Ala. Code 1975, § 13A-6-132*

DOMESTIC VIOLENCE THIRD DEGREE
(Criminal Mischief Third Degree)

*** [These instructions apply only to offenses committed on or after 09/01/2023]**

The defendant is charged with domestic violence third degree.

A person commits the crime of domestic violence third degree if he/she commits the crime of criminal mischief third degree and the victim is **[Read as appropriate]**: a current or former spouse, parent, step-parent, child, step-child, grandparent, step-grandparent, grandchild, step-grandchild, any person with whom the defendant had a child in common, a present household member, or a person who has or had a dating relationship with the defendant.

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

(1) **[Insert Elements of Criminal Mischief Third Degree (13A-7-23)]**;

(2) The victim, **[Insert Name of Victim],** is: **[Read as appropriate]:**

A. The defendant's current or former spouse;
B. The defendant's parent;
C. The defendant's step-parent;
D. The defendant's child;
E. The defendant's step-child;
F. The defendant's grandparent;
G. The defendant's step-grandparent;
H. The defendant's grandchild;
I. The defendant's step-grandchild;
J. Any person with whom the defendant had a child in common;
K. A present household member; **(OR)**
L. A person who has or had a dating relationship with the defendant.

[Insert Appropriate Mens Rea and Definitions from Criminal Mischief Third Degree Instructions.]

[Read as appropriate]: A *household member* excludes non-romantic or non-intimate co-residents. [13A-6-132(a)(2)]

[Read as appropriate]: A *dating relationship* means a current or former relationship of a romantic or intimate nature characterized by the expectation

of affectionate or sexual involvement by either party. [13A-6-132(a)(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of domestic violence third degree, then you shall find the defendant guilty of domestic violence third degree.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of domestic violence third degree, then you cannot find the defendant guilty of domestic violence third degree.

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

Use Notes

Domestic violence in the third degree is a Class A misdemeanor. The minimum term of imprisonment shall be 30 days without consideration of reduction in time if a defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violating the order commits domestic violence in the third degree.
[13A-6-132(b)]

A second conviction is a Class A misdemeanor, except the defendant shall serve a minimum term of imprisonment of 10 days in a city or county jail or detention facility without consideration for any reduction in time. [13A-6-132(c)]

A third or subsequent conviction is a Class C felony. [13A-6-132(d)]

If the defendant has a previous conviction for domestic violence in the first degree pursuant to Section 13A-6-130, domestic violence in the second degree pursuant to Section 13A-6-131, domestic violence by strangulation or suffocation pursuant to Section 13A-6-138, or a domestic violence conviction or other substantially similar conviction from another state or jurisdiction, a conviction is a Class C felony.
[13A-6-132(e)]

For purposes of determining second, third, or subsequent number of convictions, convictions in municipal court shall be included. [13A-6-132(f)]

[Approved 8/28/26]