

# ALPHABETICAL INDEX OF DEFINITIONS IN THE CRIMINAL CODE

**COMPILED BY BILL BOWEN, AUGUST 8, 2013.**

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Updated through 2017 Amendments

[Does not include definitions of specific crimes and defenses, i.e. murder, intoxication]

A B C D E F G H I J K L M N O P **Q** R S T U V W **X** Y **Z**

## **ABDUCT**

To restrain a person with intent to prevent his liberation by either:

- a. Secreting or holding him in a place where he is not likely to be found, or
- b. Using or threatening to use deadly physical force. [§ 13A-6-40(2)]

## **ABDUCTION**

An *abduction* is the removal or retention of a child without the consent of the child's custodian. [§ 13A-13-8(b)(1)]

## **ACCESS**

To gain entry to, instruct, communicate with, store data in, retrieve or intercept data from, alter data or computer software in, or otherwise make use of any resource of a computer, computer system, or computer network. [§ 13A-8-111(1)]

## **ACQUIRER**

A business organization including without limitation a merchant, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for money, goods, services, or anything else of value. [§ 13A-9-14.1(a)(1)]

## **ACT**

A bodily movement, and such term includes possession of property. [§ 13A-2-1(1)]

## **ACT OF TERRORISM**

An act or acts constituting a specified offense as defined in subdivision (4) for which a person may be convicted in the criminal courts of this state, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States which contains all of the essential elements of a specified offense, that is intended to do the following:

- a. Intimidate or coerce a civilian population.
- b. Influence the policy of a unit of government by intimidation or coercion.
- c. Affect the conduct of a unit of government by murder, assassination, or kidnapping. [§ 13A-10-151(1)]

**Note:** § 13A-10-151(4) SPECIFIED OFFENSE. A Class A felony, manslaughter, kidnapping in the second degree, assault in the first or second degree, stalking, intimidating a witness, criminal tampering, or any attempt or conspiracy to commit any of these offenses.

## **ADULT**

A person who, pursuant to state law, may possess alcoholic beverages. [§ 13A-11-10.1(a)(1)]

## **ADULT BOOKSTORES AND ADULT VIDEO STORES**

A commercial establishment in which is offered for sale or rent any book, video, film, or other medium which in the aggregate constitute substantially all of its stock or inventory which depicts sexual conduct as defined herein. [§ 13A-12-200.1(1)]

## **ADULT HAVING CONTROL OF A RESIDENCE**

An adult who has sanctioned an open house party and who is in attendance. [§ 13A-11-10.1(a)(2)]

## **ADULT MOVIE HOUSE**

A place where obscene “adult films” depicting sexual conduct are shown. [§ 13A-12-200.1(2)]

## **ADULT SEX OFFENDER**

A person convicted of a sex offense. [§ 15-20A-4(1)]

## **ADULTERATED**

“Adulterated” means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation, or if none, as set by established commercial usage. [§ 13A-9-41(c)]

## **ADULT-ONLY ENTERTAINMENT**

Any commercial establishment or private club where entertainers, employees, dancers, or waiters appear nude or semi-nude. [§ 13A-12-200.1(3)]

## **ADVANCE GAMBLING ACTIVITY**

A person “advances gambling activity” if he engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation. [§ 13A-12-20(1)]

## **ADVANCE PROSTITUTION**

A person “advances prostitution” if, acting other than as a prostitute or a patron of a prostitute, he knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise. [§ 13A-12-110(1)]

## **AGGRAVATING CIRCUMSTANCES**

Aggravating circumstances shall be the following:

- (1) The capital offense was committed by a person under sentence of imprisonment;
- (2) The defendant was previously convicted of another capital offense or a felony involving the use or threat of violence to the person;
- (3) The defendant knowingly created a great risk of death to many persons;
- (4) The capital offense was committed while the defendant was engaged or was an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit, rape, robbery, burglary or kidnapping;
- (5) The capital offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;
- (6) The capital offense was committed for pecuniary gain;
- (7) The capital offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws;
- (8) The capital offense was especially heinous, atrocious, or cruel compared to other capital offenses;
- (9) The defendant intentionally caused the death of two or more persons by one act or pursuant to one scheme or course of conduct; or
- (10) The capital offense was one of a series of intentional killings committed by the defendant. [§ 13A-5-49]

## **ALCOHOLIC BEVERAGE**

The meaning ascribed in Section 28-3-1. [§ 13A-11-10.1(a)(3)]

**Note:** § 28-3-1. (1) ALCOHOLIC BEVERAGES. Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented, or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine.

## **AMMUNITION**

Any cartridge, shell, or projectile designed for use in a firearm. [§ 13A-11-58.1(a)(1)]

## **ANIMAL**

Every living creature, domestic or wild, with the exception of man and animals used for illegal gaming purposes. [§ 13A-11-152(1)]

## **ANIMAL OR CROP FACILITY**

Any facility engaging in scientific research, education, or agricultural production of or involving the use of animals or crops including any organization with the primary purpose of representing livestock or crop production or processing; any organization with a primary purpose of promoting or marketing livestock or crops; any organization with a primary purpose of promoting or marketing livestock or crop products or materials; any person licensed to practice veterinary medicine; any person licensed to apply chemical applications not limited to pesticides, insecticides, rodenticides, or herbicides; any organization with a primary purpose of representing any of the above; the owner, operator, and employees of any animal or crop facility; and any vehicle, building, greenhouse, structure, laboratory, pasture, field, paddock, pond, impoundment, or premises where animals or crops are located. [§ 13A-11-152(2)]

## **ATTEMPT TO COMMIT CRIME**

An *attempt* to commit a crime means that, with the intent to commit a specific offense, a person did an overt act towards the commission of that offense. [13A-4-2(a)]

## **ARTICLE**

Any object, material, device, or substance or any copy thereof, including a writing, recording, drawing, sample, specimen, prototype, model, photograph, microorganism, blueprint, or map. [§ 13A-8-10.4(a)(1)]

## **AUDIOVISUAL IMAGE**

A series of related images which are intended to impart an impression of motion when shown in succession by means of a machine or device. [§ 13A-8-90(a)(1)]

## **AUDIOVISUAL RECORDING FUNCTION**

The capability of a device to record or transmit a motion picture or any part thereof. [§ 13A-8-90(a)(2)]

## **AUTHORIZED PERSON**

An authorized person includes, but is not limited to, a law enforcement officer, security officer, an owner or manager of the premises, a principal, teacher, or school bus driver if the premises is a school, childcare facility, or bus stop, a coach, if the premises is an athletic field or facility, or any person designated with that authority. [§ 15-20A-17(a)(2)]

## **BACTERIOLOGICAL WEAPON OR BIOLOGICAL WEAPON**

A device which is designed in a manner to permit the intentional release onto any person, into the population or environment of microbial, or other biological agents or toxins or viral agents whatever their origin or method of production in a manner not otherwise authorized by law or any device the development, production, or stockpiling of which is prohibited pursuant to the "Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction," 26 U.S.T. 583, TIAS 8063. The microbial or biological agents or viral agents shall include, but not be limited to, any of the following: Anthrax or any variation thereof, smallpox or any variation thereof. [§ 13A-10-190(1)]

## **BENEFIT**

Any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary. [§ 13A-10-60(b)(1)]

## **BONA FIDE COIN-OPERATED AMUSEMENT MACHINE**

(1) For purposes of this section, "bona fide coin-operated amusement machine" means every machine of any kind or character used by the public to provide amusement or entertainment whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, or similar object, and the result of whose operation depends in whole or in part upon the skill of the player, whether or not it affords an award to a successful player, and which can be legally shipped interstate according to federal law. Examples of bona fide coin-operated amusement machines include, but are not limited to, the following:

- a. Pinball machines.
- b. Console machines.
- c. Video games.
- d. Crane machines.
- e. Claw machines.
- f. Pusher machines.
- g. Bowling machines.
- h. Novelty arcade games.
- i. Foosball or table soccer machines.
- j. Miniature racetrack or football machines.
- k. Target or shooting gallery machines.
- l. Basketball machines.
- m. Shuffleboard games.
- n. Kiddie ride games.
- o. Skee-ball machines.
- p. Air hockey machines.
- q. Roll down machines.

- r. Coin-operated pool table or coin-operated billiard table.
- s. Any other similar amusement machine which can be legally operated in Alabama.
- t. Every machine of any kind or character used by the public to provide music whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, or similar object, such as jukeboxes or other similar types of music machines.

(2) The term “bona fide coin-operated amusement machine” does not include the following:

- a. Coin-operated washing machines or dryers.
- b. Vending machines which for payment of money dispense products or services.
- c. Gas and electric meters.
- d. Pay telephones.
- e. Cigarette vending machines.
- f. Coin-operated scales.
- g. Coin-operated gumball machines.
- h. Coin-operated parking meters.
- i. Coin-operated television sets which provide cable or network programming.
- j. Machines which are not legally permitted to be operated in Alabama.
- k. Slot machines.
- l. Video poker games.

[§ 13A-12-76(e)]

## **BOOBY TRAP**

Any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. This term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices for the production of toxic fumes or gases. [§ 13A-1-2(1)]

## **BOOKMAKING**

Advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events. [§ 13A-12-20(2)]

## **BRAND STYLE**

A variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of cigarette, filtration on the cigarette, or packaging. [§ 13A-12-3.1(1)]

## **BREAST NUDITY**



The lewd showing of the post-pubertal human female breasts below a point immediately above the top of the areola. [§ 13A-12-190(10)]

The showing of the post-pubertal human female breasts below a point immediately above the top of the areola. [§ 13A-12-200.1(4)]

## **BUILDING**

Any structure which may be entered and utilized by persons for business, public use, lodging, or the storage of goods, and includes any vehicle, aircraft, or watercraft used for the lodging of persons or carrying on business therein. Each unit of a building consisting of two or more units separately occupied or secured is a separate building. [§ 13A-3-20(3)]

Any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and such term includes any vehicle, aircraft or watercraft used for the lodging of persons or carrying on business therein, and such term includes any railroad box car or other rail equipment or trailer or tractor trailer or combination thereof. Where a building consists of two or more units separately occupied or secure, each shall be deemed both a separate building and a part of the main building. [§ 13A-7-1(1).]

As used in this article, such term means any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and includes any vehicle, railway car, aircraft or watercraft used for the lodging of persons or for carrying on business therein. Where a building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building. [§ 13A-7-40(1)]

Any structure that may be entered and utilized by persons for business, public use, lodging, or the storage of goods. The term includes any vehicle, aircraft, or watercraft used for the lodging of persons or carrying on business therein and includes any railroad boxcar or other rail equipment or trailer or tractor trailer, or combination thereof. Where a building consists of two or more units separately occupied or secure, each shall be deemed both a separate building and a part of the main building. [§ 13A-7-80(a)(1)]

## **BURDEN OF INJECTING THE ISSUE**

The term means that the defendant must offer some competent evidence relating to all matters subject to the burden, except that the defendant may rely upon evidence presented by the prosecution in meeting the burden. [§ 13A-1-2(2)]

BURDEN OF INTERJECTING THE ISSUE. Shall be defined as provided in Section 13A-1-2(14) [sic] [§ 13A-5-39(4)]

**Note:** Reference should be to § 13A-1-2(2).

## **BUSINESS RECORD**

“Business record” means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity. [§ 13A-9-45(c)]

## **CABLE TELEVISION COMPANY**

As used in this article, unless the context requires otherwise, “cable television company” or “company” means any franchised or other duly licensed company which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable or other device or means for accomplishing such redistribution, to members of the public who subscribe to such service, or distributing through such company's antennae, poles, wires, cables, conduits or other property used in providing service to its subscribers and customers any television signals whether broadcast or not. [§ 13A-8-120]

## **CAPITAL OFFENSE**

An offense for which a defendant shall be punished by a sentence of death or life imprisonment without parole, or in the case of a defendant who establishes that he or she was under the age of 18 years at the time of the capital offense, life imprisonment, or life imprisonment without parole, according to the provisions of this article. [§ 13A-5-39(1)]

## **CARDHOLDER**

The person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer. [§ 13A-9-14.1(a)(2)]

## **CAREGIVER**

An individual who has the responsibility for the care of an elderly person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, for pecuniary gain, by contract, or as a result of the ties of friendship. [13A-6-191(1)]

## **CHARITABLE ORGANIZATION**

Any benevolent, philanthropic, or patriotic person, or one purporting to be such, consistent with the then-controlling definition provided in the Internal Revenue Code of the United States of America, which solicits and collects funds for charitable purposes and includes each local, county, or area division within this state of the charitable organization; provided the local, county, or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization. [§ 13A-9-70(1)]

A person or nonprofit corporation who is or holds himself or herself out to be established for a benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental, conservation, civic, or other eleemosynary purpose, or a person who employs a charitable appeal as the basis for any solicitation or appeal that suggests, directly, or indirectly, that the solicitation is for a charitable purpose. Charitable organization includes a person, chapter, branch, area office, or a similar affiliate, or agent of any of these, soliciting contributions within the state for a charitable organization or cause that has its principal place of business within or without the state. [§ 13A-9-80(1)]

## **CHARITABLE PURPOSE**

Any charitable, benevolent, philanthropic, or patriotic purpose which is consistent with the then-controlling definition provided in the Internal Revenue Code of the United States of America. [§ 13A-9-70(2)]

Any charitable, benevolent, philanthropic, humane, patriotic, scientific, artistic, public health, social welfare, advocacy, environmental, conservation, civic, or other eleemosynary purpose as defined and amended, from time to time, by the Internal Revenue Code. [§ 13A-9-80(2)]

## **CHILD**

For the purposes of this article, a child is defined as a person under 16 years of age. [§ 13A-6-120]

A *child* is a person who is less than 18 years of age. [13A-13-8(b)(2)]

“Child” includes a child born out of wedlock whose paternity has been admitted by the actor or has been established in a civil suit. [§ 13A-13-4(c)]

A person who has not attained the age of 12. [§ 15-20A-4(2)]

A person under the age of 18 years. [§ 26-14-1(3)]

## **CHILDCARE FACILITY**

A licensed child daycare center, a licensed childcare facility, or any other childcare service that is exempt from licensing pursuant to Section 38-7-3, provided that the licensed child daycare center, licensed childcare facility, or any other childcare service and location are public record or have been provided to local law enforcement. [§ 15-20A-4(3)]

## **CIVIL RIGHTS ORGANIZATION**

Any charitable organization exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code that is organized to protect the rights of persons against deprivation, discrimination, or denial of their right to equal protection of the laws under the Constitution of the United States of America because of color, race, religion, sex, age, disability, or national origin. [§ 13A-9-70(3)]

## **CLANDESTINE LABORATORY OPERATION**

Any of the following:

- a. Purchase or procurement of chemicals, supplies, equipment, or laboratory location for the unlawful manufacture of controlled substances.
- b. Transportation or arranging for the transportation of chemicals, supplies, or equipment for the unlawful manufacture of controlled substances.
- c. Setting up of equipment or supplies in preparation for the unlawful manufacture of controlled substances.
- d. Distribution or disposal of chemicals, equipment, supplies, or products used in or produced by the unlawful manufacture of controlled substances. [§ 13A-1-2(3)]

## **CLEAR AND CONSPICUOUS STATEMENT**

The statement is of sufficient type size to be clearly readable by the recipient of the communication. [§ 13A-12-3.1(2)]

## **COERCION**

Any of the following:

- a. Causing or threatening to cause physical injury or mental suffering to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer physical injury or mental suffering.
- b. Implementing any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in physical injury, mental suffering, or physical restraint of any person.
- c. Destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's or any person's actual or purported government records, immigration documents, identifying information, or personal or real property.

