

1 HB134
2 115702-1
3 By Representative Grimes
4 RFD: Judiciary
5 First Read: 12-JAN-10
6 PFD: 01/07/2010

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8 SYNOPSIS: Under existing law, domestic violence by
9 choking is not a specifically defined crime.

10 This bill would provide for the crime of
11 domestic violence by choking and provide penalties
12 for committing the crime.

13 Amendment 621 of the Constitution of Alabama
14 of 1901, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of
16 Alabama of 1901, as amended, prohibits a general
17 law whose purpose or effect would be to require a
18 new or increased expenditure of local funds from
19 becoming effective with regard to a local
20 governmental entity without enactment by a 2/3 vote
21 unless: it comes within one of a number of
22 specified exceptions; it is approved by the
23 affected entity; or the Legislature appropriates
24 funds, or provides a local source of revenue, to
25 the entity for the purpose.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. However,
15 the bill does not require approval of a local
16 governmental entity or enactment by a 2/3 vote to
17 become effective because it comes within one of the
18 specified exceptions contained in the amendment.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 Relating to domestic violence; to establish the
25 crime of domestic violence by choking; to provide penalties
26 for committing the crime; and in connection therewith to have
27 as its purpose or effect the requirement of a new or increased

1 expenditure of local funds within the meaning of Amendment 621
2 of the Constitution of Alabama of 1901, now appearing as
3 Section 111.05 of the Official Recompilation of the
4 Constitution of Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. (a) For the purposes of this section, the
7 following terms have the following meanings:

8 (1) CHOKING. To intentionally impede the normal
9 breathing or circulation of the blood by applying pressure on
10 the throat or neck or by blocking the nose or mouth of another
11 person.

12 (b) A person commits the crime of domestic violence
13 by choking if the person commits the crime of assault in the
14 second degree pursuant to Section 13A-6-22, Code of Alabama
15 1975, by choking the victim, and the victim is a current or
16 former spouse, parent, child, any person with whom the
17 defendant has a child in common, a present or former household
18 member, or a person who has or had a dating or engagement
19 relationship with the defendant. Domestic violence by choking
20 is a Class C felony, except the defendant shall serve a
21 minimum term of imprisonment of three months without
22 consideration of probation, parole, good time credits, or any
23 reduction in time for any second or subsequent conviction
24 under this subsection.

25 (c) The minimum term of imprisonment imposed under
26 subsection (b) shall be double without consideration of
27 probation, parole, good time credits, or any reduction in time

1 if a defendant willfully violates a protection order issued by
2 a court of competent jurisdiction and in the process of
3 violating the order commits domestic violence by choking.

4 Section 2. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 3. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

20 Section 4. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.