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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB35
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8 SYNOPSIS: Under existing law, the commission of
9 domestic violence is a crime, and there are
10 provisions to protect domestic violence victims
11 from further acts of violence. Furthermore, during
12 the 2015 Regular Session, significant revisions
13 were made to existing provisions in law governing
14 domestic violence offenses and domestic violence
15 protection orders (Act 2015-496).
16

17 This bill would clarify certain provisions
18 of Act 2015-496, including clarification of
19 definitions, including dating relationships and
20 household members, certain requirements for sworn
21 petitions for protection orders, notice of hearing
22 and service of process requirements, fines and
23 penalties for violations of protection orders,
24 arrests without warrants for violation of
25 protection orders, release and bail of domestic
26 violence offenders, and provisions governing
domestic violence by strangulation or suffocation.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

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

A BILL

TO BE ENTITLED

AN ACT

Relating to domestic violence; to amend Sections 13A-6-130, 13A-6-131, 13A-6-132, 13A-6-134, 13A-6-138, 13A-6-142, 15-10-3, 15-13-190, 15-23-68, 30-5-2, 30-5-3, 30-5-5, 30-5-8, Code of Alabama 1975, to clarify certain definitions; to further provide for requirements for sworn petitions for protection orders; to further provide for notice of hearing and service of process requirements; to further provide for fines and penalties for violations of protection orders and arrests without warrants for violations of protection orders; to clarify provisions relating to the release and bail of domestic violence offenders; and to revise provisions relating to domestic violence by strangulation or suffocation; to repeal Section 13A-6-139.1, Code of Alabama 1975, relating to definitions for certain domestic violence offenses; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 13A-6-130, 13A-6-131, 13A-6-132, 13A-6-134, 13A-6-138, 13A-6-142, 15-10-3, 15-13-190, 15-23-68, 30-5-2, 30-5-3, 30-5-5, 30-5-8, Code of Alabama 1975, are amended to read as follows:

"§13A-6-130.

"(a) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A-6-20 or aggravated stalking pursuant to Section 13A-6-91, and the victim is a current or former spouse, parent, step-parent, child, step-child, any person with whom the defendant has a child in common, a present ~~or former~~ household member, or a person who has or had a dating relationship, ~~as defined in Section 13A-6-139.1~~, with the defendant. For the purposes of this section, a household member excludes non-romantic or non-intimate co-residents.

"b) Domestic violence in the first degree is a Class A felony, except that the defendant shall serve a minimum term of imprisonment of one year without consideration of probation, parole, good time credits, or any other reduction in time for any second or subsequent conviction under this subsection.

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

"§13A-6-131.

"(a) A person commits the crime of domestic violence in the second degree if the person commits the crime of assault in the second degree pursuant to Section 13A-6-21; the crime of intimidating a witness pursuant to Section 13A-10-123; the crime of stalking pursuant to Section 13A-6-90; the crime of burglary in the second or third degree pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of criminal mischief in the first degree pursuant to Section 13A-7-21 and the victim is a current or former spouse, parent, step-parent, child, step-child, any person with whom the defendant has a child in common, a present ~~or former~~ household member, or a person who has or had a dating relationship, ~~as defined in Section 13A-6-139.1, with the defendant. For the purpose of this section, a household member excludes~~ non-romantic or non-intimate co-residents.

"b) Domestic violence in the second degree is a Class B felony, except the defendant shall serve a minimum term of imprisonment of six months without consideration of probation, parole, good time credits, or any reduction in time for any second or subsequent conviction under this subsection.

"~~(b)~~ (c) The minimum term of imprisonment imposed under subsection ~~(a)~~ (b) shall be double without consideration of probation, parole, good time credits, or any reduction in time if a defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process

1 of violating the order commits domestic violence in the second
2 degree.

3 "§13A-6-132.

