

1 HB173
2 181849-1
3 By Representative Rowe
4 RFD: Judiciary
5 First Read: 09-FEB-17

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a person commits the
9 crime of assault in the second degree if he or she
10 intends to prevent a peace officer, a detention or
11 correctional officer, emergency medical personnel,
12 a utility worker, or a firefighter from performing
13 a lawful duty and causes physical injury to the
14 person and is guilty of a Class C felony.

15 This bill would provide that the commission
16 of second degree assault against these individuals
17 would be a Class B felony.

18 Also under existing law a person commits the
19 crime of menacing, a Class B misdemeanor, if he or
20 she, by physical action, intentionally places or
21 attempts to place another person in fear of
22 imminent serious physical injury.

23 This bill would provide that menacing by
24 threatening a law enforcement officer with a
25 pistol, firearm, or other deadly weapon is a Class
26 C felony.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

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

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to law enforcement; to amend Section
27 13A-6-21, Code of Alabama 1975, relating to assault in the

1 second degree, to provide enhanced criminal penalties for
2 violations against law enforcement officers, firefighters, and
3 other specified individuals; to amend Section 13A-6-23, Code
4 of Alabama 1975, relating to menacing, to provide an enhanced
5 criminal penalty for threatening a law enforcement officer
6 with a pistol, firearm, or other deadly weapon; and in
7 connection therewith would have as its purpose or effect the
8 requirement of a new or increased expenditure of local funds
9 within the meaning of Amendment 621 of the Constitution of
10 Alabama of 1901, now appearing as Section 111.05 of the
11 Official Recompilation of the Constitution of Alabama of 1901,
12 as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 13A-6-21 and 13A-6-23, Code of
15 Alabama 1975, are amended to read as follows:

16 "§13A-6-21.

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

19 "(1) With intent to cause serious physical injury to
20 another person, he or she causes serious physical injury to
21 any person.

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

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

1 "(4) With intent to prevent a peace officer, as
2 defined in Section 36-21-60, a detention or correctional
3 officer at any municipal or county jail or state penitentiary,
4 emergency medical personnel, a utility worker, or a
5 firefighter from performing a lawful duty, he or she intends
6 to cause physical injury and he or she causes physical injury
7 to any person. For the purpose of this subdivision, a person
8 who is a peace officer who is employed or under contract while
9 off duty by a private or public entity is a peace officer
10 performing a lawful duty when the person is working in his or
11 her approved uniform while off duty with the approval of his
12 or her employing law enforcement agency. Provided, however,
13 that nothing contained herein shall be deemed or construed as
14 amending, modifying, or extending the classification of a
15 peace officer as off-duty for workers compensation purposes or
16 any other benefits to which a peace officer may otherwise be
17 entitled to under law when considered on-duty. Additionally,
18 nothing contained herein shall be deemed or construed as
19 amending, modifying, or extending the tort liability of any
20 municipality as a result of any action or inaction on the part
21 of an off-duty police officer.

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

26 "(6) With intent to cause physical injury to a
27 health care worker, including a nurse, physician, technician,

1 or any other person employed by or practicing at a hospital as
2 defined in Section 22-21-20; a county or district health
3 department; a long-term care facility; or a physician's
4 office, clinic, or outpatient treatment facility during the
5 course of or as a result of the performance of the duties of
6 the health care worker or other person employed by or
7 practicing at the hospital; the county or district health
8 department; any health care facility owned or operated by the
9 State of Alabama; the long-term care facility; or the
10 physician's office, clinic, or outpatient treatment facility;
11 he or she causes physical injury to any person. This
12 subdivision shall not apply to assaults by patients who are
13 impaired by medication or to assaults on home health care
14 workers while they are in private residences.

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

21 "(b) (1) Assault Except as provided in subdivision
22 (2), assault in the second degree is a Class C felony.

23 "(2) Assault in the second degree based upon
24 subdivision (a) (4) is a Class B felony.

25 "(c) For the purposes of this section, utility
26 worker means any person who is employed by an entity that
27 owns, operates, leases, or controls any plant, property, or

1 facility for the generation, transmission, manufacture,
2 production, supply, distribution, sale, storage, conveyance,
3 delivery, or furnishing to or for the public of electricity,
4 natural or manufactured gas, water, steam, sewage, or
5 telephone service, including two or more utilities rendering
6 joint service.

7 "§13A-6-23.

8 "(a) A person commits the crime of menacing if, by
9 physical action, he or she intentionally places or attempts to
10 place another person in fear of imminent serious physical
11 injury.

12 "(b) Menacing is a Class B misdemeanor, unless the
13 person threatens a law enforcement officer, as defined in
14 Section 36-21-40, with a pistol, firearm, or other deadly
15 weapon, in which case, it is a Class C felony."

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

24 Section 3. This act shall become effective January
25 1, 2017, following its passage and approval by the Governor,
26 or its otherwise becoming law.