6-92(b)]

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)]

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

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

Use Notes

A *credible threat* is defined in 13A-6-92(b) as a threat, express or implied, made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to fear for his/her safety or the safety of a family member and to cause reasonable mental anxiety, anguish, or fear. However, *credible threat* is not used in 13A-6-90. The statute merely says “threat,” even though the definitions section (13A-6-92) contains a definition for credible threat but not threat.

[Approved 9-2-15.]