

1 HB445
2 208659-6
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5 Reynolds, Whorton, Pettus, Standridge, Nordgren, Robertson,
6 Marques, Rich, Gaston, Kitchens, Simpson, Carns, Wheeler,
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8 Oliver, Whitt, Stringer, Crawford, Isbell, Estes, Blackshear,
9 Wadsworth, Brown (C), Wingo, Collins, Wood (D), Sells, Kiel,
10 Meadows, Wilcox, Smith, Garrett, Sorrell, Lovvorn and Mooney
11 RFD: Judiciary
12 First Read: 24-FEB-21

8 SYNOPSIS: Under existing law, the crime of assault in
9 the second degree is committed when a person, with
10 an intent to prevent a peace officer, detention or
11 correctional officer, emergency medical personnel,
12 or firefighter from performing a lawful duty,
13 intends to cause physical injury and causes
14 physical injury to any person.

15 This bill would establish the crimes of
16 assault against a first responder in the first and
17 second degrees and would also further provide for
18 the crime of assault in the second degree to
19 reflect the creation of the crimes of assault
20 against a first responder in the first and second
21 degrees.

22 This bill would amend the crimes of riot and
23 inciting to riot and would establish the crimes of
24 aggravated riot and unlawful traffic interference.
25 This bill would also include a mandatory period of
26 incarceration to serve that is not subject to
27 probation or parole.

1 Under existing law, a person arrested for a
2 crime of domestic violence or elder abuse is
3 required to be held in custody until brought before
4 the court within 48 hours for the purpose of
5 consideration of bail.

6 This bill would provide that if a person is
7 arrested for committing a crime of assault against
8 a first responder, riot, inciting to riot, or
9 aggravated riot, the person would be required to be
10 held in custody until brought before the court
11 within 48 hours for the purpose of consideration of
12 bail, or if not brought before the court within 48
13 hours, would be subject to bail according to the
14 Alabama Rules of Criminal Procedure.

15 Under existing law, the crimes of harassment
16 and harassing communications are Class C
17 misdemeanors.

18 This bill would provide that when a person
19 commits the crime of harassment on or within 10
20 feet of the premises of a place of public
21 accommodation, the person is guilty of a Class A
22 misdemeanor. This bill would also further provide
23 for the crime of harassing communications.

24 Under existing law, a person who has been
25 convicted of a crime of violence, as defined, may
26 not own a firearm, possess a firearm, or otherwise
27 have a firearm under his or her custody or control.

1 This bill would further define the term
2 crime of violence to include persons convicted of
3 the crimes of assault against a first responder in
4 the first or second degree or aggravated riot.

5 Under existing law, local law enforcement
6 agencies are primarily funded by the political
7 subdivisions of the state for whom the agencies
8 serve.

9 This bill would provide that if a political
10 subdivision of the state dissolves or defunds a
11 local law enforcement agency, the political
12 subdivision may not receive any state grant or aid
13 money and may not receive any allocation of any
14 state revenues directly shared with local
15 governments that is not otherwise required by the
16 Constitution of Alabama of 1901, until the local
17 law enforcement agency is fully restored and
18 funded, with exceptions.

19 Under existing law, officers, employees, and
20 agents of the state are immune from civil liability
21 in their personal capacity under certain
22 conditions.

23 This bill would provide that members of the
24 governing body of a political subdivision of the
25 state who defund a local law enforcement agency in
26 the jurisdiction may be held civilly liable for

crimes of violence that occur in the political subdivision under certain conditions.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, 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 contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

1 Relating to crimes and offenses; to create the
2 crimes of assault against a first responder in the first and
3 second degrees; to amend Sections 13A-11-1, 13A-11-3,
4 13A-11-4, and 13A-11-70, Code of Alabama 1975; to provide
5 further for the crimes of riot and inciting to riot; to add
6 Section 13A-11-3.1 to the Code of Alabama 1975, to create the
7 crime of aggravated riot; to amend Section 13A-6-21, Code of
8 Alabama 1975, to provide further for the crime of assault in
9 the second degree; to add Section 13A-11-5.1 to the Code of
10 Alabama 1975, to create the crime of unlawful traffic
11 interference; to further provide for penalties for certain
12 violations; to amend Sections 13A-11-8 and 13A-6-132, Code of
13 Alabama 1975, to provide further for the crime of harassment;
14 to add Section 13A-11-8.1 to the Code of Alabama 1975, to
15 provide further for the crime of harassing communications; to
16 amend Section 15-10-3, Code of Alabama 1975, to further
17 provide for the arrest, release, and bail of certain
18 offenders; to amend Section 36-1-12, Code of Alabama 1975, to
19 provide further exceptions to the grant of sovereign immunity;
20 to provide restrictions on the issuance of state funds to a
21 political subdivision that reduces funding to a local law
22 enforcement agency under certain conditions; and in connection
23 therewith would have as its purpose or effect the requirement
24 of a new or increased expenditure of local funds within the
25 meaning of Amendment 621 of the Constitution of Alabama of
26 1901, now appearing as Section 111.05 of the Official

Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) As used in this section, the term first responder includes state, local, and tribal law enforcement officers; dogs or horses employed by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of criminal offenders; detention and correctional officers at any municipal or county jail or state penitentiary; fire department and voluntary fire department personnel; and emergency medical personnel who are actively employed or on active volunteer status and who are engaged in the performance of official duties.

(b) A person commits the crime of assault against a first responder in the first degree when the person knowingly does any of the following to a first responder:

(1) Causes serious physical injury to the first responder.

(2) While using or displaying a deadly weapon, causes physical injury to the first responder.

(3) Causes physical injury to the first responder by strangulation or attempted strangulation.

(4) Causes physical injury to the first responder during a riot, aggravated riot, or unlawful assembly.

(5) Causes physical contact with the first responder and a reasonable person would regard the contact as extremely

offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of the first responder.

(c) Assault against a first responder in the first degree is a Class B felony. The defendant shall serve a minimum term of imprisonment of six months without consideration of probation, parole, good time credits, or any other reduction in time.

(d) In addition to any fine, the defendant shall pay restitution for all of the following:

(1) Costs of any and all medical treatment by any victim of the violation, including physical and occupational therapy and rehabilitation.

(2) Cost of any damage to property or full value of property if destroyed or damaged beyond repair.

(3) Any and all other losses suffered by any victim as a result of a violation of this section.

(e) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.

Section 2. (a) As used in this section, the term first responder includes state, local, and tribal law enforcement officers; dogs or horses employed by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or

1 apprehension of criminal offenders; detention and correctional
2 officers at any municipal or county jail or state
3 penitentiary; fire department and voluntary fire department
4 personnel; and emergency medical personnel who are actively
5 employed or on active volunteer status and who are engaged in
6 the performance of official duties.

7 (b) A person commits the crime of assault against a
8 first responder in the second degree when the person knowingly
9 causes physical injury to a first responder.

10 (c) Assault against a first responder in the first
11 degree is a Class C felony. The defendant shall serve a
12 minimum term of imprisonment of three months without
13 consideration of probation, parole, good time credits, or any
14 other reduction in time.

15 (d) In addition to any fine, the defendant shall pay
16 restitution for all of the following:

17 (1) Costs of any and all medical treatment of or for
18 any victim of the violation, including physical and
19 occupational therapy and rehabilitation.

20 (2) Cost of any damage to property or full value of
21 property if destroyed or damaged beyond repair.

22 (3) Any and all other losses suffered by any victim
23 as a result of a violation of this section.

24 (e) When a criminal act is done by several persons
25 under this section, in furtherance of the common intention of
26 all, each of the persons is liable for that act in the same
27 manner as if the act were done by the person alone.

Section 3. Sections 13A-6-21 and 13A-6-132, Code of Alabama 1975, are amended to read as follows:

"§13A-6-21.

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

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

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

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

"(4) With intent to prevent a peace officer, as defined in Section 36-21-60, a detention or correctional officer at any municipal or county jail or state penitentiary, emergency medical personnel, cause physical injury to a utility worker, or a firefighter from performing a lawful duty, he or she intends to cause physical injury and he or she causes physical injury to any person. For the purpose of this subdivision, a person who is a peace officer who is employed or under contract while off duty by a private or public entity is a peace officer performing a lawful duty when the person is working in his or her approved uniform while off duty with the approval of his or her employing law enforcement agency.

Provided, however, that nothing contained herein shall be

deemed or construed as amending, modifying, or extending the classification of a peace officer as off-duty for workers compensation purposes or 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. For the purposes of this subdivision, utility worker means any person who is employed by an entity that owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, production, supply, distribution, sale, storage, conveyance, delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or telephone service, including two or more utilities rendering joint service.

