

1 HB320
2 166378-6
3 By Representatives Jones, Collins, Nordgren, Todd, Hall,
4 Coleman-Evans, Treadaway, South, Rowe, Moore (B), Pettus,
5 Ledbetter, Sanderford, Brown, Standridge, Givan, Whorton (I),
6 Rich, Hill (M), Patterson, Wood, Davis, Garrett, Williams
7 (JD), Clouse, Lee, Wingo, Boothe, Faust, Robinson, Chesteen,
8 Beckman, Hammon, Ingram, Sells, Shiver, Baker, McMillan, Boyd,
9 Bandy, Grimsley, Alexander, Williams (JW), Bracy, Martin,
10 Poole, Lindsey, Ford, Jackson, Drake, Carns, McClammy,
11 Fincher, England, Hill (J), Wadsworth, Morrow, Beech,
12 Lawrence, Hubbard, Gaston, Sessions, Tuggle, Millican, Johnson
13 (R), Hurst and Rogers
14 RFD: Judiciary
15 First Read: 18-MAR-15

1 Office of Prosecution Services to the Department of Economic
2 and Community Affairs; to create a Domestic Violence Trust
3 Fund administered by the Department of Economic and Community
4 Affairs to fund domestic violence centers in the state; to
5 further provide for the reporting of incidents of domestic
6 violence throughout the state; to establish a certified
7 domestic violence center capital improvement grant program
8 under the Department of Economic and Community Affairs; to
9 provide that the Director of the Department of Economic and
10 Community Affairs would oversee the grant application process;
11 to provide that the director in coordination with the Alabama
12 Coalition Against Domestic Violence would develop and conduct
13 a needs assessment; to require the director to ensure grant
14 funds are being used accordingly; to ensure confidentiality to
15 a certified domestic violence center in the grant process; to
16 provide a limit on the amount of grant funds to be awarded;
17 and to amend Section 11-45-9, Code of Alabama 1975, to further
18 provide for the sentencing authority of a municipal court for
19 certain offenses, such as domestic violence offenses.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 13A-6-130, 13A-6-131, 13A-6-132,
22 13A-6-134, 13A-6-138, 13A-6-140 to 13A-6-143, inclusive,
23 15-10-3, 15-13-190, 15-23-62, 15-23-68, 30-3-133, 30-5-1,
24 30-5-2, 30-5-3, 30-5-5 to 30-5-8, inclusive, 30-6-1 to
25 30-6-11, inclusive, 30-6-13, 30-7-1 to 30-7-6, inclusive,
26 30-9-1, and 30-9-2, Code of Alabama 1975, are amended to read
27 as follows:

1 "§13A-6-130.

2 "(a) A person commits the crime of domestic violence
3 in the first degree if the person commits the crime of assault
4 in the first degree pursuant to Section 13A-6-20 or aggravated
5 stalking pursuant to Section 13A-6-91, and the victim is a
6 current or former spouse, parent, child, any person with whom
7 the defendant has a child in common, a present or former
8 household member, or a person who has or had a dating ~~or~~
9 ~~engagement~~ relationship, as defined in Section 30-5-2, with
10 the defendant. Domestic violence in the first degree is a
11 Class A felony, except that the defendant shall serve a
12 minimum term of imprisonment of one year without consideration
13 of probation, parole, good time credits, or any other
14 reduction in time for any second or subsequent conviction
15 under this subsection.

16 "(b) The minimum term of imprisonment imposed under
17 subsection (a) shall be double without consideration of
18 probation, parole, good time credits, or any reduction in time
19 if a defendant willfully violates a protection order issued by
20 a court of competent jurisdiction and in the process of
21 violating the order commits domestic violence in the first
22 degree.

23 "§13A-6-131.

24 "(a) A person commits the crime of domestic violence
25 in the second degree if the person commits the crime of
26 assault in the second degree pursuant to Section 13A-6-21; the
27 crime of intimidating a witness pursuant to Section

1 13A-10-123; the crime of stalking pursuant to Section
2 13A-6-90; the crime of burglary in the second or third degree
3 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of
4 criminal mischief in the first degree pursuant to Section
5 13A-7-21 and the victim is a current or former spouse, parent,
6 child, any person with whom the defendant has a child in
7 common, a present or former household member, or a person who
8 has or had a dating ~~or engagement~~ relationship, as defined in
9 Section 30-5-2, with the defendant. Domestic violence in the
10 second degree is a Class B felony, except the defendant shall
11 serve a minimum term of imprisonment of six months without
12 consideration of probation, parole, good time credits, or any
13 reduction in time for any second or subsequent conviction
14 under this subsection.

15 "(b) The minimum term of imprisonment imposed under
16 subsection (a) shall be double without consideration of
17 probation, parole, good time credits, or any reduction in time
18 if a defendant willfully violates a protection order issued by
19 a court of competent jurisdiction and in the process of
20 violating the order commits domestic violence in the second
21 degree.

22 "§13A-6-132.

23 "(a) A person commits domestic violence in the third
24 degree if the person commits the crime of assault in the third
25 degree pursuant to Section 13A-6-22; the crime of menacing
26 pursuant to Section 13A-6-23; the crime of reckless
27 endangerment pursuant to Section 13A-6-24; the crime of

1 criminal coercion pursuant to Section 13A-6-25; the crime of
2 harassment pursuant to subsection (a) of Section 13A-11-8; the
3 crime of criminal surveillance pursuant to Section 13A-11-32;
4 the crime of harassing communications pursuant to subsection
5 (b) of Section 13A-11-8; the crime of criminal trespass in the
6 third degree pursuant to Section 13A-7-4; the crime of
7 criminal mischief in the second or third degree pursuant to
8 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the
9 third degree pursuant to Section 13A-7-43; and the victim is a
10 current or former spouse, parent, child, any person with whom
11 the defendant has a child in common, a present or former
12 household member, or a person who has or had a dating ~~or~~
13 ~~engagement~~ relationship, as defined in Section 30-5-2, with
14 the defendant. Domestic violence in the third degree is a
15 Class A misdemeanor.

16 "(b) The minimum term of imprisonment imposed under
17 subsection (a) shall be 30 days without consideration of
18 reduction in time if a defendant willfully violates a
19 protection order issued by a court of competent jurisdiction
20 and in the process of violating the order commits domestic
21 violence in the third degree.

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

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

3 "(e) For purposes of determining second, third, or
4 subsequent number of convictions, convictions in municipal
5 court shall be included.

6 "§13A-6-134.

7 "(a) (1) If a law enforcement officer receives
8 complaints of domestic violence from two or more opposing
9 persons, or if both parties have injuries, ~~the officer shall~~
10 evaluate each complaint separately to determine who was the
11 predominant aggressor. If the officer determines that one
12 person was the predominant physical aggressor, ~~the officer~~
13 ~~need not arrest the other person alleged to have committed~~
14 ~~domestic violence~~ that person may be arrested; however, a
15 person who acts in a reasonable manner to protect himself or
16 herself or another family or household member from domestic
17 violence, as defined in Section 30-5-2, may not be arrested
18 for a violation of Section 13A-6-130, 13A-6-131, or 13A-6-132.
19 In determining whether a person is the predominant aggressor
20 the officer shall consider all of the following:

21 "~~(1)~~ a. Prior complaints of domestic violence.

22 "~~(2)~~ b. The relative severity of the injuries
23 inflicted on each person, including whether the injuries are
24 offensive versus defensive in nature.

25 "~~(3)~~ c. The likelihood of future injury to each
26 person.

1 "d. Whether the person had reasonable cause to
2 believe he or she was in imminent danger of becoming a victim
3 of any act of domestic violence, as the terms are defined in
4 Section 30-5-2.

5 ~~"(4) e.~~ Whether one of the persons acted in
6 self-defense.

7 "(2) If the action of one of the parties is in
8 violation of an existing protection order, the violation shall
9 be considered prima facie evidence that the violator of the
10 order is the predominant aggressor.

11 (b) A law enforcement officer shall not threaten,
12 suggest, or otherwise indicate the possible arrest of all
13 parties to discourage the request for intervention by law
14 enforcement by any party or base the decision to arrest or not
15 to arrest on either of the following:

16 (1) The specific consent or request of the victim.

17 (2) The officer's perception of the willingness of
18 a victim of or witness to the domestic violence to testify or
19 otherwise participate in a judicial proceeding.

20 "(c) (1) In addition to victim information services
21 required pursuant to Section 15-23-62, a law enforcement
22 officer, at the time of initial investigation, shall give a
23 victim of domestic violence, as those terms are defined in
24 Section 30-5-2, notice of the legal rights and remedies
25 available on a standard form developed and distributed by the
26 Alabama Law Enforcement Agency pursuant to subdivision (2).

1 "(2) The agency shall develop a "Legal Rights and
2 Remedies Notice to Victims" that includes a general summary of
3 the provisions of the Protection From Domestic Violence Act
4 using language a layperson may understand, and shall
5 distribute the notice to be used by all law enforcement
6 agencies throughout the state. The notice shall include both
7 of the following:

8 "a. The resource listing, including telephone
9 number, for the area domestic violence center designated by
10 the director.

11 "b. A copy of the following statement: "IF YOU ARE
12 THE VICTIM OF DOMESTIC VIOLENCE, you may ask the district
13 attorney or prosecutor to file a criminal complaint. You also
14 have the right to go to court and file a petition requesting
15 an order of protection against domestic violence which may
16 include, but need not be limited to, the provisions which
17 restrain the abuser from further acts of domestic violence;
18 direct the abuser to leave your household; prevent the abuser
19 from entering your residence, school, business, or place of
20 employment; award you custody of your minor child or children;
21 and direct the abuser to pay support to you and the minor
22 children if the abuser has a legal obligation to do so."

23 "(d) A law enforcement officer is not liable in any
24 civil action filed by any party for an arrest based on
25 probable cause, enforcement of a court order, or service of
26 process arising from an alleged incident of domestic violence,
27 pursuant to Sections 36-1-12 and 6-5-338, as applicable.

1 "§13A-6-138.

2 "(a) For the purposes of this section, the following
3 terms have the following meanings:

4 "~~(1) QUALIFIED RELATIONSHIP. The victim is a spouse,~~
5 ~~former spouse, parent, stepparent, child, stepchild, or a~~
6 ~~person with whom the defendant has a child in common, or with~~
7 ~~whom the defendant has or had a dating or engagement~~
8 ~~relationship within 10 months preceding this event.~~

9 "~~(2)~~ (1) STRANGULATION. Intentionally causing
10 asphyxia by closure or compression of the blood vessels or air
11 passages of the neck as a result of external pressure on the
12 neck.

13 "~~(3)~~ (2) SUFFOCATION. Intentionally causing asphyxia
14 by depriving a person of air or by preventing a person from
15 breathing through the inhalation of toxic gases or by blocking
16 or obstructing the airway of a person, by any means other than
17 by strangulation ~~as defined in this section.~~

18 "(b) A person commits the crime of domestic violence
19 by strangulation or suffocation if ~~the person~~ he or she
20 commits an assault with intent to cause physical harm or
21 commits the crime of menacing pursuant to Section 13A-6-23, by
22 strangulation or suffocation or attempted strangulation or
23 suffocation against a ~~person with whom the defendant has a~~
24 ~~qualified relationship~~ victim, as the term is defined in
25 Section 30-5-2.

