

Alabama

Section 13A-6-65
Sexual misconduct.

(a) A person commits the crime of sexual misconduct if:

(1) Being a male, he engages in sexual intercourse with a female without her consent, under circumstances other than those covered by Sections 13A-6-61 and 13A-6-62; or with her consent where consent was obtained by the use of any fraud or artifice; or

(2) Being a female, she engages in sexual intercourse with a male without his consent; or

(3) He or she engages in deviate sexual intercourse with another person under circumstances other than those covered by Sections 13A-6-63 and 13A-6-64. Consent is no defense to a prosecution under this subdivision.

(b) Sexual misconduct is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, §2318.)

Section 13A-6-65.1
Sexual torture.

(a) A person commits the crime of sexual torture:

(1) By 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.

(2) By penetrating the vagina or anus or mouth of a person who is incapable of consent by reason of physical helplessness or mental incapacity with an inanimate object, with the intent to sexually torture or to sexually abuse.

(3) 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.

(b) The crime of sexual torture is a Class A felony.

(Acts 1993, No. 93-606, §1.)

Section 13A-6-66
Sexual abuse in the first degree.

(a) A person commits the crime of sexual abuse in the first degree if:

(1) He subjects another person to sexual contact by forcible compulsion; or

(2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, subjects another person to sexual contact who is less than 12 years old.

(b) Sexual abuse in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, §2320.)

Section 13A-6-67
Sexual abuse in the second degree.

(a) A person commits the crime of sexual abuse in the second degree if:

(1) He subjects another person to 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.

(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.

(Acts 1977, No. 607, p. 812, §2321; Act 2000-728, p. 1566, §1.)

Section 13A-6-68

Indecent exposure.

(a) A person commits the crime of indecent exposure if, with intent to arouse or gratify sexual desire of himself or of any person other than his spouse, he exposes his genitals under circumstances in which he knows his conduct is likely to cause affront or alarm in any public place or on the private premises of another or so near thereto as to be seen from such private premises.

(b) Indecent exposure is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, §2325.)

Section 13A-6-69

Enticing child to enter vehicle, house, etc., for immoral purposes.

It shall be unlawful for any person with lascivious intent to entice, allure, persuade or invite, or attempt to entice, allure, persuade or invite, any child under 16 years of age to enter any vehicle, room, house, office or other place for the purpose of proposing to such child the performance of an act of sexual intercourse or an act which constitutes the offense of sodomy or for the purpose of proposing the fondling or feeling of the sexual or genital parts of such child or the breast of such child, or for the purpose of committing an aggravated assault on such child, or for the purpose of proposing that such child fondle or feel the sexual or genital parts of such person.

Any person violating the provisions of this section shall, for the first violation, be punished by a fine not to exceed \$5,000.00 or by confinement for a term not to exceed five years, or by both fine and imprisonment; and any person who shall be convicted for the second violation of this section shall be punished by confinement in the penitentiary for not less than two nor more than 10 years, and such person shall not be eligible for probation.

(Acts 1967, No. 388, p. 976; Code 1975, §13-1-114.)

Section 13A-6-70

Lack of consent.

(a) 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

(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.

(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.

(Acts 1977, No. 607, p. 812, §2330.)

Section 13A-6-110

Soliciting a child by computer.

(a) In addition to the provisions of Section 13A-6-69, a person is guilty of solicitation of a child by a computer if the person is 19 years of age or older and the person knowingly, with the intent to commit an unlawful sex act, entices, induces, persuades, seduces, prevails, advises, coerces, or orders, by means of a computer, a child who is less than 16 years of age and at least three years younger than the defendant, to meet with the defendant or any other person for the purpose of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit.

(b) For purposes of determining jurisdiction, the offense is committed in this state if the transmission that constitutes the offense either originates in this state or is received in this state.

(c) A person charged under this section shall be tried as an adult, and the record of the proceeding shall not be sealed nor subject to expungement.

(d) Solicitation of a child by computer is a Class B felony.

(Acts 1997, No. 97-486, p. 844, §1.)

Section 13A-6-111

Transmitting obscene material to a child by computer.

(a) A person is guilty of transmitting obscene material to a child if the person transmits, by means of any computer communication system allowing the input, output, examination, or transfer of computer programs from one computer to another, material which, in whole or in part, depicts actual or simulated nudity, sexual conduct, or sadomasochistic abuse, for the purpose of initiating or engaging in sexual acts with the child.

(b) For purposes of determining jurisdiction, the offense is committed in this state if the transmission that constitutes the offense either originates in this state or is received in this state.

(c) A person charged under this section shall be tried as an adult and the record of the proceeding shall not be sealed nor subject to expungement.

(d) Transmitting obscene material of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit to a child is a Class B felony.

(Acts 1997, No. 97-486, p. 844, § 2.)

Section 13A-6-112

No violation of article.

No person shall be held to have violated this article solely for providing access or connection to or from a facility, system, or network not under the control of the person, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing access or connection that do not include the creation of the communication unless:

- (1) The person is a conspirator with an entity actively involved in the creation of the obscene material.
- (2) The person knowingly distributed a communication that violates this article.
- (3) The person knowingly advertises the availability of the communication.
- (4) The person knowingly provides access or connection to a facility, system, or network engaged in the violation of this article that is owned or controlled by the person.

(Acts 1997, No. 97–486, p. 844, § 3.)

Section 13A-6-113

No liability for employer.

No employer shall be held liable under this article for the action of an employee or agent unless the conduct of the employee or agent is within the scope of his or her employment or agency and the employer having knowledge of the conduct, authorizes or ratifies the conduct or recklessly disregards the conduct.

(Acts 1997, No. 97-486, p. 844, § 4.)