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

"(6) With intent to cause physical injury to a health care worker, including a nurse, physician, technician, or any other person employed by or practicing at a hospital as defined in Section 22-21-20; a county or district health department; a long-term care facility; or a physician's office, clinic, or outpatient treatment facility during the course of or as a result of the performance of the duties of

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

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

16 "(b) Assault in the second degree is a Class C
17 felony.

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

27 "§13A-6-132.

"(a) (1) A person commits domestic violence in the third degree if the person commits the crime of assault in the third degree pursuant to Section 13A-6-22; the crime of menacing pursuant to Section 13A-6-23; the crime of reckless endangerment pursuant to Section 13A-6-24; the crime of criminal coercion pursuant to Section 13A-6-25; the crime of harassment pursuant to subsection (a) of Section 13A-11-8; the crime of criminal surveillance pursuant to Section 13A-11-32; the crime of harassing communications pursuant to ~~subsection (b) of Section 13A-11-8~~ Section 13A-11-8.1; the crime of criminal trespass in the third degree pursuant to Section 13A-7-4; the crime of criminal mischief in the second or third degree pursuant to Sections 13A-7-22 and 13A-7-23; or the crime of arson in the third degree pursuant to Section 13A-7-43; and 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.

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

"(b) Domestic violence in the third degree is a Class A misdemeanor. The minimum term of imprisonment imposed

1 under subsection (a) shall be 30 days without consideration of
2 reduction in time if a defendant willfully violates a
3 protection order issued by a court of competent jurisdiction
4 and in the process of violating the order commits domestic
5 violence in the third degree.

6 "(c) A second conviction under subsection (a) is a
7 Class A misdemeanor, except the defendant shall serve a
8 minimum term of imprisonment of 10 days in a city or county
9 jail or detention facility without consideration for any
10 reduction in time.

11 "(d) A third or subsequent conviction under
12 subsection (a) is a Class C felony.

13 "(e) If the defendant has a previous conviction for
14 domestic violence in the first degree pursuant to Section
15 13A-6-130, domestic violence in the second degree pursuant to
16 Section 13A-6-131, domestic violence by strangulation or
17 suffocation pursuant to Section 13A-6-138, or a domestic
18 violence conviction or other substantially similar conviction
19 from another state or jurisdiction, a conviction under
20 subsection (a) is a Class C felony.

21 "(f) For purposes of determining second, third, or
22 subsequent number of convictions, convictions in municipal
23 court shall be included."

24 Section 4. Sections 13A-11-1, 13A-11-3, and
25 13A-11-4, Code of Alabama 1975, are amended to read as
26 follows:

27 "§13A-11-1.

1 "The following definitions apply in this article:

2 "(1) OBSTRUCT. To ~~"obstruct"~~ means to render
3 impassable without unreasonable inconvenience or hazard. A
4 gathering of persons to hear a person speak or otherwise
5 communicate does not constitute an obstruction.

6 "(2) PUBLIC PLACE. A place to which the public or a
7 substantial group of persons has access, ~~and~~ The term
8 includes but is not limited to highways, transportation
9 facilities, schools, places of amusement, parks, playgrounds,
10 and hallways, lobbies and other portions of apartment houses
11 not constituting rooms or apartments designed for actual
12 residence, ~~provided, that no~~ The term does not include a
13 private dwelling and no place engaged for a private gathering
14 is included within the meaning of public place with respect to
15 any person specifically invited therein.

16 "(3) RIOT. A tumultuous disturbance in a public
17 place or penal institution by five or more persons assembled
18 together and acting with a common intent which creates a grave
19 danger of substantial damage to public, private, or other
20 property or serious bodily injury to one or more persons, or
21 substantially obstructs a law enforcement or other government
22 function.

23 "(3)(4) TRANSPORTATION FACILITY. Any conveyance,
24 premises, or place used for or in connection with public
25 passenger transportation, whether by air, railroad, motor
26 vehicle, or any other method. It The term includes aircraft,

1 water craft, railroad cars, buses, and air, boat, railroad,
2 and bus terminals and stations and all appurtenances thereto.

3 "§13A-11-3.

4 "(a) A person commits the crime of riot if, ~~with~~
5 ~~five or more other persons, he wrongfully engages in~~
6 ~~tumultuous and violent conduct and thereby intentionally or~~
7 ~~recklessly causes or creates a grave risk of public terror or~~
8 ~~alarm he or she knowingly participates in a riot.~~

9 "(b) Riot is a Class A misdemeanor. The defendant
10 shall serve a minimum term of imprisonment of 30 days without
11 consideration of probation, parole, good time credits, or any
12 other reduction in time.

