

Ala. Code 1975, § 13A-11-41

Voyeurism in the First Degree
(Defendant Over 18 Years of Age)

The Defendant is charged with voyeurism in the first degree.

A person commits the crime of voyeurism in the first degree if, for the purpose of arousing or gratifying the sexual desire of any person, he/she knowingly photographs or films the intimate areas of another person, whether through, under, or around clothing, without the person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place and the Defendant is over eighteen years of age on the date of the offense.

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

- (1) The defendant (name of defendant) knowingly photographed or filmed the intimate areas of another person, whether through, under, or around clothing;
- (2) The defendant did so without the person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place;
- (3) The defendant did so for the purpose of arousing or gratifying the sexual desire of any person; **(AND)**
- (4) The defendant was over eighteen years of age on the date of the offense.

Photographs or films is the making of a photograph, motion picture film, videotape, digital image, digital video, or any other recording or transmission of the image or recording of a person. [13A-11-40(2)]

Intimate Areas is any portion of a person's body, whether or not covered by undergarments, that are traditionally covered by undergarments to protect that portion from public view, including genitals, pubic areas, buttocks, and female breasts.
[13A-11-40(1)]

Undergarments are articles of clothing worn under clothing that conceal intimate areas from view. [13A-11-40(3)]

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)] .

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of voyeurism in the first degree, then you shall find the defendant guilty of voyeurism in the first degree.

If you find that the State has failed to prove any one or more of the elements of the offense voyeurism in the first degree, then you cannot find the defendant guilty voyeurism in the first degree.

Use Note

If there is evidence to support that the defendant was eighteen years of age or younger at the time of the offense, then this same instruction may be used but element

(4) should be deleted as well as the reference to age in paragraph two.

[Approved 04/24/26]