

**Ala. Code 1975, § 13A-10-122**

**Bribe Receiving by a Witness**

The defendant is charged with bribe receiving by a witness.

A person commits the crime of bribe receiving by a witness if he/she is a witness or believes he/she will be called as a witness in any official proceeding and he/she solicits, accepts or agrees to accept any thing of value upon an agreement or understanding that **[Read as appropriate]**:

- (1) His/her testimony will thereby be corruptly influenced;
- (2) He/she will attempt to avoid legal process summoning him/her to testify; **(OR)**
- (3) He/she will attempt to absent himself/herself from an official proceeding to which he/she has been legally summoned.

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

- (1) The defendant was a witness or believed he/she would be called as a witness in an official proceeding **[describe]**;
- (2) The defendant solicited, accepted or agreed to accept a thing of value **[describe]**, upon an agreement or understanding that **[Read as appropriate]**:
  - (a) His/her testimony would thereby be corruptly influenced;
  - (b) He/she would attempt to avoid legal process summoning him/her to testify; **(OR)**
  - (c) He/she would attempt to absent himself/herself from an official proceeding to which he/she had been legally summoned; **(AND)**
- (3) The defendant acted **[insert appropriate mens rea element - See Use Notes]**.

*Official Proceeding* is 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)]

*Testimony* 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)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of bribe receiving by a witness, then you shall find the defendant guilty of bribe receiving by a witness.

If you find that the State has failed to prove any one or more of the elements of bribe receiving by a witness, then you cannot find the defendant guilty of bribe receiving by a witness.

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

### **Use Notes**

This section does not apply to the payment of additional compensation to an expert witness over and above the amount otherwise prescribed by law to be paid by a witness. [13A-10-122(b)]

The statute does not state a specific mens rea element.

Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the Alabama Code: intentionally, knowingly, recklessly and with criminal negligence. See 13A-2-2.

- (1) A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]
- (2) A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]
- (3) A person acts *recklessly* with respect to a result or to a circumstance when he/she is aware of and consciously disregards a substantial and unjustifiable risk that the risk 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)]
- (4) A person acts with *criminal negligence* with respect to a result or to a circumstance when he/she 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)]

[Approved 6-17-16.]