- d. Exposing or threatening to expose any fact or information that if revealed would tend to subject a person to criminal prosecution, criminal or immigration proceedings, hatred, contempt, or ridicule.
- e. Threatening to report the person or another person to immigration officials or to other law enforcement officials or otherwise blackmailing or extorting the person or another person.
- f. Controlling a person's access to a controlled substance, as the term is defined in Section 20-2-2.
- g. Rape or sodomy or threatened rape or sodomy of any person, as defined in Title 13A. [§ 13A-6-151(1)]

## **COIN MACHINE**

A coin box, turnstile, vending machine or other mechanical or electronic device or receptacle designed:

- a. To receive a coin or bill of a certain denomination or a token made for the purpose; and
- b. In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service. [§ 13A-9-16(1)]

## **COMMERCIAL CO-VENTURER**

Any person who for profit or other commercial consideration, conducts, promotes, underwrites, arranges, or sponsors a sale, performance, or event of any kind which is advertised, and which will benefit, to any extent, a charitable or religious organization. However, any such person who will benefit in good will only, is not a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance, or event are supervised and controlled by the benefiting charitable or religious organization. [§ 13A-9-70(4)]

## **COMMERCIALLY DISTRIBUTE**

To sell, lease, rent, or distribute for pecuniary gain. [§ 13A-8-90(a)(4)]

## **COMMISSIONER**

The Commissioner of Agriculture and Industries for the State of Alabama. [§ 13A-11-152(3).]

The Commissioner of the Alabama Department of Revenue. [§ 13A-12-3.1(3).]

## **COMMITTED PERSON**

Any committed person from the lawful custody of its parent, guardian or other lawful custodian. "Committed person" means, in addition to anyone committed under judicial warrant, any neglected, dependent or delinquent child, mentally defective or insane person or any other incompetent person entrusted to another's custody by authority of law. [§ 13A-6-45(a)(2)]

## **COMPLETE WRITTEN INSTRUMENT**

One which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof. [§ 13A-9-1(2)]

## **COMPUTER**

An electronic, magnetic, optical, electrochemical, or other high speed data processing device or system that performs logical, arithmetic, or memory functions by the manipulations of electronic or magnetic impulses and includes all input, output, processing, storage, or communication facilities that are connected or related to the device. [§ 13A-8-111(2)]

## **COMPUTER NETWORK**

The interconnection of two or more computers or computer systems that transmit data over communication circuits connecting them. [§ 13A-8-111(3)]

## **COMPUTER PROGRAM**

An ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data or perform specific functions. [§ 13A-8-111(4)]

## **COMPUTER SECURITY SYSTEM**

The design, procedures, or other measures that the person responsible for the operation and use of a computer employs to restrict the use of the computer to particular persons or uses or that the owner or licensee of data stored or maintained by a computer in which the owner or licensee is entitled to store or maintain the data employs to restrict access to the data. [§ 13A-8-111(5)]

## **COMPUTER SERVICES**

The product of the use of a computer, the information stored in the computer, or the personnel supporting the computer, including computer time, data processing, and storage functions. [§ 13A-8-111(6)]

## **COMPUTER SOFTWARE**

A set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specific functions. [§ 13A-8-111(7)]

## **COMPUTER SYSTEM**

A set of related or interconnected computer or computer network equipment, devices and software. [§ 13A-8-111(8)]

## **CONDUCT**

An act or omission and its accompanying mental state. [§ 13A-2-1(4)]

## **CONSPIRE**

“Conspire” means to engage in activity constituting a criminal conspiracy as defined in Section 13A-4-3. [§ 13A-12-23(b)]

## **CONSUMER**

An individual who acquires or seeks to acquire cigarettes, or any one or more articles taxed herein, for personal use. [§ 13A-12-3.1(4)]

## **CONSUMER CREDIT REPORT**

The term shall mean the same as the term is defined in the Federal Fair Credit Reporting Act, 15 USC Sections 1681a and 1681b, as amended. [§ 13A-8-200(1)]

## **CONSUMER REPORTING AGENCY**

The term shall mean the same as the term is defined in the Federal Fair Credit Reporting Act, 15 USC Sections 1681a and 1681b, as amended. [§ 13A-8-200(2)]



## **CONTAGIOUS OR INFECTIOUS DISEASE**

A specific highly communicable disease caused by one or more biological agents and that is generally found in livestock, including poultry, designated for human consumption. [§ 13A-10-170(a)(1)]

## **CONTAINER**

Box, carton, package, receptacle, canister, jar, dispenser, or machine that offers a product for sale or distribution, for solicitation purposes. [§ 13A-9-80(3)]

## **CONTEST OF CHANCE**

Any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein. [§ 13A-12-20(3)]

## **CONTRABAND**

Any article or thing which a person confined in a detention facility is legally prohibited from obtaining or possessing by statute, rule, regulation or order. [§ 13A-10-30(b)(4)]

## **CONTRIBUTION**

The promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority. Reference to the dollar amount of "contributions" in this article means in the case of promises to pay, or payments for merchandise or rights of any other description, the value of the total amount promised to be paid for the merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. [§ 13A-9-70(5)]

## **CONTROLLED SUBSTANCE**

The meaning ascribed in Section 20-2-2. [§ 13A-11-10.1(a)(4)]

**Note:** § 20-2-2(4) CONTROLLED SUBSTANCE. A drug, substance, or immediate precursor in Schedules I through V of Article 2 of this chapter [the Alabama Uniform Controlled Substance Act].

## **CONVICTION**

An adjudication of guilt of or a plea of guilty or nolo contendere to the commission of an offense against the laws of this state, any other state or territory, the United States, or a foreign nation recognized by the United States. The term shall include the adjudication or plea of a juvenile to the commission of an act which if committed by an adult would constitute a crime under the laws of this state. [§ 13A-10-190(2)]

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)]

For the purpose of this sections, the term conviction or adjudication shall mean a final conviction or adjudications, regardless of whether the conviction or adjudication is on appeal. [§ 15-20A-40(g)]

## **COPY**

A facsimile, replica, photograph, or other reproduction of an article or a note, drawing, or sketch made of or from an article. [§ 13A-8-10.4(a)(2)]

## **COURSE OF CONDUCT**

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)]

## **CREDIBLE THREAT**

A threat, expressed 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 or her safety or the safety of a family member and to cause reasonable mental anxiety, anguish, or fear. [§ 13A-6-92(b)]

See "Threat" below.

## **CREDIT CARD**

“Credit card” means any instrument or device, including a card to obtain telecommunication services, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, welfare card, a card used to facilitate the transfer of government benefits such as an electronic benefit transfer card (EBT card) or similar card, or a debit card, or by any other name, including an account number, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, including telecommunication services, on credit or for use in an automated banking device to obtain any of the services offered through the device. [§ 13A-9-14(c)]

Any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or by any other name, including an account number, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit or for use in an automated banking device to obtain any of the services offered through the device. [§ 13A-9-14.1(a)(4)]

## **CREDIT CARD TRANSACTION RECORD**

Credit card slips, electronically recorded information or other documentation or evidence evidencing a transaction involving a credit card. [§ 13A-9-14.1(a)(3)]

## **CRIME**

A misdemeanor or a felony. [§ 13A-2-1(4)]

## **CRIME OF VIOLENCE**

Any of the following crimes or an attempt to commit any of them, namely, murder, manslaughter, (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, and kidnapping. “Crime of violence” shall also mean any Class A felony or any Class B felony that has as an element serious physical injury, the distribution or manufacture of a controlled substance, or is of a sexual nature involving a child under the age of 12. [§ 13A-11-70(2).]

## **CRIMINAL ASSISTANCE**

For the purposes of Sections 13A-10-43 through 13A-10-45, a person renders “criminal assistance” to another if he:

- (1) Harbors or conceals such person;

- (2) Warns such person of impending discovery or apprehension; except that this subdivision does not apply to a warning given in connection with an effort to bring another into compliance with the law;
- (3) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension;
- (4) Prevents or obstructs, by means of force, deception or intimidation, anyone except a trespasser from performing an act that might aid in the discovery or apprehension of such person; or
- (5) Suppresses, by an act of concealment, alteration or destruction, any physical evidence that might aid in the discovery or apprehension of such person. [§ 13A-10-42]

## **CRIMINAL HOMICIDE**

Murder, manslaughter, or criminally negligent homicide. [§ 13A-6-1(a)(1)]

## **CRIMINAL NEGLIGENCE**

A person acts with criminal negligence with respect to a result or to a circumstance which is defined by statute as an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence. [§ 13A-2-2(4).]

## **Crops**

Any shrub, vine, tree, seedling, shoot, slip, or other plant undergoing experimentation or otherwise capable of producing food, fiber, lawful or legal medicines, nursery stock, floral products, or aesthetic beauty. [§ 13A-11-152(4).]

## **CRUEL**

The word "cruel" as used in this article shall mean: Every act, omission, or neglect, including abandonment, where unnecessary or unjustifiable pain or suffering, including abandonment, is caused or where unnecessary pain or suffering is allowed to continue. [§ 13A-11-240(b)]

## **CULPABLE MENTAL STATE.**

Such term means "intentionally" or "knowingly" or "recklessly" or with "criminal negligence," as these terms are defined in Section 13A-2-2. [§ 13A-2-1(6)]

## **CUSTODIAN**

A *custodian* is a child's father or mother, whether biological or adoptive, a child's legally appointed guardian, or the spouse of a child's father, mother, or legally appointed guardian. In the case where only one parent has legal custody, the term means the parent with legal custody or his/her spouse. [13A-13-8(b)(3)]

## **CUSTODY**

A restraint or detention by a public servant pursuant to a lawful arrest, conviction or order of court, but does not include mere supervision of probation or parole, or constraint incidental to release on bail. [§ 13A-10-30(b) (1)]

## **DANGEROUS DRUG**

“Dangerous drug” in subdivision (a)(7) of this section means any narcotic, drug or controlled substance as defined in Chapter 2 of Title 20 of this Code and any schedule incorporated therein. [§ 13A-11-9(d)]

## **DANGEROUS INSTRUMENT**

Any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is highly capable of causing death or serious physical injury. The term includes a “vehicle,” as that term is defined in subdivision (15). [§ 13A-1-2(5).]

## **DATA**

A representation of information, knowledge, facts, concepts, or instructions, which are prepared and are intended for use in a computer, computer system, or computer network. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit. [§ 13A-8-111(9)]

## **DEADLY PHYSICAL FORCE**

Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury. [§ 13A-1-2(6)]

Force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury. [§ 13A-3-20(2).]

## **DEADLY WEAPON**

A firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack, bludgeon, or metal knuckles. [§ 13A-1-2(7)]

The term “deadly weapon” as used in this section means a firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury, and such term includes, but is not limited to, a bazooka, hand grenade, missile, or explosive or incendiary device; a pistol, rifle, or shotgun; or a switch-blade

knife, gravity knife, stiletto, sword, or dagger; or any club, baton, billy, black-jack, bludgeon, or metal knuckles. [§ 13A-11-72(j)]

## **DEBIT CARD**

“Debit card” means any instrument or writing or other evidence known by any name issued with or without fee by an issuer for the use of a depositor in obtaining money, goods, services, or anything else of value, payment of which is made against funds previously deposited in an account with the issuer. [§ 13A-9-14(d)]

## **DECEPTION**

Any of the following:

- a. Creating or confirming an impression of any existing fact or past event which is false and which the accused knows or believes to be false.
- b. Exerting financial control over the person or another person by placing the person or another person under the actor's control as a security or payment of a debt, if the value of the services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined or the principal amount of the debt does not reasonably reflect the value of the items or services for which debt was incurred or by preventing a person from acquiring information pertinent to the disposition of the debt, referenced in this paragraph.
- c. Promising benefits or the performance of services which the accused does not intend to be delivered. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this article.
- d. Using any scheme, plan, or pattern, whether overt or subtle, intended to cause any person to believe that, if the person did not perform such labor, services, acts, or performances, the person or another person would suffer physical injury or mental suffering. [§ 13A-6-151(2).]

Deception occurs when a person knowingly:

- a. Creates or confirms another's impression which is false and which the defendant does not believe to be true.
- b. Fails to correct a false impression which the defendant previously has created or confirmed.
- c. Fails to correct a false impression when the defendant is under a duty to do so.
- d. Prevents another from acquiring information pertinent to the disposition of the property involved.
- e. Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is not a matter of official record.

- f. Promises performance which the defendant does not intend to perform or knows will not be performed. [13A-6-191(2)]

Deception occurs when a person knowingly:

- a. Creates or confirms another's impression which is false and which the defendant does not believe to be true; or
- b. Fails to correct a false impression which the defendant previously has created or confirmed; or
- c. Fails to correct a false impression when the defendant is under a duty to do so; or
- d. Prevents another from acquiring information pertinent to the disposition of the property involved; or
- e. Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property when the defendant is under a duty to do so, whether that impediment is or is not valid, or is not a matter of official record; or
- f. Promises performance which the defendant does not intend to perform or knows will not be performed. Failure to perform, standing alone, however, is not proof that the defendant did not intend to perform.

The term “deception” does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons. “Puffing” means an exaggerated commendation of wares or services. [§ 13A-8-1(1)]

The definition of “deception” in Section 13A-8-1(1) applies to this section also. [§ 13A-9-11(b)]

## **DELINQUENT**

A *delinquent child* is a child who has been adjudicated for a delinquent act and is in need of care or rehabilitation. [12-15-102(7)]

## **DELINQUENT ACT**

A *delinquent act* is an act committed by a child that is designated a violation, misdemeanor, or felony offense pursuant to the law of the municipality, county, or state in which the act was committed or pursuant to federal law. This term shall not apply to any of the following:

- A. An offense when committed by a child 16 or 17 years of age as follows:



- (1) A nonfelony traffic offense or water safety offense other than one charged pursuant to Section 32-5A-191 or 32-5A-191.3 or a municipal ordinance prohibiting the same conduct.
- (2) A capital offense.
- (3) A Class A felony.
- (4) A felony which has as an element the use of a deadly weapon.
- (5) A felony which has as an element the causing of death or serious physical injury.
- (6) A felony which has as an element the use of a dangerous instrument against any person who is one of the following:
  - (i) A law enforcement officer or official.
  - (ii) A correctional officer or official.
  - (iii) A parole or probation officer or official.
  - (iv) A juvenile court probation officer or official.
  - (v) A district attorney or other prosecuting officer or official.
  - (vi) A judge or judicial official.
  - (vii) A court officer or official.
  - (viii) A person who is a grand juror, juror, or witness in any legal proceeding of whatever nature when the offense stems from, is caused by, or is related to the role of the person as a juror, grand juror, or witness.
  - (ix) A teacher, principal, or employee of the public education system of Alabama.
- (7) Trafficking in drugs in violation of Section 13A-12-231, or as the same may be amended.
- (8) Any lesser included offense of the offenses in subparagraphs 1 to 7, inclusive, charged or any lesser felony offense charged arising from the same facts and circumstances and committed at the same time as the offenses listed in subparagraphs 1 to 7, inclusive.

- B. Any criminal act, offense, or violation committed by a child under the age of 18 years who has been previously convicted or adjudicated a youthful offender. [§ 12-15-102(6)]

## **DELIVERY**

The definition of “delivery” in Section 7-1-201(14) [sic] applies to this section and Sections 13A-9-13.2 and 13A-9-13.3. [§ 13A-9-13.1(f)]

**Note:** Reference should be to § 7-1-201(15).

“Delivery,” with respect to an instrument, document of title, or chattel paper, means voluntary transfer of possession. § 7-1-201(15)]

## **DELIVERY CONTAINER**

A truck, railroad car, barge or any other means or device by which coal is delivered to the purchaser. [13A-9-52(b)]

## **DELIVERY SALE**

Any sale of cigarettes to a consumer within this state where either a. the purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, facsimile transmission, or the Internet or other online service or b. the cigarettes are delivered by use of the mails or other delivery service. A sale of cigarettes that meets the requirements of this subdivision shall constitute a delivery sale regardless of whether the seller is located within or without the state. [§ 13A-12-3.1(5)]

## **DELIVERY SALES STATUTES**

Those provisions contained within Sections 13A-12-3.2, 13A-12-3.3, 13A-12-3.4, 13A-12-3.5, 13A-12-3.6, and 13A-12-3.7. [§ 13A-12-3.1(6)]

## **DELIVERY SERVICE**

Any person, other than a person who makes a delivery sale, who delivers to the consumer the cigarettes sold in a delivery sale. [§ 13A-12-3.1(7)]

## **DEMONSTRATION**

Demonstrating, picketing, speechmaking or marching, holding of vigils and all other like forms of conduct which involve the communication or expression of views or grievances engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. Such term shall not include casual use of

property by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers. [§ 13A-11-59(a) (1)]

## **DEPARTMENT**

The Alabama Department of Revenue. [§ 13A-12-3.1 (8)]

## **DEPRIVE**

To "DEPRIVE ..." means:

- a. To withhold property or cause it to be withheld from a person permanently or for such period or under such circumstances that all or a portion of its use or benefit would be lost to him or her; or
- b. To dispose of the property so as to make it unlikely that the owner would recover it; or
- c. To retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
- d. To sell, give, pledge, or otherwise transfer any interest in the property; or
- e. To subject the property to the claim of a person other than the owner. [§ 13A-8-1(2)]

## **DESTRUCTIVE DEVICE**

The term *destructive device* means **[read as appropriate]:**

- (A) any explosive, incendiary, or poison gas-
  - (i) bomb,
  - (ii) grenade,
  - (iii) rocket having a propellant charge of more than four ounces,
  - (iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
  - (v) mine, or
  - (vi) device similar to any of the devices described in the preceding clauses;
- (B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and
- (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 7684(2), 7685, or 7686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes. [18 U.S.C. § 921(a)(4), as amended effective Feb. 1, 2019.]

