

Ala. Code 1975, § 13A-6-42

Unlawful Imprisonment Second Degree

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

A person commits the crime of unlawful imprisonment in the second degree if he/she restrains another person.

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

- (1) The defendant restrained another person, **[name]**.

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)]

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)].

[Read as appropriate - See Use Note] A person does not commit unlawful imprisonment in the second degree if:

1. The person restrained is a child less than 18 years of age;
2. The actor is a relative of the child; **(AND)**
3. The actor's sole purpose is to assume lawful control of the child. [13A-6-42(b)]

[Read as appropriate]: *Relative* means a parent or stepparent, ancestor, sibling, uncle or aunt or other lawful custodian, including an adoptive relative of the same degree through marriage or adoption. [13A-6-40(3)]

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 second degree, then you shall find the defendant guilty of unlawful imprisonment in the second degree.

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

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

Use Notes

The burden of injecting the defense is on the defendant, but this does not shift the burden of proof. [13A-6-42(b)]

[Approved 10-14-15.]