

1 HB372  
2 216032-1  
3 By Representatives Alexander, Jackson, Givan, Jones (S),  
4 Isbell, Marques, Stringer, Forte, Warren, Drummond, Hollis,  
5 McClammy, Lawrence, Dismukes, Fincher, Wingo, Holmes, Mooney,  
6 Carns, Drake, Standridge, Lovvorn, Bedsole, Reynolds, Whitt,  
7 Clouse, Blackshear, Howard, Grimsley, Moore (M), Ingram,  
8 Pringle, Easterbrook, Morris, Rogers, Wilcox, Wheeler, Brown  
9 (K), Wood (D), Shaver, Collins, Shedd, Farley, Robertson,  
10 Hall, Scott, Estes, Faulkner, Kitchens, Kiel, Wadsworth, Rich,  
11 Ball, Smith, Sorrell, Treadaway, Coleman, South, Ellis, Faust,  
12 Lipscomb, Oliver, Meadows, Simpson, Hassell, Gray and Sorrells  
13 RFD: Judiciary  
14 First Read: 16-FEB-22

8 SYNOPSIS: Under existing law, elder abuse and neglect  
9 in the first degree is a Class A felony.

10 This bill would further provide for the  
11 crime of elder abuse and neglect in the first  
12 degree to include the sexual abuse of an elderly  
13 person and to include humiliation in the definition  
14 of emotional abuse.

15 Amendment 621 of the Constitution of Alabama  
16 of 1901, as amended by Amendment 890, now appearing  
17 as Section 111.05 of the Official ReCompilation of  
18 the Constitution of Alabama of 1901, prohibits a  
19 general law whose purpose or effect would be to  
20 require a new or increased expenditure of local  
21 funds from becoming effective with regard to a  
22 local governmental entity without enactment by a  
23 2/3 vote unless: it comes within one of a number of  
24 specified exceptions; it is approved by the  
25 affected entity; or the Legislature appropriates  
26 funds, or provides a local source of revenue, to  
27 the entity for the purpose.

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

9   A BILL  
10    TO BE ENTITLED  
11    AN ACT  
12

13                   Relating to elder abuse, to further provide for the  
14                   definition of emotional abuse; to further provide for the  
15                   crime of elder abuse and neglect in the first degree, to  
16                   include sexual abuse; and in connection therewith would have  
17                   as its purpose or effect the requirement of a new or increased  
18                   expenditure of local funds within the meaning of Amendment 621  
19                   of the Constitution of Alabama of 1901, as amended by  
20                   Amendment 890, now appearing as Section 111.05 of the Official  
21                   Recompilation of the Constitution of Alabama of 1901 as  
22                   amended.

23                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24    Section 1. Sections 13A-6-191 and 13A-6-192, Code of  
25                   Alabama 1975, are amended to read as follows:

26    "§13A-6-191.

1           "For purposes of this chapter, the following terms  
2 shall have the following meanings:

3           "(1) CAREGIVER. An individual who has the  
4 responsibility for the care of an elderly person as a result  
5 of family relationship or who has assumed the responsibility  
6 for the care of the person voluntarily, for pecuniary gain, by  
7 contract, or as a result of the ties of friendship.

8           "(2) DECEPTION. Deception occurs when a person  
9 knowingly:

10           "a. Creates or confirms another's impression which  
11 is false and which the defendant does not believe to be true.

12           "b. Fails to correct a false impression which the  
13 defendant previously has created or confirmed.

14           "c. Fails to correct a false impression when the  
15 defendant is under a duty to do so.

16           "d. Prevents another from acquiring information  
17 pertinent to the disposition of the property involved.

18           "e. Sells or otherwise transfers or encumbers  
19 property, failing to disclose a lien, adverse claim, or other  
20 legal impediment to the enjoyment of the property, whether  
21 that impediment is or is not valid, or is not a matter of  
22 official record.

23           "f. Promises performance which the defendant does  
24 not intend to perform or knows will not be performed.

25           "(3) ELDERLY PERSON. A person 60 years of age or  
26 older.

1           "(4) EMOTIONAL ABUSE. The intentional or reckless  
2           infliction of emotional or mental anguish, humiliation, or the  
3           use of a physical or chemical restraint, medication, or  
4           isolation as punishment or as a substitute for treatment or  
5           care of any elderly person.

6           "(5) FINANCIAL EXPLOITATION. The use of deception,  
7           intimidation, undue influence, force, or threat of force to  
8           obtain or exert unauthorized control over an elderly person's  
9           property with the intent to deprive the elderly person of his  
10          or her property or the breach of a fiduciary duty to an  
11          elderly person by the person's guardian, conservator, or agent  
12          under a power of attorney which results in an unauthorized  
13          appropriation, sale, or transfer of the elderly person's  
14          property.

15          "(6) INTIMIDATION. A threat of physical or emotional  
16          harm to an elderly person, or the communication to an elderly  
17          person that he or she will be deprived of food and nutrition,  
18          shelter, property, prescribed medication, or medical care or  
19          treatment.

20          "(7) NEGLECT. The failure of a caregiver to provide  
21          food, shelter, clothing, medical services, medication, or  
22          health care for an elderly person.

23          "(8) PERSON. A human being.

24          "(9) SEXUAL ABUSE. Sexual abuse as defined in  
25          Sections 13A-6-66 and 13A-6-67, Code of Alabama 1975.

26          "~~(9)~~ (10) UNDUE INFLUENCE. Domination, coercion,  
27          manipulation, or any other act exercised by another person to

1 the extent that an elderly person is prevented from exercising  
2 free judgment and choice."

3 "§13A-6-192.

4 "(a) A person commits the crime of elder abuse and  
5 neglect in the first degree if he or she does either of the  
6 following:

7 "(1) intentionally Intentionally abuses or neglects  
8 any elderly person and the abuse or neglect causes serious  
9 physical injury to the elderly person.

10 "(2) Engages in the sexual abuse of an elderly  
11 person.

12 "(b) Elder abuse and neglect in the first degree is  
13 a Class A felony."

14 Section 2. Although this bill would have as its  
15 purpose or effect the requirement of a new or increased  
16 expenditure of local funds, the bill is excluded from further  
17 requirements and application under Amendment 621, as amended  
18 by Amendment 890, now appearing as Section 111.05 of the  
19 Official Recompilation of the Constitution of Alabama of 1901,  
20 as amended, because the bill defines a new crime or amends the  
21 definition of an existing crime.

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