

1 HB347  
2 174833-1  
3 By Representative England  
4 RFD: Judiciary  
5 First Read: 01-MAR-16

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, a person is guilty of  
9 assault in the first or second degree if he or she  
10 causes serious physical harm or physical harm,  
11 respectively, to certain persons under certain  
12 conditions.

13 This bill would clarify that assault in the  
14 first degree would occur if a person operates a  
15 motor vehicle or vessel in violation of existing  
16 law relating to driving or operating under the  
17 influence of alcohol or controlled substances and  
18 causes serious physical injury to another.

19 This bill would also provide that a person  
20 operating a motor vehicle or vessel in violation of  
21 existing law relating to driving or operating under  
22 the influence of alcohol or controlled substances  
23 and causes physical injury to any other person with  
24 the motor vehicle or vessel is guilty of assault in  
25 the second degree.

26 Amendment 621 of the Constitution of Alabama  
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of  
2 Alabama of 1901, as amended, prohibits a general  
3 law whose purpose or effect would be to require a  
4 new or increased expenditure of local funds from  
5 becoming effective with regard to a local  
6 governmental entity without enactment by a 2/3 vote  
7 unless: it comes within one of a number of  
8 specified exceptions; it is approved by the  
9 affected entity; or the Legislature appropriates  
10 funds, or provides a local source of revenue, to  
11 the entity for the purpose.

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

19  
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23  
24 To amend Sections 13A-6-20 and 13A-6-21, Code of  
25 Alabama 1975, relating to assault, to clarify that assault in  
26 the first degree would occur if a person operates a motor  
27 vehicle or vessel in violation of existing law relating to

1 driving or operating under the influence of alcohol or  
2 controlled substances and causes serious physical injury to  
3 another; to provide that a person operating a motor vehicle or  
4 vessel in violation of existing law relating to driving or  
5 operating under the influence of alcohol or controlled  
6 substances and causes physical injury to any other person with  
7 the motor vehicle or vessel is guilty of assault in the second  
8 degree; and in connection therewith would have as its purpose  
9 or effect the requirement of a new or increased expenditure of  
10 local funds within the meaning of Amendment 621 of the  
11 Constitution of Alabama of 1901, now appearing as Section  
12 111.05 of the Official Recompilation of the Constitution of  
13 Alabama of 1901, as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 13A-6-20 and 13A-6-21, Code of  
16 Alabama 1975, are amended to read as follows:

17 "§13A-6-20.

18 "(a) A person commits the crime of assault in the  
19 first degree if:

20 "(1) With intent to cause serious physical injury to  
21 another person, he or she causes serious physical injury to  
22 any person by means of a deadly weapon or a dangerous  
23 instrument; or

24 "(2) With intent to disfigure another person  
25 seriously and permanently, or to destroy, amputate, or disable  
26 permanently a member or organ of the body of another person,  
27 he or she causes such an injury to any person; or

1           "(3) Under circumstances manifesting extreme  
2 indifference to the value of human life, he or she recklessly  
3 engages in conduct which creates a grave risk of death to  
4 another person, and thereby causes serious physical injury to  
5 any person; or

6           "(4) In the course of and in furtherance of the  
7 commission or attempted commission of arson in the first  
8 degree, burglary in the first or second degree, escape in the  
9 first degree, kidnapping in the first degree, rape in the  
10 first degree, robbery in any degree, sodomy in the first  
11 degree or any other felony clearly dangerous to human life, or  
12 of immediate flight therefrom, he or she causes a serious  
13 physical injury to another person; or

14           "(5) ~~While driving under the influence of alcohol or~~  
15 ~~a controlled substance or any combination thereof~~ He or she  
16 operates a motor vehicle or vessel in violation of Section  
17 32-5A-191 or 32-5A-191.3, ~~he or she~~ and causes serious  
18 physical injury to the person of another with a vehicle or  
19 vessel.

20           "(b) Assault in the first degree is a Class B  
21 felony.

22           "§13A-6-21.

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

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

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

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

7           "(4) With intent to prevent a peace officer, as  
8 defined in Section 36-21-60, a detention or correctional  
9 officer at any municipal or county jail or state penitentiary,  
10 emergency medical personnel, a utility worker, or a  
11 firefighter from performing a lawful duty, he or she intends  
12 to cause physical injury and he or she causes physical injury  
13 to any person. For the purpose of this subdivision, a person  
14 who is a peace officer who is employed or under contract while  
15 off duty by a private or public entity is a peace officer  
16 performing a lawful duty when the person is working in his or  
17 her approved uniform while off duty with the approval of his  
18 or her employing law enforcement agency. Provided, however,  
19 that nothing contained herein shall be deemed or construed as  
20 amending, modifying, or extending the classification of a  
21 peace officer as off-duty for workers compensation purposes or  
22 any other benefits to which a peace officer may otherwise be  
23 entitled to under law when considered on-duty. Additionally,  
24 nothing contained herein shall be deemed or construed as  
25 amending, modifying, or extending the tort liability of any  
26 municipality as a result of any action or inaction on the part  
27 of an off-duty police officer.

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

5           "(6) With intent to cause physical injury to a  
6 health care worker, including a nurse, physician, technician,  
7 or any other person employed by or practicing at a hospital as  
8 defined in Section 22-21-20; a county or district health  
9 department; a long-term care facility; or a physician's  
10 office, clinic, or outpatient treatment facility during the  
11 course of or as a result of the performance of the duties of  
12 the health care worker or other person employed by or  
13 practicing at the hospital; the county or district health  
14 department; any health care facility owned or operated by the  
15 State of Alabama; the long-term care facility; or the  
16 physician's office, clinic, or outpatient treatment facility;  
17 he or she causes physical injury to any person. This  
18 subdivision shall not apply to assaults by patients who are  
19 impaired by medication or to assaults on home health care  
20 workers while they are in private residences.

21           "(7) For a purpose other than lawful medical or  
22 therapeutic treatment, he or she intentionally causes stupor,  
23 unconsciousness, or other physical or mental impairment or  
24 injury to another person by administering to him or her,  
25 without his or her consent, a drug, substance or preparation  
26 capable of producing the intended harm.

1           "(8) He or she operates a motor vehicle or vessel in  
2 violation of Section 32-5A-191 or Section 32-5A-191.3 and  
3 causes physical injury to any other person with the motor  
4 vehicle or vessel.

5           "(b) Assault in the second degree is a Class C  
6 felony.

7           "(c) For the purposes of this section, utility  
8 worker means any person who is employed by an entity that  
9 owns, operates, leases, or controls any plant, property, or  
10 facility for the generation, transmission, manufacture,  
11 production, supply, distribution, sale, storage, conveyance,  
12 delivery, or furnishing to or for the public of electricity,  
13 natural or manufactured gas, water, steam, sewage, or  
14 telephone service, including two or more utilities rendering  
15 joint service."

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

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