

**Ala. Code 1975, § 13A-5-40(a)(15)**

**Murder of Victim Less Than 14 Years of Age**

The defendant is charged with capital murder. The law states that the intentional murder of a person less than 14 years of age is capital murder.

A person commits an intentional murder if he causes the death of another person and, in performing the act or acts that cause the death of that person, he intends to kill that person (or another person).

To convict, the State must prove beyond a reasonable doubt each of the following elements of an intentional murder of a person less than 14 years of age:

- (1) That (name of deceased) is dead;
- (2) That (name of deceased) was less than 14 years of age;
- (3) That the defendant (name of defendant) caused the death of (name of deceased) by (state the alleged act, e.g., shooting) him; and
- (4) That in committing the act(s) that caused the death of (name of deceased), the defendant intended to kill (name of deceased) or another person.

A person acts intentionally when it is his purpose to cause the death of another person. The intent to kill must be real and specific.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of the offense of intentional murder when the victim is less than 14 years of age, as charged, then you shall find the defendant guilty of capital murder.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of intentional murder when the victim is less than 14 years of age, then you cannot find the defendant guilty of capital murder.

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

**Use Notes**

If evidence exists that the defendant was intoxicated at the time of the charged intentional crime, the defendant is entitled to an instruction on lesser-included offense(s). See *Fletcher v. State*, 621 So. 2d 1010 (Ala. Crim. App. 1993).

[Adopted 7-30-10.]