26 "(c) Domestic violence by strangulation or
27 suffocation is a Class B felony punishable as provided by law.

1 "§13A-6-140.

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

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

6 "§13A-6-141.

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

10 "(1) DOMESTIC VIOLENCE PROTECTION ORDER. A domestic
11 violence protection order is any protection order issued
12 pursuant to the Protection from ~~Abuse~~ Domestic Violence Act,
13 Sections 30-5-1 to 30-5-11, inclusive. The term includes the
14 following:

15 "a. A restraining order, injunctive order, or order
16 of release from custody which has been issued in a circuit,
17 district, municipal, or juvenile court in a domestic relations
18 or family violence case;

19 "b. ~~an~~ An order issued by municipal, district, or
20 circuit court which places conditions on the pre-trial release
21 on defendants in criminal cases, including provisions of bail
22 pursuant to Section 15-13-190;

23 "c. ~~an~~ An order issued by another state or territory
24 which may be enforced under Sections 30-5B-1 through 30-5B-10.
25 Restraining or protection orders not issued pursuant to the
26 Protection From ~~Abuse~~ Domestic Violence Act, Sections 30-5-1

1 to 30-5-11, inclusive, must specify that a history of violence
2 or abuse exists for the provisions of this chapter to apply.

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

6 "§13A-6-142.

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

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

17 "§13A-6-143.

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

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

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

26 "§15-10-3.

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

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

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

8 "(3) When a felony has been committed and the
9 officer has reasonable cause to believe that the person
10 arrested committed the felony.

11 "(4) When the officer has reasonable cause to
12 believe that the person arrested has committed a felony,
13 although it may afterwards appear that a felony had not in
14 fact been committed.

15 "(5) When a charge has been made, upon reasonable
16 cause, that the person arrested has committed a felony.

17 "(6) When the officer has actual knowledge that a
18 warrant for the person's arrest for the commission of a felony
19 or misdemeanor has been issued, provided the warrant was
20 issued in accordance with this chapter. However, upon request
21 the officer shall show the warrant to the arrested person as
22 soon as possible. If the officer does not have the warrant in
23 his or her possession at the time of arrest the officer shall
24 inform the defendant of the offense charged and of the fact
25 that a warrant has been issued.

26 "(7) When the officer has reasonable cause to
27 believe that a felony or misdemeanor has been committed by the

1 person arrested in violation of a protection order, including
2 a domestic violence protection order issued by a court of
3 competent jurisdiction.

4 "(8) When an offense involves domestic violence as
5 defined ~~by this section~~ in Section 30-5-2, and the arrest is
6 based on probable cause, regardless of whether the offense is
7 a felony or misdemeanor.

8 "~~(b) For the purpose of this section, the following~~
9 ~~terms have the following meanings:~~

10 "~~(1) ABUSE. Any offense under Sections 13A-6-60 to~~
11 ~~13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4,~~
12 ~~inclusive.~~

13 "~~(2) ASSAULT. Any offense under Sections 13A-6-20 to~~
14 ~~13A-6-25, inclusive.~~

15 "~~(3) FAMILY, HOUSEHOLD, OR DATING RELATIONSHIP~~
16 ~~MEMBERS. Includes a spouse, former spouse, parent, child, or~~
17 ~~any other person related by marriage or common law marriage,~~
18 ~~a person with whom the victim has a child in common, a present~~
19 ~~or former household member, or a person who has or had a~~
20 ~~dating relationship.~~

21 "~~(4) DOMESTIC VIOLENCE. Any incident resulting in the~~
22 ~~abuse, assault, harassment, or the attempt or threats thereof,~~
23 ~~between family, household, or dating or engagement~~
24 ~~relationship members.~~

25 "~~(5) HARASSMENT. Any offense under Section 13A-11-8.~~

26 "~~(c)~~ (b) When a law enforcement officer investigates
27 an allegation of domestic violence, whether or not an arrest

1 is made, the officer shall make a written report of the
2 alleged incident, including a statement of the complaint, and
3 the disposition of the case.

4 "§15-13-190.

5 "(a) A person arrested for an offense involving
6 domestic violence as defined in ~~subdivisions (1) through (4)~~
7 ~~of subsection (b) of Section 15-10-3~~ Section 30-5-2, who
8 strikes, shoves, kicks, or otherwise touches a ~~person victim,~~
9 as defined in Section 30-5-2, or ~~subject~~ subjects him or her
10 to physical contact, or is charged with a violation of a
11 domestic violence protection order, may not be admitted to
12 bail until after an appearance before a judge or magistrate
13 ~~within 12 hours of the arrest, and if the person is not taken~~
14 ~~before a judge or magistrate within 12 hours~~ 24 hours of the
15 arrest, and if the person is not taken before a judge or
16 magistrate within 24 hours of the arrest, he or she shall be
17 released on bail. Prior to the release of the person, the
18 judge or magistrate shall review the facts of the arrest to
19 determine whether the person is a threat to the alleged
20 victim, is a threat to public safety, and is reasonably likely
21 to appear in court.

22 "(b) The judge or magistrate shall make findings on
23 the record concerning those determinations and may impose
24 conditions of release or bail on the person to protect the
25 alleged victim of domestic violence or the person protected by
26 a protection order, and to ensure the appearance of the person
27 at a subsequent court proceeding. The conditions may include,

1 but need not be limited to, enjoining the person from
2 threatening to commit or committing acts of domestic violence
3 against the alleged victim; ~~prohibiting the person from~~
4 ~~telephoning, contacting, or otherwise communicating with the~~
5 ~~alleged victim with the intent to harass, either directly or~~
6 ~~indirectly; ordering the person to stay away from the home of~~
7 ~~the alleged victim, when the person and alleged victim are not~~
8 ~~residents of the same home, and ordering the person to stay~~
9 ~~away from any other location where the alleged victim is~~
10 ~~likely to be~~ restraining and enjoining the defendant from
11 contacting the victim, as described in Section 30-5-7;
12 prohibiting the person from possessing a firearm or other
13 weapon specified by the court, except when such weapon is
14 necessary for employment as a peace officer or military
15 personnel; and issuing any other order or modification of
16 orders above required to protect the safety of the alleged
17 victim or to ensure the appearance of the person in court.

18 "(c) If conditions of release are imposed, the judge
19 or magistrate shall issue a written order for conditional
20 release, immediately distribute a copy of the order to the law
21 enforcement agency having custody of the arrested or charged
22 person, place information pertaining to the order in the
23 domestic violence protection order registry, and provide the
24 law enforcement agency with any available information
25 concerning the location of the alleged victim in a manner that
26 protects the safety of the victim. Law enforcement shall
27 provide a copy of the written order to the victim within 24

1 hours of receipt, provided that the victim provides law
2 enforcement with current and accurate contact information, in
3 accordance with the process outlined in Section 30-5-8.

4 "(d) In cases in which the defendant has been placed
5 on conditional release or bail pursuant to this section or is
6 in violation of probation from an another case and is arrested
7 on a probation violation warrant, a violation of written
8 condition of release pursuant to this section, or a violation
9 of a prior protection order, the court shall consider
10 revocation of probation, conditional release, or bail. Should
11 the court order continue probation, conditional release, or
12 bail, the court shall order additional conditions imposed on
13 the defendant to provide protection to the victim of domestic
14 violence or the person protected by a protection order.
15 Additional conditions shall be included in a written order.

16 "(e) A person who willfully violates a condition of
17 pretrial release provided in this section, when the original
18 arrest was for an act of domestic violence as defined in
19 Section 30-5-2, shall be subject to the penalties provided in
20 Section 13A-6-142, and shall receive an enhanced penalty and
21 additional sentence of imprisonment in accordance with Section
22 13A-6-142.

23 "§15-23-62.

24 "Within 72 hours, unless the victim is unavailable
25 or incapacitated as a result of the crime, after the initial
26 contact between a victim of a reported crime and the law
27 enforcement agency either responding to the report of the

1 crime of the victim or another person, or having
2 responsibility for investigating the crime, the law
3 enforcement agency shall provide to the victim in a manner and
4 form designed and produced for the appropriate governmental
5 agency or office, the following information:

6 "(1) The availability of emergency and crisis
7 services.

8 "(2) The availability of victims' compensation
9 benefits and the name, address, and telephone number of the
10 Alabama Crime Victims Compensation Commission.

11 "(3) The name of the law enforcement officer and
12 telephone number of the law enforcement agency with the
13 following statement attached: "If within 60 days you are not
14 notified of an arrest in your case, you may call the telephone
15 number of the law enforcement agency for the status of the
16 case."

17 "(4) The procedural steps involved in a criminal
18 prosecution.

19 "(5) The rights authorized by the Alabama
20 Constitution on rights of victims, including a form to invoke
21 these rights.

22 "(6) The existence and eligibility requirements of
23 restitution and compensation pursuant to Section 15-18-65 et
24 seq. and Section 15-23-1 et seq.

25 "(7) A recommended procedure if the victim is
26 subjected to threats or intimidation.

1 "(8) The name and telephone number of the office of
2 the prosecuting attorney to contact for further information.

3 "§15-23-68.

4 "The court shall provide a waiting area for the
5 victim separate from the defendant, relatives of the
6 defendant, and defense witnesses, if an area is available and
7 the use of the area is practical. If a separate waiting area
8 is not available, or its use impractical, the court shall
9 minimize contact of the victim with the defendant, relatives
10 of the defendant, and defense witnesses during court
11 proceedings. For victims of domestic violence, as the terms
12 are defined in Section 30-5-2, if a separate waiting area is
13 not available, the presiding circuit judge shall create
14 procedures so that the defendant has no contact with the
15 victim.

16 "§30-3-133.

17 "(a) In every proceeding where there is at issue a
18 dispute as to the custody of a child, a determination by the
19 court that a person has been convicted of a domestic or family
20 violence ~~has occurred~~ offense raises a rebuttable presumption
21 by the court that it is in the best interest of the child to
22 reside with the parent who is not a perpetrator of domestic or
23 family violence in the location of that parent's choice,
24 within or outside the state.

25 "(b) In every proceeding in which there is at issue
26 a dispute as to the custody of a child, the court may consider

1 an allegation of domestic or family violence as a factor in
2 its determination of the best interest of the child.

3 "§30-5-1.

4 "(a) This chapter shall be known as and may be cited
5 as the Protection From ~~Abuse~~ Domestic Violence Act.

6 "(b) This chapter shall be liberally construed and
7 applied to promote all of the following purposes:

8 "(1) To assure victims of domestic violence the
9 maximum protection from ~~abuse~~ domestic violence that the law
10 can provide.

11 "(2) To create a flexible and speedy remedy to
12 discourage violence and harassment against family members or
13 others with whom the perpetrator has continuing contact.

14 "(3) To expand the ability of law enforcement
15 officers to assist victims, to enforce the law effectively in
16 cases of domestic violence, and to prevent further incidents
17 of ~~abuse~~ domestic violence.

18 "(4) To facilitate equal enforcement of criminal law
19 by deterring and punishing violence against family members and
20 others who are personally involved with the perpetrators.

21 "(5) To recognize that domestic violence is a crime
22 that will not be excused or tolerated.