A destructive device is

- a. An explosive, incendiary, or over-pressure device or poison gas which has been configured as a bomb; a grenade; a rocket with a propellant charge of more than four ounces; a missile having an explosive or incendiary charge of more than one-quarter ounce; a poison gas; a mine; a Molotov cocktail; or any other device which is substantially similar to these devices.
- b. Any type of weapon by whatever name known which will or may be readily converted to expel a projectile by the action of an explosive or other propellant, through a barrel which has a bore diameter of more than one-half inch in diameter. The term shall not include a pistol, rifle, or shotgun suitable for sporting or personal safety purposes or ammunition; a device which, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; or surplus military ordnance sold, loaned, or given by authority of the appropriate official of the United States Department of Defense.
- c. A weapon of mass destruction.
- d. A bacteriological weapon or biological weapon.
- e. A combination of parts either designed or intended for use in converting any device into a destructive device as otherwise defined in this Act 2009-718.
- f. Nothing in this section or Sections 13A-10-193.1, 13A-10-193.2, or 36-19-2.1 shall prohibit the manufacture, possession, or transfer of a destructive device legally obtained in accordance with the provisions of the National Firearms Act.

[§ 13A-10-190(3)]

## **DETENTION FACILITY**

Any place used for the confinement, pursuant to law, of a person:

- a. Charged with or convicted of a criminal offense; or
- b. Charged with being or adjudicated a youthful offender, or a neglected minor or juvenile delinquent; or
- c. Held for extradition; or
- d. Otherwise confined pursuant to an order of court. [§ 13A-10-30(b)(2)]

## **DETONATOR**

A device containing a detonating charge that is used to initiate detonation in an explosive, including, but not limited to, electric blasting caps, blasting caps for use with safety fuses, and detonating cord delay connectors. [§ 13A-10-190(4)]

## **DEVIATE SEXUAL INTERCOURSE**

Any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another. [§ 13A-6-60(2).]

As used in this section, deviant sexual intercourse means any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another. [§ 13A-6-81(c)]

“Deviate sexual intercourse” in subdivision (a)(3) of this section is defined as in subdivision (2) of Section 13A-6-60. [§ 13A-11-9(c)]

## **DIRECTOR**

The Director of the Alabama State Law Enforcement Agency. [§ 13A-10-190(5).]

## **DISCLOSURE LABEL**

A printed or typed notice affixed to a container, in a conspicuous place and accessible to the public, that is easily readable and legible that informs the public of the following:

- a. The approximate annual percentage paid, if any, to any individual or organization to maintain, service, or collect the contributions raised by the solicitation.
- b. The net percentage or sum annually paid for the most recent calendar year paid to the specific charitable purpose.
- c. If the maintenance, service, and collection from the container is done by volunteers or by paid individuals. [§ 13A-9-80(4)]

## **DISPLAY FOR SALE**

To expose, place, exhibit, show, or in any fashion display any material for the purpose of the sale of such material to any person in a manner that a minor can physically examine or see the material. [§ 13A-12-200.1(5)]

## **DISPLAY PUBLICLY**

The exposing, placing, posting, exhibiting or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thorough-fare, depot or vehicle. [§ 13A-12-190(2)]

## **DISSEMINATE**

To sell, lend or show for monetary consideration or to offer or agree to do the same. [§ 13A-12-190(1)]

## **DISSEMINATE PUBLICLY**

To expose, place, perform, exhibit, show or in any fashion display, in any location, public or private, any material in a manner that the material can either be readily seen and its content or character distinguished by normal unaided vision or be physically examined, by viewing or examining the material from any public place or any place to which members of the general public are invited. [§ 13A-12-200.1(6)]

## **DISTRIBUTE**

The actual, constructive, or attempted transfer from one person to another. [§ 13A-10-190(6)]

To import, export, sell, rent, lend, transfer possession of or title to, display, exhibit, show, present, provide, broadcast, transmit, retransmit, communicate by telephone, play, orally communicate or perform. [§ 13A-12-200.1(7)]

## **DOG OR CAT**

The words “dog or cat” as used in this article shall mean any domesticated member of the dog or cat family. [§ 13A-11-240(c)]

## **DOMESTIC OR FAMILY ABUSE**

For the purposes of Article 6, Chapter 3 of Title 30, the definition of “domestic or family abuse” includes an incident of domestic violence in the first, second, or third degrees pursuant to this article. [§ 13A-6-136]

## **DOMESTIC VIOLENCE PROTECTION ORDER**

A domestic violence protection order is any protection from abuse order issued pursuant to the Protection from Abuse Act, Sections 30-5-1 to 30-5-11, inclusive. The term includes the following:

- a. A restraining order, injunctive order, or order of release from custody which has been issued in a circuit, district, municipal, or juvenile court in a domestic relations or family violence case;
- b. an order issued by municipal, district, or circuit court which places conditions on the pre-trial release on defendants in criminal cases, including provisions of bail pursuant to Section 15-13-190;
- c. an order issued by another state or territory which may be enforced under Sections 30-5B-1 through 30-5B-10. Restraining or protection orders not issued pursuant to the Protection from Abuse Act, Sections 30-5-1 to 30-5-11, inclusive, must specify that a history of violence or abuse exists for the provisions of this chapter to apply. [§ 13A-6-141(1)]

## **DRUG PARAPHERNALIA**

As used in this section, the term “drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the controlled substances laws of this state. It includes but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, tetrahydro cannabinols, cocaine, hashish, or hashish oil into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - b. Water pipes;
  - c. Carburetion tubes and devices;
  - d. Smoking and carburetion masks;
  - e. Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
  - f. Miniature cocaine spoons, and cocaine vials;
  - g. Chamber pipes;
  - h. Carburetor pipes;
  - i. Electric pipes;
  - j. Air-driven pipes;
  - k. Chillums;
  - l. Bongs;
  - m. Ice pipes or chillers;
  - n. Glass tubes which are hollow, cylindrical items made of glass which are smaller than three-quarters of an inch in diameter, shorter than 12 inches in length, and which are not sealed with glass at both ends.

[§ 13A-12-260(a)]

## **DRUGS**

All medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, diagnosis, mitigation, treatment, or prevention of disease and all substances and preparations other than food intended to affect the structure or any function of the body. [§ 20-3-2-(4)]

All medical substances, preparations and devices recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, diagnosis, mitigation, treatment or prevention of disease in man or animal and all substances and preparations



other than food intended to affect the structure or any function of the body of man or animal. [§ 27-45-2(12); § 34-23-1(5)]

## **DURING**

The term as used in Section 13A-5-40(a) means in the course of or in connection with the commission of, or in immediate flight from the commission of the underlying felony or attempt thereof. [§ 13A-5-39(2)]

## **DWELLING**

A building which is usually occupied by a person lodging therein at night, or a building of any kind, including any attached balcony, whether the building is temporary or permanent, mobile or immobile, which has a roof over it, and is designed to be occupied by people lodging therein at night. [§ 13A-3-20(3)]

A building which is used or normally used by a person for sleeping, living, or lodging therein. [§ 13A-7-1(2).]

## **EAVESDROP**

To overhear, record, amplify or transmit any part of the private communication of others without the consent of at least one of the persons engaged in the communication, except as otherwise provided by law. [§ 13A-11-30(1)]

## **EDUCATIONAL INSTITUTION**

A school, college, or other institution which has a defined curriculum, student body, and faculty and which conducts classes on a regular basis. [§ 13A-9-70(6)]

## **ELDERLY PERSON**

A person 60 years of age or older. [§ 13A-6-191(3)]

## **ELECTRONIC MAIL MESSAGE**

A message sent to a unique destination that consists of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which such message can be sent or delivered. [§ 13A-8-111(10)]

## **EMERGENCY CALL**

The term “emergency call” means a telephone call to a police or fire department, or for medical aid or ambulance service, necessitated by a situation in which human life or property is in jeopardy and prompt summoning of aid is essential. [§ 13A-11-222.(c)]

The term “emergency call,” as defined in Section 13A-11-222, is incorporated in this section. [§ 13A-11-223(c)]

## **EMOTIONAL ABUSE**

The intentional or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment of care of an elderly person. [13A-6-191(4)]

## **EMPLOYMENT**

Employment that is full-time, part-time, self-employment, or employment as an independent contractor or day laborer for any period, whether financially compensated, volunteered, or for the purpose of government or educational benefit. [§ 15-20A-4(5)]

## **ENTER OR REMAIN UNLAWFULLY**

A person “enters or remains unlawfully” in or upon premises when he is not licensed, invited or privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of such premises or other authorized person. A license or privilege to enter or remain in a building which is partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privileges unless notice against trespass is personally communicated to him by the owner of such land or other authorized person, or unless such notice is given by posting in a conspicuous manner. [§ 13A-7-1(3)]

## **ENTERPRISE**

“Enterprise” means any entity of one or more persons, corporate or otherwise, engaged in business, commercial, professional, industrial, eleemosynary, political or social activity. [§ 13A-9-45(b)]

## **ESTABLISHED A RESIDENCE**

Notwithstanding any other provision of law regarding establishment of residence, an adult sex offender shall be deemed to have established a residence in any of the following circumstances:

- (1) Wherever an adult sex offender resides for three or more consecutive days.
- (2) Wherever an adult sex offender resides following release, regardless of whether the adult sex offender resided at the same location prior to the time of conviction.
- (3) Whenever an adult sex offender spends 10 or more aggregate days at any locations during a calendar month other than his or her registered address.
- (4) Whenever an adult sex offender vacates his or her residence or fails to spend three or more consecutive days at his or her residence without previously notifying local law enforcement or obtaining a travel permit pursuant to Section 15-20A-15. [§ 15-20A-11(e)]

## **EXCEEDS AUTHORIZATION OF USE**

Accessing a computer, computer network, or other digital device with actual or perceived authorization, and using such access to obtain or alter information that the accessor is not entitled to obtain or alter. [§ 13A-8-111(11)]

## **EXPIRED CREDIT CARD**

A credit card which is no longer valid because the term shown on it has elapsed. [§ 13A-9-14.1(a)(5)]

## **EXPLOSION**

A rapid, sudden and violent expansion of air or relinquishment of energy with resultant pressures that are capable of producing destructive effects on contiguous objects or of destroying life or limb. "Explosion" includes, but is not limited to, a sudden and rapid combustion, causing violent expansion of the air, or the sudden bursting or breaking up or in pieces from an internal or other force. "Explosion" is not limited to cases caused by combustion or fire, but it may result from decomposition or chemical action. [§ 13A-7-40(3)]

## **EXPLOSIVE**

A chemical compound or other substance or mechanical system intended for the purpose of producing an explosion capable of causing injury to persons or damage to property or containing oxidizing and combustible units or other ingredients in proportions or quantities that ignition, fire, friction, concussion, percussion, or detonator may produce an explosion capable of causing injury to persons or damage to property. The term explosive shall not include common fireworks, model rockets, and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, or toy pistol paper caps in which the explosive content does not average more than 0.25 grains of explosive mixture per paper cap for toy pistols, toy cannons, toy canes, toy guns, or other devices using paper caps unless the devices are used as a component of a destructive device. [§ 13A-10-190(7)]

**Note:** Specific explosives specified in § 13A-10-191.

## **EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN OR EOD TECHNICIAN.**

- a. A law enforcement officer, fire official, emergency management official, or an employee of this state or its political subdivisions or an authority of the state or a political subdivision who is currently accredited by the Federal Bureau of Investigation's Hazardous Devices School, or members of the Alabama National Guard who are qualified and trained as explosive ordnance disposal technicians under the appropriate laws and regulations when acting in the performance of their official duties.
- b. An official or employee of the United States, including, but not limited to, a member of the Armed Forces of the United States, who is qualified as an explosive ordnance disposal technician under the appropriate laws and regulations when acting in the performance of his or her official duties. [§ 13A-10-190(8)]

## **EXPLOSIVES AND EXPLOSION**

The terms shall have the meanings provided in Section 13A-7-40(2) and (3). [§ 13A-5-39(3)]

**Note:** § 13A-7-40(2). **EXPLOSIVES.** Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by detonator or by chemical action of any part of the compound or mixture may cause a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

**Note:** § 13A-7-40(3). **EXPLOSION.** A rapid, sudden and violent expansion of air or relinquishment of energy with resultant pressures that are capable of producing destructive effects on contiguous objects or of destroying life or limb. "Explosion" includes, but is not limited to, a sudden and rapid combustion, causing violent expansion of the air, or the sudden bursting or breaking up or in pieces from an internal or other force. "Explosion" is not limited to cases caused by combustion or fire, but it may result from decomposition or chemical action.

## **EXPORT**

To send or cause to be sent outside of the State of Alabama from inside the state. [§ 13A-12-200.1(8)]

## **FALSELY ALTER**

To “falsely alter” a written instrument means to change, without lawful authority, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, addition or transportation of matter, or in any other manner, so that the instrument so changed falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by him. [§ 13A-9-1(6)]

## **FALSELY COMPLETE**

To “falsely complete” a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without lawful authority, so that the completed written instrument falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by him. [§ 13A-9-1(5)]

## **FALSELY MAKE**

To “falsely make” a written instrument means to make or draw a complete written instrument in its entirety, or an incomplete written instrument, which purports to be authentic creation of its ostensible maker, but which is not either because the ostensible maker is fictitious or because, if real, he did not authorize the making or drawing thereof. [§ 13A-9-1(4)]

## **FELONY**

An offense for which a sentence to a term of imprisonment in excess of one year is authorized by this title. [§ 13A-1-2(8)]

An offense punishable by imprisonment for a term of one year or more, and includes conviction by a court-martial under the Uniform Code of Military Justice for an offense which would constitute a felony under the laws of the United States. A conviction of an offense under the laws of a foreign nation shall be considered a felony for the purposes of this article if the conduct giving rise to the conviction would have constituted a felony under the laws of this state or of the United States if committed within the jurisdiction of this state or the United States at the time of the conduct. [§ 13A-10-190(9).]

