

**Ala. Code 1975, § 13A-10-35(a)(1)**

**Permitting or Facilitating Escape in the Second Degree**  
**(Intentional)**

The defendant is charged with permitting or facilitating escape in the second degree.

A person commits the crime of permitting or facilitating escape in the second degree if he/she intentionally aids or attempts to aid in the escape of a person arrested for, charged with or convicted of a misdemeanor from a penal or detention facility.

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

- (1) The Defendant aided or attempted to aid in the escape of a person, **[insert name]**;
- (2) That person had been arrested for, charged with or convicted of a misdemeanor, **[insert crime]**;
- (3) That person was escaping from a penal or detention facility, **[insert description]**; **(AND)**
- (4) The Defendant acted intentionally.

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

A *penal facility* is 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)]

A *detention facility* is any place used for the confinement, pursuant to law, of a person:

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

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)]

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

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of permitting or facilitating escape in the second degree, then you shall find the defendant guilty of permitting or facilitating escape in the second degree.

If you find that the State has failed to prove any one or more of the elements of permitting or facilitating escape in the second degree, then you cannot find the defendant guilty of permitting or facilitating escape in the second degree.

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

[Approved 8-20-15.]