

Ala. Code 1975, § 13A-6-41

Unlawful Imprisonment First Degree

The defendant is charged with unlawful imprisonment in the first degree.

A person commits the crime of unlawful imprisonment in the first degree if he/she restrains another person under circumstances which expose the latter to a risk of serious physical injury.

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

- (1) The defendant restrained another person, **[name]; (AND)**
- (2) The defendant did so under circumstances which exposed that person, **[name]**, to a risk of serious physical injury.

Restrain means to intentionally or knowingly restrict a person's movements, unlawfully and without consent, so as to interfere substantially with his/her liberty by: **[Read as appropriate]:**

1. Moving him/her from one place to another; **(OR)**
2. Confining him/her either: **[Read as appropriate]:**
 - (a) In the place where the restriction commences; **(OR)**
 - (b) In a place to which he/she has been moved.

Restraint is *without consent* if it is accomplished by: **[Read as appropriate]:**

1. Physical force, intimidation, or deception; **(OR)**
2. Any means, including acquiescence of the victim, if the victim is: **[Read as appropriate]:**
 - (a) A child less than 16 years of age; **(OR)**
 - (b) An incompetent person; **(AND)**

The parent, guardian or other person or institution having lawful control or custody of him/her has not acquiesced in the movement or confinement.
[13A-6-40(1)]

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)]

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)].

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

If you find that the State has failed to prove any one or more of the elements of unlawful imprisonment in the first degree, then you cannot find the defendant guilty of unlawful imprisonment in the first degree.

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

[Approved 10-14-15.]