13 "(c) In addition to any fine, the defendant shall
14 pay restitution for all of the following:

15 "(1) Costs of any and all medical treatment by any
16 victim of the violation, including physical and occupational
17 therapy and rehabilitation.

18 "(2) Cost of any damage to property, or full value
19 of property if destroyed or damaged beyond repair.

20 "(3) Any and all other losses suffered by any victim
21 as a result of a violation of this section.

22 "(d) When a criminal act is done by several persons
23 under this section, in furtherance of the common intention of
24 all, each of the persons is liable for that act in the same
25 manner as if the act were done by the person alone.

26 "§13A-11-4.

1 "(a) A person commits the crime of inciting to riot
2 if he or she commands, solicits, incites, funds, or urges, or
3 otherwise aids or abets another person to engage in tumultuous
4 and violent conduct of a kind likely to cause or create a
5 grave risk of public terror or alarm a riot or aggravated
6 riot.

7 "(b) Inciting to riot is a Class A misdemeanor. The
8 defendant shall serve a minimum term of imprisonment of 30
9 days without consideration of probation, parole, good time
10 credits, or any other reduction in time.

11 "(c) In addition to any fine, the defendant shall
12 pay restitution for all of the following:

13 "(1) Costs of any and all medical treatment of or
14 for any victim of the violation, including physical and
15 occupational therapy and rehabilitation.

16 "(2) Cost of any damage to property, or full value
17 of property if destroyed or damaged beyond repair.

18 "(3) Any and all other losses suffered by any victim
19 as a result of a violation of this section.

20 "(d) When a criminal act is done by several persons
21 under this section, in furtherance of the common intention of
22 all, each of the persons is liable for that act in the same
23 manner as if the act were done by the person alone."

24 Section 5. Sections 13A-11-3.1 and 13A-11-5.1 are
25 added to Article 1 of Chapter 11 of Title 13A of the Code of
26 Alabama 1975, to read as follows:

27 §13A-11-3.1.

(a) A person commits the crime of aggravated riot if he or she knowingly participates in a riot, the participants of which cause substantial damage to public, private, or other property or cause bodily injury to any one or more persons.

(b) Aggravated riot is a Class C felony. The defendant shall serve a minimum term of imprisonment of three months without consideration of probation, parole, good time credits, or any other reduction in time.

(c) In addition to any fine, the defendant shall pay restitution for all of the following:

(1) Costs of any and all medical treatment by any victim of the violation, including physical and occupational therapy and rehabilitation.

(2) Cost of any damage to property, or full value of property if destroyed or damaged beyond repair.

(3) Any and all other losses suffered by any victim as a result of a violation of this section.

(d) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.

§13A-11-5.1.

(a) (1) A person commits the crime of unlawful traffic interference if, with the intention to impede vehicular traffic, the person walks, stands, sits, kneels, lies, or places an object in such a manner as to block passage of a vehicle on a public highway or interstate highway.

(2) This section does not apply to a person who, by permit or otherwise, has permission to operate in the public roadway from an appropriate government authority, including a law enforcement officer, or who does so to direct traffic away from a hazardous road condition, an obstacle, or the scene of an accident.

(b) (1) Except as provided in subdivision (2), unlawful traffic interference is a Class A misdemeanor.

(2) On a second or subsequent violation under subdivision (1), or if a violation of this section resulted in physical injury or damage to property, the person is guilty of a Class D felony.

(c) A defendant convicted of violating this section shall serve a minimum term of imprisonment of 30 days without consideration of probation, parole, good time credits, or any other reduction in time.

(d) In addition to any fine, the defendant shall pay restitution for all of the following:

(1) Costs of any and all medical treatment of or for any victim of the violation, including physical and occupational therapy and rehabilitation.

(2) Cost of any damage to property, or full value of property if destroyed or damaged beyond repair.

(3) Any and all other losses suffered by any victim as a result of a violation of this section.

(e) When a criminal act is done by several persons under this section, in furtherance of the common intention of

1 all, each of the persons is liable for that act in the same
2 manner as if the act were done by the person alone.

3 Section 6. Section 15-10-3, Code of Alabama 1975, is
4 amended to read as follows:

5 "§15-10-3.