23 "(6) To provide for protection orders to prevent
24 domestic violence and provide for court jurisdiction and
25 venue; to provide for court hearing for petitions for relief;
26 and to provide for the contents and the issuance of protection
27 orders.

1 "§30-5-2.

2 "In this chapter, the following words shall have the
3 following meanings unless the context clearly indicates
4 otherwise:

5 "~~(4)~~ (1) COURT. A circuit court judge ~~or, when the~~
6 ~~circuit court judge is unavailable,~~ a district court judge, or
7 a special circuit court judge appointed pursuant to Section
8 12-1-14 or 12-1-14.1. A district court judge may be designated
9 by a written standing order from the presiding circuit court
10 judge to handle protection from abuse cases.

11 "(2) DATING RELATIONSHIP.

12 "a. A significant relationship of a romantic or
13 intimate nature characterized by the expectation of
14 affectionate or sexual involvement over a period of time and
15 on a continuing basis during the course of the relationship.

16 "b. A dating relationship includes the period of
17 engagement to be married.

18 "c. A dating relationship does not include a casual
19 or business relationship or a relationship that ended more
20 than 12 months prior to the filing of the petition for a
21 protection order.

22 "~~(1)~~ (3) ABUSE. ~~The occurrence of conduct directed at~~
23 ~~a plaintiff as defined by this chapter, including the~~
24 ~~following:~~ DOMESTIC VIOLENCE. Any of the following acts
25 committed against a victim:

26 "a. Arson. Arson as defined under Sections 13A-7-40
27 to 13A-7-43, inclusive.

1 "b. Assault. Assault as defined under Sections
2 13A-6-20 to 13A-6-22, inclusive.

3 "c. Attempt. With the intent to commit any crime
4 under this section or any other criminal act under the laws of
5 this state, performing any overt act towards the commission of
6 the offense.

7 "d. Child abuse. ~~Abusing children~~ Torture or willful
8 abuse of a child, aggravated child abuse, or chemical
9 endangerment of a child as ~~defined under~~ provided in Chapter
10 15, commencing with Section 26-15-1, of Title 26, known as the
11 Alabama Child Abuse Act.

12 "e. Criminal coercion. Criminal coercion as defined
13 under Section 13A-6-25.

14 "f. Criminal trespass. Entering or remaining in the
15 dwelling or on the premises of another after having been
16 warned not to do so either orally or in writing by the owner
17 of the premises or other authorized person as defined under
18 Sections 13A-7-2 to 13A-7-4.1, inclusive.

19 "g. Harassment. Harassment as defined under Section
20 13A-11-8.

21 "h. Kidnapping. Kidnapping as defined under Sections
22 13A-6-43 and 13A-6-44.

23 "i. Menacing. Menacing as defined under Section
24 13A-6-23.

25 "j. Other conduct. Any other conduct directed toward
26 a plaintiff covered by this chapter that could be punished as
27 a criminal act under the laws of this state.

1 ~~"k. j.~~ Reckless endangerment. Reckless endangerment
2 as defined under Section 13A-6-24.

3 ~~"i. k.~~ Sexual abuse. Any sexual offenses included in
4 Article 4, commencing with Section 13A-6-60, of Chapter 6 of
5 Title 13A.

6 ~~"m. l.~~ Stalking. Stalking as defined under Sections
7 13A-6-90 to 13A-6-94, inclusive.

8 ~~"n. Theft. Knowingly obtaining or exerting~~
9 ~~unauthorized control or obtaining control by deception over~~
10 ~~property owned by or jointly owned by the plaintiff and~~
11 ~~another. Theft includes theft as defined under Sections~~
12 ~~13A-8-1 to 13A-8-5, inclusive.~~

13 ~~"o. m.~~ Unlawful imprisonment. Unlawful imprisonment
14 as defined under Sections 13A-6-41 and 13A-6-42.

15 ~~"(2) ADULT. Any person 19 years of age or older, or~~
16 ~~who otherwise is emancipated.~~

17 ~~"(3) CHILD. A person 18 years of age or younger.~~

18 ~~"(5) (4) PLAINTIFF. As provided under Section~~
19 ~~30-5-5. For the purposes of this chapter, the term plaintiff~~
20 ~~is a person in need of protection from domestic violence who~~
21 ~~is 18 years of age or older, is or has been married, or is~~
22 ~~emancipated, and has one of the following relationships:~~

23 ~~"a. Related by marriage to the defendant, including~~
24 ~~a common law marriage.~~

25 ~~"b. Had a former marriage or common law marriage~~
26 ~~with the defendant.~~

27 ~~"c. Has a child in common with the defendant.~~

1 ~~"d. Has a dating relationship with the defendant. A~~
2 ~~dating relationship means a recent frequent, intimate~~
3 ~~association, primarily characterized by the expectation of~~
4 ~~affectionate or sexual involvement within the last six months.~~
5 ~~A dating relationship does not include a casual or business~~
6 ~~relationship.~~

7 ~~"e. Is a current or former household member. A~~
8 ~~household member is a person maintaining or having maintained~~
9 ~~a living arrangement with the defendant where he or she is in,~~
10 ~~or was engaged in, a romantic or sexual relationship.~~

11 ~~"(6) (5) PROTECTION ORDER. Any order of protection~~
12 ~~from domestic violence issued under this chapter for the~~
13 ~~purpose of preventing acts of abuse as defined in this~~
14 ~~chapter.~~

15 ~~"(6) REPEAT VIOLENCE. Two or more incidents of~~
16 ~~domestic violence against a victim or the victim's immediate~~
17 ~~family member, one of which must have occurred within six~~
18 ~~months of the filing of the petition for a protective order.~~

19 ~~"(7) THREAT. Any word or action, expressed or~~
20 ~~implied, made to cause the plaintiff to fear for his or her~~
21 ~~safety or for the safety of another person.~~

22 ~~"(8) VICTIM. An individual who is related to the~~
23 ~~person who commits an act of domestic violence in any of the~~
24 ~~following ways:~~

25 ~~"a. Is related by marriage to the defendant,~~
26 ~~including a common law marriage.~~

1 "b. Had a former marriage or common law marriage
2 with the defendant.

3 "c. Has a child in common with the defendant
4 regardless of whether the victim and defendant have ever been
5 married and regardless of whether they are currently residing
6 or have in the past resided together in the same household.

7 "d. Has or had a dating relationship with the
8 defendant.

9 "e. Is a current or former household member. A
10 household member is a person maintaining or having maintained
11 a living arrangement with the defendant where he or she is in,
12 or was engaged in, a romantic or sexual relationship.

13 "f. A relative of a current or former household
14 member as defined in paragraph e. who also lived with the
15 defendant.

16 "g. An individual who is a parent, stepparent,
17 child, or stepchild and who is in or has maintained a living
18 arrangement with the defendant.

19 "§30-5-3.

20 "(a) The courts, as provided in this chapter, shall
21 have jurisdiction to issue protection orders.

22 "(b) A protection order may be requested in any
23 pending civil or domestic relations action, as an independent
24 civil action, or in conjunction with the preliminary, final,
25 or post-judgment relief in a civil action.

26 "(c) A petition for a protection order may be filed
27 in any of the following locations:

1 "(1) Where the plaintiff or defendant currently or
2 temporarily resides.

3 "~~(2) Where the plaintiff is temporarily located if~~
4 ~~he or she has left his or her residence to avoid further abuse~~
5 domestic violence occurred.

6 "(3) Where a civil matter is pending before the
7 court in which the plaintiff and the defendant are opposing
8 parties.

9 "(d) When custody, visitation, or support, or a
10 combination of them, of a child or children has been
11 established in a previous court order in this state, or an
12 action containing any of the issues above is pending in a
13 court in this state in which the plaintiff and the defendant
14 are opposing parties, a copy of any temporary ex parte
15 protection order issued pursuant to this chapter and the case
16 giving rise thereto should be transferred to the court of
17 original venue for further disposition as soon as practical
18 taking into account the safety of the plaintiff and any
19 children.

20 "(e) A minimum period of residency of a plaintiff is
21 not required to petition the court for an order of protection.

22 "§30-5-5.

23 "(a) The following persons have standing to file a
24 sworn petition for a protection order under this chapter as a
25 plaintiff:

26 "(1) A person who is at least 19 years old or is
27 otherwise emancipated and is the victim of domestic violence

1 or has reasonable cause to believe he or she is in imminent
2 danger of becoming the victim of any act of domestic violence.

3 "(2) For cases of repeat violence or where the
4 defendant and victim are in a dating relationship, a family
5 member, any person living in the household, or legal guardian
6 may petition for relief on behalf of a child or other minor
7 living in the household.

8 "(3) A parent, legal guardian, ~~legal custodian,~~ next
9 friend, or the State Department of Human Resources may
10 petition for relief on behalf of the following:

11 "~~(1)~~ (4) A minor child.

12 "~~(2)~~ (5) Any person prevented by physical or mental
13 incapacity from seeking a protection order.

14 "(b) Standardized petitions for actions pursuant to
15 this chapter shall be made available through the circuit
16 clerks' offices around the state. The circuit clerk shall not
17 be required to provide assistance to persons in completing the
18 forms or in presenting their case to the court.

19 "(c) A sworn petition shall allege the incidents of
20 domestic violence, the specific facts and circumstances that
21 form the basis upon which relief is sought, and that the
22 plaintiff genuinely fears subsequent acts of domestic violence
23 by the defendant. With respect to a minor child who is living
24 at home, the parent, legal guardian, or next friend seeking
25 the protective order on behalf of the child shall:

26 "(1) Have been an eyewitness to, or have direct
27 physical evidence or affidavits from eyewitnesses of, the

1 specific facts and circumstances that form the basis upon
2 which relief is sought, if the party against whom the
3 protection order is sought is also a parent, stepparent, or
4 legal guardian of the minor child; or

5 "(2) Have a reasonable cause to believe that the
6 minor child is a victim of domestic violence to form the basis
7 upon which relief is sought, if the party against whom the
8 protection order is sought is a person other than a parent,
9 stepparent, or legal guardian of a minor child.

10 ~~"(c) (d)~~ The court shall not enter mutual orders.
11 The court shall issue separate orders that specifically and
12 independently state the prohibited behavior and relief granted
13 in order to protect the victim and the victim's immediate
14 family and to clearly provide law enforcement with sufficient
15 ~~direction when determining if a violation of the order has~~
16 ~~occurred. For the purpose of judicial economy, a court may~~
17 ~~consolidate two separately filed petitions into a single case~~
18 directives.

19 ~~"(d) (e)~~ Any plaintiff ~~or petitioner~~ who files a
20 petition under this chapter may do so through an attorney or
21 may represent himself or herself pro se throughout the legal
22 process outlined in this chapter, including, but not limited
23 to, the filing of pleadings, motions, and any other legal
24 documents with any court, and the appearance in ex parte and
25 formal court proceedings on his or her behalf.

26 ~~"(e) (f)~~ (1) The following information shall not be
27 contained on any court document made available to the public

1 and the defendant by the circuit clerk's office: The
2 plaintiff's home address and, if applicable, business address;
3 a plaintiff's home telephone number and, if applicable,
4 business telephone number; the home or business address or
5 telephone number of any member of the plaintiff's family or
6 household; or an address that would reveal the confidential
7 location of a shelter for victims of domestic violence as
8 defined in Section 30-6-1.

