

Ala. Code 1975, § 13A-6-21(a)(2)

Assault Second Degree
(Intentional - Deadly Weapon or Dangerous Instrument)

The defendant is charged with assault in the second degree.

A person commits the crime of assault in the second degree if, with intent to cause physical injury to another person, he/she causes physical injury to any person by means of a deadly weapon or dangerous instrument.

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

- (1) The defendant caused physical injury to another person, **[Insert name of injured person]**;
- (2) The defendant caused the injury by means of a deadly weapon or dangerous instrument, **[Describe weapon or instrument]; (AND)**
- (3) The defendant acted with intent to cause 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)]

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

[Read as appropriate]: A *deadly weapon* is a firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack, bludgeon, or metal knuckles. [13A-1-2(7)]

[Read as appropriate]: A *dangerous instrument* is any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is highly capable of causing death or serious physical injury. A dangerous instrument includes a vehicle. [13A-1-2(5)]

[Read as appropriate]: A *vehicle* is any propelled device in, upon, or by which any person or property is transported on land, water, or in the air and includes motor vehicles, motorcycles, motorboats, aircraft, and any vessel propelled by machinery, whether or not that machinery is the principal source of propulsion. [13A-1-2(15) & 13A-8-1(10)]

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.]