

Ala. Code 1975, § 13A-6-21(a)(1)

Assault Second Degree
(Intentional - Serious Physical Injury)

The defendant is charged with assault in the second degree.

A person commits the crime of assault in the second degree if, with the intent to cause serious physical injury to another person, he/she causes serious physical injury to a person.

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

- (1) The defendant caused serious physical injury to another person, **[Insert name of injured person]; (AND)**
- (2) The defendant intended to cause serious physical injury to another person.

[Read as appropriate]: A *person*, when referring to the victim, means a human being, including an unborn child in utero at any stage of development, regardless of viability. [13A-6-1(a)(3)]

Serious physical injury is physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ. [13A-1-2(14)]

Physical injury is impairment of physical condition or substantial pain. [13A-1-2(12)]

A person acts *intentionally* when it is his/her purpose to cause the death of another person. [13A-2-2(1)]

[Read as appropriate - Transferred Intent]: A person acts *intentionally* when it is his/her purpose to cause the death of a specific person, regardless of whether the deceased person is actually the person whose death the defendant allegedly wished to cause. See *Ex parte Jackson*, 614 So. 2d 405, 406-407 (Ala. 1993); *Farrior v. State*, 728 So. 2d 691, 695-696 (Ala. Crim. App. 1998).

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

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

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

Use Notes

For unborn child exceptions see 13A-6-1(b) through (e).

[Approved 10-14-15.]