

**Ala. Code 1975, § 13A-5-40(a)(21)**

**MURDER OF A FIRST RESPONDER**

The defendant is charged with capital murder. The law states that the intentional murder of a first responder who is operating in an official capacity is capital murder.

A person commits an intentional murder if he/she causes the death of another person and, in performing the act or acts that cause the death of that person, he/she intends to kill that person.

To convict, the State must prove beyond a reasonable doubt each of the following elements of an intentional murder of a first responder:

- (1) That (name of the deceased) is dead;
- (2) That the defendant (name of the defendant) caused the death of (name of the deceased) by (state the alleged act, e.g., shooting) him/her;
- (3) That (name of the deceased) was operating in an official capacity as a first responder as

**[Read as appropriate]:**

- (A) Emergency medical services personnel licensed by the Alabama Department of Public Health;
- (B) A firefighter; **(OR)**
- (C) A volunteer firefighter;
- (4) That the defendant knew that (name of the deceased) was a first responder; **(AND)**
- (5) That, in committing the act or acts that caused the death of (name of the deceased), the defendant intended to kill (name of the deceased).

**[Read as appropriate]:** *Emergency medical services personnel licensed by the Alabama Department of Public Health* include, but may not be limited to, Emergency Medical Responders (EMRs), Emergency Medical Technicians (EMTs), Advanced Emergency Medical Technicians (AEMTs), Emergency Medical Technicians Intermediate (EMTs-I), and Paramedics.

**[Read as appropriate]:** *A firefighter* is any person permanently employed in fire administration, fire prevention, fire suppression, fire education, arson

investigation, and emergency medical services, but excluding employees of the Alabama State Forestry Commission. [§ 36-32-1(5), Ala. Code 1975]

**[Read as appropriate]:** A *volunteer firefighter* is any person who is not permanently employed as fire protection personnel or as a firefighter but who otherwise engages in fire administration, fire prevention, fire suppression, fire education, arson investigation, and emergency medical services. [§ 36-32-1(6), Ala. Code 1975]

A person acts *knowingly* with respect to conduct or to a circumstance when he/she is aware that his/her conduct is of that nature or that the circumstance exists.

A person acts *intentionally* when it is his/her purpose to cause the death of another person. The intent to kill must be real and specific.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of the offense of intentional murder of a first responder, then you shall find the defendant guilty of capital murder.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of intentional murder of a first responder, then you cannot find the defendant guilty of capital murder.

**(If lesser-included offenses are included, the court should instruct on those offenses at this point.)**

## USE NOTES

For a list of emergency medical services personnel licensed by the Alabama Department of Public Health at the time of the offense, contact the Alabama Department of Public Health.

If evidence exists that the defendant was intoxicated at the time of the charged intentional crime, the defendant is entitled to an instruction on lesser-included offense(s). See Fletcher v. State, 621 So. 2d 1010 (Ala. Crim. App. 1993).

The doctrine of transferred intent may apply to transfer the intent to kill from one individual to another. However, when the statute is specific regarding the circumstances, the doctrine does not operate to transfer the factual circumstances surrounding the murder. When the statute specifies a specific class (*i.e.*, a victim who was a first responder), it does not appear that the intent necessary to commit this particular capital offense can be transferred to an unintended victim who was not a first responder. See State v. Phillips, 842 So. 2d 27 (Ala. Crim. App. 2002); Ex parte Jackson, 614 So. 2d 405 (Ala. 1993).

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