

Ala. Code 1975, § 13A-6-23

Menacing

The defendant is charged with menacing.

A person commits the crime of menacing if, by physical action, he/she intentionally places or attempts to place another person in fear of imminent serious physical injury.

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

- (1) The defendant engaged in physical action, **[describe]**;
- (2) The defendant placed or attempted to place another person in fear of imminent serious physical injury by that action; **(AND)**
- (3) The defendant did so intentionally.

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* with respect to a result or to conduct described by a statute defining an offense, when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

[Read as appropriate]: A person acts *intentionally* when it is his/her purpose to cause physical injury of another person, regardless of whether the injured person is actually the person whose physical injury the defendant allegedly wished to cause.

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

If you find that the State has failed to prove any one or more of the elements of menacing, then you cannot find the defendant guilty of menacing.

Use Notes

Merely arming yourself (getting a gun) without more was not sufficient to establish the physical-action element of menacing. See *Ex parte Pate*, 145 So. 3d 733 (Ala. 2013).

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

[Approved 10-14-15.]