9 "(2) If disclosure of the plaintiff's address, the
10 address of any member of the plaintiff's family or household,
11 or an address that would reveal the confidential location of a
12 shelter for victims of domestic violence is necessary to
13 determine jurisdiction or to consider a venue issue, it shall
14 be made orally and in camera.

15 "(3) If the plaintiff has not disclosed an address
16 or telephone number under this section, the plaintiff shall
17 satisfy one of the following requirements:

18 "a. Designate and provide to the court an
19 alternative address.

20 "b. Elect to substitute the business address and
21 telephone number of his or her attorney of record in place of
22 the address of the plaintiff on any court document.

23 "~~(f)~~ (g) No court costs and fees shall be assessed
24 for the filing and service of a petition for a protection
25 order, for the issuance or registration of a protection order,
26 or for the issuance of a witness subpoena under this chapter.

1 Costs and fees may be assessed against the defendant at the
2 discretion of the court.

3 "§30-5-6.

4 "(a) ~~The~~ Except when a temporary protection order is
5 granted under subsection (b), the court shall hold a hearing
6 after the filing of a petition under this chapter upon the
7 request of the defendant or within ~~10~~ 15 days of the
8 perfection of service. A final hearing shall be set at which
9 the standard of proof shall be a preponderance of the
10 evidence. If the defendant has not been served, a final
11 hearing may be continued to allow for service to be perfected.

12 "(b) ~~(1) The court may enter such temporary ex parte~~
13 ~~protection orders as it deems necessary to protect the~~
14 ~~plaintiff or children from abuse , or the immediate and~~
15 ~~present danger of abuse to the plaintiff or children, upon~~
16 ~~good cause shown. The~~ Upon the filing of a petition for an ex
17 parte protection order, the court shall grant or deny a
18 petition for a temporary ex parte protection order filed under
19 this chapter within three business days of the filing of the
20 petition. ~~Any granted temporary ex parte protection order~~
21 ~~shall be effective until the final hearing date. When it~~
22 appears to the court that an immediate and present danger of
23 violence exists, the court may grant a temporary protection
24 order which may be granted in an ex parte hearing, pending a
25 full hearing, and may grant such relief as the court deems
26 proper, including a protection order enjoining the defendant

1 from committing any acts of violence and prohibiting contact
2 as described in Section 30-5-7.

3 "(2) In an ex parte hearing for the purpose of
4 obtaining such protection order, no evidence other than the
5 verified pleading or affidavit shall be used as evidence,
6 unless the defendant appears at the hearing or has received
7 actual notice of the hearing.

8 "(3) Any such ex parte protection order shall be
9 effective for a fixed period not to exceed 15 calendar days. A
10 full hearing, as provided by this section, shall be set for a
11 date no later than the date when the temporary protection
12 order ceases to be effective. The court may grant a
13 continuance of the ex parte protection order and the full
14 hearing before or during a hearing, for good cause shown by
15 any party.

16 "(c) Service upon the defendant shall be as provided
17 in Section 30-5-8(a)(2).

18 ~~(c)~~ (d) If a final hearing under subsection (a) or
19 (b) is continued, the court may make or extend temporary ex
20 parte protection orders under subsection (b) as it deems
21 reasonably necessary to protect the victim from further acts
22 of domestic violence or the immediate and present danger of
23 domestic violence.

24 "§30-5-7.

25 "(a) If it appears from a petition for a protection
26 order or a petition to modify a protection order that ~~abuse~~
27 domestic violence has occurred or from a petition for a

1 modification of a protection order that a modification is
2 warranted, the court may do any of the following:

3 "(1) Without notice or hearing, immediately issue an
4 ex parte protection order or modify an ex parte protection
5 order as it deems necessary.

6 "(2) After providing notice as required by the
7 Alabama Rules of Civil Procedure, issue a final protection
8 order or modify a protection order after a hearing whether or
9 not the defendant appears.

10 "(b) A court may grant any of the following relief
11 without notice and a hearing in an ex parte protection order
12 or an ex parte modification of a protection order:

13 "(1) Enjoin the defendant from threatening to commit
14 or committing acts of ~~abuse, as defined in this chapter,~~
15 domestic violence against the plaintiff or children of the
16 plaintiff, and any other person designated by the court.

17 "(2)a. Restrain and enjoin the defendant from
18 harassing, stalking, annoying, ~~telephoning, contacting, or~~
19 ~~otherwise communicating, directly or indirectly, with the~~
20 ~~plaintiff or children or threatening,~~ or engaging in conduct
21 that would place the plaintiff, minors, children of the
22 plaintiff, or any other person designated by the court in
23 reasonable fear of bodily injury or from contacting the
24 plaintiff or children of the plaintiff.

25 "b. For the purposes of this subdivision,
26 "contacting" includes, but is not limited to, communicating
27 with the victim verbally or in any written form, either in

1 person, telephonically, electronically, or in any other
2 manner, either directly or indirectly through a third person.

3 ~~"(3) Order the defendant to stay away from the~~
4 ~~residence~~ Restrain and enjoin the defendant from having
5 physical or violent contact with the plaintiff or the
6 plaintiff's property, or from going within 300 feet of the
7 plaintiff's residence, even if the residence is shared with
8 the defendant, school, or place of employment of the
9 plaintiff, any children, or any other person designated by the
10 court, or order the defendant to stay away from any specified
11 place frequented by the plaintiff, any children, or any person
12 designated by the court where the court determines the
13 defendant has no legitimate reason to frequent.

14 "(4) Award temporary custody of any children of the
15 parties.

16 "(5) Enjoin the defendant from interfering with the
17 plaintiff's efforts to remove any children of the plaintiff or
18 from removing any children from the jurisdiction of the court,
19 and direct the appropriate law enforcement officer to
20 accompany the plaintiff during the effort to remove any
21 children of the plaintiff as necessary to protect the
22 plaintiff or any children from domestic violence or child
23 abuse.

24 "(6) Enjoin the defendant from removing any children
25 from the individual having legal custody of the children,
26 except as subsequently authorized by a custody or visitation
27 order issued by a court of competent jurisdiction.

1 "(7) Remove and exclude the defendant from the
2 residence of the plaintiff, regardless of ownership of the
3 residence.

4 "(8) Order possession and use of an automobile and
5 other essential personal effects, regardless of ownership, and
6 direct the appropriate law enforcement officer to accompany
7 the plaintiff to the residence of the parties or to other
8 specified locations as necessary to protect the plaintiff or
9 any children from abuse.

10 "(9) Order other relief as it deems necessary to
11 provide for the safety and welfare of the plaintiff or any
12 children and any person designated by the court.

13 "(10) Prohibit the defendant from transferring,
14 concealing, encumbering, or otherwise disposing of specified
15 property mutually owned or leased by the parties.

16 "(c) The court may grant any of the following relief
17 in a final protection order or a modification of a protection
18 order after notice and a hearing, whether or not the defendant
19 appears:

20 "(1) Grant the relief available in subsection (b).

21 "(2) Specify arrangements for visitation of any
22 children by the defendant on a basis that gives primary
23 consideration to the safety of the plaintiff or any children,
24 or both, and require supervision by a third party or deny
25 visitation if necessary to protect the safety of the plaintiff
26 or any children, or both.

1 "(3) Order the defendant to pay attorney's fees and
2 court costs.

3 "(4) When the defendant has a duty to support the
4 plaintiff or any children living in the residence or household
5 and the defendant is the sole owner or lessee, grant to the
6 plaintiff possession of the residence or household to the
7 exclusion of the defendant by evicting the defendant or
8 restoring possession to the plaintiff, or both, or by consent
9 agreement allowing the defendant to provide suitable alternate
10 housing.

11 "(5) Order the defendant to pay temporary reasonable
12 support for the plaintiff or any children in the plaintiff's
13 custody, or both, when the defendant has a legal obligation to
14 support such persons. The amount of temporary support awarded
15 shall be in accordance with Child Support Guidelines found in
16 Rule 32 of the Alabama Rules of Judicial Administration.

17 "(6) Order the defendant to provide temporary
18 possession of a vehicle to the plaintiff, if the plaintiff has
19 no other means of transportation of his or her own and the
20 defendant either has control of more than one vehicle or has
21 alternate means of transportation.

22 "(d) (1) Any temporary ex parte order issued
23 pursuant to this chapter shall remain in effect until the
24 final protection order is entered. While the final protection
25 order is in effect, the court may amend its order at any time
26 upon subsequent petition being filed by either party and a
27 hearing held pursuant to this chapter.

1 "(2) Any final protection order is of permanent
2 duration, subject to appellate review, unless otherwise
3 specified or modified by a subsequent court order.

4 "(e) No order or agreement under this chapter shall
5 in any manner affect title to any real property, except final
6 subsequent proceedings available by law.

7 "(f) A temporary or final judgment on a protective
8 order entered pursuant to this section shall indicate all of
9 the following:

10 "(1) That the injunction is valid and enforceable in
11 all counties in the state.

12 "(2) That law enforcement officers may use their
13 arrest powers pursuant to Section 15-10-3 to enforce the terms
14 of the injunction.

15 "(3) That the court had jurisdiction over the
16 parties and matter under the laws of the state and that
17 reasonable notice and opportunity to be heard was given to the
18 person against whom the order is sought sufficient to protect
19 that person's right to due process.

20 "§30-5-8.

21 "(a) (1) A copy of the notice of hearing or any order
22 under this chapter shall be ~~issued~~ sent to the plaintiff
23 within 24 hours of issuance, provided the plaintiff provides
24 the court with current and accurate contact information, ~~the~~
25 defendant, and to the law enforcement officials with
26 jurisdiction to enforce the order. The clerk of the court may

1 furnish a certified copy of the notice of hearing or final
2 protection order, if any, electronically.

3 "(2) A copy of any notice of hearing or order under
4 this chapter shall be issued to the defendant as soon as
5 possible pursuant to Rule 4 of the Alabama Rules of Civil
6 Procedure.

7 "(3) Certain information in these orders shall be
8 entered in the Protection Order Registry of the Administrative
9 Office of Courts and shall be electronically transmitted to
10 the Alabama Law Enforcement Agency for entry into the National
11 Crime Information Center (NCIC), the National Law Enforcement
12 Telecommunication System (Nlets), and the Law Enforcement
13 Tactical System (LETS). Such information shall include, but is
14 not limited to, information as to the existence and status of
15 any protection orders for verification purposes.

16 "(b) Ex parte and final protection orders shall be
17 in a format as provided by the Administrative Office of
18 Courts. If a court wishes to provide additional information in
19 these standardized court orders, the court may attach
20 additional pages containing this additional information.

21 "(c) Within 24 hours after issuance of a protection
22 order, the clerk of court shall forward the written proof of
23 service of process and a copy of the protection order to the
24 law enforcement agency with jurisdiction over the residence of
25 the plaintiff. The information shall be entered into the
26 Protection Order Registry of the Administrative Office of
27 Courts and shall be electronically transmitted to the Alabama

1 Law Enforcement Agency for entry into the National Crime
2 Information Center (NCIC), the National Law Enforcement
3 Telecommunication System (Nlets), and the Law Enforcement
4 Tactical System (LETS).

