

1 HB332
2 217020-2
3 By Representative Treadaway
4 RFD: Judiciary
5 First Read: 10-FEB-22

8 SYNOPSIS: Under existing law, a violation of assault
9 in the second degree is a Class C felony.

10 This bill would include additional activity
11 that would constitute the crime of assault in the
12 second degree.

13 Amendment 621 of the Constitution of Alabama
14 of 1901, as amended by Amendment 890, now appearing
15 as Section 111.05 of the Official ReCompilation of
16 the Constitution of Alabama of 1901, as amended,
17 prohibits a general law whose purpose or effect
18 would be to require a new or increased expenditure
19 of local funds from becoming effective with regard
20 to a local governmental entity without enactment by
21 a 2/3 vote unless: it comes within one of a number
22 of 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 The purpose or effect of this bill would be
27 to require a new or increased expenditure of local

1 funds within the meaning of the amendment. However,
2 the bill does not require approval of a local
3 governmental entity or enactment by a 2/3 vote to
4 become effective because it comes within one of the
5 specified exceptions contained in the amendment.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to crimes and offenses; to amend Section
12 13A-6-21, Code of Alabama 1975, to further provide for assault
13 in the second degree; and in connection therewith would have
14 as its purpose or effect the requirement of a new or increased
15 expenditure of local funds within the meaning of Amendment 621
16 of the Constitution of Alabama of 1901, now appearing as
17 Section 111.05 of the Official Recompilation of the
18 Constitution of Alabama of 1901, as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

22 "§13A-6-21.

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

25 "(1) With intent to cause serious physical injury to
26 another person, he or she causes serious physical injury to
27 any person.

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

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

7 "(4)a. With intent to prevent a peace officer, as
8 defined in Section 36-21-60, a detention or correctional
9 officer at any municipal or county jail or state penitentiary,
10 emergency medical personnel, a utility worker, or a
11 firefighter from performing a lawful duty, he or she intends
12 to cause physical injury and he or she causes physical injury
13 to any person.

14 "b. For the purpose of this subdivision, a person
15 who is a peace officer who is employed or under contract while
16 off duty by a private or public entity is a peace officer
17 performing a lawful duty when the person is working in his or
18 her approved uniform while off duty with the approval of his
19 or her employing law enforcement agency. Provided, however,
20 that nothing contained ~~herein~~ in this subdivision shall be
21 deemed or construed as amending, modifying, or extending the
22 classification of a peace officer as off-duty for ~~workers~~
23 workers' compensation purposes or any other benefits to which
24 a peace officer may otherwise be entitled to under law when
25 considered on-duty. Additionally, nothing contained ~~herein~~ in
26 this subdivision shall be deemed or construed as amending,
27 modifying, or extending the tort liability of any municipality

1 as a result of any action or inaction on the part of an
2 off-duty police officer.

3 "c. For the purposes of this subdivision, utility
4 worker means any person who is employed by an entity that
5 owns, operates, leases, or controls any plant, property, or
6 facility for the generation, transmission, manufacture,
7 production, supply, distribution, sale, storage, conveyance,
8 delivery, or furnishing to or for the public of electricity,
9 natural or manufactured gas, water, steam, sewage, or
10 telephone service, including two or more utilities rendering
11 joint service.

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

16 "(6) With intent to cause physical injury to a
17 health care worker, including a nurse, physician, technician,
18 or any other person employed by or practicing at a hospital as
19 defined in Section 22-21-20; a county or district health
20 department; a long-term care facility; or a physician's
21 office, clinic, or outpatient treatment facility during the
22 course of or as a result of the performance of the duties of
23 the health care worker or other person employed by or
24 practicing at the hospital; the county or district health
25 department; any health care facility owned or operated by the
26 State of Alabama; the long-term care facility; or the
27 physician's office, clinic, or outpatient treatment facility;

1 he or she causes physical injury to any person. This
2 subdivision shall not apply to assaults by patients who are
3 impaired by medication or to assaults on home health care
4 workers while they are in private residences.

5 "(7) For a purpose other than lawful medical or
6 therapeutic treatment, he or she intentionally causes stupor,
7 unconsciousness, or other physical or mental impairment or
8 injury to another person by administering to him or her,
9 without his or her consent, a drug, substance, or preparation
10 capable of producing the intended harm.

11 "(8) With the intent to cause physical injury to any
12 person operating a vehicle that provides transportation in a
13 city or county, including, but not limited to, public or
14 private bus; train; Uber, Lyft, taxicab, or other ride share;
15 or any other form of public transportation, during or as a
16 result of the performance of his or her duty; he or she causes
17 physical injury to any person.

18 "(b) Assault in the second degree is a Class C
19 felony.

20 "~~(c) For the purposes of this section, utility~~
21 ~~worker means any person who is employed by an entity that~~
22 ~~owns, operates, leases, or controls any plant, property, or~~
23 ~~facility for the generation, transmission, manufacture,~~
24 ~~production, supply, distribution, sale, storage, conveyance,~~
25 ~~delivery, or furnishing to or for the public of electricity,~~
26 ~~natural or manufactured gas, water, steam, sewage, or~~

1 ~~telephone service, including two or more utilities rendering~~
2 ~~joint service."~~

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, as amended
7 by Amendment 890, now appearing as Section 111.05 of the
8 Official Recompilation of the Constitution of Alabama of 1901,
9 as amended, because the bill defines a new crime or amends the
10 definition of an existing crime.

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