

Ala. Code 1975, 13A-6-243(a)

Directing Child to Engage in Sexual Intercourse or Sodomy

The defendant is charged with directing a child to engage in sexual intercourse or sodomy.

A person commits the crime of directing a child to engage in sexual intercourse or sodomy if he/she knowingly entices, allures, persuades, induces, or directs any person under the age of 12 years to engage in sexual intercourse or sodomy with another person.

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

- (1) The defendant enticed, allured, persuaded, induced or directed a person, **[insert name or description of person]**, to engage in sexual intercourse or sodomy with another person;
- (2) **[Insert name or description of person]** was under the age of 12 years;
(AND)
- (3) The defendant did so knowingly.

Sexual intercourse has its ordinary meaning and occurs upon any penetration, however slight; emission is not required. [13A-6-60(4)]

Sodomy is any sexual act involving the genitals of one person and the mouth or anus of another person. [13A-6-60(5)]

A person acts *knowingly* with respect to conduct or to a circumstance when he/she is aware that his/her 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 directing a child to engage in sexual intercourse or sodomy, then you shall find the defendant guilty of directing a child to engage in sexual intercourse or sodomy.

If you find that the State has failed to prove any or more of the elements of the offense of directing a child to engage in sexual intercourse or sodomy you cannot find the defendant guilty of directing a child to engage in sexual intercourse or sodomy.

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

Use Note

“Sexual intercourse” and “sodomy” are not defined in this code section. While the definitions found in 13A-12-190 do not expressly apply to this code section, their definitions might arguably be appropriate for use here. Sexual intercourse is defined in 13A-12-190, to include, among other actions, sodomy. 13A-12-190 is referenced in 13A-6-240 and/or in 13A-6-60. The definitions of sexual intercourse and sodomy are separately written in 13A-6-60, leading to the conclusion that these are more likely the appropriate definitions under this code section. Moreover, the definition of sexual contact, listed in 13A-6-243(b) is found in 13A-6-60 and not in 13A-12-190.

[Approved 11/01/24]