5 "(d) If a court vacates or modifies a protection
6 order, notice shall be sent within 24 hours to the plaintiff,
7 provided that the plaintiff provides the court with current
8 and accurate contact information, to the defendant, and to the
9 law enforcement officials with jurisdiction to enforce the
10 order.

11 "(e) (1) The Alabama Law Enforcement Agency shall
12 develop an automated process by which a plaintiff may request
13 notification of service of the protection order and other
14 court actions related to the protection order. The automated
15 notice shall be made within 12 hours after a law enforcement
16 officer serves a protection order upon the defendant. The
17 notification shall include, at a minimum, the date, time, and
18 where the protection order was served. The information
19 identifying the plaintiff referenced under subsection (2)
20 shall be exempt from public records requirements in Section
21 36-12-40.

22 "(2) Upon implementation of the automated process,
23 information held by the clerks and law enforcement agencies in
24 conjunction with this process that reveals a home or
25 employment telephone number, cellular telephone number, home
26 or employment address, electronic mail address, or other
27 electronic means of identification of a plaintiff requesting

1 notification of service of a protection order or other court
2 actions is exempt from Section 36-12-40. Notwithstanding the
3 provisions of this subsection, any state or federal agency
4 that is authorized to have access to such information by any
5 provision of law shall be granted access in the furtherance of
6 such agency's statutory duties.

7 "(f) (1) In addition to any other fine or penalty
8 provided by law, the defendant shall pay an additional fine of
9 fifty dollars (\$50) for a violation of a protection order. On
10 a monthly basis, the clerk of the court shall transfer the
11 additional fines collected pursuant to this subdivision to the
12 State Treasury for deposit in the Domestic Violence Trust
13 Fund, established by Section 30-6-11.

14 "(2) If the defendant is arrested under Section
15 15-10-3 for committing an act of domestic violence in
16 violation of a protection order, the defendant shall be held
17 in custody until brought before the court as expeditiously as
18 possible for the purpose of enforcing the protection order and
19 for consideration of bail in accordance with Section 15-13-190
20 and the applicable rules of criminal procedure, pending a
21 hearing.

22 "§30-6-1.

23 "In this chapter, the following words shall have the
24 following meanings unless the context clearly indicates
25 otherwise:

26 "(1) ABUSE. Any offense under Sections 13A-6-60 to
27 13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4,

1 ~~inclusive, occurring among family, household, dating, or~~
2 ~~engagement relationship members as defined in Section 15-10-3.~~

3 ~~"(2)~~ (1) ACADV. The Alabama Coalition Against
4 Domestic Violence, Incorporated.

5 ~~"(3)~~ (2) ADVOCATE. An employee or volunteer of a
6 program for victims of domestic violence receiving funds under
7 this chapter who has a primary function of rendering advice,
8 counseling, or assistance to victims of domestic violence; who
9 supervises the employees or volunteers of the program; or who
10 administers the program.

11 "(3) AGENCY. The Alabama Law Enforcement Agency.

12 "(4) CLIENT. Any individual receiving services from
13 a certified domestic violence center.

14 "(5) DIRECTOR. The Director of the Department of
15 Economic and Community Affairs.

16 "(6) DOMESTIC VIOLENCE. As defined in Section
17 30-5-2.

18 ~~"(4)~~ (7) DOMESTIC VIOLENCE SHELTER OR FACILITY
19 CENTER. A facility which provides services or shelter to adult
20 An entity that provides services or shelter to domestic
21 violence victims and their accompanying children as herein
22 defined and which has been certified by the Office of
23 Prosecution Services to receive funds and is a member of the
24 ACADV or other qualified entity.

25 ~~"(5) OFFICE. The Office of Prosecution Services.~~

26 "(8) OTHER QUALIFIED ENTITY. An entity designated by
27 the director to fulfill the duties of the ACADV in the event

1 the ACADV ceases operations or is otherwise ineligible to
2 receive federal funds for domestic violence programs in this
3 state.

4 ~~"(6) (9) VICTIM. Any individual suffering assault,~~
5 ~~battery, rape, or other abuse as defined in subdivision (1)~~
6 ~~and any dependent of the individual , including a child As~~
7 ~~defined in Section 30-5-2.~~

8 "Terms not otherwise defined by this chapter shall
9 have the meaning given to them by the Alabama Criminal Code,
10 Title 13A, or other provisions of law, as the case may be.

11 "§30-6-2.

12 "The Legislature recognizes that ~~certain persons who~~
13 ~~assault, batter, or otherwise abuse their children, spouses~~
14 ~~and other family members and the persons subject to such abuse~~
15 ~~are in need of treatment and rehabilitation persons who are~~
16 ~~victims of domestic violence are in need of critical~~
17 ~~lifesaving services from specialized facilities that possess~~
18 ~~relevant expertise to assist such persons. It is the intent of~~
19 ~~the Legislature to assist in the development of certified~~
20 ~~domestic violence ~~shelters~~ centers and the creation of~~
21 ~~appropriate expanded services for the victims of ~~such abuse~~~~
22 ~~and to provide a place where the parties involved may be~~
23 ~~separated until they can be properly assisted domestic~~
24 ~~violence so that all victims obtain services needed. It is~~
25 ~~further recognized that it is important to prevent domestic~~
26 ~~violence by determining the root causes of such violence.~~

27 "§30-6-3.

1 ~~"(a) It shall be the duty of the office to do~~ The
2 ~~director shall perform or delegate~~ all of the following
3 ~~duties:~~

4 ~~"(1) To establish minimum program requirements and~~
5 ~~standards for certifying domestic violence facilities to~~
6 ~~receive state funds pursuant to this chapter.~~

7 ~~"(2) To receive applications for state funding of~~
8 ~~the facilities pursuant to this chapter.~~

9 ~~"(3) To approve or reject each application within 60~~
10 ~~days of receipt of the application.~~

11 ~~"(4) To distribute funds to a certified facility~~
12 ~~beginning on October 1 of the year immediately succeeding the~~
13 ~~year in which the facility's application was approved.~~

14 ~~"(5) To evaluate annually each shelter for~~
15 ~~compliance with the minimum standards.~~

16 ~~"(b) The office or the district attorney from any~~
17 ~~participating circuit may enter and inspect the premises of~~
18 ~~domestic violence shelter at any reasonable hour in order to~~
19 ~~effectively evaluate the state of compliance of the facility~~
20 ~~with this chapter and rules in force pursuant thereto.~~

21 ~~"(c) The Executive Committee of the Alabama District~~
22 ~~Attorneys Association shall prescribe by rule the procedures~~
23 ~~by which subdivision (1) of subsection (a) shall be~~
24 ~~implemented.~~

25 "(1) Operate the domestic violence program and, in
26 collaboration with ACADV or other qualified entity, coordinate

1 and administer statewide activities related to the prevention
2 of domestic violence.

3 "(2) Have the right to enter and inspect the
4 premises of domestic violence centers that are applying for an
5 initial certification or facing potential suspension or
6 revocation of certification to effectively evaluate the state
7 of compliance with minimum standards.

8 "(3) Promote the involvement of domestic violence
9 centers in the coordination, development, and planning of
10 domestic violence programming.

11 "(4) Coordinate with state agencies that have
12 health, education, or criminal justice responsibilities to
13 raise awareness of domestic violence and promote consistent
14 policy implementation, including law enforcement training.

15 "(5) Cooperate with, assist in, and participate in
16 programs of other properly qualified state or federal
17 agencies, schools of medicine, hospitals, and health clinics
18 in planning and conducting research on the prevention of
19 domestic violence and the provision of services to clients.

20 "(6) Contract with ACADV or other qualified entity
21 for the creation of minimum standards of service provision,
22 training, and technical assistance to certified domestic
23 violence centers, and for the evaluation of services provided
24 by domestic violence centers.

25 "(7) Consider applications from certified domestic
26 violence centers for capital improvement grants and award
27 those grants pursuant to Article 9, Chapter 24, Title 41.

1 "(8) Adopt, by rule, procedures to administer this
2 chapter, including developing criteria for the approval,
3 suspension, or rejection of certification of domestic violence
4 centers.

5 "(9) Receive and approve or reject applications for
6 funding of certified domestic violence centers. When approving
7 funding for a newly certified domestic violence center, the
8 director shall make every effort to minimize any adverse
9 economic impact on existing certified domestic violence
10 centers or services provided within the same service area. In
11 order to minimize duplication of services, the director shall
12 make every effort to encourage subcontracting relationships
13 from existing certified domestic violence centers within the
14 same service area. The director shall equitably distribute
15 funds from the Domestic Violence Trust Fund and state funds to
16 the certified domestic violence centers.

17 "(10) Manage the Domestic Violence Trust Fund for
18 the purposes of collecting and distributing funds pursuant to
19 this chapter.

20 ~~"(d)~~ (b) Any facility which shelters children,
21 pursuant to this chapter, shall be exempt from the provisions
22 of Title 38, Chapter 7.

23 "§30-6-4.

24 "The ACADV, or other qualified entity, shall do all
25 of the following:

26 ~~"(1) Formulate and conduct a research and evaluation~~
27 ~~program on domestic violence and cooperate with and assist and~~

1 ~~participate in programs of other properly qualified agencies,~~
2 ~~including any agency of the state, federal government, schools~~
3 ~~of medicine, hospitals, and clinics, in planning and~~
4 ~~conducting research on the prevention, care, treatment, and~~
5 ~~rehabilitation of persons engaged in or subject to domestic~~
6 ~~violence.~~

7 ~~"(2) Serve as a clearinghouse for information~~
8 ~~relating to spouse abuse and domestic violence.~~

9 ~~"(3) Carry on educational programs on domestic~~
10 ~~violence for the benefit of the general public, persons~~
11 ~~engaged in or subject to spouse abuse, professional persons,~~
12 ~~or others who care for or may be engaged in the care and~~
13 ~~treatment of persons engaged in or subject to spouse abuse and~~
14 ~~domestic violence.~~

15 ~~"(4) Enlist the assistance by contract or otherwise,~~
16 ~~of public and voluntary health, education, welfare, and~~
17 ~~rehabilitation centers or agencies in a concerted effort to~~
18 ~~prevent child abuse and domestic violence and to treat or~~
19 ~~provide shelter for persons engaged in or subject to such~~
20 ~~abuse or violence.~~

21 "(1) Recommend minimum certification qualifications
22 and administrative standards to ensure the health, safety, and
23 welfare of domestic violence victims and their children to the
24 director.

25 "(2) Assist the director in the evaluation of
26 certified domestic violence centers in order to determine
27 compliance with certification standards.

1 "(3) At the discretion of the director, conduct
2 statewide training and technical assistance for certified
3 domestic violence centers and partnering organizations.

4 "(4) Make recommendations to the Department of
5 Economic and Community Affairs regarding the content of
6 batterers' intervention programs.

7 "(5) Assist the director in other matters relating
8 to the implementation and administration of programs under
9 this chapter.

10 "§30-6-5.