## **FEMALE**

Any female person. [§ 13A-6-60(4)]

## **FERROUS METALS**

Any metals containing significant quantities of iron or steel, excluding motor vehicles purchased in accordance with Section 32-8-87. [§ 13A-8-30(1)]

## **FIDUCIARY**

“Fiduciary” includes a trustee, guardian, executor, administrator, receiver or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary. [§ 13A-9-51(b)]

## **FIFTH WHEEL**

Coupling between a trailer and a vehicle used for towing. [§ 13A-8-1(3)]

## **FINANCIAL EXPLOITATION**

The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly person’s property with the intent to deprive the elderly person of his/her property or the breach of a fiduciary duty to an elderly person by the person’s guardian, conservator, or agent under a power of attorney which results in an unauthorized appropriation, sale, or transfer of the elderly person’s property. [§ 13A-6-191(5)]

## **FINANCIAL INSTITUTION**

A bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment. [§ 13A-8-1(4)]

## **FINANCIAL INSTRUMENT**

Includes, but is not limited to, any check, cashier's check, draft, warrant, money order, certificate of deposit, negotiable instrument, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computer system representation thereof. [§ 13A-8-111(12)]

## **FIREARM**

A weapon from which a shot is discharged by gunpowder. [§ 13A-8-1(5)]

Any pistol, rifle, shotgun or firearm of any kind, whether loaded or not. [§ 13A-11-59(2)]

Definition is same as provided in Section 13A-8-1(4). [§ 13A-11-62(1)]

### **FIXED RESIDENCE**

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

### **FOOD STAMP AUTHORIZATION CARD**

A document issued by the state agency to an eligible household which shows the total value of coupons the household is authorized to receive during each month pursuant to the provisions of the Food Stamp Act of 1977. [§ 13A-9-90(2)]

### **FOOD STAMP COUPON**

Any coupon, stamp or type of certificate issued pursuant to the provisions of the Food Stamp Act of 1977. [§ 13A-9-90(1)]

### **FOR ANY THING OF PECUNIARY VALUE**

In exchange for, in return for, or for any consideration consisting of, whether wholly or partly:

- a. Any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible; or
- b. Any offer or agreement to pay, furnish or provide any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible. [§ 13A-12-200.1(9)]

### **FORCE**

Physical action or threat against another, including confinement. [§ 13A-3-20(4)]

### **FORCIBLE COMPULSION**

Physical force that overcomes earnest resistance or a threat, express or implied, that places a person in fear of immediate death or serious physical injury to himself or another person. [§ 13A-6-60(8)]

### **FORGED INSTRUMENT**

A written instrument which has been falsely made, completed or altered. [§ 13A-9-1(7)]



## **GAIN**

As used in this section, “gain” means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. “Value” shall be determined by the standards established in subdivision (14) of Section 13A-8-1. [§ 13A-5-11(b).]

**Note:** 13A-8-1(14) VALUE. The market value of the property at the time and place of the criminal act.

Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities shall be evaluated as follows:

- a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.
- b. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

When the value of property cannot be ascertained pursuant to the standards set forth above, its value shall be deemed to be an amount not exceeding five hundred dollars (\$500).

## **GAMBLING**

A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

[§ 13A-12-20(4)]

## **GAMBLING DEVICE**

Any device, machine, paraphernalia or equipment that is normally used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However,

lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. [§ 13A-12-20(5)]

## **GENITAL NUDITY**

The lewd showing of the genitals or pubic area. [§ 13A-12-190(11).]

The showing of the human male or female genitals or pubic area. [§ 13A-12-200.1(10).]

## **GOVERNMENT**

The United States, any state or any county, municipality, or other political unit within territory belonging to the United States, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government, or any corporation or agency formed pursuant to interstate compact or international treaty.

As used in this definition "state" includes any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. [§ 13A-8-1(6)]

Such term is defined as in Section 13A-8-1(6). [§ 13A-9-1(11)]

The state, county, municipality, or other political subdivision thereof, including public, county and city boards of education, the youth services department district, the Alabama Institute for Deaf and Blind, and all educational institutions under the auspices of the State Board of Education. [§ 13A-10-1(2).]

## **GOVERNMENTAL FUNCTION**

Any activity which a public servant is legally authorized to undertake on behalf of a government or the fire control activities of a member of a volunteer fire department. [§ 13A-10-1. (3)]

## **GOVERNMENTAL RECORD**

Any record, paper, document, or thing belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government. Any educational attendance, membership, or financial report, or a student's school transcript. [§ 13A-10-1(4)]

## **GOVERNMENT-ISSUED IDENTIFICATION**

A state driver's license, state identification card, passport, a military identification, or an official naturalization or immigration document, including an alien registration recipient card or green card, or an immigrant visa. [§ 13A-12-3.1(9)]

## **GUARDIAN**

A *guardian* is a person who has qualified as a guardian of a minor or incapacitated person pursuant to parental or spousal nomination or court appointment and includes a limited guardian as described in Sections 26-2A-78(e) and 26-2A-105(c), but excludes one who is merely a guardian ad litem. [13A-13-8(b)(4) and 26-2A-20(7)]

## **HABITUALLY LIVES**

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

## **HARASSES**

Engages 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. Constitutionally protected conduct is not included within the definition of this term. [§ 13A-6-92(c)]

## **HARM**

Partial or total alteration, damage, or erasure of stored data, interruption of computer services, introduction of a virus, or any other loss, disadvantage, or injury that might reasonably be suffered as a result of the actor's conduct. [§ 13A-8-111(13)]

Harm” means loss, disadvantage or injury to the person affected or to any other person in whose welfare he is interested. [§ 13A-10-80(b)]

## **HARMFUL TO MINORS**

The term means:

- a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors; and
- b. The material depicts or describes sexual conduct, breast nudity or genital nudity, in a way which is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
- c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political or scientific value for minors. [§ 13A-12-200.1(11)]

## **HOAX DEVICE OR REPLICA**

A device or article which has the appearance of a destructive device or bacteriological or biological weapon. [§ 13A-10-190(10)]

## **Hog**

As used in this section, the term "hog" shall mean a pig, swine, or boar. [§ 13A-12-6(a)]

## **HOME REPAIR**

- a. The repairing, replacing, altering, or the construction or renovation of an addition to a building on real property which is or will be primarily used as a residence.
- b. Home repair shall include: The construction, installation, replacement, repairing, or renovation of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fallout shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electrical wiring, sewers, plumbing fixtures, storm doors, storm windows, awnings, roofs, insulation, and other improvements to structures within the residence or upon the real property adjacent thereto.
- c. Home repair shall not include: The sale, installation, cleaning, or repair of carpets; the sale of goods or materials by a merchant who does not directly or through a subsidiary perform any work or labor in connection with the installation or application of the goods or materials; the repair, installation, replacement, or connection of any home appliance including, but not limited to, disposals, refrigerators, ranges, garage door openers, television cables, antennas or dishes, washing machines, telephones, or other home appliances when the person replacing, installing, repairing, or connecting such home appliance is an employee or agent of the merchant that sold the home appliance; the performance of repairs to a manufactured home or a mobile home pursuant to a manufacturer's or retailer's warranty or service agreement; or landscaping.
- d. Home repair shall not include home repair made by not-for-profit charitable organizations. [§ 13A-9-110(1)]

## **HOMELESS**

A person who has no fixed residence. [§ 15-20A-4(8)]

## **HOMICIDE**

A person commits criminal homicide if he intentionally, knowingly, recklessly or with criminal negligence causes the death of another person. [§ 13A-6-1(a)(2)]

## **Hospital**

General and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not

requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This section shall not apply to county or district health departments. [§ 22-21-20(1)]

## **IDENTIFICATION DOCUMENT**

Any document containing data that is issued to an individual and which that individual, and only that individual, uses alone or in conjunction with any other information for the primary purpose of establishing his or her identity or accessing his or her financial information or benefits. Identification documents specifically include, but are not limited to, the following:

- a. Government issued driver's licenses or identification cards.
- b. Payment cards such as credit cards, debit cards, and ATM cards.
- c. Passports.
- d. Health insurance or benefit cards.
- e. Identification cards issued by educational institutions.
- f. Identification cards for employees or contractors.
- g. Benefit cards issued in conjunction with any government supported aid program.
- h. Library cards issued by any public library. [§ 13A-8-111(14)]

## **IDENTIFICATION DOCUMENTS**

Any papers, cards, or other documents issued by federal, state, or local governmental authorities that are used specifically to identify a person. Identification documents include, but are not limited to, driver's licenses, military identification cards, passports, birth certificates, Social Security cards, and other government-issued identification cards. [§ 13A-8-191(1)]

## **IDENTIFYING INFORMATION**

Specific details that can be used to access a person's financial accounts, obtain identification, or to obtain goods or services, including, but not limited to:

- a. Social Security number.
- b. Driver's license number.
- c. Bank account number.
- d. Credit card or debit card number.
- e. Personal identification number (PIN).
- f. Automated or electronic signature.
- g. Unique biometric data.
- h. Account password. [§ 13A-8-111(15)]

Any information, used either alone or in conjunction with other information, that specifically identifies a person or a person's property, and includes, but is not limited to, any of the following information related to a person:

- a. Name.
- b. Date of birth.

- c. Social Security number.
- d. Driver's license number.
- e. Financial services account numbers, including checking and savings accounts.
- f. Credit or debit card numbers.
- g. Personal identification numbers (PIN).
- h. Electronic identification codes.
- i. Automated or electronic signatures.
- j. Biometric data.
- k. Fingerprints.
- l. Passwords.
- m. Parent's legal surname prior to marriage.
- n. Any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain goods or services. [§ 13A-8-191(2)]

### **IMMEDIATE FAMILY MEMBER**

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

### **IMMEDIATELY**

Within three business days. [§ 15-20A-4(10)]

### **IMMINENT DANGER**

Any person in violation of this section shall be guilty of a Class B felony if the damage or destruction causes imminent danger to the health and safety of the public, a metal owner's employees, first responders, law enforcement officers, or utility workers, or cause an interruption in communications services or electric utility services. For purposes of this subsection, "imminent danger" means the existence of any condition that could hinder or disrupt the normal operation of equipment, systems, or services provided for the health and safety of the public, metal owner's employees, first responders, law enforcement officers, or utility workers or cause an interruption in communications services or electric utility services. [§ 13A-8-36(c)]

### **IMPORT**

To bring or cause to be brought into the State of Alabama from outside of the state. [§ 13A-12-200.1(12)]

### **IMPORTUNE**

To urge persistently. [See instruction for 13A-4-1, Criminal Solicitation.]



## **IN THE COURSE OF COMMITTING A THEFT**

“In the course of committing a theft” embraces acts which occur in an attempt to commit or the commission of theft, or in immediate flight after the attempt or commission. [§ 13A-8-40(b)]

## **INCAPABLE OF CONSENT**

A person is deemed incapable of consent if he is:

- (1) Less than 16 years old; or
- (2) Mentally defective; or
- (3) Mentally incapacitated; or
- (4) Physically helpless. [§ 13A-6-70(c)]

## **INCENDIARY**

A flammable or combustible liquid or compound with a flash point of 100 degrees Fahrenheit or less as determined by Tagliabue or equivalent closed-cup device including, but not limited to, gasoline, kerosene, fuel oil, or a derivative of these substances. [§ 13A-10-190(11)]

## **INCLUDED OFFENSE**

A defendant may be convicted of an offense included in an offense charged. An offense is an included one if:

- (1) It is established by proof of the same or fewer than all the facts required to establish the commission of the offense charged; or
- (2) It consists of an attempt or solicitation to commit the offense charged or to commit a lesser included offense; or
- (3) It is specifically designated by statute as a lesser degree of the offense charged; or
- (4) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interests, or a lesser kind of culpability suffices to establish its commission. [§ 13A-1-9(a)]

## **INCOMPLETE WRITTEN INSTRUMENT**

One which contains some matter by way of content or authentication, but which requires additional matter in order to render it a complete written instrument. [§ 13A-9-1(3)]

## **INNOCENT PERSON**

As used in this section, an “innocent person” includes any person who is not guilty of the offense in question, despite his behavior, because of:

- (1) Criminal irresponsibility or other legal incapacity or exemption.
- (2) Unawareness of the criminal nature of the conduct in question or of the defendant's criminal purpose.
- (3) Any other factor precluding the mental state sufficient for the commission of the offense in question. [§ 13A-2-22(b)]

## **INTEGRATED CIRCUIT CARD**

Also known as a smart card or chip card, a pocket sized, plastic card with embedded integrated circuits used for data storage or special purpose processing used to validate personal identification numbers (PINs), authorize purchases, verify account balances and store personal records. When inserted into a reader, it transfers data to and from a central computer. [§ 13A-8-111(16)]

## **INTENT TO DEFRAUD**

A purpose to use deception, as defined in Section 13A-8-1(1), or to injure another person's interest which has value, as defined in Section 13A-8-1(14). [§ 13A-9-1(8)]

**Note:** § 13A-8-1(1) DECEPTION occurs when a person knowingly:

- a. Creates or confirms another's impression which is false and which the defendant does not believe to be true; or
- b. Fails to correct a false impression which the defendant previously has created or confirmed; or
- c. Fails to correct a false impression when the defendant is under a duty to do so; or
- d. Prevents another from acquiring information pertinent to the disposition of the property involved; or
- e. Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property when the defendant is under a duty to do so, whether that impediment is or is not valid, or is not a matter of official record; or
- f. Promises performance which the defendant does not intend to perform or knows will not be performed. Failure to perform, standing alone, however, is not proof that the defendant did not intend to perform.

The term "deception" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons. "Puffing" means an exaggerated commendation of wares or services.

**Note:** § 13A-8-1(14) VALUE. The market value of the property at the time and place of the criminal act. Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities shall be evaluated as follows:

- a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.
- b. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

When the value of property cannot be ascertained pursuant to the standards set forth above, its value shall be deemed to be an amount not exceeding five hundred dollars (\$500). Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense; provided, that only one conviction may be had and only one sentence enforced for all thefts included in such aggregate.

## **INTENT TO INTIMIDATE**

As used in this section, “intent to intimidate” means the intent to place a person or a group of persons in fear of bodily harm. [§ 13A-6-28(b)]

## **INTENTIONALLY**

A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his purpose is to cause that result or to engage in that conduct. [§ 13A-2-2(1)]

## **INTIMIDATION**

A threat of physical or emotional harm to an elderly person, or the communication to an elderly person that he or she will be deprived of food and nutrition, shelter, property, prescribed medication, or medical care or treatment. [§ 13A-6-191(6)]

## **INTOXICATION**

“Intoxication” includes a disturbance of mental or physical capacities resulting from the introduction of any substance into the body. [§ 13A-3-2(e)(1)]

## **ISSUER**

The business organization or financial institution, or its duly authorized agent, which issues a credit card. § 13A-9-14.1(a)(6)]

## **JURAT**

A clause wherein a notary public or other attesting officer authorized by law to administer oaths in connection with affidavits, depositions and other subscribed written instruments certifies that the subscriber has appeared before him and sworn to the truth of the contents thereof. [§ 13A-10-100(6)]

## **JURISDICTION**

Any state of the United States, any United States territory, the District of Columbia, or any federally recognized Indian tribe. [§ 15-20A-4(11)]

## **JUROR**

Any person who is a member of any jury, including a grand jury, impaneled by any court of this state or by any public servant authorized by law to impanel a jury. The term juror also includes any person who has been summoned or whose name has been drawn to attend as a prospective juror. [§ 13A-10-120(b)(1)]

## **JUVENILE SEX OFFENDER**

An individual who has not attained the age of 18 at the time of the offense and who is adjudicated delinquent of a sex offense. [§ 15-20A-4(12)]

## **K-12 SCHOOL ACTIVITY**

For the purposes of this subsection, a *K-12 school activity* is an activity sponsored by a school in which students in grades K-12 are the primary intended participants or for whom students in grades K-12 are the primary intended audience including, but not limited to, school instructional time, after school care, after school tutoring, athletic events, field trips, school plays, or assemblies. [§ 15-20A-17(b)(3)]

## **KNOWINGLY**

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

A person knowingly disseminates or publicly displays obscene matter when the person knows the nature of the matter. A person knows the nature of the matter when either of the following circumstances exist:

- a. The person is aware of the character and content of the matter; or
- b. The person recklessly disregards circumstances suggesting the character and content of the matter. [§ 13A-12-190(4)]

The term means knowingly, as defined by Section 13A-2-2(2), doing an act involving a material when the person knows the nature of the material. [§ 13A-12-200.1(13)]

## **KNOWS THE NATURE OF THE MATERIAL**

A person knows the nature of the material when any one of the following exists:

- a. The person knows the nature of the material;
- b. b. The person has reason to know the nature of the material;
- c. c. The person has a belief or reasonable ground for belief as to the nature of the material which warrants further inspection or inquiry of the character and content of the material. [§ 13A-12-200.1(14)]

## **LABOR SERVITUDE**

Work or service of economic or financial value which is performed or provided by another person and is induced or obtained by coercion or deception. [§ 13A-6-151(3)]

## **LACK OF CONSENT**

Lack of consent results from:

- (1) Forcible compulsion; or
- (2) Incapacity to consent; or
- (3) If the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. [§ 13A-6-70(b).]

