

Ala. Code 1975, § 13A-13-3

Incest

The defendant is charged with incest.

A person commits the crime of incest if he/she marries or engages in sexual intercourse with a person he/she knows to be, either legitimately or illegitimately:

- a. His/Her ancestor or descendant by blood or adoption;
- b. His/Her brother or sister of the whole or half-blood or by adoption;
- c. His/Her stepchild or stepparent, while the marriage creating the relationship exists; **(OR)**
- d. His/Her aunt, uncle, nephew or niece of the whole or halfblood.

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

- (1) The defendant married or engaged in sexual intercourse with a person he/she knows to be, either legitimately or illegitimately:
 - (a) His/Her ancestor or descendant by blood or adoption;
 - (b) His/Her brother or sister of the whole or half-blood or by adoption;
 - (c) His/Her stepchild or stepparent, while the marriage creating the relationship exists; **(OR)**
 - (d) His/Her aunt, uncle, nephew or niece of the whole or halfblood; **(AND)**
- (2) The defendant did so knowingly.

[Read as appropriate]: A person shall not be convicted of incest or of an attempt to commit incest upon the uncorroborated testimony of the person with whom the offense is alleged to have been committed. [13A-13-3(b)]

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 incest, then you shall find the defendant guilty of incest.

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

Use Notes

“...[N]o specific criminal intent, other than knowledge of relationship, is required under § 13A-13-3, Code of Ala. 1975, defining the crime of incest.” *Ex parte State of Alabama*, 507 So. 2d 972, 975 (Ala. 1987).

[Approved 09-11-15.]