11 ~~"(a) On or before 30 days prior to each regular~~
12 ~~session of the Legislature, the ACADV shall report to the~~
13 ~~office, and the office shall furnish to the President of the~~
14 ~~Senate and the Speaker of the House of Representatives, on or~~
15 ~~before the third day of each regular session, a report on the~~
16 ~~status of domestic violence in Alabama which shall include,~~
17 ~~but not be limited to, the following: Each domestic violence~~
18 ~~center shall provide to the director information relating to~~
19 ~~the number of persons who receive services from local domestic~~
20 ~~violence programs or certified domestic violence centers and~~
21 ~~any other information that is required to be reported for~~
22 ~~eligibility to receive federal grant funding or other funding.~~

23 "(b) The director shall furnish to the Governor, the
24 President Pro Tempore of the Senate, and the Speaker of the
25 House of Representatives a report on or before January 1 of
26 each year on the status of domestic violence in Alabama, which
27 shall include, but not be limited to, the following:

1 "~~(1)~~ The incidence of domestic violence in this
2 state ~~and in each county.~~

3 "(2) An identification of the areas of the state
4 where domestic violence is of significant proportions,
5 including the number of cases of domestic violence officially
6 reported.

7 "~~(2)~~ (3) The identification and description of the
8 types of programs in the state that assist victims or persons
9 initiating the violence and abuse who commit domestic
10 violence, including information on its programs.

11 "~~(3)~~ (4) The number and characteristics of persons
12 treated by or assisted by local who receive services from
13 local domestic violence programs or certified domestic
14 violence centers receiving funding.

15 "~~(4)~~ The number and characteristics of persons
16 perpetrating domestic violence identified by centers receiving
17 funding.

18 "~~(5)~~ An inventory and evaluation of existing
19 prevention programs.

20 "(c) (1) The Alabama Law Enforcement Agency, in
21 collaboration with the Attorney General, ACADV, or other
22 qualified entity, and the statewide domestic violence fatality
23 review team, as established in Section 30-9-2, shall produce
24 an annual report to be provided to the Governor and the
25 Legislature. The report shall review the number and type of
26 domestic violence fatalities and near fatalities and shall
27 make policy and other recommendations on how the state and

1 stakeholders may more effectively reduce the incidence of
2 domestic violence fatalities in the state. The report shall
3 include the results of the warrantless arrest policy provided
4 for under Section 13A-6-133, including separate statistics on
5 occurrences of and arrests for domestic versus nondomestic
6 violence, such as stalking, assault, sexual assault, the
7 illegal use of firearms, arson, homicide, murder,
8 manslaughter, or the attempt of any of these crimes. The
9 agency shall also provide the annual domestic violence
10 statistics to the relevant federal agency for national
11 reporting required by federal regulations or directives.

12 "(2) A state agency, within a reasonable time, shall
13 comply with a request from the Alabama Law Enforcement Agency
14 for information relating to a report under this subsection.

15 "§30-6-6.

16 "(a) In order to be funded and certified, each
17 facility domestic violence center shall do all of the
18 following:

19 "(1) Provide a shelter, whether public or private,
20 which will serve as a center to receive and house adult
21 persons who are domestic violence victims and their
22 accompanying children.

23 "(2) Receive the periodic written endorsement of the
24 participating circuit's district attorney and the local law
25 enforcement agency within the jurisdiction of the site.

26 "(1) Provide a facility that shall serve as a center
27 to receive and house persons who are victims of domestic

1 violence. For the purpose of this chapter, minor children and
2 other dependents of a victim, when the dependents are partly
3 or wholly dependent on the victim for support or services, may
4 be sheltered with the victim in a domestic violence center.

5 "(3) (2) Provide minimum services which shall
6 include, but not be limited to, information and referral
7 services, counseling and case management services, temporary
8 emergency shelter for more than 24 hours for adult victims and
9 their accompanying children, a 24-hour hotline, training for
10 law enforcement personnel, assessment and appropriate referral
11 of resident children, outreach services as defined by
12 standards for counties without a physical emergency shelter
13 facility, and educational services for community awareness
14 relative to the incidence of domestic violence, the prevention
15 of ~~abuse~~ domestic violence, and the care, treatment, and
16 rehabilitation for persons engaged in or subject to ~~such abuse~~
17 domestic violence. If a 24-hour hotline, professional
18 training, or community education is already provided by a
19 certified domestic violence center within its designated
20 service area, the director may exempt the certification
21 requirements for a new domestic violence center serving the
22 same service area in order to avoid duplication of services.

23 "(3) Comply with the requirements for training and
24 continuing education adopted by the director.

25 "(4) Comply with rules adopted pursuant to this
26 chapter.

1 "(5) File with the director a list of the names of
2 the domestic violence advocates who are employed or who
3 volunteer at the domestic violence center who may claim a
4 privilege under Section 30-6-8 to refuse to disclose a
5 confidential communication between a victim of domestic
6 violence and the advocate regarding the domestic violence
7 inflicted upon the victim. The list shall include the title of
8 the position held by the advocate whose name is listed and a
9 description of the duties of that position. A domestic
10 violence center shall file amendments to this list as
11 necessary.

12 "(6)a. If the domestic violence center is a new
13 center applying for certification on or after the effective
14 date of this act, demonstrate that the services provided
15 address a need identified in the most current statewide needs
16 assessment approved by the director. If the center applying
17 for initial certification proposes providing services in an
18 area that has an existing certified domestic violence center,
19 the center applying for initial certification shall
20 demonstrate an unmet need in that service area and describe
21 its efforts to avoid duplication of services.

22 "b. The Department of Economic and Community Affairs
23 may adopt rules for the implementation of this subdivision.

24 ~~"(b) Domestic violence facilities may be established~~
25 ~~throughout the state as private, local, state, or federal~~
26 ~~funds are available. Any local agency or organization may~~
27 ~~apply to participate in certification and state funding~~

1 ~~pursuant to this chapter. This chapter shall not be construed~~
2 ~~to prohibit any agency or organization from uniting with a~~
3 ~~like agency or organization, within or without the same county~~
4 ~~or within or without any adjacent circuit, in the joint~~
5 ~~establishment or operation of any domestic violence facility.~~

6 "(b) Each domestic violence center shall satisfy
7 national domestic violence standards adopted by the director.

8 "(c) If the director finds that there is a failure
9 by a domestic violence center to comply with the requirements
10 and standards established under this chapter or with any rules
11 adopted pursuant thereto, the director may deny, suspend, or
12 revoke the certification, or may temporarily extend the
13 certification to allow the domestic violence center to
14 implement a corrective action plan.

15 "(d) The annual certificate automatically expires on
16 June 30 of each year unless it is renewed. This subsection
17 applies to a center operating on or before the effective date
18 of this act.

19 ~~"(c) The facilities~~ (e) Domestic violence centers
20 shall establish procedures pursuant to which persons subject
21 to domestic violence may seek services from these facilities
22 on a voluntary basis.

23 ~~"(d) Each facility~~ (f) Each domestic violence center
24 shall be a 501(c)(3) nonprofit corporation and shall have a
25 board composed of at least three citizens, one of whom shall
26 be a member of a local, municipal, or county law enforcement
27 agency.

1 ~~"(e) No individual facility shall receive a total~~
2 ~~amount in excess of two hundred fifty thousand dollars~~
3 ~~(\$250,000) annually.~~

4 ~~"(f) Each facility shall submit their proposed~~
5 ~~budget at the request of the office and prior to any~~
6 ~~application for funds.~~

7 "(g) In order to receive funding from the Domestic
8 Violence Trust Fund and other state funds, a domestic violence
9 center shall do all of the following:

10 "(1) Obtain certification pursuant to this chapter;
11 provided, however, the issuance of a certification does not
12 obligate the Alabama Department of Economic and Community
13 Affairs to provide monies distributed through the Domestic
14 Violence Trust Fund.

15 "(2) Receive at least 10 percent of its funding from
16 one or more local, municipal, or county sources, public or
17 private, provided contributions in kind, whether materials,
18 commodities, transportation, office space, other types of
19 facilities, or personal services, may be evaluated and counted
20 as part of the required local funding.

21 "(h) (1) All funds collected and appropriated for
22 certified domestic violence centers shall be distributed
23 equitably by the director.

24 "(2) A contract between the director and a certified
25 domestic violence center shall contain provisions ensuring the
26 availability and geographic necessity of services throughout
27 the service area. For this purpose, a center may distribute

1 funds through subcontracts or to center satellites, if such
2 arrangements and any subcontracts are approved by the
3 director.

4 "(3) The director may allocate funds from the
5 Domestic Violence Trust Fund for the administration and
6 enforcement of this act, including law enforcement training.

7 "(i) If any of the minimum services provided under
8 Section 30-6-6 are exempted from certification by the director
9 under this section, the domestic violence center may not
10 receive funding from the Alabama Department of Economic and
11 Community Affairs for those services.

12 "§30-6-7.

13 ~~"Each circuit shall receive a proportionate share of~~
14 ~~the total funding appropriated, as the population of the~~
15 ~~circuit or circuits jointly bear to the total population of~~
16 ~~the state, according to the most recent federal decennial~~
17 ~~census, for implementation of this chapter. Each facility~~
18 ~~shall receive the funds as determined by the policy adopted by~~
19 ~~the office. The formula for such funding shall be deemed a~~
20 ~~public record. The office may not expend in excess of ten~~
21 ~~percent of the funds administered by it to implement this~~
22 ~~chapter. Of the funds administered by the office to implement~~
23 ~~this chapter, the office shall retain 60 percent of the funds~~
24 ~~or eighty thousand dollars (\$80,000), whichever is greater,~~
25 ~~and shall disburse the remainder of the implementation funds~~
26 ~~received during the previous fiscal year to the ACADV upon~~

1 ~~satisfactory receipt of the report described in Section 30-6-5~~
2 ~~for that year.~~

3 "(a) The Department of Economic and Community
4 Affairs may pay the administrative costs necessary to fulfill
5 the requirements of this chapter from the Domestic Violence
6 Trust Fund; provided, however, the department may not expend
7 more than eight percent or \$125,000, whichever is less, of the
8 total available funds from the Domestic Violence Trust Fund on
9 an annual basis.

10 "(b) Each domestic violence center shall complete a
11 financial audit after its first year of operation following
12 certification. Thereafter, a domestic violence center shall
13 complete a financial audit every three years or at the request
14 of the director.

15 "§30-6-8.

16 "Information identifying individuals or facilities
17 received by the office, the circuit, any district attorney or
18 his or her employees, the director, or by authorized persons
19 employed by or volunteering services to a ~~facility~~ domestic
20 violence center, through files, reports, inspection, or
21 otherwise, ~~shall be deemed is~~ confidential information, except
22 as otherwise herein provided, and shall not be disclosed
23 publicly in such a manner as to identify individuals or
24 facilities and exempt from Section 36-12-40. Information about
25 the location of domestic violence centers and facilities is
26 confidential and exempt from Section 36-12-40. Oral
27 communications between a domestic violence victim and an

1 advocate and written reports and records concerning the victim
2 may not be disclosed without the written consent of the
3 victim. This privilege does not relieve a person from any duty
4 imposed pursuant to Section 26-14-1 or Section 38-9-2.