4 (a) A person commits domestic violence in the third
5 degree if the person commits the crime of assault in the third
6 degree pursuant to Section 13A-6-22; the crime of menacing
7 pursuant to Section 13A-6-23; the crime of reckless
8 endangerment pursuant to Section 13A-6-24; the crime of
9 criminal coercion pursuant to Section 13A-6-25; the crime of
10 harassment pursuant to subsection (a) of Section 13A-11-8; the
11 crime of criminal surveillance pursuant to Section 13A-11-32;
12 the crime of harassing communications pursuant to subsection
13 (b) of Section 13A-11-8; the crime of criminal trespass in the
14 third degree pursuant to Section 13A-7-4; the crime of
15 criminal mischief in the second or third degree pursuant to
16 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the
17 third degree pursuant to Section 13A-7-43; and the victim is a
18 current or former spouse, parent, step-parent, child,
19 step-child, any person with whom the defendant has a child in
20 common, a present ~~or former~~ household member, or a person who
21 has or had a dating relationship, ~~as defined in Section~~
22 ~~13A-6-139.1~~, with the defendant. For the purpose of this
23 section, a household member excludes non-romantic or
24 non-intimate co-residents.

25 (b) Domestic violence in the third degree is a
26 Class A misdemeanor. (b) The minimum term of imprisonment

1 imposed under subsection (a) shall be 30 days without
2 consideration of reduction in time if a defendant willfully
3 violates a protection order issued by a court of competent
4 jurisdiction and in the process of violating the order commits
5 domestic violence in the third degree.

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

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

13 "(e) For purposes of determining second, third, or
14 subsequent number of convictions, convictions in municipal
15 court shall be included.

16 "§13A-6-134.

17 "(a) If a law enforcement officer receives
18 complaints of domestic violence from two or more opposing
19 persons, or if both parties have injuries, the officer shall
20 evaluate each complaint separately to determine who was the
21 predominant aggressor. If the officer determines that one
22 person was the predominant physical aggressor, that person may
23 be arrested; however, a person who acts in a reasonable manner
24 to protect himself or herself or another family or household
25 member from domestic violence, ~~as defined in Section~~
26 ~~13A-6-139.1,~~ may not be arrested for a violation of Section

1 13A-6-130, 13A-6-131, or 13A-6-132. In determining whether a
2 person is the predominant aggressor the officer shall consider
3 all of the following:

4 "(1) Prior complaints of domestic violence.

5 "(2) The relative severity of the injuries inflicted
6 on each person, including whether the injuries are offensive
7 versus defensive in nature.

8 "(3) The likelihood of future injury to each person.

9 "(4) Whether the person had reasonable cause to
10 believe he or she was in imminent danger of becoming a victim
11 of any act of domestic violence, ~~as the terms are defined in~~
12 ~~Section 13A-6-139.1.~~

13 "(5) Whether one of the persons acted in
14 self-defense.

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

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

21 "(2) The officer's perception of the willingness of
22 a victim of or witness to the domestic violence to testify or
23 otherwise participate in a judicial proceeding.

24 "(c) (1) In addition to victim information services
25 required pursuant to Section 15-23-62, a law enforcement
26 officer, at the time of initial investigation, shall give a

1 victim of domestic violence, as those terms are defined in
2 ~~Section 13A-6-139.1~~, notice of the legal rights and remedies
3 available on a standard form developed and distributed by the
4 Alabama Law Enforcement Agency pursuant to subdivision (2).

5 "(2) The agency shall develop a "Legal Rights and
6 Remedies Notice to Victims" that includes a general summary of
7 the provisions of the Protection From Domestic Violence Act
8 using language a layperson may understand and the statewide
9 domestic violence hotline number, and shall distribute the
10 notice to be used by all law enforcement agencies throughout
11 the state.

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

17 "§13A-6-138.

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

20 "(1) STRANGULATION. Intentionally causing asphyxia
21 by closure or compression of the blood vessels or air passages
22 of the neck as a result of external pressure on the neck.

23 "(2) SUFFOCATION. Intentionally causing asphyxia by
24 depriving a person of air or by preventing a person from
25 breathing through the inhalation of toxic gases or by blocking

1 or obstructing the airway of a person, by any means other than
2 by strangulation.

