

Ala. Code 1975, §13A-6-22(a)(1)

Assault Third Degree
(Intentional)

The defendant is charged with assault in the third degree.

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

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]; (AND)**
- (2) 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)]

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 third degree, then you shall find the defendant guilty of assault in the third 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 third degree, then you cannot find the defendant guilty of assault in the third 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.]