

**Ala. Code 1975, § 13A-6-26**

**Compelling Streetgang Membership**

The defendant is charged with compelling streetgang membership.

A person commits the crime of compelling streetgang membership if he/she expressly or by implication threatens to do bodily harm or does bodily harm to a person, a family member or a friend of the person, or any other person, or uses any other unlawful criminal means to solicit or cause any person to join or remain in a streetgang.

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

- (1) The defendant solicited or caused a person, **[name]**, to join or remain in a streetgang;
- (2) The defendant did so by threatening, expressly or by implication, to do bodily harm or did bodily harm to a person, a family member or a friend of the person, or any other person, **[name]**, or used other unlawful criminal means; **(AND)**
- (3) The Defendant acted **[insert appropriate mens rea element - See Use Notes]**.

A *streetgang* means any combination, confederation, alliance, network, conspiracy, understanding, or other similar arrangement in law or in fact, of three or more persons that, through its membership or through the agency of any member, engages in a course or pattern of criminal activity. [13A-6-26(a)]

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

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

**Use Notes**

The statute does not state a specific mens rea element.

Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the

Alabama Code: intentionally, knowingly, recklessly and with criminal negligence. See 13A-2-2.

- (1) 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)]
- (2) A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]
- (3) A person acts *recklessly* with respect to a result or to a circumstance when he/she is aware of and consciously disregards a substantial and unjustifiable risk that the risk will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]
- (4) A person acts with *criminal negligence* with respect to a result or to a circumstance when he/she fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence. [13A-2-2(4)]

The crime is a Class A Felony if the defendant is over the age of 18 years and the other person is under the age of 18 years. [13A-6-26(d)] Otherwise, it is a Class C Felony. [13A-6-26(c)]

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

[Approved 10-14-15.]