

**Sexual Assault 101:  
Part 1**

**Satellite Conference and Live Webcast  
Friday, June 17, 2016  
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Produced by the Alabama Department of Public Health  
Video Communications and Distance Learning Division

**Faculty**

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**Alabama Laws  
Related to Sexual Assault**

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**This presentation does not constitute legal advice.  
For Educational Purposes Only**

- **THIS PRESENTATION IS FOR EDUCATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE**
- **Participants should seek advice from local counsel regarding questions or concerns related to specific legal issues**

**Definitions**  
{See §13A-6-60 Ala. Code 1975}

1. **SEXUAL INTERCOURSE** - Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required
2. **DEVIATE SEXUAL INTERCOURSE** - Any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another

**Definitions**  
{See §13A-6-60 Ala. Code 1975}

3. **SEXUAL CONTACT** - Any touching of the sexual or other intimate parts of a person not married to the actor, done for the purpose of gratifying the sexual desire of either party
4. **FEMALE** - Any female person

### Definitions

{See §13A-6-60 Ala. Code 1975}

5. **MENTALLY DEFECTIVE** - Such term means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct

### Definitions

{See §13A-6-60 Ala. Code 1975}

6. **MENTALLY INCAPACITATED** - Such term means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other incapacitating act committed upon him without his consent

### Definitions

{See §13A-6-60 Ala. Code 1975}

7. **PHYSICALLY HELPLESS** - Such term means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act
8. **FORCIBLE COMPULSION** - Physical force that overcomes earnest resistance or a threat, express or implied, that places a person in fear of immediate death or serious physical injury to himself or another person

### Rape in the First Degree

{See §13A-6-61 Ala. Code 1975}

Summary points see code cite above for full text of statute

- Rape in the 1st Degree includes:
    - Sexual intercourse with a member of the opposite sex
      - By forcible compulsion; or
      - Physically helpless; or
      - Mental incapacitation
- OR

### Rape in the First Degree

{See §13A-6-61 Ala. Code 1975}

Summary points see code cite above for full text of statute

- He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old
- Class A felony

### Rape in the Second Degree

{See §13A-6-62 Ala. Code 1975}

Summary points see code cite above for full text of statute

- Rape 2nd includes: Sexual intercourse with member of opposite sex
- Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex

**Rape in the Second Degree****{See §13A-6-62 Ala. Code 1975}****Summary points see code cite above  
for full text of statute****OR**

- Incapable of consent by reason of being mentally defective
- Class B felony

**Sodomy in the First Degree****{See §13A-6-63 Ala. Code 1975}****Summary points see code cite above  
for full text of statute**

- Sodomy 1st degree includes:
  - Deviate sexual intercourse with another person
  - by forcible compulsion; or
  - Physically helpless; or
  - Mentally incapacitated

**Sodomy in the First Degree****{See §13A-6-63 Ala. Code 1975}****Summary points see code cite above  
for full text of statute****OR**

- Being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old
- Class A felony

**Sodomy in the Second Degree****{See §13A-6-64 Ala. Code 1975}****Summary points see code cite above  
for full text of statute.**

- Sodomy in 2nd degree includes:
  - Being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old
  - Deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective

**Sodomy in the Second Degree****{See §13A-6-64 Ala. Code 1975}****Summary points see code cite above  
for full text of statute.**

- Class B felony

**Sexual Misconduct****{See §13A-6-65 Ala. Code 1975}****Summary points see code cite above  
for full text of statute**

- Sexual Misconduct includes:
  - Being a male, he engages in sexual intercourse with a female without her consent, (without lack of consent categories)
  - or with her consent where consent was obtained by the use of any fraud or artifice; OR

**Sexual Misconduct**

{See §13A-6-65 Ala. Code 1975}  
Summary points see code cite above  
for full text of statute

- Being a female, she engages in sexual intercourse with a male without his consent; or
- Deviate sexual intercourse with another person (without lack of consent categories)
- Class A misdemeanor

**Sexual Torture**

{See §13A-6-65.1 Ala. Code 1975}  
Summary points see code cite above  
for full text of statute

- Sexual Torture includes:
  - Penetrating the vagina or anus or mouth of another person with an inanimate object
  - by forcible compulsion with the intent to sexually torture or to sexually abuse, or
  - Physical helplessness; or
  - Mental incapacity