6 "(a) An officer may arrest a person without a
7 warrant, on any day and at any time in any of the following
8 instances:

9 "(1) If a public offense has been committed or a
10 breach of the peace threatened in the presence of the officer.

11 "(2) When a felony has been committed, though not in
12 the presence of the officer, by the person arrested.

13 "(3) When a felony has been committed and the
14 officer has probable cause to believe that the person arrested
15 committed the felony.

16 "(4) When the officer has probable cause to believe
17 that the person arrested has committed a felony, although it
18 may afterwards appear that a felony had not in fact been
19 committed.

20 "(5) When a charge has been made, upon probable
21 cause, that the person arrested has committed a felony.

22 "(6) When the officer has actual knowledge that a
23 warrant for the person's arrest for the commission of a felony
24 or misdemeanor has been issued, provided the warrant was
25 issued in accordance with this chapter. However, upon request
26 the officer shall show the warrant to the arrested person as
27 soon as possible. If the officer does not have the warrant in

1 his or her possession at the time of arrest the officer shall
2 inform the defendant of the offense charged and of the fact
3 that a warrant has been issued.

4 "(7) When the officer has probable cause to believe
5 that a felony or misdemeanor has been committed by the person
6 arrested in violation of a protection order, including a
7 domestic violence protection order or an elder abuse
8 protection order, issued by a court of competent jurisdiction.

9 "(8) When an offense involves a crime of domestic
10 violence, including domestic violence in the first degree,
11 pursuant to Section 13A-6-130, domestic violence in the second
12 degree, pursuant to Section 13A-6-131, domestic violence in
13 the third degree, pursuant to Section 13A-6-132, interference
14 with a domestic violence emergency call, in violation of
15 Section 13A-6-137, or and domestic violence by strangulation
16 or suffocation, pursuant to Section 13A-6-138, or elder abuse
17 as defined in Section 38-9F-3, and the arrest is based on
18 probable cause.

19 "(9) When an offense involves assault against a
20 first responder in the first degree, as provided under Section
21 1 of the act adding this amendatory language; assault against
22 a first responder in the second degree, as provided under
23 Section 2 of the act adding this amendatory language; riot, as
24 provided under Section 13A-11-3; inciting to riot, as provided
25 under Section 13A-11-4; aggravated riot, as provided under
26 Section 13A-11-3.1; or unlawful traffic interference, as
27 provided under Section 13A-11-5.1.

"(b) When a law enforcement officer investigates an allegation of domestic violence or elder abuse, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case.

"(c) If the defendant is arrested under this section for committing an act of domestic violence, including domestic violence in the first degree, pursuant to Section 13A-6-130, domestic violence in the second degree, pursuant to Section 13A-6-131, domestic violence in the third degree, pursuant to Section 13A-6-132, interference with a domestic violence emergency call, in violation of Section 13A-6-137, or domestic violence by strangulation or suffocation, pursuant to Section 13A-6-138, in violation of a domestic violence protection order, or an act of elder abuse in violation of an elder abuse protection order, assault against a first responder in the first degree as provided under Section 1 of the act adding this amendatory language, assault against a first responder in the second degree as provided under Section 2 of the act adding this amendatory language, riot as provided under Section 13A-11-3, inciting to riot as provided under Section 13A-11-4, aggravated riot, as provided under Section 13A-11-3.1, or unlawful traffic interference as provided under Section 13A-11-5.1, the defendant shall be held in custody until brought before the court within 48 hours for the purpose of enforcing the protection order and for consideration of bail in accordance with Section 15-13-190 and the applicable

1 rules of criminal procedure, pending a hearing. If the
2 defendant is not brought before the court within 48 hours, the
3 defendant shall be subject to bail according to the Alabama
4 Rules of Criminal Procedure."

5 Section 7. Section 13A-11-8, Code of Alabama 1975,
6 is amended to read as follows:

7 "§13A-11-8.

8 "(a) ~~(1)~~ **HARASSMENT**. A person commits the crime of
9 harassment if, with intent to harass, annoy, or alarm another
10 person, he or she does either of the following:

11 "~~a.~~ (1) Strikes, shoves, kicks, or otherwise touches
12 a another person or otherwise subjects him or her to unwanted
13 physical contact or bodily injury.

14 "~~b.~~ (2) Directs abusive or obscene language or makes
15 an obscene gesture towards another person.

