

# HB76 INTRODUCED



1 L6QOYW-1  
2 By Representative Simpson  
3 RFD: Judiciary  
4 First Read: 07-Mar-23  
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SYNOPSIS:

Under existing law, a person commits the crime of domestic violence if the victim is a current or former spouse, parent, step-parent, child, step-child, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant.

This bill would provide that a grandparent may be a victim of domestic violence.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

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



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29 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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36 Relating to crimes and offenses; to amend Sections  
37 13A-6-130, 13A-6-131, and 13A-6-132, Code of Alabama 1975, to  
38 include additional family members that may be a victim of  
39 domestic violence; and in connection therewith would have as  
40 its purpose or effect the requirement of a new or increased  
41 expenditure of local funds within the meaning of Section  
42 111.05 of the Constitution of Alabama of 2022.

43 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

44 Section 1. Sections 13A-6-130, 13A-6-131, and  
45 13A-6-132, Code of Alabama 1975, are amended to read as  
46 follows:

47 "§13A-6-130

48 (a) (1) A person commits the crime of domestic violence  
49 in the first degree if the person commits the crime of assault  
50 in the first degree pursuant to Section 13A-6-20; aggravated  
51 stalking pursuant to Section 13A-6-91; or burglary in the  
52 first degree pursuant to Section 13A-7-5 and the victim is a  
53 current or former spouse, parent, step-parent, child,  
54 step-child, grandparent, any person with whom the defendant  
55 has a child in common, a present household member, or a person  
56 who has or had a dating relationship with the defendant.



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57           (2) For the purposes of this section, a household  
58 member excludes non-romantic or non-intimate co-residents, and  
59 a dating relationship means a current or former relationship  
60 of a romantic or intimate nature characterized by the  
61 expectation of affectionate or sexual involvement by either  
62 party.

63           (b) Domestic violence in the first degree is a Class A  
64 felony, except that the defendant shall serve a minimum term  
65 of imprisonment of one year without consideration of  
66 probation, parole, good time credits, or any other reduction  
67 in time for any second or subsequent conviction under this  
68 subsection.

69           (c) The minimum term of imprisonment imposed under  
70 subsection (b) shall be double without consideration of  
71 probation, parole, good time credits, or any reduction in time  
72 if either of the following occurs:

73           (1) A defendant willfully violates a protection order  
74 issued by a court of competent jurisdiction and in the process  
75 of violating the order commits domestic violence in the first  
76 degree.

77           (2) The offense was committed in the presence of a  
78 child under the age of 14 years at the time of the offense,  
79 who is the victim's child or step-child, the defendant's child  
80 or step-child, or who is a child residing in or visiting the  
81 household of the victim or defendant. For purposes of this  
82 subsection, "in the presence of a child" means that the child  
83 was in a position to see or hear the act.

84           (d) The court shall make a written finding of fact, to



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85 be made part of the record upon conviction or adjudication, of  
86 whether or not the act was committed in the presence of a  
87 child. If a defendant has a trial by jury and the jury finds  
88 the defendant guilty, the jury shall also render a special  
89 verdict as to whether or not the defendant committed the act  
90 in the presence of a child."

91 "§13A-6-131

92 (a) (1) A person commits the crime of domestic violence  
93 in the second degree if the person commits the crime of  
94 assault in the second degree pursuant to Section 13A-6-21; the  
95 crime of intimidating a witness pursuant to Section  
96 13A-10-123; the crime of stalking pursuant to Section  
97 13A-6-90; the crime of burglary in the second or third degree  
98 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of  
99 criminal mischief in the first degree pursuant to Section  
100 13A-7-21 and the victim is a current or former spouse, parent,  
101 step-parent, child, step-child, grandparent, any person with  
102 whom the defendant has a child in common, a present household  
103 member, or a person who has or had a dating relationship with  
104 the defendant.

105 (2) For the purposes of this section, a household  
106 member excludes non-romantic or non-intimate co-residents, and  
107 a dating relationship means a current or former relationship  
108 of a romantic or intimate nature characterized by the  
109 expectation of affectionate or sexual involvement by either  
110 party.

