

1 SB211  
2 126811-2  
3 By Senators Dunn, Figures, Irons, Beasley, Coleman, Fielding,  
4 Ross, Keahey, Smitherman and Singleton  
5 RFD: Judiciary  
6 First Read: 10-MAR-11

SB211

ENROLLED, An Act,

Relating to domestic orders; to add Article 7A to Chapter 6 of Title 13A, Code of Alabama 1975; to amend and renumber Sections 30-5A-1, 30-5A-2, 30-5A-3, and 30-5A-4, Code of Alabama 1975; to provide for legislative intent; to provide further for criminal penalties for violations of domestic violence orders; to provide for the content of orders not issued pursuant to this act; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of 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.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 30-5A-1, 30-5A-2, 30-5A-3, and 30-5A-4, Code of Alabama 1975, are amended and renumbered as Article 7A of Chapter 6 of Title 13A, to read as follows:

"Article 7A

" §13A-6-140

"(a) This article shall be known as the " Domestic Violence Protection Order Enforcement Act."

"(b) The purpose of this article is to define the crime of violation of a domestic violence order.

§13A-6-141

"As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

"(1) DOMESTIC VIOLENCE ORDER. A domestic violence order is any protection order issued pursuant to the Protection from Abuse Act, Sections 30-5-1 to 30-5-11, inclusive. The term includes the following: a. A restraining order, injunctive order, or order of release from custody which has been issued in a circuit, district, municipal, or juvenile court in a domestic relations or family violence case; b. an order issued by municipal, district, or circuit court which places conditions on the pre-trial release on defendants in criminal cases, including provisions of bail pursuant to Section 15-13-190; c. an order issued by another state or territory which may be enforced under Sections 30-5B-1 through 30-5B-10. Restraining or protection orders not issued pursuant to the Protection From Abuse Act, Sections 30-5-1 to 30-5-11, inclusive, must specify that a history of violence or abuse exists for the provisions of this chapter to apply.

"(2) VIOLATION. The knowing commission of any act prohibited by a domestic violence order or any willful failure to abide by its terms.

" §13A-16-142

"(a) (1) A violation of a domestic violence order, is a Class A misdemeanor which shall be punishable as provided by law.

"(2) A second conviction for violation of a domestic violence order, in addition to any other penalty or fine, shall be punishable by a minimum of 30 days imprisonment which may not be suspended. A third or subsequent conviction shall, in addition to any other penalty or fine, be punishable by a minimum sentence of 120 days imprisonment which may not be suspended.

" §13A-6-143

"A law enforcement officer may arrest any person for the violation of this article if the officer has probable cause to believe that the person has violated any provision of a valid domestic violence order, whether temporary or permanent. The presentation of a domestic violence order constitutes probable cause for an officer to believe that a valid order exists. For purposes of this article, the order may be inscribed on a tangible copy or may be stored in an electronic or other medium if it is retrievable in a detectable form. Presentation of a certified copy of the

1 domestic violence order is not required for enforcement or to  
2 allow a law enforcement officer to effect a warrantless  
3 arrest. If a domestic violence order is not presented to or  
4 otherwise confirmed by a law enforcement officer, the officer  
5 may consider other information in determining whether there is  
6 probable cause to believe that a valid domestic violence order  
7 exists. The law enforcement officer may arrest the defendant  
8 without a warrant although he or she did not personally see  
9 the violation. Knowledge by the officer of the existence or  
10 contents of, or both, or presentation to the officer by the  
11 complainant of, a domestic violence order shall constitute  
12 prima facie evidence of the validity of the order.

13 "If a law enforcement officer of this state  
14 determines that an otherwise valid domestic violence order  
15 cannot be enforced because the defendant has not been notified  
16 or served with the domestic violence order, the law  
17 enforcement officer shall inform the defendant of the order  
18 and allow the person a reasonable opportunity to comply with  
19 the order's provisions before enforcing the order. In the  
20 event the law enforcement officer provides notice of the  
21 domestic violence order to the defendant, the officer shall  
22 document this fact in the written report."

23 Section 2. Although this bill would have as its  
24 purpose or effect the requirement of a new or increased  
25 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now  
2 appearing as Section 111.05 of the Official ReCompilation of  
3 the Constitution of Alabama of 1901, as amended, because the  
4 bill defines a new crime or amends the definition of an  
5 existing crime.

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB211

Senate 26-APR-11

I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 09-JUN-11

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By: Senator Dunn