16 "~~(2)~~ (b) For purposes of this section, harassment
17 shall include a threat, verbal or nonverbal, made with the
18 intent to carry out the threat, that would cause a reasonable
19 person who is the target of the threat to fear for his or her
20 safety.

21 "~~(3)~~ (c) (1) Except as provided in subdivision (2),
22 **Harassment** harassment is a Class C misdemeanor.

23 "(2) Harassment is a Class A misdemeanor if the
24 crime is committed on or within 10 feet of the premises of a
25 place of public accommodation, as that term is defined in 42
26 U.S.C. § 12181.

"(b) (1) HARASSING COMMUNICATIONS. A person commits the crime of harassing communications if, with intent to harass or alarm another person, he or she does any of the following:

"a. Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written or electronic communication, in a manner likely to harass or cause alarm.

"b. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

"c. Telephones another person and addresses to or about such other person any lewd or obscene words or language.

~~"Nothing in this section shall apply to legitimate business telephone communications.~~

"(2) Harassing communications is a Class C misdemeanor."

Section 8. Section 13A-11-8.1 is added to the Code of Alabama 1975, to read as follows:

§13A-11-8.1.

(a) A person commits the crime of harassing communications if the person, with intent to harass or alarm another person, does any of the following:

(1) Contacts another person via telecommunication, e-mail, text messaging, or any other form of electronic communication for the purpose of harassing, molesting,

threatening, or intimidating the person or the family of the person.

(2) Contacts another person via telecommunication, e-mail, text messaging, or any other form of electronic communication, with no purpose of legitimate communication, and directs foul or obscene language to the person.

(3) Threatens bodily harm via telecommunication, e-mail, text messaging, or any other form of electronic communication.

(4) Knowingly permits any device used for telecommunication, e-mail, text messaging, or any other form of electronic communication under the person's control to be used for any purpose prohibited by this subsection.

(b) Nothing in this section shall apply to legitimate business communications.

(c) Harassing communications is a Class C misdemeanor.

Section 9. Section 13A-11-70, Code of Alabama 1975,
is amended to read as follows:

"§13A-11-70.

"For the purposes of this division, the following terms shall have the respective meanings ascribed by this section:

"(2) (1) CRIME OF VIOLENCE. Any of the following crimes or an attempt to commit any of them, namely, murder, manslaughter, (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to

1 rob, assault with intent to ravish, assault with intent to
2 murder, robbery, burglary, and kidnapping, assault against a
3 first responder in the first or second degree, and aggravated
4 riot. "Crime of violence" shall also mean any Class A felony
5 or any Class B felony that has as an element serious physical
6 injury, the distribution or manufacture of a controlled
7 substance, or is of a sexual nature involving a child under
8 the age of 12.

9 "~~(3)~~(2) PERSON. Such The term includes a natural
10 person and, where appropriate, any firm, partnership,
11 association, or public or private corporation.

12 "~~(1)~~(3) PISTOL. Any firearm with a barrel less than
13 12 inches in length."

14 Section 10. (a) As used in this section, the term
15 defunded jurisdiction means a political subdivision of the
16 state that is certified by the Attorney General as having done
17 either of the following:

18 (1) Abolished or disbanded, or substantially
19 abolished or disbanded, the law enforcement agency of the
20 political subdivision without an intention to immediately
21 reconstitute the agency.

22 (2) Reduced by 10 percent or more the budget of the
23 law enforcement agency of the political subdivision without
24 reallocating a substantial majority of that money to another
25 community policing program; provided, that the jurisdiction
26 did not face a corresponding decrease in revenues of 10
27 percent or more in the previous fiscal year.

(b) A defunded jurisdiction is not eligible for and may not receive any of the following:

(1) A state grant, gift, endowment, or any other sum of money or aid from the State of Alabama or a department, board, or agency thereof, including the Community Development Block Grant program administered by the Alabama Department of Economic and Community Affairs.

