

Ala. Code 1975, §15-23-21(b)

Fails or Omits to Disclose Material Fact

The defendant is charged with failing or omitting to disclose a material fact.

A person commits the crime of failing or omitting to disclose a material fact if he/she knowingly fails or omits to disclose a material fact or circumstance to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof which is material to a claim for an award of compensation with the intent to defraud the commission or with the intent to cause a person to obtain or receive an award of compensation to which such person is not entitled.

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

- (1) The defendant failed or omitted to disclose a material fact or circumstance, **[insert a description of the fact or circumstance]**, to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof;
- (2) The fact or circumstance was material to a claim for an award of compensation;
- (3) The defendant did so with the intent to: **[Read as appropriate]**:
 - (a) Defraud the commission; **(OR)**
 - (b) Obtain or receive an award of compensation to which such person was not entitled to receive the same; **(AND)**
- (4) The defendant did so knowingly.

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 failing or omitting to disclose a material fact, then you shall find the defendant guilty of failing or omitting to disclose a material fact.

If you find that the State has failed to prove any one or more of the elements of the offense of failing or omitting to disclose a material fact, then you cannot find the defendant guilty of failing or omitting to disclose a material fact.

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

Use Notes

Defraud is not defined in this section; however, the phrase “intent to defraud” is defined in 13A-9-1(8) as it pertains to forgery cases.

[Approved 05/09/19]