

Ala. Code 1975, § 15-20A-11(b)

Establishing Residence near Victim
(Adult)

The defendant is charged with establishing a residence, maintaining a residence after release or conviction, or establishing any other living accommodation near a victim as an adult sex offender.

A person commits the crime of establishing a residence, maintaining a residence after release or conviction, or establishing any other living accommodation near a victim as an adult sex offender if he/she is an adult sex offender and establishes a residence, maintains a residence after release or conviction, or establishes any other living accommodation within 2000 feet of the property on which his/her former victim, or an immediate family member of the victim, resides.

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

- (1) The defendant was an adult sex offender;
- (2) The defendant established a residence, maintained a residence after release or conviction, or established any other living accommodation within 2000 feet of the property on which his/her former victim, or an immediate family member of the victim, resides; **(AND)**
- (3) The defendant did so knowingly.

An *adult sex offender* is a person convicted of a sex offense. [15-20A-4(1)]

A *sex offense* includes any of the following offenses: **[Insert all appropriate from 15-20A-5]**.

A *conviction* is a verdict or finding of guilt as the result of a trial, a plea of guilty, a plea of nolo contendere, or an *Alford* plea regardless of whether adjudication was withheld. Conviction includes, but is not limited to, a conviction in a United States territory, a conviction in a federal or military tribunal, including a court martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian reservation or other federal property, a conviction in any state of the United States or a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5)(B) of Public Law 109-248. Cases on appeal are deemed convictions until reversed or overturned. [15-20A-4(4)]

A *residence* is each fixed residence or other place where a person resides, sleeps, or habitually lives or will reside, sleep, or habitually live. If a person does not reside, sleep,

or habitually live in a fixed residence, residence means a description of the locations where the person is stationed regularly, day or night, including any mobile or transitory living quarters or locations that have no specific mailing or street address. Residence shall be construed to refer to the places where a person resides, sleeps, habitually lives, or is stationed with regularity, regardless of whether the person declares or characterizes such place as a residence. [15-20A-4(20)]

A *fixed residence* is a building or structure, having a physical address or street number, that adequately provides shelter at which a person resides. [15-20A-4(6)]

Habitually lives is where a person lives with some regularity on an intermittent or temporary basis. [15-20A-4(7)]

Release means release from a state prison, county jail, municipal jail, mental health facility, release or discharge from the custody of the Department of Youth Services or other juvenile detention, or placement on an appeal bond, probation, parole, or aftercare, placement into any facility or treatment program that allows the sex offender to have unsupervised access to the public, or release from any other facility, custodial or noncustodial, where the sex offender is sentenced or made a ward of that facility by a circuit, district, or juvenile judge. [15-20A-4(18)]

The *2,000 foot measurement* shall be taken in a straight line from the nearest property line to the nearest property line. [15-20A-11(g)]

Immediate family member is a grandparent, parent, sibling, spouse, child of any age by blood, adoption, or marriage, or grandchild. [15-20A-4(9)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

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 of the offense, then you cannot find the defendant guilty of this offense.

Use Notes

See 15-20A-35 for treatment of youthful offender.

The defendant may be exempted from the 2,000 foot requirement pursuant to 15-20A-24. [15-20A-11(b)]

Changes to property within 2,000 feet of a registered address of the defendant which occur after he/she establishes residency shall not form the basis for finding the defendant in violation of this section, unless the sex offender has been released or convicted of a new offense after establishing residency. [15-20A-11(c)]

The defendant is exempt from this section during the time he/she is admitted to a hospital or is incarcerated in a jail, prison, mental health facility, or any other correctional placement facility wherein he/she is not allowed unsupervised access to the public. [15-20A-11(f)]

[Approved 9-8-15.]