(2) Any allocation of any state revenues directly shared with local governing bodies not otherwise guaranteed by the Constitution of Alabama of 1901, including, but not limited to, all of the following:

a. Motor carrier fuel tax revenues collected pursuant to Article 3, Chapter 17, Title 40, Code of Alabama 1975.

b. Gasoline tax revenues collected pursuant to Article 12, Chapter 17, Title 40, Code of Alabama 1975.

c. Business privilege tax revenues collected pursuant to Chapter 14A of Title 40, Code of Alabama 1975.

d. Alcoholic Beverage Control Board licensing and
penalty revenues collected pursuant to Section 28-3-1,
Chapters 3A, 4A, 7, and 10 of Title 28, Code of Alabama 1975.

e. Motor vehicle license tax and registration fee revenues collected pursuant to Article 2 of Chapter 6, Title 32, and Article 5 of Chapter 12 of Title 40, Code of Alabama 1975.

f. Cigarette tax revenues collected pursuant to Chapter 25 of Title 40, Code of Alabama 1975.

g. Beer tax revenues collected pursuant to Section 28-3-1 and Articles 5A and 5B of Chapter 3 of Title 28, Code of Alabama 1975.

h. Tobacco tax revenues, excluding cigarettes, collected pursuant to Chapter 25 of Title 40, Code of Alabama 1975.

i. Simplified sellers use tax revenue collected pursuant to Article 6 of Chapter 23, Title 40, Code of Alabama 1975.

(c) Upon certification by the Attorney General that a political subdivision of the state is a defunded jurisdiction, the state Comptroller shall withhold the distribution of the revenue described under subsection (b) to which the defunded jurisdiction would otherwise be entitled into a special fund within the State Treasury until the Attorney General certifies that the political subdivision has restored funding to the political subdivision's law enforcement agency.

(d) For purposes of the exception to the grant of sovereign immunity under Section 36-1-12, Code of Alabama 1975, the members of the local governing body of a defunded jurisdiction shall be deemed to have acted willfully in failing to provide for the public safety of the political subdivision.

Section 11. Section 36-1-12, Code of Alabama 1975,
is amended to read as follows:

"§36-1-12.

"(a) For the purposes of this section, "education employee" means a certified or noncertified employee of the State Board of Education or any local board of education and an employee of the Alabama Institute for Deaf and Blind, the Alabama School of Fine Arts, the Department of Youth Services, or the Alabama School of Mathematics and Science.

"(b) An officer, employee, or agent of the state, including, but not limited to, an education employee, acting in his or her official capacity is immune from civil liability in any suit pursuant to Article I, Section 14, of the Constitution of Alabama of 1901.

"(c) An officer, employee, or agent of the state, including, but not limited to, an education employee, is immune from civil liability in his or her personal capacity when the conduct made the basis of the claim is based upon the agent's doing any of the following:

"(1) Formulating plans, policies, or designs.

"(2) Exercising his or her judgment in the administration of a department or agency of government, including, but not limited to, examples such as:

"a. Making administrative adjudications.

"b. Allocating resources.

"c. Negotiating contracts.

"d. Hiring, firing, transferring, assigning, or supervising personnel.

"(3) Discharging duties imposed on a department or agency by statute, rule, or regulation, insofar as the

1 statute, rule, or regulation prescribes the manner for
2 performing the duties and the state agent performs the duties
3 in that manner.

4 "(4) Exercising judgment in the enforcement of the
5 criminal laws of the state, including, but not limited to, law
6 enforcement officers' arresting or attempting to arrest
7 persons.

8 "(5) Exercising judgment in the discharge of duties
9 imposed by statute, rule, or regulation in releasing
10 prisoners, counseling or releasing persons of unsound mind, or
11 educating students.

12 "(d) Notwithstanding subsection (c), an education
13 employee, officer, employee, or agent of the state is not
14 immune from civil liability in his or her personal capacity ~~if~~
15 under any of the following circumstances:

16 "(1) The Constitution or laws of the United States,
17 or the Constitution of this state, or laws, rules, or
18 regulations of this state enacted or ~~promulgated~~ adopted for
19 the purpose of regulating the activities of a governmental
20 agency require otherwise; ~~or~~

21 "(2) The education employee, officer, employee, or
22 agent acts willfully, maliciously, fraudulently, in bad faith,
23 beyond his or her authority, or under a mistaken
24 interpretation of the law.

25 "(3) A person who is the victim of a crime of
26 violence, as defined under Section 13A-11-70, which occurred
27 in a defunded jurisdiction, as defined in Section 10 of the

1 act amending this code section, establishes by clear and
2 convincing evidence that the officer, employee, or agent of
3 the state is a member of the governing body of the defunded
4 jurisdiction and acted willfully in failing to provide for the
5 protection of persons and property in the jurisdiction.

6 "(e) This section shall not be construed to
7 eliminate, alter, or otherwise modify any other immunity
8 regarding officers, employees, or agents of the state
9 established under the Constitution and laws of this state."

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

18 Section 13. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.