

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

1 SB211

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4 ENROLLED, An Act,

5 Relating to domestic orders; to add Article 7A to
6 Chapter 6 of Title 13A, Code of Alabama 1975; to amend and
7 renumber Sections 30-5A-1, 30-5A-2, 30-5A-3, and 30-5A-4, Code
8 of Alabama 1975; to provide for legislative intent; to provide
9 further for criminal penalties for violations of domestic
10 violence orders; to provide for the content of orders not
11 issued pursuant to this act; and in connection therewith would
12 have as its purpose or effect the requirement of a new or
13 increased expenditure of local funds within the meaning of
14 Amendment 621 of the Constitution of Alabama of 1901, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 30-5A-1, 30-5A-2, 30-5A-3, and
19 30-5A-4, Code of Alabama 1975, are amended and renumbered as
20 Article 7A of Chapter 6 of Title 13A, to read as follows:

21 "Article 7A

22 " §13A-6-140

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

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

3 §13A-6-141

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

7 "(1) DOMESTIC VIOLENCE ORDER. A domestic violence
8 order is any protection order issued pursuant to the
9 Protection from Abuse Act, Sections 30-5-1 to 30-5-11,
10 inclusive. The term includes the following: a. A restraining
11 order, injunctive order, or order of release from custody
12 which has been issued in a circuit, district, municipal, or
13 juvenile court in a domestic relations or family violence
14 case; b. an order issued by municipal, district, or circuit
15 court which places conditions on the pre-trial release on
16 defendants in criminal cases, including provisions of bail
17 pursuant to Section 15-13-190; c. an order issued by another
18 state or territory which may be enforced under Sections
19 30-5B-1 through 30-5B-10. Restraining or protection orders not
20 issued pursuant to the Protection From Abuse Act, Sections
21 30-5-1 to 30-5-11, inclusive, must specify that a history of
22 violence or abuse exists for the provisions of this chapter to
23 apply.

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

4 " §13A-16-142

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

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

15 " §13A-6-143

16 "A law enforcement officer may arrest any person for
17 the violation of this article if the officer has probable
18 cause to believe that the person has violated any provision of
19 a valid domestic violence order, whether temporary or
20 permanent. The presentation of a domestic violence order
21 constitutes probable cause for an officer to believe that a
22 valid order exists. For purposes of this article, the order
23 may be inscribed on a tangible copy or may be stored in an
24 electronic or other medium if it is retrievable in a
25 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

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SB211

Senate 26-APR-11

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

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Patrick Harris
Secretary

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House of Representatives

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Passed: 09-JUN-11

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By: Senator Dunn