## **LAW ENFORCEMENT AGENCY**

For the purposes of this section, the term law enforcement agency includes, but is not limited to, the Board of Pardons and Paroles. [§ 15-20A-39(b)]

## **LAW ENFORCEMENT OFFICER**

See also Peace Officer

A duly constituted and certified peace officer of the State of Alabama or of any county or municipality within the state. [§ 13A-8-30(2)]

For purposes of this article, the term law enforcement officer shall mean any person who has all of the following qualifications:

- (1) He or she has the power to arrest pursuant to the laws of this state.
- (2) He or she is certified by the Alabama Peace Officers and Standards Training Commission.
- (3) He or she is acting in his or her official capacity.
- (4) He or she is not on strike or involved in a work stoppage.
- (5) He or she is not on duty as a private security officer. [§ 13A-10-51(a)]

The same as defined in Section 13A-10-1. [§ 13A-10-132(a)(1).]

**Note:** § 13A-10-1, Obstruction of Public Administration, defines "PEACE OFFICER. Any public servant vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes." That section contains no definition of "law enforcement officer."

Any duly appointed and acting federal, state, county or municipal law enforcement officer, peace officer or investigating officer, or any military or militia personnel called out or directed by constituted authority to keep the law and order, and any park ranger while acting as such on the grounds of a public park and who is on regular duty and present to actively police and control the demonstration, and who is assigned this duty by his department or agency. Such term does not include a peace officer on strike or a peace officer not on duty. [§ 13A-11-59(a)(3)]

## **LAWFULLY ISSUED**

Adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, an agency, or a political subdivision of a state. [§ 13A-10-132(2)]

## **LEGALLY AUTHORIZED INSPECTION**

For the purposes of this section, “legally authorized inspection” includes any lawful search, sampling, testing or other examination of property, in connection with the regulation of the defendant's business or occupation, that is authorized by law. [§ 13A-10-3(b)]

## **LEGAL MINIMUM AGE**

19 years of age. [§ 13A-12-3.1(10)]

## **LESSEE / LESSOR**

The crime of theft by fraudulent leasing or rental of property is committed if a person, herein called “lessee”, signs a written lease or rental contract with a person licensed to rent or lease tangible personal property under the provisions of Article 4, Chapter 12, Title 40, herein called “lessor”, and obtains or exerts control over tangible personal property by reason of such rental contract, with the intent, knowledge or expectation that he will not perform the terms, covenants and agreements of the lessee provided in such rental contract. [§ 13A-8-140]

## **LICENSED DEALER**

A person who is licensed pursuant to 18 U.S.C. § 923 or Section 13A-11-79, to engage in the business of dealing in firearms. [§ 13A-11-58.1(a)(2)]

## **LITTER**

“Litter” means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris, or any foreign substance of

whatever kind and description, and whether or not it is of value. Any agricultural product in its natural state that is unintentionally deposited on a public highway, road, street, or public right-of-way shall not be deemed litter for purposes of this section or Section 32-5-76. Any other law or ordinance to the contrary notwithstanding, the unintentional depositing of an agricultural product in its natural state on a public highway, road, street, or right-of-way shall not constitute unlawful littering or any similarly prohibited activity. [§ 13A-7-29(b)]

## **LIVING ACCOMMODATION**

No adult sex offender shall establish or maintain a residence or any other living accommodation with a minor. For the purpose of this subsection, living accommodation includes, but is not limited to, any overnight visit with a minor. [§ 15-20A-11(d)]

## **LOCAL COMMUNITY**

The judicial circuit in which the indictment is brought. [§ 13A-12-190(14)]

## **LOCAL LAW ENFORCEMENT**

The sheriff of the county and the chief of police if the location subject to registration is within the corporate limits of any municipality. [§ 15-20A-4(13)]

## **LOITER**

Under this subsection, loiter means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose. [§ 15-20A-17(a)(2)]

## **LOST CHILD**

*A lost child* is a child who is unable to find his or her way back to his or her custodian. [§ 13A-13-8(b)(5)]

## **LOTTERY OR POLICY**

An unlawful gambling scheme in which:

- a. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated by the winning ones; and
- b. The winning chances are to be determined by a drawing or by some other fortuitous method; and
- c. The holders of the winning chances are to receive something of value. [§ 13A-12-20(6)]



## **LOTTERY PARAPHERNALIA**

Any transportation or conveyance within this state of any slip, ticket, card, paper, writing, article, thing or other device or paraphernalia which is customarily or usually used in the operation of a form or type of lottery commonly known as a numbers (or number) game or policy game (herein called "lottery paraphernalia") [§ 13A-12-70]

## **MAILS OR MAILING**

The shipment of cigarettes through the United States Postal Service. [§ 13A-12-3.1(11)]

## **MANUFACTURE OF AN UNLAWFUL TELECOMMUNICATION DEVICE**

The production or assembly of an unlawful telecommunication device or the modification, alteration, programming, or reprogramming of a telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider. [§ 13A-8-150(1)]

## **MANUFACTURER**

Every recorded device sold, rented or transferred for commercial advantage or private financial gain, or possessed for the purpose of sale, rental or transfer by any manufacturer, distributor or wholesale or retail merchant shall contain on its packaging the true name and address of the manufacturer; provided, that the term "manufacturer" shall not include the manufacturer of the cartridge or casing itself, but shall mean the manufacturer of the actual recorded material. The term "recorded device" means the tangible medium upon which sounds or images are recorded or otherwise stored, and includes any phonograph record, disc, wire, tape, videocassette, film, or other medium now known or later developed on which sounds or images are recorded or otherwise stored. [§ 13A-8-83]

## **MANUFACTURING**

The process of combining two or more components necessary to produce a destructive device, over-press device, explosive, detonator, or poison gas, with the exception of commercially manufactured reactive targets used for recreational shooting purposes, or manufactured under provisions set forth under a permit issued by the State Fire Marshal. [§ 13A-10-190(12)]

## **MASTURBATION**

Manipulation, by hand or instrument, of the human genitals, whether one's own or another's for the purpose of sexual stimulation. [§ 13A-12-190(8)]

## **MATERIAL**

A statement is "material," regardless of the admissibility of the statement under the rules of evidence, if it could have affected the course or outcome of the official proceeding.

It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law. [§ 13A-10-100(b)(2)]

Any book, magazine, newspaper, printed or written matter, writing, description, picture, drawing, animation, photograph, motion picture, film, video tape, pictorial representation, depiction, image, electrical or electronic reproduction, broadcast, transmission, telephone communication, sound recording, article, device, equipment, matter, oral communication, live performance, or dance. [§ 13A-12-200.1(15)]

### **MATERIAL SUPPORT OR RESOURCES**

Currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials. [§ 13A-10-151(2)]

### **MATERIALLY FALSE INFORMATION**

Information that portrays an illegal transaction as legal or a legal transaction as illegal. [§ 13A-11-58.1(a)(3)]

### **MATTER**

Any book, magazine, newspaper, or other printed material, or any picture, photograph, motion picture, video cassette, tape, record, digital video disc (DVD), video compilation, or electronic depiction in a comparable format, or an image, file, download, or other content stored, or reproduced by using a computer or electronic device or other digital storage, or any other thing, articles, or materials that either are or contain a photographic or other visual depiction of a live act, performance, or event. [§ 13A-12-190(12)]

### **MEDICALLY PRESCRIBED**

In accordance with a physician's prescription or in accordance with age-appropriate directions for the over-the-counter medication. [§ 13A-6-29(a)(1)]

### **MENTAL SUFFERING**

A high degree of mental pain or emotional disturbances, such as distress, anxiety, public humiliation, or psychosomatic physical symptoms. It is more than mere disappointment, anger, resentment, wounded pride, or embarrassment and must be a direct result of the crime of human trafficking. [§ 13A-6-151(4)]

## **MENTALLY DEFECTIVE**

Such term means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct. [§ 13A-6-60(5)]

## **MENTALLY INCAPACITATED**

Such term means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other incapacitating act committed upon him without his consent. [§ 13A-6-60(6)]

## **METAL PROPERTY**

Metals as defined in this section as either ferrous or nonferrous metals. [§ 13A-8-30(3)]

## **MINOR**

A person under the age of 18. [§ 13A-6-151(5).]

Any unmarried person under the age of 18 years. [§ 13A-12-200.1(16)]

A person who has not attained the age of 18. [§ 15-20A-4(14)]

## **MISAPPLY**

To “misapply” means to deal with the property contrary to law or governmental regulation of the custody or disposition of that property; “governmental regulation” includes administrative and judicial rules and orders as well as statutes and ordinances. [§ 13A-9-51(c)]

## **MISDEMEANOR**

An offense for which a sentence to a term of imprisonment not in excess of one year may be imposed. [§ 13A-2-1(9)]

## **MISLABELED**

“Misabeled” means:

- (1) Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation, or if none, as set by established commercial usage; or

- (2) Represented as being another person's product, though otherwise labeled accurately as to quality and quantity. [§ 13A-9-41(d)]

## **MITIGATING CIRCUMSTANCES**

Mitigating circumstances shall include, but not be limited to, the following:

- (1) The defendant has no significant history of prior criminal activity;
- (2) The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance;
- (3) The victim was a participant in the defendant's conduct or consented to it;
- (4) The defendant was an accomplice in the capital offense committed by another person and his participation was relatively minor;
- (5) The defendant acted under extreme duress or under the substantial domination of another person;
- (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired; and
- (7) The age of the defendant at the time of the crime. [§ 13A-5-51.]

## **MOTION PICTURE THEATER**

A movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense. [§ 13A-8-90(a)(3)]

## **MURDER AND MURDER BY THE DEFENDANT**

Shall be defined as provided in Section 13A-5-40(b). [§ 13A-5-39(5)]

§ 13A-5-40(b). Except as specifically provided to the contrary in the last part of subdivision (a)(13) of this section, the terms "murder" and "murder by the defendant" as used in this section to define capital offenses mean murder as defined in Section 13A-6-2(a)(1), but not as defined in Section 13A-6-2(a)(2) and (3). Subject to the provisions of Section 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3), as well as murder as defined in Section 13A-6-2(a)(1), may be a lesser included offense of the capital offenses defined in subsection (a) of this section.

## NEAR FATALITY

An act that, as certified by a physician, places the child in serious or critical condition. [§ 13A-6-29(a) (2)]

## NEGLECT

The failure of a caregiver to provide food, shelter, clothing, medical services, medication, or health care for an elderly person. [§ 13A-6-191(7)]

## NEGOTIABLE INSTRUMENT

The definition of “negotiable instrument” in Section 7-3-104 applies to this section and Sections 13A-9-13.2 and 13A-9-13.3. [§ 13A-9-13.1(d)]

**Note:** § 7-3-104. Negotiable instrument.

- (a) Except as provided in subsections (c) and (d), “negotiable instrument” means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:
- (1) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder;
  - (2) Is payable on demand or at a definite time; and
  - (3) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain
    - (i) an undertaking or power to give, maintain, or protect collateral to secure payment,
    - (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or
    - (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor. ...

## NEGOTIATION

The definition of “negotiation” in Section 7-3-202 applies to this section and Sections 13A-9-13.2 and 13A-9-13.3. [§ 13A-9-13.1(e)]

**Note:** § 7-3-202. Negotiation subject to rescission.

- (a) Negotiation is effective even if obtained (i) from an infant, a corporation exceeding its powers, or a person without capacity, (ii) by fraud, duress, or mistake, or (iii) in breach of duty or as part of an illegal transaction.
- (b) To the extent permitted by other law, negotiation may be rescinded or may be subject to other remedies, but those remedies may not be

asserted against a subsequent holder in due course or a person paying the instrument in good faith and without knowledge of facts that are a basis for rescission or other remedy.

## **NONFERROUS METALS**

Metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum other than aluminum cans, bronze, lead, zinc, nickel, stainless steel, and alloys thereof, including stainless steel beer kegs. [§ 13A-8-30(4)]

## **OATH**

Such term includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated. For the purposes of this article, written statements shall be treated as if made under oath if:

- a. The statement was made on or pursuant to form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or
- b. The statement recites that it was made under oath, the declarant was aware of such recitation at the time he made the statement and intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto. [§ 13A-10-100(b)(3)]

## **OBSCENE**

- a. When used to describe any matter that contains a visual reproduction of breast nudity, such term means matter that:
  1. Applying contemporary local community standards, on the whole, appeals to the prurient interest; and
  2. Is patently offensive; and
  3. On the whole, lacks serious literary, artistic, political or scientific value.
- b. When used to describe matter that is a depiction of an act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, genital nudity, or other sexual conduct, such term means matter containing such a visual reproduction that itself lacks serious literary, artistic, political or scientific value. [§ 13A-12-190(13)]

The term means that:

- a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest; and
- b. The material depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and
- c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political or scientific value. [§ 13A-12-200.1(17)]

## **OBSCURE**

“Obscure” means to remove, deface, cover, alter, destroy or otherwise render unidentifiable. [§ 13A-8-22(b)]



## **OBSTRUCT**

To “obstruct” means to render impassable without unreasonable inconvenience or hazard. A gathering of persons to hear a person speak or otherwise communicate does not constitute an obstruction. [§ 13A-11-1(1)]

## **OBTAINS**

Such term means:

- a. In relation to property, to bring about a transfer or purported transfer of a legally recognized interest in the property, whether to the obtainer or another; or
- b. In relation to labor or service, to secure performance thereof. [§ 13A-8-1(7)]

## **OBTAINS OR EXERTS CONTROL OR OBTAINS OR EXERTS UNAUTHORIZED CONTROL**

Obtains or exerts control or obtains or exerts unauthorized control over property includes but is not necessarily limited to the taking, carrying away, or the sale, conveyance, or transfer of title to, or interest in, or possession of, property, and includes but is not necessarily limited to conduct heretofore defined or known as common law larceny by trespassory taking, common law larceny by trick, larceny by conversion, embezzlement, extortion, or obtaining property by false pretenses. [§ 13A-8-1(7)]

## **OFFENSE**

Conduct for which a sentence to a term of imprisonment, or the death penalty, or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state. [§ 13A-2-1(10)]

## **OFFICIAL PROCEEDING**

Any proceeding heard before any legislative, judicial, administrative or other government agency or official authorized to hear evidence under oath. [§ 13A-10-100(b)(5)]

## **OMISSION**

A failure to perform an act as to which a duty of performance is imposed by law. [§ 13A-2-1(3)]

## **OPEN HOUSE PARTY**

A social gathering at a residence. [§ 13A-11-10.1(a)(5)]

## **OTHER SEXUAL CONDUCT**

Any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification. [§ 13A-12-190(9)]

## **OUT-OF-STATE SALE**

A sale of cigarettes to a consumer located outside of this state where the consumer submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, facsimile transmission, or the Internet or other online service, and where the cigarettes are delivered by use of the mails or other delivery service. [§ 13A-12-3.1(12)]

## **OVER-PRESSURE DEVICE**

A frangible container filled with an explosive gas or expanding gas which is designed or constructed so as to cause the container to break or fracture in a manner which is capable of causing death, bodily harm, or property damage. [§ 13A-10-190(13)]

## **OWNER**

A person, other than the defendant, who has possession of or any other interest in the property involved, even though that interest or possession is unlawful, and without whose consent the defendant has no authority to exert control over the property.

A secured party, as defined in Section 7-9A-102(a)(72), is not an owner in relation to a defendant who is a debtor, as defined in Section 7-9A-102(a)(28), in respect of property in which the secured party has a security interest, as defined in Section 7-1-201(37). [§ 13A-8-1(9)]

Includes any part owner, joint owner, tenant-in-common, joint tenant, or tenant by the entirety of the whole or part of any building. [§ 13A-8-23(a)(1)]

Unless the context clearly requires otherwise, the term "owner," as used in this article, shall mean the person who owns, or has the exclusive license in the United States to reproduce or the exclusive license in the United States to distribute to the public copies of the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films, videocassettes or other articles now known or later developed on which sound is recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or to authorize the recording of a live performance. [§ 13A-8-80.]

