

Ala. Code 1975, § 15-20A-11(d)

Establishing Residence with Minor
(Adult)

The defendant is charged with establishing or maintaining a residence or any other living accommodation with a minor as an adult sex offender.

A person commits the crime of establishing or maintaining a residence or any other living accommodation with a minor as an adult sex offender if he/she is an adult sex offender and establishes or maintains a residence or any other living accommodation with a minor.

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

- (1) The defendant was an adult sex offender;
- (2) The defendant established or maintained a residence or any other living accommodation with a minor; **(AND)**
- (3) The defendant did so knowingly.

An *adult sex offender* is a person convicted of a sex offense. [15-20A-4(1)]

A *sex offense* includes any of the following offenses: **[Insert all appropriate from 15-20A-5].**

A *conviction* is a verdict or finding of guilt as the result of a trial, a plea of guilty, a plea of nolo contendere, or an *Alford* plea regardless of whether adjudication was withheld. Conviction includes, but is not limited to, a conviction in a United States territory, a conviction in a federal or military tribunal, including a court martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian reservation or other federal property, a conviction in any state of the United States or a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5)(B) of Public Law 109-248. Cases on appeal are deemed convictions until reversed or overturned. [15-20A-4(4)]

A *residence* is each fixed residence or other place where a person resides, sleeps, or habitually lives or will reside, sleep, or habitually live. If a person does not reside, sleep, or habitually live in a fixed residence, residence means a description of the locations where the person is stationed regularly, day or night, including any mobile or transitory living quarters or locations that have no specific mailing or street address. Residence shall be construed to refer to the places where a person resides, sleeps,

habitually lives, or is stationed with regularity, regardless of whether the person declares or characterizes such place as a residence. [15-20A-4(20)]

A *fixed residence* is a building or structure, having a physical address or street number, that adequately provides shelter at which a person resides. [15-20A-4(6)]

Habitually lives is where a person lives with some regularity on an intermittent or temporary basis. [15-20A-4(7)]

The defendant shall be deemed to have established a residence in any of the following circumstances:

- (1) Wherever the defendant resides for 3 or more consecutive days;
- (2) Wherever the defendant resides following release, regardless of whether the defendant resided at the same location prior to the time of conviction;
- (3) Whenever the defendant spends 10 or more aggregate days at any locations during a calendar month other than his/her registered address;
(OR)
- (4) Whenever the defendant vacates his/her residence or fails to spend 3 or more consecutive days at his/her residence without previously notifying local law enforcement or obtaining a travel permit pursuant to 15-20A-15. [15-20A-11(e)]

Release means release from a state prison, county jail, municipal jail, mental health facility, release or discharge from the custody of the Department of Youth Services or other juvenile detention, or placement on an appeal bond, probation, parole, or aftercare, placement into any facility or treatment program that allows the sex offender to have unsupervised access to the public, or release from any other facility, custodial or noncustodial, where the sex offender is sentenced or made a ward of that facility by a circuit, district, or juvenile judge. [15-20A-4(18)]

Local law enforcement is the sheriff of the county and the chief of police if the location subject to registration is within the corporate limits of any municipality. [15-20A-4(13)]

Living accommodation includes, but is not limited to, any overnight visit with a minor. [15-20A-11(d)]

A *minor* is a person who has not attained the age of 18. [15-20A-4(14)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense 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 elements of the offense, then you shall find the defendant guilty of this offense.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense, then you cannot find the defendant guilty of this offense.

Use Notes

The defendant may reside with a minor if he/she is the parent, grandparent, stepparent, sibling, or stepsibling of the minor unless one of the following conditions applies:

- (1) Parental rights of the defendant have been or are in the process of being terminated as provided by law;
- (2) The defendant has been convicted of any sex offense in which any of the minor children, grandchildren, stepchildren, siblings, or stepsiblings of the defendant was the victim;
- (3) The defendant has been convicted of any sex offense in which a minor was the victim and the minor resided or lived with the defendant at the time of the offense;
- (4) The defendant has been convicted of any sex offense involving a child, regardless of whether the defendant was related to or shared a residence with the child victim; **(OR)**
- (5) The defendant has been convicted of any sex offense involving forcible compulsion in which the victim was a minor. [15-20A-11(d)]

A sex offense involving a child is a conviction for any sex offense in which the victim was a child or any offense involving child pornography. [15-20A-4(26)]

A child is a person who has not attained the age of 12.

See 15-20A-35 for treatment of youthful offender.

[Approved 9-8-15.]