111 (b) Domestic violence in the second degree is a Class B  
112 felony, except the defendant shall serve a minimum term of



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113 imprisonment of six months without consideration of probation,  
114 parole, good time credits, or any reduction in time for any  
115 second or subsequent conviction under this subsection.

116 (c) The minimum term of imprisonment imposed under  
117 subsection (b) shall be double without consideration of  
118 probation, parole, good time credits, or any reduction in time  
119 if either of the following applies:

120 (1) A defendant willfully violates a protection order  
121 issued by a court of competent jurisdiction and in the process  
122 of violating the order commits domestic violence in the second  
123 degree.

124 (2) The offense was committed in the presence of a  
125 child under the age of 14 years at the time of the offense,  
126 who is the victim's child or step-child, the defendant's child  
127 or step-child, or who is a child residing in or visiting the  
128 household of the victim or defendant. For purposes of this  
129 subsection, "in the presence of a child" means that the child  
130 was in a position to see or hear the act.

131 (d) The court shall make a written finding of fact, to  
132 be made part of the record upon conviction or adjudication, of  
133 whether or not the act was committed in the presence of a  
134 child. If a defendant has a trial by jury and the jury finds  
135 the defendant guilty, the jury shall also render a special  
136 verdict as to whether or not the defendant committed the act  
137 in the presence of a child."

138 "§13A-6-132

139 (a) (1) A person commits domestic violence in the third  
140 degree if the person commits the crime of assault in the third



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141 degree pursuant to Section 13A-6-22; the crime of menacing  
142 pursuant to Section 13A-6-23; the crime of reckless  
143 endangerment pursuant to Section 13A-6-24; the crime of  
144 criminal coercion pursuant to Section 13A-6-25; the crime of  
145 harassment pursuant to subsection (a) of Section 13A-11-8; the  
146 crime of criminal surveillance pursuant to Section 13A-11-32;  
147 the crime of harassing communications pursuant to subsection  
148 (b) of Section 13A-11-8; the crime of criminal trespass in the  
149 third degree pursuant to Section 13A-7-4; the crime of  
150 criminal mischief in the second or third degree pursuant to  
151 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the  
152 third degree pursuant to Section 13A-7-43; and the victim is a  
153 current or former spouse, parent, step-parent, child,  
154 step-child, grandparent, any person with whom the defendant  
155 has a child in common, a present household member, or a person  
156 who has or had a dating relationship with the defendant.

157 (2) For the purpose of this section, a household member  
158 excludes non-romantic or non-intimate co-residents, and a  
159 dating relationship means a current or former relationship of  
160 a romantic or intimate nature characterized by the expectation  
161 of affectionate or sexual involvement by either party.

162 (b) Domestic violence in the third degree is a Class A  
163 misdemeanor. The minimum term of imprisonment imposed under  
164 subsection (a) shall be 30 days without consideration of  
165 reduction in time if a defendant willfully violates a  
166 protection order issued by a court of competent jurisdiction  
167 and in the process of violating the order commits domestic  
168 violence in the third degree.



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169 (c) A second conviction under subsection (a) is a Class  
170 A misdemeanor, except the defendant shall serve a minimum term  
171 of imprisonment of 10 days in a city or county jail or  
172 detention facility without consideration for any reduction in  
173 time.

174 (d) A third or subsequent conviction under subsection  
175 (a) is a Class C felony.

176 (e) If the defendant has a previous conviction for  
177 domestic violence in the first degree pursuant to Section  
178 13A-6-130, domestic violence in the second degree pursuant to  
179 Section 13A-6-131, domestic violence by strangulation or  
180 suffocation pursuant to Section 13A-6-138, or a domestic  
181 violence conviction or other substantially similar conviction  
182 from another state or jurisdiction, a conviction under  
183 subsection (a) is a Class C felony.

184 (f) For purposes of determining second, third, or  
185 subsequent number of convictions, convictions in municipal  
186 court shall be included."

187 Section 2. Although this bill would have as its purpose  
188 or effect the requirement of a new or increased expenditure of  
189 local funds, the bill is excluded from further requirements  
190 and application under Section 111.05 of the Constitution of  
191 Alabama of 2022, because the bill defines a new crime or  
192 amends the definition of an existing crime.

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