

Ala. Code 1975, § 13A-6-194(a)(2)

Elder Abuse and Neglect Third Degree
(Reckless & Emotion)

The defendant is charged with elder abuse and neglect in the third degree.

A person commits the crime of elder abuse and neglect in the third degree if he/she recklessly emotionally abuses any elderly person.

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

- (1) The Defendant emotionally abused an elderly person **[insert name of person]**, by **[describe method of abuse or neglect]**;
- (2) The defendant acted recklessly.

Emotional abuse is 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)]

An *elderly person* is a person 60 years of age or older. [13A-6-191(3)]

A *person* is a human being. [13A-6-191(8)]

A person acts *recklessly* with respect to a result or to a circumstance described by a statute defining an offense when he/she 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. [13A-2-2(3)]

[Read as appropriate]: 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)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of elder abuse and neglect in the third degree, then you shall find the defendant guilty of elder abuse and neglect in the third degree.

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 elder abuse and neglect in the third degree, then you cannot find the defendant guilty of elder abuse and neglect in the third degree.

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

Use Notes

No physician, as defined under Section 34-24-50.1, who is licensed to practice medicine in this state, shall be subject to Sections 13A-6-192, 13A-6-193, and 13A-6-194 for any acts or omissions constituting the practice of medicine. [13A-6-201]

[Approved 4-15-16.]