

Ala. Code 1975, §13A-6-152(a)(3)

**Human Trafficking First Degree
(Giving Monetary Consideration to Minor for Sexual Conduct)**

The defendant is charged with human trafficking in the first degree.

A person commits the crime of human trafficking in the first degree if he/she knowingly gives monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual he or she believes to be a minor.

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

1. The defendant gave monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual he or she believes to be a minor, **[Insert name of minor]; (AND)**
2. The defendant acted knowingly.

A *minor* is a person under the age of 19. [13A-6-151(5)]

It is not required that the defendant have knowledge of a minor victim's age. [13A-6-152(b)]

[Read as appropriate]: Reasonable mistake of age is not a defense to liability under this section. [13A-6-152(b)]

Sexual conduct is any of the following acts: **[Read as appropriate]:**

A. Sexual intercourse. This term shall have its ordinary meaning and occurs upon a penetration, however slight; emission is not required. **OR**

B. Sodomy. As defined under Section 13A-6-60. Section 13A-6-60 defines sodomy as any sexual act involving the genitals of one person and the mouth or anus of another person. **OR**

C. Sexual Contact. As defined under Section 13A-6-60. Section 13A-6-60 defines sexual contact as any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party. The term does not require skin to skin contact. **OR**

D. Sexual Torture. As defined under Section 13A-6-65.1. Section 13A-6-65.1 defines as follows: **[See instructions for 13A-6-65.1.] OR**

E. Sexually Explicit Performances. An act or show intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, videotaped, or projected over the Internet. **OR**

F. Commercial Sex Acts. Any sex act on account of which anything of value is given, promised to, or received, directly or indirectly, by any person.

[13A-6-151(7)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his 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 human trafficking in the first degree, then you shall find the defendant guilty of the offense of human trafficking in the first degree.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of human trafficking in the first degree, then you cannot find the defendant guilty of human trafficking in the first degree.

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

Use Notes

Evidence of the following facts or conditions shall not constitute a defense in a prosecution for human trafficking in the first degree, nor shall the evidence preclude a finding of a violation:

- (1) A human trafficking victim's sexual history or history of commercial sexual activity.
- (2) A human trafficking victim's connection by blood or marriage to a defendant in the case or to anyone involved in the victim's trafficking.
- (3) Consent of or permission by a victim of human trafficking or anyone else on the victim's behalf to any commercial sex act or sexually explicit performance.
- (4) Age of consent to sex, an act defined by paragraph b. of subdivision (7) of Section 1 [i.e. Section 13A-6-151] of the definition for sexual servitude, legal age of marriage, or other discretionary age.
- (5) Mistake as to the human trafficking victim's age, even if the mistake is reasonable.

If any apply, a charge should be given setting out the prohibited defense or defenses followed by the phrase: "is no defense to a prosecution for this offense."
[13A-6-154]

This section was created in 2018 so these instructions apply to offenses committed on or after July 1, 2018.

[Approved April 26, 2024]