**Sexual Torture**

{See §13A-6-65.1 Ala. Code 1975}  
Summary points see code cite above  
for full text of statute

OR

- By penetrating the vagina or anus or mouth of a person who is less than 12 years old with an inanimate object, by a person who is 16 years old or older with the intent to sexually torture or to sexually abuse
- Class A felony

**Sexual Abuse in the First Degree**

{See §13A-6-66 Ala. Code 1975}  
Summary points see code cite above  
for full text of statute

- Sexual abuse in the 1st degree includes:
  - Sexual contact by forcible compulsion; or
  - Physically helpless; or
  - Mentally incapacitated
- Class C felony

**Sexual Abuse in the Second Degree**

{See §13A-6-67 Ala. Code 1975}  
Summary points see code cite above  
for full text of statute.

- Sexual abuse in the 2nd degree includes:
  - Sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
  - (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old

**Sexual Abuse in the Second Degree**

{See §13A-6-67 Ala. Code 1975}  
Summary points see code cite above  
for full text of statute.

- (b) Sexual abuse in second degree is a Class A misdemeanor
- Except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony

**Lack of Consent**  
 {See §13A-6-70 Ala. Code 1975}

- Whether or not specifically stated, it is an element of every offense defined in this article, with the exception of subdivision (a)(3) of Section 13A-6-65, that the sexual act was committed without consent of the victim
- (b) Lack of consent results from:
  - (1) Forcible compulsion; or

**Lack of Consent**  
 {See §13A-6-70 Ala. Code 1975}

- (2) Incapacity to consent; or
- (3) If the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct

**Lack of Consent**  
 {See §13A-6-70 Ala. Code 1975}

- (c) A person is deemed incapable of consent if he is: (1) Less than 16 years old; or (2) Mentally defective; or (3) Mentally incapacitated; or (4) Physically helpless

**Stalking - Section 13A-6-90**  
 Summary points see code cite above for full text of statute

- A person who intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm is guilty of the crime of stalking in the first degree
- The crime of stalking in the first degree is a Class C felony

**Section 30-6-90.1**  
 Summary points see code cite above for full text of statute

- A person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise,

**Section 30-6-90.1**  
 Summary points see code cite above for full text of statute

- With another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and

**Section 30-6-90.1**

Summary points see code cite above for full text of statute

- Causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and
- The perpetrator was previously informed to cease that conduct

**Section 13A-6-152**

Human Trafficking in the first degree

- (a) A person commits the crime of human trafficking in the first degree if:
  - (1) He or she knowingly subjects another person to labor servitude or sexual servitude through use of coercion or deception

**Section 13A-6-152**

Human Trafficking in the first degree

- (2) He or she knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude

**Section 13A-6-152**

Human Trafficking in the first degree

- (3) For purposes of this section, it is not required that the defendant have knowledge of a minor victim's age, nor is reasonable mistake of age a defense to liability under this section

- is guilty of the crime of stalking in the second degree.
- The crime of stalking in the second degree is a Class B misdemeanor.
- A person who violates the provisions of Section 13A-6-90.1 and whose conduct in doing so also violates any court order or injunction is guilty of the crime of aggravated stalking in the second degree. The crime of aggravated stalking in the second degree is a Class C felony.

- Summary points see code cite for full text of statute

- (4) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the first degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or

- Within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring
- (5) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class C felony
- (b) Human trafficking in the first degree is a Class A felony
- (Act 2010-705, p. 1708, §3.)

**Section 13A-6-153**  
Human trafficking in the second degree

- (a) A person commits the crime of human trafficking in the second degree if:
  - (1) A person knowingly benefits, financially or by receiving anything of value, from participation in a venture or engagement for the purpose of sexual servitude or labor servitude

**Section 13A-6-153**  
Human trafficking in the second degree

- (2) A person knowingly recruits, entices, solicits, induces, harbors, transports, holds, restrains, provides, maintains, subjects, or obtains by any means another person for the purpose of labor servitude or sexual servitude

**Section 13A-6-153**  
Human trafficking in the second degree

- (3) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the second degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and

**Section 13A-6-153**  
Human trafficking in the second degree

- The commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring

**Section 13A-6-153**

**Human trafficking in the second degree**

- (4) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class A misdemeanor
- (b) Human trafficking in the second degree is a Class B felony
- (Act 2010-705, p. 1708, §4.)