

1 HB49
2 178951-1
3 By Representative Rowe
4 RFD: Judiciary
5 First Read: 16-AUG-16

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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 This bill would require the Alabama State
2 Law Enforcement Agency to annually hire a state
3 trooper trainee class.

4 This bill would also provide a four-step, 10
5 percent, salary increase for all arresting officers
6 employed by the Alabama State Law Enforcement
7 Agency.

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

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

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
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6 Relating to law enforcement; to amend Section
7 13A-6-21, Code of Alabama 1975, relating to assault in the
8 second degree, to provide enhanced criminal penalties for
9 violations against law enforcement officers, firefighters, and
10 other specified individuals; to amend Section 13A-6-23, Code
11 of Alabama 1975, relating to menacing, to provide an enhanced
12 criminal penalty for threatening a law enforcement officer
13 with a pistol, firearm, or other deadly weapon; to require the
14 Alabama State Law Enforcement Agency to annually hire a state
15 trooper trainee class; to provide a salary increase for all
16 arresting officers employed by the Alabama State Law
17 Enforcement Agency; and in connection therewith would have as
18 its purpose or effect the requirement of a new or increased
19 expenditure of local funds within the meaning of Amendment 621
20 of the Constitution of Alabama of 1901, now appearing as
21 Section 111.05 of the Official Recompilation of the
22 Constitution of Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§13A-6-21.

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

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

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

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

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

1 entitled to under law when considered on-duty. Additionally,
2 nothing contained herein shall be deemed or construed as
3 amending, modifying, or extending the tort liability of any
4 municipality as a result of any action or inaction on the part
5 of an off-duty police officer.

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

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

26 "(7) For a purpose other than lawful medical or
27 therapeutic treatment, he or she intentionally causes stupor,

1 unconsciousness, or other physical or mental impairment or
2 injury to another person by administering to him or her,
3 without his or her consent, a drug, substance or preparation
4 capable of producing the intended harm.

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

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

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

18 "§13A-6-23.

19 "(a) A person commits the crime of menacing if, by
20 physical action, he or she intentionally places or attempts to
21 place another person in fear of imminent serious physical
22 injury.

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

1 Section 2. (a) Beginning on the effective date of
2 this act and continuing every year thereafter, the Alabama
3 State Law Enforcement Agency shall hire a class of officers to
4 be trained as state troopers.

5 (b) The Secretary of the Alabama State Law
6 Enforcement Agency shall determine the number of officers to
7 be included in a trainee class each year.

8 Section 3. (a) Effective with the first payday on or
9 after the effective date of this act, all arresting officers
10 employed by the Alabama State Law Enforcement Agency shall
11 receive a four-step, 10 percent salary increase without
12 affecting normal annual merit raise considerations.

13 (b) The Director of the State Personnel Department
14 shall revise the classifications, schedule of rates, and
15 ranges set forth in the pay plan for arresting officers and
16 other comparable classifications employed by the Alabama State
17 Law Enforcement Agency to reflect the increases provided in
18 subsection (a) to ensure that the new classifications,
19 schedule of rates, and ranges shall be applicable to both
20 current and future arresting officers and other comparable
21 classifications employed by the Alabama State Law Enforcement
22 Agency and shall send the revised classifications, rates, and
23 ranges to the Comptroller who shall issue warrants in
24 accordance therewith.

25 (c) The salary increase provided for in subsection
26 (a) shall only be funded during the 2017 fiscal year as
27 provided in this subsection. The salary increase shall be paid

1 from funds available from a lottery or from the BP Oil Spill
2 Settlement funds upon certification by the Finance Director
3 that a sufficient amount will be generated to fund the
4 increases from a constitutional amendment ratified in 2016 to
5 authorize a lottery or from legislation enacted during the
6 2016 First Special Session providing for the distribution of
7 BP Oil Spill Settlement funds.

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

16 Section 5. This act shall become effective January
17 1, 2017, following its passage and approval by the Governor,
18 or its otherwise becoming law.