An owner or lessee of a computer or a computer network, or an owner, lessee, or licensee of computer data, computer programs, or computer software. [§ 13A-8-111(17)]

## **PARI-MUTUEL, MUTUEL OR THE NUMBERS GAME.**

A form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome of a future contingent event or events otherwise unrelated to the particular scheme. [§ 13A-12-20(7)]

## **PARTY LINE**

The term “party line” means a subscriber's line telephone circuit consisting of two or more main telephone stations connected therewith, each having a distinctive ring or telephone number. [§ 13A-11-222(b)]

The term “party line,” as defined in Section 13A-11-222, is incorporated in this section. [§ 13A-11-223(b)]

## **PARTY OFFICER**

A person who holds any position or office in a political party, whether by election, appointment or otherwise. [§ 13A-10-60(b)(4)]

## **PEACE OFFICER**

See also Law Enforcement Officer

Any public servant vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. [§ 13A-10-1(5)]

A person duly sworn as a peace officer of the State of Alabama possessing powers of arrest and employed by the state, any political subdivision thereof, or any municipal corporation therein who is required by the terms of employment, whether the employment exists by virtue of election or appointment, to give full time to the preservation of public order and the protection of life or property or the detection of crime in the state. The term shall include enforcement officers for conservation laws, full-time coroners, and any pardon, parole, or probation officer, but shall not include any district attorney, assistant district attorney, assistant attorney general, commissioner, deputy commissioner, or any municipal inspector, county inspector, or state inspector. [§ 36-21-60(11)]

A person who is a *peace officer* who is employed or under contract while off duty by a private or public entity is a peace officer performing a lawful duty when the person is working in his/her approved uniform while off duty with the approval of his/her employing law enforcement agency. [13A-6-21(a)(4)]

## **PECUNIARY BENEFIT**

Benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants and party officers shall not be deemed a pecuniary benefit within the meaning of this article. [§ 13A-10-60(b)(2)]

## **PENAL FACILITY**

Any security correctional institution for the confinement of persons arrested for, charged with or convicted of a criminal offense, including but not limited to the following security facilities: the state penitentiary and any branch thereof or any county or city jail. [§ 13A-10-30(b)(3)]

## **PERSON**

A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental instrumentality. [§ 13A-1-2(11)]

The term, when referring to the victim of a criminal homicide or assault, means a human being, including an unborn child in utero at any stage of development, regardless of viability. [§ 13A-6-1(a)(3)]

A human being. [§ 13A-6-191(8)]

Includes a corporation, firm, company, or association. [§ 13A-8-23(a)(2)]

An individual, partnership, corporation, joint venture, trust, association, or any other legal entity. [§ 13A-8-30(5)]

Any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity. [§ 13A-8-200(a)(3)]

Any individual, organization, group, association, partnership, corporation, trust, or any combination of them. [§ 13A-9-70(7)]

Any individual, partnership, corporation, business, trust, or other legal entity. [§ 13A-9-110(2)]

Such term includes any firm, partnership, association or corporation. [§ 13A-11-70(3)]

A human being, and where appropriate, a public or private corporation, an unincorporated corporation, a partnership, a government or a governmental instrumentality, or a private organization, association, coalition, federation, and its officers or spokespersons. [§ 13A-11-152(5)]

Any individual, corporation, partnership, limited liability company, association, or other organization that engages in any for-profit or not-for-profit activities. [§ 13A-12-3.1(13)]

Any individual and, except where inappropriate, any partnership, firm, association, corporation or other legal entity. [§ 13A-12-200.1(18)]

The term includes individuals, partnerships, corporations, and associations. [§ 22-21-20(2)].

## **PERSONAL IDENTIFICATION CARD**

A driver's license or identification card issued by the Department of Public Safety or a similar card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the U.S. Citizenship and Immigration Services of the Department of Homeland Security. [§ 13A-8-30(6)]

## **PHARMACY**

Any building, warehouse, physician's office, hospital, pharmaceutical house or other structure used in whole or in part for the sale, storage and/or dispensing of any controlled substance as defined in Section 20-2-2 as amended. [§ 13A-8-51(1)]

## **PHARMACY ROBBERY**

A person commits the offense of "pharmacy robbery" under this article if in the course of committing a theft of any controlled substance as defined in Section 20-2-2 such person violates Section 13A-8-41. [§ 13A-8-51(2)]

## **PHOTOGRAPH**

A still photographic image, including an image captured in digital format, which is of such quality that the persons and objects depicted are identifiable. [§ 13A-8-30(7)]

## **PHYSICAL EVIDENCE**

“Physical evidence,” as used in this section, includes any article, object, document, record or other thing of physical substance. [§ 13A-10-129(b)]

## **PHYSICAL INJURY**

Impairment of physical condition or substantial pain. [§ 13A-1-2(12)] and [§ 13A-6-151(6)]

## **PHYSICALLY HELPLESS**

Such term means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. [§ 13A-6-60(7)]

## **PISTOL**

Any firearm with a barrel less than 12 inches in length. [§ 13A-11-70(1)]

## **PLAYER**

A person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. [§ 13A-12-20(8)]

## **POISON GAS**

A toxic chemical or its precursors that through its chemical action or properties on life processes causes death or permanent injury to human beings. The term poison gas shall not include any of the following:

- a. Riot control agents, smoke, and obscuration materials or medical products which are manufactured, possessed, transported, or used in accordance with the laws of the United States and of this state.
- b. Tear gas devices designed to be carried on or about the person which contain not more than one-half ounce of the chemical.
- c. Pesticides, as provided in subdivision (2) of Section 13A-10-209. [§ 13A-10-190(14)]

**Note:** § 13A-10-209. Exclusions for lawfully intended purposes. (2) A pesticide which is manufactured, stored, transported, distributed, possessed, or used in accordance with Chapter 7 of Title 2, the Federal Insecticide, Fungicide, and

Rodenticide Act, 61 Stat. 163, as amended, and the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, as amended.

## **POLITICAL ORGANIZATION**

A party, committee, association, fund, or other organization, whether or not incorporated, which is organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function pursuant to 26 U.S.C. § 527. [§ 13A-9-70(8)]

## **POSSESS**

To have physical possession or otherwise to exercise dominion or control over tangible property. [§ 13A-1-2(13)]

## **POSTING IN A CONSPICUOUS MANNER**

A sign or signs posted on the property, reasonably likely to come to the attention of intruders, indicating that entry is forbidden or the placement of identifying purple paint marks on trees or posts on the property, provided that the marks satisfy all of the following:

- a. Are vertical lines of not less than eight inches in length and not less than one inch in width.
- b. Are placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground.
- c. Are placed at locations that are readily visible to any person approaching the property and are no more than 100 feet apart on forest land or 1,000 feet apart on land other than forest land. [13A-7-1(4)]

## **POTENTIAL CONFLICTING INTEREST**

A “potential conflicting interest” exists, but is not limited to, when the public servant is a director, president, general manager or similar executive officer, or owns directly or indirectly a substantial portion of any nongovernmental entity participating in the transaction. [§ 13A-10-62(b)]

## **PREDATORY**

An act directed at a stranger, a person of casual acquaintance, or with whom no substantial relationship exists, or a person with whom a relationship has been established or promoted for the purpose of victimization of that person or individuals over whom that person has control. [§ 15-20A-4(15)]



## **PREMISES**

The term includes any building, as defined in this section, and any real property. [§ 13A-3-20(5)]

Such term includes any “building,” as herein defined, and any real property. [§ 13A-7-1(5)]

For the purpose of this section, the “premises” shall include all the parking area set aside by the owner, or on behalf of the owner. [§ 13A-8-61]

## **PREVIOUSLY CONVICTED AND PRIOR CRIMINAL ACTIVITY**

As used in Sections 13A-5-49(2) and 13A-5-51(1), these terms refer to events occurring before the date of the sentence hearing. [§ 13A-5-39(6)]

## **PRIOR CONVICTION**

The person has served and has been released or discharged from, or is serving, a separate period of incarceration, commitment, or supervision for the commission of a sex offense, as defined by Section 15-20A-5, prior to, or at the time of, committing another sex offense. [§ 15-20A-4(16)]

## **PRIVATE PLACE**

A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but such term does not include a place to which the public or a substantial group of the public has access. [§ 13A-11-30(2)]

## **PRIVATE SELLER**

A person who sells or offers for sale any firearm, as defined in Section 13A-8-1(4), or ammunition. [§ 13A-11-58.1(a)(4)]

## **PROCESSED FOOD**

Any food other than a raw agricultural commodity, including any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, or milling. [§ 13A-10-170(a)(2)]

## **PRODUCE**

Create, make, write, film, produce, reproduce, direct, or stage. [§ 13A-12-200.1(19)]

## **PROFESSIONAL FUND RAISER**

Any person who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself or herself out to persons in this state as independently engaged in the business of soliciting contributions for such purposes. A bona fide officer or employee of a charitable organization is not a professional fund raiser unless his or her salary or other compensation is computed on the basis of funds to be raised, or actually raised. This section shall not apply to persons who solicit political campaign contributions on behalf of candidates for public office or initiatives on a ballot. [§ 13A-9-70(9)]

## **PROFESSIONAL SOLICITOR**

Any person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes in this state. [§ 13A-9-70(10)]

## **PROFIT FROM GAMBLING ACTIVITY**

A person “profits from gambling activity” if he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he shares or is to share in the proceeds of gambling activity. [§ 13A-12-20(9)]

## **PROFIT FROM PROSTITUTION**

A person “profits from prostitution” if, acting other than as a prostitute receiving compensation for personally-rendered prostitution services, he accepts or receives money or other property pursuant to a prior agreement with any person whereby he participates or is to participate in the proceeds of prostitution activity. [§ 13A-12-110(2)]

## **PROPELLED VEHICLE**

Any propelled device in, upon, or by which any person or property is transported on land, water, or in the air, and such term includes motor vehicles, motorcycles, motorboats, aircraft, and any vessel propelled by machinery, whether or not that machinery is the principal source of propulsion. [§ 13A-8-1(10)]

## **PROPERTY**

As used in the context of Sections 13A-7-25 and 13A-7-26, such term means any tangible or intangible property, real or personal, public or private, and includes the commodities and services of a utility nature, such as gas, electricity, steam and water. [§ 13A-7-24(2)]

Any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents, although the rights represented hereby have no physical location), contract right, chose-in-action, interest in a claim to wealth, credit, or any other article or thing of value of any kind.

Commodities of a public utility nature, such as gas, electricity, steam, and water, constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property. [§ 13A-8-1(11)]

Includes a financial instrument, data, databases, data while in transit, computer software, computer programs, documents associated with computer systems and computer programs, or copies whether tangible or intangible. [§ 13A-8-111(18)]

Such term is defined as in Section 13A-8-1(10). [§ 13A-9-1(9)]

Any real or personal property, including books, records, and documents. [§ 13A-10-1(6)]

Personal or real property includes, but is not limited to, any of the following buildings or real property:

- a. A church, mosque, synagogue, or other religious real property
- b. A public or private school. [13A-10-15(b)(1)]

Real or personal property of any kind including money, choses in action, and other similar interests in property. [§ 13A-10-190(15)]

## **PROSTITUTION**

For the purpose of this division, the term "prostitution" shall mean the commission by a person of any natural or unnatural sexual act, deviate sexual intercourse, or sexual contact for monetary consideration or other thing of value. [§ 13A-12-120]

## **PUBLIC ASSISTANCE**

*Public Assistance* means money or property provided directly or indirectly to eligible persons through programs of the federal government, the state, or any political subdivision thereof, including any program administered by a public housing authority. [§ 13A-9-150(a)]

## **PUBLIC BUILDING**

A structure which is generally open to members of the public with or without the payment of an admission fee or membership dues including, but not limited to, structures owned, operated, or leased by the state, the United States, any of the several states, or a foreign nation or any political subdivision or authority thereof; a religious organization; any medical facility; any college, school, or university; or any corporation, partnership, or association. [§ 13A-10-190(16)]

## **PUBLIC DISCLOSURE**

Public disclosure includes public announcement or notification to a superior officer or the Attorney General. [§ 13A-10-62(c)]

## **PUBLIC PLACE**

A place to which the public or a substantial group of persons has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds and hallways, lobbies and other portions of apartment houses not constituting rooms or apartments designed for actual residence; provided, that no private dwelling and no place engaged for a private gathering is included within the meaning of public place with respect to any person specifically invited therein. [§ 13A-11-1(2)]

Any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. Such term shall include the front or immediate area or parking lot of any store, shop, restaurant, tavern, shopping center or other place of business. Such term shall also include any public building, the grounds of any public building, or within the curtilage of any public building, or in any public parking lot, public street, right-of-way, sidewalk right-of-way, or within any public park or other public grounds. [§ 13A-11-59(a)(4)]

## **PUBLIC SAFETY COMMUNICATION**

A *public safety* communication means any radio signal, electronic transmission, telephone communication, or broadcast, intended for law enforcement, fire service, 911 personnel, or emergency personnel acting in an official capacity under color of law, which is transmitted or received by any equipment or system capable of either receiving or

transmitting telephone communication, radio signals or other electronic transmissions on a wavelength, frequency, or channel allocated by the Federal Communications Commission or otherwise for use by law enforcement, fire service, 911 personnel, or emergency personnel. [13A-10-16(a)]

## **PUBLIC SCHOOL**

The term “public school” as used in this section applies only to a school composed of grades K-12 and shall include a school bus used for grades K-12. [§ 13A-11-72(f)]

## **PUBLIC SERVANT**

Any officer or employee of government, including legislators and judges and any person or agency participating as an adviser, consultant, or otherwise in performing a governmental function. [§ 13A-10-1(7)]

As used in this article, such term includes persons who presently occupy the position of a public servant, as defined in Section 13A-10-1(7), or have been elected, appointed or designated to become a public servant although not yet occupying that position. [§ 13A-10-60(b)(3)]

## **PUBLIC THOROUGHFARE, DEPOT OR VEHICLE**

Any street, highway, park, depot or transportation platform or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment or transportation of the general public. [§ 13A-12-190(3)]

## **PUBLISH**

The communication or dissemination of information to any one or more persons, either orally in person, or by telephone, computer network, radio, television, or in a writing of any kind, including, without limitation, a letter or memorandum, circular, handbill, newspaper, magazine article, or book. [§ 13A-8-150(2)]

## **PURCHASE TRANSACTION**

A transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property. [§ 13A-8-30(8)]

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## **RADIO FREQUENCY IDENTIFICATION (RFID)**

A technology that uses radio waves to transmit data remotely from an RFID tag, through a reader, from identification documents. It is used in contactless integrated circuit cards, also known as proximity cards. [§ 13A-8-111(19)]

## **RADIO FREQUENCY IDENTIFICATION (RFID) TAGS**

Also known as RFID labels, the hardware for an RFID system that electronically stores and processes information, and receives and transmits the signal. [§ 13A-8-111(20)]

## **RAW AGRICULTURAL COMMODITY**

Any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing. [§ 13A-10-170(a)(3)]

## **REASONABLE ACTION**

The act of ejecting a person from a residence or requesting law enforcement officials to eject a person from a residence. [§ 13A-11-10.1(a)(6)]

## **RECEIVER**

“Receiver” means an assignee or trustee for the benefit of creditors, a conservator, a liquidator or any other person legally entitled to administer property for the benefit of creditors. [§ 13A-9-48(b)]

## **RECEIVING**

Such term includes, but is not limited to, acquiring possession, control, or title and taking a security interest in the property. [§ 13A-8-1(12)]

## **RECKLESSLY**

A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware thereof solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A-3-2, acts recklessly with respect thereto. [§ 13A-2-2(3)]

The term means recklessly, as defined by Section 13A-2-2(3), doing an act involving a material when the person knows the nature of the material. [§ 13A-12-200.1(20)]

## **RECORDED DEVICE**

The term “recorded device” means the tangible medium upon which sounds or images are recorded or otherwise stored, and includes any phonograph record, disc, wire, tape, videocassette, film, or other medium now known or later developed on which sounds or images are recorded or otherwise stored. [§ 13A-8-83]

## **REENCODER**

An electronic device that places encoded information from the magnetic strip, integrated circuit, RFID tag of an identification document onto the magnetic strip, integrated circuit, or RFID tag of a different identification document. [§ 13A-8-111(21)]

## **REGISTERING AGENCY**

Any agency with whom the sex offender registers required registration information. [§ 15-20A-4(17)]

## **RELATIVE**

A parent or stepparent, ancestor, sibling, uncle or aunt or other lawful custodian, including an adoptive relative of the same degree through marriage or adoption. [§ 13A-6-40(3)]

## **RELEASE**

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 court. [§ 15-20A-4(18)]

## **RELIGIOUS ORGANIZATION**

Any society, sect, persuasion, mission, church, parish, congregation, temple, convention, or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, or any employee thereof, no part of the net earnings of which inures to the benefit of any private party or individual associated with

such an organization and that otherwise qualifies as an exempt organization under Section 501(c)(3) of Title 26, United States Code, as amended. [§ 13A-9-70(11)]

## **RENDERS CRIMINAL ASSISTANCE**

Shall have the same meaning as in Section 13A-10-42. [13A-10-151(3)]

**Note:** § 13A-10-42. For the purposes of Sections 13A-10-43 through 13A-10-45, a person renders “criminal assistance” to another if he:

- (1) Harbors or conceals such person;
- (2) Warns such person of impending discovery or apprehension; except that this subdivision does not apply to a warning given in connection with an effort to bring another into compliance with the law;
- (3) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension;
- (4) Prevents or obstructs, by means of force, deception or intimidation, anyone except a trespasser from performing an act that might aid in the discovery or apprehension of such person; or
- (5) Suppresses, by an act of concealment, alteration or destruction, any physical evidence that might aid in the discovery or apprehension of such person.

