

1 SB103  
2 125905-1  
3 By Senators Bedford, Holtzclaw and Dial  
4 RFD: Judiciary  
5 First Read: 01-MAR-11

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8 SYNOPSIS: Under existing law, abuse of a protected  
9 person who is a resident in a nursing home, mental  
10 institution, developmental center for people with  
11 an intellectual disability, or other convalescent  
12 care facility is a Class B felony or Class C felony  
13 under certain circumstances.

14 This bill would increase the felony penalty  
15 to a Class A felony if the protected person being  
16 abused is an honorably discharged or retired  
17 veteran of any branch of the United States Armed  
18 Forces.

19 Amendment 621 of the Constitution of Alabama  
20 of 1901, now appearing as Section 111.05 of the  
21 Official Recompilation of the Constitution of  
22 Alabama of 1901, as amended, prohibits a general  
23 law whose purpose or effect would be to require a  
24 new or increased expenditure of local funds from  
25 becoming effective with regard to a local  
26 governmental entity without enactment by a 2/3 vote  
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the  
2 affected entity; or the Legislature appropriates  
3 funds, or provides a local source of revenue, to  
4 the entity for the purpose.

5 The purpose or effect of this bill would be  
6 to require a new or increased expenditure of local  
7 funds within the meaning of the amendment. However,  
8 the bill does not require approval of a local  
9 governmental entity or enactment by a 2/3 vote to  
10 become effective because it comes within one of the  
11 specified exceptions contained in the amendment.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 To amend Section 38-9-7 of the Code of Alabama 1975,  
18 relating to abuse of certain protected persons; to increase  
19 the felony penalty to a Class A felony if the protected person  
20 being abused is an honorably discharged or retired veteran of  
21 any branch of the United States Armed Forces; and in  
22 connection therewith to have as its purpose or effect the  
23 requirement of a new or increased expenditure of local funds  
24 within the meaning of Amendment 621 of the Constitution of  
25 Alabama of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of Alabama of 1901,  
27 as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 38-9-7 of the Code of Alabama  
3 1975, is amended to read as follows:

4 "§38-9-7.

5 "(a) It shall be unlawful for any person to abuse,  
6 neglect, exploit, or emotionally abuse any protected person.  
7 For purposes of this section, residence in a nursing home,  
8 mental institution, developmental center for people with an  
9 intellectual disability, or other convalescent care facility  
10 shall be prima facie evidence that a person is a protected  
11 person. Charges of abuse, neglect, exploitation, or emotional  
12 abuse may be initiated upon complaints of private individuals,  
13 as a result of investigations by social service agencies, or  
14 on the direct initiative of law enforcement officials.

15 "(b) Any person who intentionally abuses or neglects  
16 a person in violation of this chapter shall be guilty of a  
17 Class B felony if the intentional abuse or neglect causes  
18 serious physical injury.

19 "(c) Any person who recklessly abuses or neglects a  
20 person in violation of this chapter shall be guilty of a Class  
21 C felony if the reckless abuse or neglect causes serious  
22 physical injury.

23 "(d) Any person who intentionally abuses or neglects  
24 a person in violation of this chapter, shall be guilty of a  
25 Class C felony if the intentional abuse or neglect causes  
26 physical injury.

1           "(e) Any person who recklessly abuses or neglects a  
2 person in violation of this chapter, shall be guilty of a  
3 Class A misdemeanor if the reckless abuse or neglect causes  
4 physical injury.

5           "(f) Any person who emotionally abuses a person in  
6 violation of this chapter shall be guilty of a Class A  
7 misdemeanor.

8           "(g) Any person who exploits a person in violation  
9 of this chapter shall be guilty of a Class C felony, where the  
10 value of the property, assets, or resources or illegal  
11 services provided to a protected person by an unlicensed  
12 hospital exceeds one hundred dollars (\$100).

13           "(h) Any person who exploits a person in violation  
14 of this chapter shall be guilty of a Class A misdemeanor, if  
15 the value of the property, assets, or resources or illegal  
16 services provided to a protected person by an unlicensed  
17 hospital does not exceed one hundred dollars (\$100).

18           "(i) If a violation of this section is also a  
19 violation of any other Alabama criminal statute, then a  
20 conviction or acquittal under either statute bars prosecution  
21 under the remaining statute.

22           "(j) All felony penalties under this section shall  
23 be increased to a Class A felony if the protected person is an  
24 honorably discharged or retired veteran of any branch of the  
25 United States Armed Forces."

26           Section 2. Although this bill would have as its  
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further  
2 requirements and application under Amendment 621, now  
3 appearing as Section 111.05 of the Official Recompilation of  
4 the Constitution of Alabama of 1901, as amended, because the  
5 bill defines a new crime or amends the definition of an  
6 existing crime.

7 Section 3. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.