

1 SB286  
2 115832-1  
3 By Senators Preuitt, Butler, Orr, Figures, Dixon, Marsh,  
4 Glover, Mitchell, Little (Z), Ross, Singleton, Means,  
5 Waggoner, Beason and Mitchem  
6 RFD: Judiciary  
7 First Read: 19-JAN-10

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8 SYNOPSIS: Under existing law, a person who assaults a  
9 peace officer with an intent to prevent the peace  
10 officer from performing a lawful duty and who  
11 causes physical injury to the peace officer or  
12 another person is guilty of assault in the second  
13 degree. Assault in the second degree is a Class C  
14 felony. The courts have held that an off-duty peace  
15 officer employed by a private entity is not a peace  
16 officer unless the off-duty peace officer has  
17 witnessed a crime.

18 This bill would provide that an off-duty  
19 peace officer employed by a private entity would be  
20 considered a peace officer and to be performing a  
21 lawful duty in his or her approved uniform while  
22 off duty with the approval of his or her employing  
23 agency.

24 Amendment 621 of the Constitution of Alabama  
25 of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of  
27 Alabama of 1901, as amended, prohibits a general

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

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

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
21

22 To amend Section 13A-6-21 of the Code of Alabama  
23 1975, providing the crime of assault in the second degree, to  
24 further provide when a peace officer employed by a private  
25 entity is a peace officer performing a lawful duty for the  
26 purpose of certain assaults; and in connection therewith would  
27 have as its purpose or effect the requirement of a new or

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

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 13A-6-21 of the Code of Alabama  
7 1975, is amended to read as follows:

8 "§13A-6-21.

9 "(a) A person commits the crime of assault in the  
10 second degree if the person does any of the following:

11 "(1) With intent to cause serious physical injury to  
12 another person, he or she causes serious physical injury to  
13 any person.

14 "(2) With intent to cause physical injury to another  
15 person, he or she causes physical injury to any person by  
16 means of a deadly weapon or a dangerous instrument.

17 "(3) He or she recklessly causes serious physical  
18 injury to another person by means of a deadly weapon or a  
19 dangerous instrument.

20 "(4) With intent to prevent a peace officer, as  
21 defined in Section 36-21-60, a detention or correctional  
22 officer at any municipal or county jail or state penitentiary,  
23 emergency medical personnel, or a firefighter from performing  
24 a lawful duty, he or she intends to cause physical injury and  
25 he or she causes physical injury to any person. For the  
26 purpose of this subdivision, a person who is a peace officer  
27 who is employed off duty by a private entity is a peace

1 officer performing a lawful duty when the person is working in  
2 his or her approved uniform while off duty with the approval  
3 of his or her employing agency.

4 "(5) With intent to cause physical injury to a  
5 teacher or to an employee of a public educational institution  
6 during or as a result of the performance of his or her duty,  
7 he or she causes physical injury to any person.

8 "(6) With intent to cause physical injury to a  
9 health care worker, including a nurse, physician, technician,  
10 or any other person employed by or practicing at a hospital as  
11 defined in Section 22-21-20; a county or district health  
12 department; a long-term care facility; or a physician's  
13 office, clinic, or outpatient treatment facility during the  
14 course of or as a result of the performance of the duties of  
15 the health care worker or other person employed by or  
16 practicing at the hospital; the county or district health  
17 department; any health care facility owned or operated by the  
18 State of Alabama; the long-term care facility; or the  
19 physician's office, clinic, or outpatient treatment facility;  
20 he or she causes physical injury to any person. This  
21 subdivision shall not apply to assaults by patients who are  
22 impaired by medication or to assaults on home health care  
23 workers while they are in private residences.

24 "(7) For a purpose other than lawful medical or  
25 therapeutic treatment, he or she intentionally causes stupor,  
26 unconsciousness, or other physical or mental impairment or  
27 injury to another person by administering to him or her,

1 without his or her consent, a drug, substance or preparation  
2 capable of producing the intended harm.

3 "(b) Assault in the second degree is a Class C  
4 felony."

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

13 Section 3. This act shall become effective  
14 immediately following its passage and approval by the  
15 Governor, or its otherwise becoming law.