## **REPEAT SEXUALLY VIOLENT OFFENDER**

A person is a repeat sexually violent offender for the purposes of this section if the person is convicted of more than one sexually violent offense. [§ 15-20A-19(c)]

## **REPRESENTING**

Describing, depicting, containing, constituting, reflecting, or recording. [§ 13A-8-10.4(a)(3)]

## **REQUIRED OR AUTHORIZED BY LAW**

An oath is “required or authorized by law” when the use of the oath is provided for by statute or municipal ordinance. [§ 13A-10-100(b)(4)]

## **REQUIRED REGISTRATION INFORMATION**

Any information required pursuant to Section 15-20A-7. [§ 15-20A-4(19)]

## **RESIDENCE**

A dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest. [§ 13A-3-20(6)]



A single or multiple family dwelling including, but not limited to, a single-family home, apartment building, condominium, duplex, townhouse, or mobile home which is used or intended to be used by its occupants as their dwelling place. [§ 13A-9-110(3)]

A home, apartment, condominium, country club, motel, hotel, or any other unit designed for dwelling. [§ 13A-11-10.1(a)(7)]

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)]

## **RESIDENT CAMP FACILITY**

. . . For the purposes of this section, a resident camp facility includes any place, area, parcel, or tract of land which contains permanent or semi-permanent facilities for sleeping owned by a business, church, or nonprofit organization used primarily for the educational, recreational, or religious purposes for minors and the location of the resident camp has been provided to local law enforcement. Resident camp does not include a private residence, farm, hunting, or fishing camp. [§ 15-20A-11(a)]

## **RESIDES OR RESIDING**

The words “resides” or “residing,” as used in this article, shall mean any person who remains within any county in the state for a period of more than 24 hours and maintains or uses sleeping quarters anywhere within the county. [§ 13A-11-180]

## **RESPONSIBLE AGENCY**

The person or government entity whose duty it is to obtain information from a sex offender and to transmit that information to the Alabama State Law Enforcement Agency, police departments, and sheriffs. For a sex offender being released from state prison, the responsible agency is the Department of Corrections. For a sex offender being released from a county jail, the responsible agency is the sheriff of that county. For a sex offender being released from a municipal jail, the responsible agency is the chief of police of that municipality. For a sex offender being placed on probation, including conditional discharge or unconditional discharge, without any sentence of incarceration, the responsible agency is the sentencing court or designee of the sentencing court. For a juvenile sex offender being released from the Department of Youth Services, the

responsible agency is the Department of Youth Services. For a sex offender who is being released from a jurisdiction outside this state and who is to reside in this state, the responsible agency is the sheriff of the county in which the offender intends to establish a residence. [§ 15-20A-4(21)]

## **RESPONSIBLE PERSON**

A child's natural parent, stepparent, adoptive parent, legal guardian, custodian, or any other person who has the permanent or temporary care or custody or responsibility for the supervision of a child. [§ 26-15-2(4)]

## **RESTRAIN**

To intentionally or knowingly restrict a person's movements unlawfully and without consent, so as to interfere substantially with his liberty by moving him from one place to another, or by confining him either in the place where the restriction commences or in a place to which he has been moved. Restraint is "without consent" if it is accomplished by:

- a. Physical force, intimidation or deception, or
- b. Any means, including acquiescence of the victim, if he is a child less than 16 years old or an incompetent person and the parent, guardian or other person or institution having lawful control or custody of him has not acquiesced in the movement or confinement. [§ 13A-6-40(1)]

## **REVOKED CREDIT CARD**

A credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer. [§ 13A-9-14.1(a)(7)]

## **RIFLE**

Any weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger. [§ 13A-11-62(2)]

## **RISK ASSESSMENT**

A written report on the assessment of risk for sexually re-offending conducted by a sex offender treatment program or provider approved by the Department of Youth Services. The report shall include, but not be limited to, the following regarding the juvenile sex offender: Criminal history, mental status, attitude, previous sexual offender treatment and response to treatment, social factors, conditions of release expected to minimize risk of sexual re-offending, and characteristics of the sex offense. [§ 15-20A-4(22)]

## **Runaway Child**

A child who voluntarily absents himself or herself from the control of his or her custodian with intent to remain away indefinitely. [13A-13-8(b)(6)]

## **SADO-MASOCHISTIC ABUSE**

Such term means either of the following:

- a. Flagellation or torture, for the purpose of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or
- b. The condition of a person who is nude or clad in undergarments or in a revealing or bizarre costume being fettered, bound or otherwise physically restrained for the purpose of sexual stimulation. [§ 13A-12-190(5)]

The term means:

- a. Flagellation or torture, in an act of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or
- b. The binding or physical restraining of a person who is nude or clad in undergarments or in a revealing or bizarre costume in an act of sexual stimulation. [§ 13A-12-200.1(21)]

## **SCANNING DEVICE**

A scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip, integrated circuit, or RFID tag of an identification document. [§ 13A-8-111(22)]

## **SCHOOL**

A licensed or accredited public, private, or church school that offers instruction in grades K-12. The definition does not include a private residence in which students are taught by parents or tutors or any facility dedicated exclusively to the education of adults unless that facility has a childcare facility as defined in subdivision (3). [§ 15-20A-4(23)]

For purposes of this subdivision, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education. [§ 15-20A-7(a)(5)]

For purposes of this subdivision, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education. [§ 15-20A-8(a)(3)]

For purposes of this section, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education. [§ 15-20A-11(h)]

### **SCHOOL BUS STOP**

For purposes of this subsection, a school bus stop is any location where a motor vehicle owned or operated by or on behalf of a public or private school stops on a regular basis for the purpose of transporting children to and from school. [§ 15-20A-17(a)(3)]

### **SCHOOL EMPLOYEE**

For purposes of this article, school employee includes a teacher, school administrator, student teacher, safety or resource officer, coach, adult volunteer in a position of authority or any other school employee who has contact with a student in his or her official capacity as a school employee. [§ 13A-6-80(a)]

### **SECONDARY METALS RECYCLER**

Any person, whether licensed or not licensed, who is engaged, from a fixed location or otherwise, in the business of paying compensation for ferrous or nonferrous metals, whether or not engaged in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value. The term does not include a pawnbroker licensed pursuant to Chapter 19A of Title 5, or a licensed automotive dismantler and parts recycler as defined in Section 40-12-410, unless the entities engage in the business of paying compensation for ferrous or nonferrous metals. [§ 13A-8-30(9)]

### **SECURITY INTEREST**

“Security interest” means an interest in personal property or fixtures as defined in Section 7-1-201(37) [sic]. [§ 13A-9-46(b)]

**Note:** The reference should be to subsection (35) of § 7-1-201.

§ 7-1-201 (35) “Security interest” means an interest in personal property or fixtures which secures payment or performance of an obligation. “Security interest” includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9A. “Security interest” does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 7-2-401, but a buyer may also acquire a “security interest” by complying with Article 9A. Except as otherwise provided in Section 7-2-505, the right of a seller or lessor of goods under Article 2 or 2A to retain or acquire possession of the goods is not a

“security interest,” but a seller or lessor may also acquire a “security interest” by complying with Article 9A. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under Section 7-2-401 is limited in effect to a reservation of a “security interest.” Whether a transaction in the form of a lease creates a “security interest” is determined pursuant to Section 7-1-203.

## **SENTENCING COURT**

The court of adjudication or conviction. [§ 15-20A-4(24)]

## **SEPARATE OFFENSE**

The depiction of an individual less than 17 years of age that violates this division shall constitute a separate offense for each single visual depiction. [§ 13A-12-190(16)]

## **SERIOUS PHYSICAL INJURY**

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)]

## **SERVICES**

“Services” includes but is not necessarily limited to labor, professional services, transportation, telephone or other public services, accommodation in motels, hotels, restaurants or elsewhere, admission to exhibitions, computer services and the supplying of equipment for use. [§ 13A-8-10(b)]

Such term is defined as in Section 13A-8-10(b). [§ 13A-9-1(10)]

“Services” is defined as in Section 13A-8-10(b). [§ 13A-9-40(b)]

## **SEVERE MENTAL DISEASE OR DEFECT**

“Severe mental disease or defect” does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct. [§ 13A-3-1(b)]

## **SEX ACT**

As used in this section, sex act means sexual intercourse with any penetration, however slight; emission is not required. [§ 13A-6-81(b)]

## **SEX OFFENDER**

Includes any adult sex offender, any youthful offender sex offender, and any juvenile sex offender. [§ 15-20A-4(25)]

## **SEX OFFENSE INVOLVING A CHILD**

A conviction for any sex offense in which the victim was a child or any offense involving child pornography. [§ 15-20A-4(26)]

## **SEX OFFENSE INVOLVING A MINOR**

A conviction for any sex offense in which the victim was a minor or any offense involving child pornography. [§ 15-20A-4(27)]

## **SEXUAL CONDUCT**

The term means:

- a. Any act of sexual intercourse, masturbation, urination, defecation, lewd exhibition of the genitals, sado-masochistic abuse, bestiality, or the fondling of the sex organs of animals; or
- b. Any other physical contact with a person's unclothed genitals, pubic area, buttocks, or the breast or breasts of a female, whether alone or between members of the same or opposite sex or between a human and an animal, in an act of sexual stimulation, gratification or perversion. [§ 13A-12-200.1(22)]

## **SEXUAL CONTACT**

Any touching of the sexual or other intimate parts of a person not married to the actor, done for the purpose of gratifying the sexual desire of either party. [§ 13A-6-60(3)]

## **SEXUAL EXCITEMENT**

The condition of human male or female genitals when in a state of sexual stimulation. [§ 13A-12-190(6)]

## **SEXUAL INTERCOURSE**

Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required. [§ 13A-6-60(1)]

Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex or between a human and an animal. [§ 13A-12-190(7)]

Intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, and whether between persons of the same or opposite sex or between a human and an animal. [§ 13A-12-200.1(23)]

## **SEXUAL MOTIVATION**

For purposes of this section, sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of the sexual gratification of the defendant. [§ 15-20A-6(f)]

## **SEXUAL SERVITUDE**

Any of the following:

- a. Any sexual conduct as defined in subdivision (3) of Section 14-11-30, for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception from a person.
- b. Sexual conduct includes:
  1. Sexually explicit performances, meaning an act or show intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, videotaped, or projected over the Internet.
  2. Commercial sex acts, meaning any sex act on account of which anything of value is given, promised to, or received, directly or indirectly, by any person.
  3. Acts defined in subdivision (3) of Section 14-11-30. [§ 13A-6-151(7)]

**Note:** § 14-11-30(3). Any of the following acts:

- a. Sexual intercourse. This term shall have its ordinary meaning and occurs upon a penetration, however slight; emission is not required.
- b. Sexual contact. Any known touching for the purpose of sexual arousal, gratification, or abuse of the following:
  1. The sexual or other intimate parts of the victim by the actor.
  2. The sexual or other intimate parts of the actor by the victim.
  3. The clothing covering the immediate area of the sexual or other intimate parts of the victim or actor.
- c. Sexual intrusion. Any intrusion, however slight, by any object or any part of the body of a person into the genital, anal, or oral opening of the body of another person if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification, or abuse.



## **SEXUALLY VIOLENT OFFENSE**

For the purposes of this section, a sexually violent offense is any of the following:

- (1) A sex offense committed by forcible compulsion, violence, duress, menace, fear of immediate bodily injury to the victim or another person, or threatening to retaliate in the future against the victim or any other person.
- (2) A sex offense involving a child.
- (3) Any sex offense involving the enticement or solicitation of a minor for sexual purposes.
- (4) Any sex offense that is predatory in nature.
- (5) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (4), inclusive.
- (6) Any other offense for which the court makes a specific finding on the record that, based on the circumstances of the case, the person's offense should be considered a sexually violent offense. [§ 15-20A-19(d)]

## **SEXUALLY VIOLENT PREDATOR**

A person who has been convicted of a sexually violent offense and who is likely to engage in one or more future sexually violent offenses or is likely to engage in future predatory sex offenses [§ 15-20A-4(28)]

For the purposes of this section, a person is a sexually violent predator if either of the following applies:

- (1) The person is a repeat sexually violent offender.
- (2) The person commits a sexually violent offense and is likely to engage in one or more sexually violent offenses in the future. [§ 15-20A-19(b)]

Any sex offender determined in any other state to be a sexually violent predator shall be considered a sexually violent predator in this state. [§ 15-20A-19(g)]

## **SHAM LEGAL PROCESS**

The issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to be any one of the following:

- a. A summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this state, a peace officer, or a legislative, executive, or administrative agency established by state law.
- b. An assertion of jurisdiction or authority over or determination or adjudication of the legal or equitable status, rights, duties, powers, or privileges of a person or property.
- c. A requirement or authorization for the search, seizure, indictment, arrest, trial, or sentencing of a person or property. [§ 13A-10-132(3)]

## **SHIPPING DOCUMENTS**

Bills of lading, air bills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers. [§ 13A-12-3.1(14)]

## **SHIPPING PACKAGE**

A container in which packs or cartons of cigarettes are shipped in connection with a delivery sale. [§ 13A-12-3.1(15)]

## **SHOPPING CART**

The term “shopping cart,” when used in this article, shall mean those pushcarts of the type or types which are commonly provided by grocery stores, drugstores or other merchant stores or markets for the use of the public in transporting commodities in stores and markets and incidentally from the store to a place outside the store. [§ 13A-8-60]

## **SHORT-BARRELED RIFLE**

A rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches. [§ 13A-11-62(4)]

## **SHORT-BARRELED SHOTGUN**

A shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches. [§ 13A-11-62(5)]

## **SHOTGUN**

A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger. [§ 13A-11-62(3)]

## **SLOT MACHINE**

A gambling device that, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability.

Nor is it any less a slot machine because apart from its use or adaptability as such it may also sell or deliver something of value on a basis other than chance. [§ 13A-12-20(10)]

## **SLUG**

A metallic or other object or article which by virtue of its size, shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token. [§ 13A-9-16(2)]

## **SOMETHING OF VALUE**

Any money or property, any token, object or article exchangeable for money or property or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service entertainment or a privilege of playing at a game or scheme without charge. [§ 13A-12-20(11)]

## **SPECIFIED OFFENSE**

A Class A felony, manslaughter, kidnapping in the second degree, assault in the first or second degree, stalking, intimidating a witness, criminal tampering, endangering the food supply, endangering the water supply or any attempt or conspiracy to commit any of these offenses. [§ 13A-10-151(4)]

## **SPORTS CONTEST**

Any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons or animals, viewed by the public, and for which admission is charged. [§ 13A-11-140(1)]

## **SPORTS EVENT**

For purposes of this section, a "sports official" is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A "sports event" includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the state. [§ 13A-11-144(a)]

## **SPORTS OFFICIAL**

Any person who acts or expects to act in a sports contest as an umpire, referee or judge, or otherwise to officiate at a sports contest. [§ 13A-11-140(3)]

For purposes of this section, a “sports official” is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A “sports event” includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the state. [§ 13A-11-144(a)]

## **SPORTS PARTICIPANT**

Any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team. [§ 13A-11-140(2)]

## **STAMP OR STAMPS**

The stamp or stamps by the use of which the tax levied under this article is paid and shall be designated Alabama Revenue Stamps. [§ 13A-12-3.1(16)]

## **STATE FIRE MARSHAL**

The State Fire Marshal who is appointed by the Commissioner of Insurance pursuant to Section 27-2-10. [§ 13A-10-190(17)]

## **STATE OF EMERGENCY**

When the Governor duly proclaims the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by fire, flood, storm, epidemic, technological failure or accident, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, earthquake, explosion, terrorism, man-made disaster, or other conditions, other than conditions resulting from a labor controversy or conditions causing a state of war emergency, which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city, or county and city and require the combined forces of a mutual aid region or regions to combat or an energy shortage which requires extraordinary measures beyond the authority vested in the Alabama Public Service Commission. [§ 13A-7-80(a)(2)]

## **STATE OR LOCAL OFFICIAL OR EMPLOYEE**

An appointed or elected official or an employee of a state agency, board, commission, department, in a branch of state government, institution of higher education, or other unit of government in this state. [§ 13A-10-132(a)(4)]

## **STATE**

The United States, any state or any county, municipality, or other political unit within territory belonging to the United States, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government, or any corporation or agency formed pursuant to interstate compact or international treaty.

