

**Ala. Code 1975, § 13A-10-132(f)**  
**Falsely Asserting Authority of Law**

The defendant is charged with falsely asserting authority of law.

A person commits the crime of falsely asserting authority of law if he/she falsely asserts authority of law in an attempt to intimidate or hinder a state or local official or employee or a law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process.

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

- (1) The defendant asserted authority of law falsely;
- (2) The defendant did so in an attempt to intimidate or hinder a state or local official or employee or a law enforcement officer in the discharge of official duties **[name]**;
- (3) The defendant did so by means of threats, harassment, physical abuse, or use of a sham legal process **[describe]; (AND)**
- (4) The defendant acted **[insert appropriate mens rea element - See Use Notes]**.

**[Read as appropriate]:** A *state or local official or employee* is 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)]

**[Read as appropriate]:** *Government* is 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)]

**[Read as appropriate]:** A *law enforcement officer* is 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-10-132(a)(1) & 13A-10-1(5)]

**[Read as appropriate]:** A *public servant* is 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)]

**[Read as appropriate]:** A *sham legal process* is defined as 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 **[read as appropriate]**:

- 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; **(OR)**
- c. A requirement or authorization for the search, seizure, indictment, arrest, trial, or sentencing of a person or property. [13A-10-132(a)(3)]

**[Read as appropriate]**: To be *lawfully issued* is to be 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(a)(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of falsely asserting authority of law, then you shall find the defendant guilty of falsely asserting authority of law.

If you find that the State has failed to prove any one or more of the elements of falsely asserting authority of law, then you cannot find the defendant guilty of falsely asserting authority of law.

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

### Use Notes

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.]