

1 HB28
2 164375-1
3 By Representative Standridge
4 RFD: Judiciary
5 First Read: 03-MAR-15
6 PFD: 02/18/2015

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SYNOPSIS: Under existing law, a person commits the crime of criminal mischief in the second degree, a Class A misdemeanor, if, with intent to damage property and having no right to do so, he or she inflicts damage to property in an amount greater than \$500 but less than \$2,500.

This bill would provide that upon a second or subsequent conviction of criminal mischief in the second degree involving a church or other religious building, the defendant would receive certain mandatory minimum sentences.

This bill would also provide that restitution would be a first priority in cases involving a church or other religious building 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

1 new or increased expenditure of local funds from
2 becoming effective with regard to a local
3 governmental entity without enactment by a 2/3 vote
4 unless: it comes within one of a number of
5 specified exceptions; it is approved by the
6 affected entity; or the Legislature appropriates
7 funds, or provides a local source of revenue, to
8 the entity for the purpose.

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

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Section 13A-7-22, Code of Alabama 1975,
22 relating to the crime of criminal mischief in the second
23 degree; to provide enhanced penalties for a second or
24 subsequent conviction involving a church or other religious
25 building, or property in the church or other religious
26 building; to provide for restitution to the church or other
27 religious entity to be a priority under certain conditions;

1 and in connection therewith would have as its purpose or
2 effect the requirement of a new or increased expenditure of
3 local funds within the meaning of Amendment 621 of the
4 Constitution of Alabama of 1901, now appearing as Section
5 111.05 of the Official Recompilation of the Constitution of
6 Alabama of 1901, as amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 13A-7-22, Code of Alabama 1975,
9 is amended to read as follows:

10 "§13A-7-22.

11 "(a) A person commits the crime of criminal mischief
12 in the second degree if, with intent to damage property, and
13 having no right to do so or any reasonable ground to believe
14 that he or she has such a right, he or she inflicts damages to
15 property in an amount which exceeds five hundred dollars
16 (\$500) but does not exceed two thousand five hundred dollars
17 (\$2,500).

18 "(b) (1) Criminal mischief in the second degree is a
19 Class A misdemeanor punishable as provided by law.

20 "(2) Upon a second conviction of criminal mischief
21 in the second degree within a five-year period involving
22 damage to a church or other religious building, or damage to
23 property in a church or other religious building, the
24 defendant shall be sentenced to a mandatory minimum sentence
25 of not less than 10 days in jail and upon a third or
26 subsequent conviction of criminal mischief in the second
27 degree within a five-year period involving damage to a church

1 or other religious building, or damage to property in a church
2 or other religious building, the defendant shall be sentenced
3 to a mandatory minimum sentence of not less than 30 days in
4 jail.

5 "(3) Upon conviction for criminal mischief in the
6 second degree involving a church or other religious building
7 or damage to property in a church or other religious building,
8 the court shall order restitution as a first priority before
9 the payment of fines, court costs, or other court ordered
10 payments.

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

19 Section 3. All laws or parts of laws which conflict
20 with this act are repealed.

21 Section 4. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.