As used in this definition “state” includes any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. [§ 13A-8-1(5)]

## **STOLEN**

Obtained by theft, theft by appropriating lost property, robbery, or extortion. [§ 13A-8-1(13)]

## **STRANGULATION**

Intentionally causing asphyxia by closure or compression of the blood vessels or air passages of the neck as a result of external pressure on the neck. [§ 13A-6-138(a)(2)]

## **STREETGANG**

For purposes of this section, the term “streetgang” means any combination, confederation, alliance, network, conspiracy, understanding, or other similar arrangement in law or in fact, of three or more persons that, through its membership or through the agency of any member, engages in a course or pattern of criminal activity. [§ 13A-6-26(a)]

## **STUDENT**

For purposes of this article, a student is defined as any person under the age of 19 years enrolled or attending classes in a licensed or accredited public, private, or church school that offers instruction in grades K-12, regardless of whether school is in session. [§ 13A-6-80(b)]

A student is a person who is enrolled in or attends, on a full-time or part-time basis, any public or private educational institution, including a secondary school, trade, or professional school, or institution of higher education. [§ 15-20A-4(29)]

## **SUBSTANTIAL INCOME**

For purposes of this section, “substantial income” means any amount exceeding the established minimum wage, as established by law. [§ 13A-12-233(a)(2)(b)]

## **SUFFOCATION**

Intentionally causing asphyxia by depriving a person of air or by preventing a person from breathing through the inhalation of toxic gases or by blocking or obstructing the airway of a person, by any means other than by strangulation. [§ 13A-6-138(a)(3)]

## **SUPPORT**

“Support” includes but is not limited to food, shelter, clothing, medical attention and other necessary care, as determined elsewhere by law. [§ 13A-13-4(b)]

## **SURVEILLANCE**

Secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person observed. [§ 13A-11-30(3)]

## **SWEARS FALSELY AND FALSE SWEARING**

The making of a false statement under oath required or authorized by law, or the swearing or affirming the truth of such statement previously made, which the declarant does not believe to be true. A false swearing in a subscribed written instrument shall not be deemed complete until the instrument is delivered by its subscriber, or by someone acting in his behalf, to another person with intent that it be uttered or published as true. [§ 13A-10-100(b)(1)]

## **TAMPER**

To improperly interfere, meddle with or make an unwarranted alteration in the condition of property of another. [§ 13A-7-24(1)]

## **TELECOMMUNICATION DEVICE**

Any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic, electronic, or radio communications, or any part of such instrument, device, machine or equipment, or any computer circuit, computer chip, electronic mechanism, or other component that is capable of facilitating the transmission or reception of telephonic, electronic, or radio communication. [§ 13A-8-150(3)]

## **TELECOMMUNICATION SERVICE**

Any service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, data, writings, images, sounds, or intelligence of any nature by telephone, including cellular telephones, wire, radio, electromagnetic, photoelectronic, or photo-optical system. [§ 13A-8-150(4)]

## **TELECOMMUNICATION SERVICE PROVIDER**

A person or entity providing telecommunication service including, but not limited to, a cellular, paging, or other wireless communications company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunication service. [§ 13A-8-150(5)]

## **TEMPORARY LODGING INFORMATION**

Lodging information including, but not limited to, the name and address of any location where the person is staying when away from his/her residence for 3 or more days and the period of time the person is staying at that location. [§ 15-20A-4(30)]

## **TENANT OR OCCUPANT**

Shall include any person who occupies the whole or a part of any building whether alone or with others and shall include the owner. [§ 13A-8-23(a)(3)]

## **TESTIMONY**

Such term includes oral or written statements, documents or any other material that may be offered as evidence in an official proceeding. [§ 13A-10-120(b)(2)]

## THEFT

A person commits the crime of theft of property if he or she:

- (1) Knowingly obtains or exerts unauthorized control over the property of another, with intent to deprive the owner of his or her property;
- (2) Knowingly obtains by deception control over the property of another, with intent to deprive the owner of his or her property;
- (3) Knowingly obtains or exerts control over property in the custody of a law enforcement agency which was explicitly represented to the person by an agent of the law enforcement agency as being stolen; or
- (4) Knowingly obtains or exerts unauthorized control over any donated item left on the property of a charitable organization or in a drop box or trailer, or within 30 feet of a drop box or trailer, belonging to a charitable organization. [13A-8-2(a)]

## THREAT

**CREDIBLE THREAT.** 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)]

**THREAT.** A menace, however communicated, to:

- a. Cause physical harm to the person threatened or to any other person; or
- b. Cause damage to property; or
- c. Subject the person threatened or any other person to physical confinement or restraint; or
- d. Engage in other conduct constituting a crime; or
- e. Accuse any person of a crime or cause criminal charges to be instituted against any person; or
- f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or
- g. Reveal any information sought to be concealed by the person threatened; or
- h. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- i. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
- j. Bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
- k. Do any other act which would not in itself substantially benefit the actor but which is calculated to harm substantially another person with respect to his or her health, safety, business, calling, career, financial condition, reputation, or personal relationships. [§ 13A-8-1(14)]



## THREATEN

A person threatens another if all of the following occur:

- a. The person intentionally and knowingly makes a statement verbally, in writing, by means of an electronic communication device, or by any other means to harm a person or property.
- b. The statement is communicated to another person.
- c. Under the circumstances, the threatened harm is credible and imminent.
- d. The statement, on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat.
- e. The statement causes the person to reasonably be in sustained fear for his or her own safety or for the object of the threat. [13A-15-(b)(2)]

“Threat,” as used in this section, means any threat proscribed by Section 13A-6-25 on criminal coercion. [§ 13A-10-123(b)]

“Threat,” as used in this section, means any threat proscribed by Section 13A-6-25 on criminal coercion. [§ 13A-10-127]

**Note:** “Threat” is not specifically defined in § 13A-6-25 on criminal coercion:

§ 13A-6-25. Criminal coercion. (a) A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act.

## TO ACT

Either to perform an act or to omit to perform an act. [§ 13A-2-1(5)]

## TORTURE

The word “torture” as used in this article shall mean the act of doing physical injury to a dog or cat by the infliction of inhumane treatment or gross physical abuse meant to cause said animal intensive or prolonged pain or serious physical injury, or thereby causing death due to said act. [§ 13A-11-240(a)]

## **TRADEMARK**

Any word, name, symbol, or device adopted and used by any person or business entity to identify his goods or services, and to distinguish them from the goods or services of others. [§ 13A-8-10.4(a)(5)]

## **TRADE SECRET**

The whole or any part of any scientific or technical information, design, process, procedure, formula, or improvement that has value and that the owner has taken measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes. [§ 13A-8-10.4(a)(3)]

## **TRAFFIC SIGN**

As used in this article, the term “traffic sign” shall mean any traffic sign, traffic signal, warning sign, guideboard, milepost, road marker, emergency telephone sign, or any similar sign, signal, or device used by the state or any political subdivision of the state on the highways, roads, bridges, or streets of this state for the warning, instruction, or information of the public. [§ 13A-8-70]

## **TRAFFICKING VICTIM**

Any person, including minors, subjected to labor servitude, sexual servitude, or involuntary servitude. [§ 13A-6-151(8)]

## **TRANSPORTATION FACILITY**

Any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, water craft, railroad cars, buses and air, boat, railroad and bus terminals and stations and all appurtenances thereto. [§ 13A-11-1(3)]

## **TYPE OF METAL PROPERTY**

For purposes of this subdivision, the term “type of metal property” shall include a general physical description, such as wire, tubing, extrusions, or casting. [§ 13A-8-31(a)(4)]

## **TYPE OF VEHICLE**

For purposes of this subdivision, the term “type of vehicle” shall mean an automobile, pickup truck, van, or truck. [§ 13A-8-31(a)(9)]

## **UNDER SENTENCE OF IMPRISONMENT**

As used in Section 13A-5-49(1), the term means while serving a term of imprisonment, while under a suspended sentence, while on probation or parole, or while on work release, furlough, escape, or any other type of release or freedom while or after serving a term of imprisonment, other than unconditional release and freedom after expiration of the term of sentence. [§ 13A-5-39(7)]

## **UNDUE INFLUENCE**

Domination, coercion, manipulation, or any other act exercised by another person to the extent that an elderly person is prevented from exercising free judgment and choice. [§ 13A-6-191(9)]

## **UNLAWFUL TELECOMMUNICATION DEVICE**

Any electronic serial number, mobile identification number, personal identification number, or any telecommunication device that is capable, or has been altered, modified, programmed, or reprogrammed alone or in conjunction with another access device or other equipment so as to be capable of acquiring or facilitating the acquisition of a telecommunication service without the consent of the telecommunication service provider. The term includes, but is not limited to, telecommunication devices altered to obtain service without the consent of the telecommunication service provider, tumbler phones, counterfeit or illegally cloned microchips, scanning receivers of wireless telecommunication service of a telecommunication service provider, and other instruments capable of disguising their identity or location or of gaining access to a communication system operated by a telecommunication service provider. Excluded from being classified as unlawful is a common piece of telephone installation and maintenance equipment known as a dial set or butt-in-ski. [§ 13A-8-150(6)]

## **UNLAWFUL**

Not specifically authorized by law. [§ 13A-12-20(12)]

## **UTILITY**

An enterprise which provides gas, electric, steam, water, sewage, transportation or communication services, cable and broadband services, and any institution that provides health and safety protection or other public services; it may be either publicly or privately owned. [§ 13A-7-24(3)]

Any public or private utility authorized to provide electricity, natural gas, or water or any combination thereof for sale to consumers in any particular service area. [§ 13A-8-23(a)(4)]

## **UTILITY SERVICES**

The products, commodities, and services provided by a utility to its customers. [§ 13A-8-23(a)(5)]

## **UTILITY WORKER**

Any person who is employed by an entity that owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, production, supply, distribution, sale, storage, conveyance, delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or telephone service, including two or more utilities rendering joint service. [§ 13A-6-21(c)]

## **UTTER**

To “utter” means to directly or indirectly offer, assert, declare or put forth a forged instrument as genuine. [§ 13A-9-1(12)]

## VALUE

The market value of the property at the time and place of the criminal act.

Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities shall be evaluated as follows:

- a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.
- b. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

When the value of property cannot be ascertained pursuant to the standards set forth above, its value shall be deemed to be an amount not exceeding five hundred dollars (\$500).

Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense; provided, that only one conviction may be had and only one sentence enforced for all thefts included in such aggregate. [§ 13A-8-1(15)]

## VEHICLE

Any "propelled vehicle," as defined in subdivision (9) of Section 13A-8-1. The term includes any propelled device by which any person or property is transported on land, water, or in the air, and includes motor vehicles, motorcycles, motorboats, and aircraft, and any vessel, whether propelled by machinery or not. [§ 13A-1-2(15)]

A motorized conveyance which is designed to transport people or property. [§ 13A-3-20(7)]

"Vehicle" means any propelled device in, upon or by which any person or property is transported on land, water or in the air, including stationary rails or tracks, and includes motor vehicles, motorboats, vessels and aircraft. [§ 13A-8-22(c)]

**Note:** See also § 32-1-1.1(81) VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting

devices moved by human power or used exclusively upon stationary rails or tracks or electric personal assistive mobility devices; provided, that for the purposes of this title, a bicycle or a ridden animal shall be deemed a vehicle, except those provisions of this title, which by their very nature can have no application.

## **VERIFIABLE DOCUMENTATION**

Written evidence of ownership which may be verified, including, but not limited to, receipts, bills of sale, titles, certificates of title, purchase agreements, shipping manifests, work orders, etc. [§ 13A-8-30(10)]

## **VICTIM**

A person whose identification documents or identifying information are used to perpetrate a crime created by this article. [§ 13A-8-191(3)]

## **VIOLATION**

An offense for which a sentence to a term of imprisonment not in excess of 30 days may be imposed. [§ 13A-1-2(16)]

The knowing commission of any act prohibited by a domestic violence order or any willful failure to abide by its terms. [§ 13A-6-141(2)]

## **VIRUS**

Means an unwanted computer program or other set of instructions inserted into a computer's memory, operating system, or program that is specifically constructed with the ability to replicate itself or to affect the other programs or files in the computer by attaching a copy of the unwanted program or other set of instructions to one or more computer programs or files. [§ 13A-8-111(23)]

## **VISUAL DEPICTION**

A portrayal, representation, illustration, image, likeness, or other thing that creates a sensory impression, whether an original, duplicate, or reproduction. [§ 13A-12-190(15)]

## **VOLUNTARY ACT**

An act performed consciously as a result of effort or determination, and such term includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient time to have been able to terminate it. [§ 13A-2-1(2)]

## **VOLUNTARY INTOXICATION**

“Voluntary intoxication” means intoxication caused by substances that the actor knowingly introduced into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them under circumstances that would afford a defense to a charge of crime. [§ 13A-3-2(e)(2)]



## **WEAPONS OF MASS DESTRUCTION**

Weapons of mass destruction are any of the following:

- a. A destructive device as defined in 18 U.S.C. § 921;
- b. A weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals;
- c. A weapon involving a biological agent, toxin, or vector, as those terms are defined in 18 U.S.C. § 178;
- d. A weapon that is designed to release radiation or radioactivity at a level dangerous to human life. [13A-10-15(b)(3)]

Weapons of mass destruction include any of the following:

- a. Any destructive device as defined in this section.
- b. Any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors.
- c. Any weapon involving a disease organism.
- d. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.
- e. Any device, weapon, or vehicle designed to cause mass casualties. [§ 13A-10-190(18)]

## **WEB PAGE**

A location that has a single uniform resource locator or other single location with respect to the Internet. [§ 13A-8-111(24)]

## **WHOLESALE**

A person who distributes material for the purpose of resale or commercial distribution at retail. [§ 13A-12-200.1(24)]

## **WILLFUL**

A willful act is one done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently. *Padgett v. State*, 36 Ala. App. 355, 56 So. 2d 116 (1952)

## **WITHIN THIS STATE**

Within the exterior limits of the State of Alabama. [§ 13A-12-3.1(17)]

## **WITHOUT CONSENT**

To intentionally or knowingly restrict a person's movements unlawfully and without consent, so as to interfere substantially with his liberty by moving him from one place to another, or by confining him either in the place where the restriction commences or in a place to which he has been moved. Restraint is "without consent" if it is accomplished by:

- a. Physical force, intimidation or deception, or
- b. Any means, including acquiescence of the victim, if he is a child less than 16 years old or an incompetent person and the parent, guardian or other person or institution having lawful control or custody of him has not acquiesced in the movement or confinement. [§ 13A-6-40(1)]

## **WRITTEN INSTRUMENT**

Such term means:

- a. Any paper, document or other instrument containing written or printed matter or its equivalent; and
- b. Any token, stamp, seal, badge, trademark or other evidence or symbol of value, right, privilege or identification,

which is capable of being used to the advantage or disadvantage of some person.

[§ 13A-9-1(1)]

**-Y-**

**YOUTHFUL OFFENDER SEX OFFENDER**

An individual adjudicated as a youthful offender for a sex offense who has not attained the age of 21 at the time of the offense. [§ 15-20A-4(31)]