5 However, when cooperating with the Department of Human
6 Resources, the staff and volunteers of a domestic violence
7 center shall protect the confidentiality of other clients at
8 the center. A victim or advocate may not claim this privilege
9 when providing evidence in proceedings concerning child abuse,
10 but may claim this privilege in all other proceedings, both
11 criminal and civil. This privilege expires upon the death of
12 the victim. ~~Each facility, with the approval of the office,~~
13 ~~shall establish its own rules, regulations, and policies for~~
14 ~~the performance of the responsibilities charged to it in this~~
15 ~~chapter.~~ The office director shall ensure that the information
16 obtained under authority of this chapter shall be restricted
17 to the items germane to the implementation thereof and shall
18 ensure that the provisions are administered so as not to
19 accumulate any information or distribute any information that
20 is not required by this chapter. ~~The office and each~~
21 ~~participating district attorney shall ensure that adequate~~
22 ~~safeguards are incorporated so that data available is used~~
23 ~~only by properly authorized persons, facilities, and agencies.~~

24 "§30-6-9.

25 "Any law enforcement officer who investigates an
26 alleged incident of domestic violence shall , at the time of
27 the incident, assist the victim with obtaining transportation

1 so that the victim may receive any necessary medical treatment
2 which resulted from the alleged incident to which the officer
3 responds, and shall advise the person subject to the abuse of
4 the availability of a facility from which he or she victim
5 that there is a domestic violence center from which the victim
6 may receive services.

7 "§30-6-10.

8 "(a) The office director is authorized to adopt
9 rules, regulations and standards necessary to administer and
10 implement the provisions of this chapter not otherwise covered
11 by subsection (b).

12 "(b) The Secretary of the Alabama Law Enforcement
13 Agency may adopt rules necessary to administer and implement
14 the provisions of this chapter which relate to enforcement or
15 other duties of law enforcement officers.

16 "§30-6-11.

17 "~~Commencing October 1, 1999~~ There is created the
18 Domestic Violence Trust Fund within the State Treasury for the
19 specific purpose of funding certified domestic violence
20 centers. The fund shall be administered by the Department of
21 Economic and Community Affairs. Beginning on the effective
22 date of this act , and thereafter, in addition to any and all
23 other fees collected for any marriage license, the probate
24 judge marriage license issuing agent shall collect thirty
25 dollars (\$30) which shall be forwarded to the district attorney
26 of the judicial circuit of his or her county. sixty dollars
27 (\$60). The funds, as well as those fines imposed pursuant to

1 subsection (g) of Section 30-5-8, shall be designated only for
2 the purposes of this chapter, and forwarded monthly to the
3 ~~office for distribution on a formula, pursuant to Section~~
4 ~~30-6-7 and this chapter. Provided, however, no department for~~
5 ~~deposit in the Domestic Violence Trust Fund. Ten percent of~~
6 ~~unspent and unencumbered funds generated by this chapter shall~~
7 ~~revert to the General Fund of the State Treasury at the end of~~
8 ~~the fiscal year shall be retained in the fund. The remaining~~
9 ~~portion of the funds shall revert to the General Fund at the~~
10 ~~end of the fiscal year. Any such unspent and unencumbered~~
11 ~~funds shall be returned to the respective judicial circuits~~
12 ~~from which they were generated. The district attorney shall~~
13 ~~use the funds exclusively for the purposes of establishing,~~
14 ~~maintaining, or funding, or any combination thereof, of~~
15 ~~domestic violence shelters. The funds shall be used for the~~
16 ~~establishment or maintenance of a domestic violence shelter~~
17 ~~within 12 months of the end of the fiscal year during which~~
18 ~~they were collected. If funds collected pursuant to this~~
19 ~~chapter have not been expended for the purposes of~~
20 ~~establishing or maintaining a domestic violence shelter within~~
21 ~~the time period designated in this section, those funds shall~~
22 ~~revert to the office for distribution to certified domestic~~
23 ~~violence facilities according to the formula established by~~
24 ~~the office pursuant to Section 30-6-7 and this chapter.~~

25 "§30-6-13.

26 "The provisions of this chapter are supplemental and
27 shall be construed in pari materia with other laws relating to

1 domestic relations, ~~abuse~~ domestic violence, and law
2 enforcement; and provided, that those laws or parts of laws
3 which are in direct conflict or inconsistent herewith are
4 hereby repealed.

5 "§30-7-1.

6 "The Alabama Coalition Against Domestic Violence,
7 Incorporated, shall assist the Director of the Department of
8 Economic and Community Affairs to establish standards for
9 domestic violence ~~shelters~~ centers for membership in the
10 coalition. Standards shall include minimum standards for the
11 safe and effective provision of services to victims of
12 domestic violence and their children.

13 "§30-7-2.

14 "~~(a)~~ The following minimum standards for domestic
15 violence ~~shelters~~ centers shall be used by the ~~coalition~~
16 Department of Economic and Community Affairs to determine
17 membership in the coalition or other qualified entity and
18 eligibility for receiving funds administered by the Department
19 of Economic and Community Affairs. Any domestic violence
20 ~~shelter~~ center seeking membership shall meet the following
21 qualifications:

22 "(1) Be a ~~community-based, nonprofit agency~~
23 501(c)(3) nonprofit corporation created for the purpose of
24 operating a domestic violence center; provided, however, it
25 may be affiliated with a larger private organization, but must
26 be a distinct entity with its own corporate structure and
27 budget. All funding and budget issues pertaining to the

1 operation of the domestic violence program shall be reported
2 independently from other activities to the coalition or other
3 qualified entity.

4 "(2) Have as its primary ~~function the elimination~~
5 ~~and reduction of domestic violence~~ mission the provision of
6 services to victims of domestic violence, as defined in
7 Section 30-5-2.

8 "(3) Provide emergency shelter, counseling services,
9 case management and advocacy, and referral, and 24-hour
10 hotline telephone services for domestic violence victims.

11 "(4) Operate its principal place of business or
12 service activity in the state.

13 "(5) Agree to, accept, adopt, and implement the
14 prevailing ~~Alabama Coalition Against Domestic Violence shelter~~
15 domestic violence center standards adopted by the department.

16 "(6) Be governed by a board of directors which
17 reflects the community it serves.

18 "(7) Affirm in writing its commitment to the
19 specific and primary purpose of the Alabama Coalition Against
20 Domestic Violence or other qualified entity as stated in ~~an~~
21 ~~affirmation of unity~~ membership affiliate agreements.

22 "~~(8) Be an associate member of the Alabama Coalition~~
23 ~~Against Domestic Violence for one year prior to application~~
24 ~~for full membership.~~

25 "~~(b) The coalition shall certify any domestic~~
26 ~~violence shelter meeting the qualifications set forth in~~
27 ~~subsection (a).~~

1 "(b) In the event the Alabama Coalition Against
2 Domestic Violence ceases operations or is otherwise ineligible
3 to receive federal funds for domestic violence programs in
4 this state, the director may designate another qualified
5 entity to fulfill its duties.

6 "§30-7-3.

7 Any domestic violence ~~shelter~~ center within the
8 state that meets the standards established by this chapter and
9 is certified by the ~~coalition~~ Department of Economic and
10 Community Affairs as a full member in the coalition or other
11 qualified entity shall be eligible to receive funds that are
12 appropriated from the ~~state~~ Domestic Violence Trust Fund or
13 any other state funds to the coalition or other qualified
14 entity.

15 "§30-7-4.

16 "(a) Any domestic violence ~~shelter~~ center within the
17 state that desires to become certified by the ~~coalition~~
18 director may request certification. Upon approval and
19 certification by the ~~board of directors of the coalition~~
20 Director of the Department of Economic and Community Affairs,
21 a domestic violence center may receive ~~state funding from~~
22 funding appropriated by the Legislature specifically to the
23 ~~coalition~~ Department of Economic and Community Affairs.

24 "(b) (1) The department may pay the administrative
25 costs necessary to fulfill the requirements of this chapter
26 from the Domestic Violence Trust Fund; provided, however, the
27 department may not expend more than eight percent or one

1 hundred twenty-five thousand dollars (\$125,000), whichever is
2 less, of the total available funds from the Domestic Violence
3 Trust Fund on an annual basis.

4 ~~(b)~~ (2) State funds received by the coalition
5 Alabama Coalition Against Domestic Violence from
6 appropriations by the Legislature may be used for
7 administrative expenses. Administrative expenses paid from
8 state funds shall not exceed eight percent or twenty-five
9 thousand dollars (\$25,000), whichever is less, of the total
10 appropriation received ~~in any one period of appropriation on~~
11 an annual basis.

12 "§30-7-5.

13 "The ~~coalition~~ Department of Economic and Community
14 Affairs, ~~through its board of directors,~~ shall be responsible
15 for allocating state appropriated funds to existing and new
16 domestic violence ~~shelters~~ centers that have been certified
17 pursuant to this chapter.

18 "§30-7-6.

19 "(a) The director, in consultation with the Alabama
20 Coalition Against Domestic Violence, Incorporated or other
21 qualified entity, as provided in subsection (b) of Section
22 30-7-2, the Alabama Network of Family Resource Centers, and
23 the Alabama Department of Mental Health, shall establish the
24 content of batterers' intervention programs in order to direct
25 services to those persons who are adjudged to have committed
26 an act of domestic violence, as defined in Section 30-5-2,
27 those against whom an injunction for protection against

1 domestic violence is entered, those referred by the court or
2 local domestic violence center, and those who volunteer to
3 attend such programs.

4 ~~"The coalition shall establish minimum program and~~
5 ~~treatment standards for perpetrator counseling programs. The~~
6 ~~standards shall be used as guidelines by the courts for~~
7 ~~recommending referral to the programs. Perpetrator programs~~
8 ~~shall:~~

9 ~~"(1) Be operated by community-based, nonprofit~~
10 ~~agencies that are governed by a board of directors which~~
11 ~~reflects the community each serves.~~

12 ~~"(2) Have as the primary goal of the treatment~~
13 ~~program the reduction and elimination of domestic violence.~~

14 ~~"(3) Operate its principal place of business or~~
15 ~~service activity in the state.~~

16 ~~"(4) Agree to, accept, adopt, and implement the~~
17 ~~prevailing minimum standards for perpetrator programs as~~
18 ~~established by the coalition.~~

19 ~~"(b) Perpetrator treatment programs shall not be~~
20 ~~eligible to receive state funds allocated to the coalition for~~
21 ~~disbursement to shelters. The facilitators, supervisors, and~~
22 ~~trainees of the program shall be certified to provide these~~
23 ~~programs through initial certification by the Department of~~
24 ~~Economic and Community Affairs, and the programs and personnel~~
25 ~~shall be annually recertified by the department to ensure that~~
26 ~~they meet specified standards.~~

1 "(c) The programs shall be funded through reasonable
2 fees collected from the batterers who attend the programs,
3 except the programs may be funded, in whole or in part, from
4 any local, state, or federal program that provides funding for
5 batterers' intervention programs. Fees may be waived if a
6 participant has an income level at or below 125 percent of the
7 United States poverty level as defined by the most recently
8 revised poverty income guidelines published by the United
9 States Department of Health and Human Services.

10 "(d) The court or local domestic violence centers
11 making referrals shall not require a defendant and his or her
12 victim to attend the same program or class.

13 "§30-9-1.

14 "As used in this chapter the term domestic violence
15 fatality review team means an organization that includes, but
16 is not limited to, representatives from the following agencies
17 or organizations:

18 "(1) ~~Municipal and state law~~ Law enforcement
19 agencies.

