- 1 HB312
- 2 198399-1
- 3 By Representatives Chestnut, Hollis, Lawrence, Daniels,
- 4 Coleman, Drummond, Ledbetter and Blackshear
- 5 RFD: Judiciary
- 6 First Read: 02-APR-19

198399-1:n:03/29/2019:ANS/tj LSA2019-956 1 2 3 4 5 6 7 Under existing law, a person commits the 8 SYNOPSIS: crime of assault in the second degree if the 9 10 person, with intent to cause physical injury to a 11 teacher, employee of a public educational 12 institution, or health care worker during or as a 13 result of the performance of his or her duties, 14 causes physical injury to any person. 15 This bill would provide that a person 16 commits the crime of assault in the second degree 17 if the person, with intent to cause physical injury 18 to a journalist, during or as a result of the 19 performance of the journalist's duties, causes 20 physical injury to any person. 21 Amendment 621 of the Constitution of Alabama 22 1901 prohibits a general law whose purpose or 23 effect would be to require a new or increased 24 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

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by the affected entity; or the Legislature 1 2 appropriates funds, or provides a local source of 3 revenue, to the entity for the purpose. The purpose or effect of this general law 4 5 would be to require a new or increased expenditure of local funds within the meaning of Amendment 621. 6 7 If this bill is not enacted by a 2/3 vote, it will 8 not become effective with regard to a local entity 9 unless approved by the local entity or until, and 10 only as long as, the Legislature appropriates funds or provides for a local source of revenue. 11 12 13 A BILL 14 TO BE ENTITLED 15 AN ACT 16 17 Relating to the crime of assault; to amend Section 18 13A-6-21, Code of Alabama 1975, to provide that a person commits the crime of assault in the second degree if the 19 20 person, with intent to cause physical injury to a journalist, 21 during or as a result of the performance of the journalist's 22 duties, causes physical injury to any person; and in 23 connection therewith would have as its purpose or effect the 24 requirement of a new or increased expenditure of local funds. 25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 13A-6-21, Code of Alabama 1975, 27 is amended to read as follows:

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"§13A-6-21.

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

4 "(1) With intent to cause serious physical injury to
5 another person, he or she causes serious physical injury to
6 any person.

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

10 "(3) He or she recklessly causes serious physical 11 injury to another person by means of a deadly weapon or a 12 dangerous instrument.

13 "(4) With intent to prevent a peace officer, as 14 defined in Section 36-21-60, a detention or correctional 15 officer at any municipal or county jail or state penitentiary, emergency medical personnel, a utility worker, or a 16 firefighter from performing a lawful duty, he or she intends 17 18 to cause physical injury and he or she causes physical injury to any person. For the purpose of this subdivision, a person 19 20 who is a peace officer who is employed or under contract while 21 off duty by a private or public entity is a peace officer 22 performing a lawful duty when the person is working in his or her approved uniform while off duty with the approval of his 23 24 or her employing law enforcement agency. Provided, however, 25 that nothing contained herein shall be deemed or construed as amending, modifying, or extending the classification of a 26 peace officer as off-duty for workers compensation purposes or 27

any other benefits to which a peace officer may otherwise be entitled to under law when considered on-duty. Additionally, nothing contained herein shall be deemed or construed as amending, modifying, or extending the tort liability of any municipality as a result of any action or inaction on the part of an off-duty police officer.

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

"(6) With intent to cause physical injury to a 11 12 health care worker, including a nurse, physician, technician, 13 or any other person employed by or practicing at a hospital as defined in Section 22-21-20; a county or district health 14 15 department; a long-term care facility; or a physician's office, clinic, or outpatient treatment facility during the 16 17 course of or as a result of the performance of the duties of 18 the health care worker or other person employed by or practicing at the hospital; the county or district health 19 20 department; any health care facility owned or operated by the 21 State of Alabama; the long-term care facility; or the 22 physician's office, clinic, or outpatient treatment facility; 23 he or she causes physical injury to any person. This 24 subdivision shall not apply to assaults by patients who are 25 impaired by medication or to assaults on home health care workers while they are in private residences. 26

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1 "(7) For a purpose other than lawful medical or 2 therapeutic treatment, he or she intentionally causes stupor, 3 unconsciousness, or other physical or mental impairment or 4 injury to another person by administering to him or her, 5 without his or her consent, a drug, substance or preparation 6 capable of producing the intended harm.

7 "(8) With intent to cause physical injury to a
8 journalist during or as a result of the performance of the
9 journalist's duties, he or she causes physical injury to any
10 person.

11 "(b) Assault in the second degree is a Class C 12 felony.

13 "(c) For the purposes of this section, utility 14 worker means any person who is employed by an entity that 15 owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, 16 production, supply, distribution, sale, storage, conveyance, 17 18 delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or 19 20 telephone service, including two or more utilities rendering 21 joint service.

"(d) For the purposes of this section, journalist means any person who is an employee, independent contractor, or agent of an entity or service that disseminates news or information by means of a newspaper, nonfiction book, wire service, news agency, news website, mobile application or other news or information service, whether distributed

1 digitally or otherwise, news program, magazine, or other 2 periodical, whether in print, electronic, or other format, or through television broadcast, radio broadcast, multichannel 3 video programming distributor, as the term is defined in 4 5 Section 602(13) of the Communications Act of 1934, Title 47 United States Code Section 522, or motion picture for public 6 7 showing, and engages in newsgathering with the primary intent 8 to investigate events or procure material in order to 9 disseminate to the public news or information concerning 10 local, national, or international events or other matters of 11 public interest."

12 Section 2. 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 the Constitution of Alabama of 1901, as amended, because the 17 18 bill defines a new crime or amends the definition of an existing crime. 19

20 Section 3. 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.