20 "(2) The Alabama Law Enforcement Agency, the
21 Attorney General, and the President of the Alabama District
22 Attorney's Association, for state level teams or the district
23 attorney of each judicial circuit for local or regional teams.

24 "(3) The Alabama Department of Forensic Sciences.

25 "(4) Certified domestic violence centers.

26 "(5) Child protection service providers.

27 "(6) The Administrative Office of Courts.

1 "(7) The municipal and circuit clerks of the court.
2 "(8) Victim service programs.
3 "(9) Providers of civil legal assistance to victims.
4 "(10) Child death review teams.
5 "(11) Members of the business community.
6 "(12) County probation or corrections agencies.
7 "(13) Any other persons who have knowledge regarding
8 domestic violence fatalities, nonlethal incidents of domestic
9 violence, or suicide, including research, policy, law, and
10 other matters connected with fatal incidents.
11 "(14) The humane societies or shelters.
12 "(15) Certified perpetrator intervention programs.
13 "(16) The Alabama Coalition Against Domestic
14 Violence.
15 "(17) The coroner or county medical examiner.
16 "(18) The Department of Human Resources.
17 "(19) The Alabama Department of Child Abuse and
18 Neglect Prevention or its designee.
19 "(20) Other representatives as determined by the
20 review team.
21 "§30-9-2.
22 "(a) A statewide domestic violence fatality review
23 team ~~may shall~~ be established ~~on the local, regional, or state~~
24 ~~level~~ to review fatal and near-fatal incidents of domestic
25 violence, related domestic violence matters, and suicides. ~~For~~
26 ~~domestic violence fatality review teams that service local or~~
27 ~~regional jurisdictions, the team shall be chaired by the~~

1 ~~district attorney of that particular jurisdiction.~~ Additional
2 teams at the local and regional levels may be established as
3 well in conjunction with local law enforcement agencies, the
4 local domestic violence center, and local judicial officers
5 including the court, prosecutor, and public defender. Teams
6 established at the local and regional levels shall be chaired
7 by the district attorney of that particular jurisdiction. The
8 membership of a domestic violence fatality review team shall
9 be inclusive and reflect the racial, gender, geographic,
10 urban/rural, and economic diversity of the state. The review
11 may include an examination of events leading up to the
12 domestic violence incident, available community resources,
13 current laws and policies, and actions taken by organizations,
14 agencies, and individuals incident to the events and the
15 parties. Any information or action deemed relevant by the
16 review team, including an assessment of public records and
17 records for which public records exemptions are granted may
18 also be included within the purview of the review.

19 "(b) Domestic violence fatality review teams shall
20 be established for the purpose of learning how to prevent
21 domestic violence through early intervention and improving the
22 quality of the response by individuals and institutions to
23 domestic violence. The specific structure and operating
24 procedures employed by a review team shall be determined at
25 the local level. The review team may determine the number and
26 type of incidents it wishes to review and shall make policy

1 and other recommendations on how the community may more
2 effectively respond to the needs of domestic violence victims.

3 "(c) Any member of a domestic violence fatality
4 review team or any person acting as a witness to or
5 investigator for a domestic violence fatality review team, in
6 addition to any immunity provided otherwise in state law, is
7 not liable to any person for damages as a result of any action
8 taken within the scope of the functions of that review team if
9 such action was taken without malice, wantonness, or in a
10 reasonable belief that such action or recommendation is
11 warranted by the facts made known to him or her.

12 "(d) The statewide domestic violence fatality review
13 team is assigned to the Alabama Law Enforcement Agency for
14 administrative purposes.

15 ~~"(c)~~ (e) Information, testimony, records, reports,
16 recommendations, or other evidence obtained, generated, or
17 transmitted by a domestic violence fatality review team shall
18 not be subject to discovery, subpoena, or introduction into
19 evidence in any civil action, or in any administrative or
20 disciplinary proceeding by any department or employing agency
21 if the information or records arose out of matters that are
22 the subject of evaluation and review by the review team.

23 However, information, documents, and records otherwise
24 independently discovered and available from other sources
25 shall not be exempt from discovery, subpoena, or introduction
26 into evidence solely because the information, documents, or
27 records were presented to or reviewed by a review team.

1 "~~(d)~~ (f) A person who attends or participates in a
2 meeting of a domestic violence fatality review team may not
3 testify in any civil or criminal action or administrative or
4 disciplinary proceedings concerning any records or information
5 produced or presented to the review team or the proceedings or
6 deliberations of the review team authorized by this section.
7 This subsection does not preclude or exempt any person who
8 testifies before a review team or who is a member of a review
9 team from testifying to matters otherwise within his or her
10 knowledge.

11 "~~(e)~~ (g) Any information or records otherwise
12 confidential or privileged ~~in accordance with~~ or exempt from
13 disclosure under Section 36-12-40 or under another provision
14 of Alabama law which are obtained by or provided to a review
15 team conducting activities as described pursuant to this
16 chapter shall remain confidential or privileged or exempt from
17 disclosure as otherwise provided by law. Any portion of a
18 report produced by the review team that contains information
19 that is otherwise confidential or privileged in accordance
20 with Alabama law shall remain confidential or privileged as
21 otherwise provided by law."

22 Section 2. Each agency in the state that is involved
23 with the enforcement, monitoring, or prosecution of crimes of
24 domestic violence shall collect and maintain records of each
25 domestic violence incident for access by investigators
26 preparing for bond hearings and prosecutions for acts of
27 domestic violence.

1 Section 3. Article 9, commencing with Section
2 41-23-150, is added to Chapter 23 of Title 41 of the Code of
3 Alabama 1975, to read as follows:

4 Article 9. Domestic Violence Center Capital
5 Improvement Grant Program.

6 §41-23-150.

7 (a) For the purposes of this article, the following
8 terms shall have the following meanings:

9 (1) ACADV. The Alabama Coalition Against Domestic
10 Violence.

11 (2) DIRECTOR. The Director of the Department of
12 Economic and Community Affairs.

13 (3) OTHER QUALIFIED ENTITY. An entity designated by
14 the director to fulfill the duties of the ACADV in the event
15 the ACADV ceases operations or is otherwise ineligible to
16 receive federal funds for domestic violence programs in this
17 state.

18 (b) There is established a certified domestic
19 violence center capital improvement grant program under the
20 Department of Economic and Community Affairs.

21 (c) A certified domestic violence center, as
22 provided for in Section 30-6-6 of the Code of Alabama 1975,
23 may apply to the director, or his or her designee, for a
24 capital improvement grant. The grant application shall provide
25 all of the following information:

1 (1) A statement specifying the capital improvement
2 and the projected costs that the certified domestic violence
3 center proposes to make with the grant funds.

4 (2) The proposed strategy for making the capital
5 improvement.

6 (3) The organizational structure that will carry out
7 the capital improvement.

8 (4) Evidence that the certified domestic violence
9 center has difficulty in obtaining funding or that the funds
10 available for the proposed improvement are inadequate.

11 (5) Evidence that the grant funds will assist in
12 meeting the needs of victims of domestic violence and their
13 children in the certified domestic violence center service
14 area.

15 (6) Evidence of a satisfactory recordkeeping system
16 to account for grant fund expenditures.

17 (7) Evidence of the ability to generate a local
18 match.

19 (8) Proof of who owns the real property, building,
20 and structures upon which domestic violence services are being
21 provided or will be provided.

22 (d) A certified domestic violence center may receive
23 funding subject to legislative appropriation, upon application
24 to the director, for projects to construct, acquire, repair,
25 improve, or upgrade systems, facilities, or equipment, subject
26 to availability of grant funds.

1 (e) An award of grant funds under this article shall
2 be made in accordance with a needs assessment developed by the
3 ACADV or other qualified entity and the director. The director
4 shall perform annually the needs assessment and shall rank in
5 order of need those centers that are requesting grant funds
6 for capital improvement.

7 (f) The director, in collaboration with the ACADV or
8 other qualified entity, shall establish criteria for awarding
9 the capital improvement grant funds that shall be used
10 exclusively for support and assistance with the capital
11 improvement needs of the certified domestic violence center.

12 (g) The director shall ensure that the grant funds
13 awarded under this article are used solely for the purposes
14 specified in this article. The director shall also ensure that
15 the grant process maintains the confidentiality of the
16 location of the certified domestic violence center applying
17 for the grant. The total amount of the grants awarded under
18 this article may not exceed the amount appropriated for the
19 program.

20 Section 4. Section 11-45-9, Code of Alabama 1975, is
21 amended to read as follows:

22 "§11-45-9.

23 "(a) Municipal ordinances may provide penalties of
24 fines, imprisonment, hard labor, or one or more of such
25 penalties for violation of ordinances.

26 "(b) Except as otherwise provided in this section,
27 no fine shall exceed five hundred dollars (\$500), and no

1 sentence of imprisonment or hard labor shall exceed six
2 months.

3 "(c) In the enforcement of the penalties prescribed
4 in Section 32-5A-191, the fine shall not exceed five thousand
5 dollars (\$5,000) and the sentence of imprisonment or hard
6 labor shall not exceed one year.

7 "(d) Notwithstanding any other provision of law, the
8 maximum fine for every person either convicted for violating
9 any of the following misdemeanor offenses adopted as a
10 municipal ordinance violation or adjudicated as a youthful
11 offender shall be one thousand dollars (\$1,000):

12 "(1) Criminal mischief in the second degree, Section
13 13A-7-22.

14 "(2) Criminal mischief in the third degree, Section
15 13A-7-23.

16 "(3) Theft of property in the third degree, Section
17 13A-8-5.

18 "(4) Theft of lost property in the third degree,
19 Section 13A-8-9.

20 "(5) Theft of services in the third degree, Section
21 13A-8-10.3.

22 "(6) Receiving stolen property in the third degree,
23 Section 13A-8-19.

24 "(7) Tampering with availability of gas,
25 electricity, or water, Section 13A-8-23.

26 "(8) Possession of traffic sign; notification;
27 destruction, defacement, etc., of traffic sign or traffic

1 control device; defacement of public building or property,
2 Section 13A-8-71 and Section 13A-8-72.

3 "(9) Offenses against intellectual property, Section
4 13A-8-102.

5 "(10) Theft by fraudulent leasing or rental, Section
6 13A-8-140 through Section 13A-8-144.

7 "(11) Charitable fraud in the third degree, Section
8 13A-9-75.

9 "(12) Illegal possession of food stamps in the third
10 degree, Section 13A-9-91.

11 "(e) The penalty imposed upon a corporation shall
12 consist of the fine only, plus costs of court.

13 "(f) In the enforcement of a Class A misdemeanor,
14 including a domestic violence offense, the fine may not exceed
15 five thousand dollars (\$5,000) and the sentence of
16 imprisonment may not exceed one year."

17 Section 5. The provisions of this act are severable.
18 If any part of this act is declared invalid or
19 unconstitutional, that declaration shall not affect the part
20 which remains.

21 Section 6. This act shall become effective on
22 January 1, 2016, following its passage and approval by the
23 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 18-MAR-15

Read for the second time and placed
on the calendar with 1 substitute
and..... 30-APR-15

Read for the third time and passed
as amended..... 26-MAY-15

Yeas 101, Nays 0, Abstains 0

Jeff Woodard
Clerk