3 "(b) A person commits the crime of domestic violence
4 by strangulation or suffocation if he or she commits an
5 assault with intent to cause physical harm or commits the
6 crime of menacing pursuant to Section 13A-6-23, by
7 strangulation or suffocation or attempted strangulation or
8 suffocation ~~against a victim, as the term is defined in~~
9 ~~Section 13A-6-139.1 and the victim is a current or former~~
10 ~~spouse, parent, step-parent, child, step-child, any person~~
11 ~~with whom the defendant has a child in common, a present~~
12 ~~household member, or a person who has or had a dating~~
13 ~~relationship. For the purpose of this section, a household~~
14 ~~member excludes non-romantic or non-intimate co-residents.~~

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

17 "§13A-6-142.

18 "(a) A violation of a domestic violence protection
19 order is a Class A misdemeanor which shall be punishable as
20 provided by law.

21 "(b) A second conviction for violation of a domestic
22 violence protection order, in addition to any other penalty or
23 fine, shall be punishable by a minimum of 30 days imprisonment
24 which may not be suspended. A third or subsequent conviction
25 shall, in addition to any other penalty or fine, be punishable

1 by a minimum sentence of 120 days imprisonment which may not
2 be suspended.

3 "(c) In addition to any other fine or penalty
4 provided by law, the court shall order the defendant to pay an
5 additional fine of fifty dollars (\$50) for a violation of
6 domestic violence protection order to be distributed to the
7 Domestic Violence Trust Fund, established by Section 30-6-11.

8 "§15-10-3.

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

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

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

16 "(3) When a felony has been committed and the
17 officer has ~~reasonable~~ probable cause to believe that the
18 person arrested committed the felony.

19 "(4) When the officer has ~~reasonable~~ probable cause
20 to believe that the person arrested has committed a felony,
21 although it may afterwards appear that a felony had not in
22 fact been committed.

23 "(5) When a charge has been made, upon ~~reasonable~~
24 probable cause, that the person arrested has committed a
25 felony.

1 "(6) When the officer has actual knowledge that a
2 warrant for the person's arrest for the commission of a felony
3 or misdemeanor has been issued, provided the warrant was
4 issued in accordance with this chapter. However, upon request
5 the officer shall show the warrant to the arrested person as
6 soon as possible. If the officer does not have the warrant in
7 his or her possession at the time of arrest the officer shall
8 inform the defendant of the offense charged and of the fact
9 that a warrant has been issued.

10 "(7) When the officer has ~~reasonable~~ probable cause
11 to believe that a felony or misdemeanor has been committed by
12 the person arrested in violation of a protection order,
13 including a domestic violence protection order, issued by a
14 court of competent jurisdiction.

15 "(8) When an offense involves a crime of domestic
16 violence ~~as defined in Section 13A-6-139.1, including domestic~~
17 ~~violence in the first degree, pursuant to Section 13A-6-130,~~
18 ~~domestic violence in the second degree, pursuant to Section~~
19 ~~13A-6-131, domestic violence in the third degree, pursuant to~~
20 ~~Section 13A-6-132, interference with a domestic violence~~
21 ~~emergency call, in violation of Section 13A-6-137, or domestic~~
22 ~~violence by strangulation or suffocation, pursuant to Section~~
23 ~~13A-6-138, and the arrest is based on probable cause,~~
24 ~~regardless of whether the offense is a felony or misdemeanor.~~

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

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

4 "(c) If the defendant is arrested under this section
5 for committing an act of domestic violence in violation of
6 domestic violence in the first degree, pursuant to Section
7 13A-6-130, domestic violence in the second degree, pursuant to
8 Section 13A-6-131, domestic violence in the third degree,
9 pursuant to Section 13A-6-132, interference with a domestic
10 violence emergency call, in violation of Section 13A-6-137, or
11 domestic violence by strangulation or suffocation, pursuant to
12 Section 13A-6-138, and violates a protection order, the
13 defendant shall be held in custody until brought before the
14 court ~~as expeditiously as possible~~ within 48 hours for the
15 purpose of enforcing the protection order and for
16 consideration of bail in accordance with Section 15-13-190 and
17 the applicable rules of criminal procedure, pending a hearing.
18 If the defendant is not brought before the court within 48
19 hours, the defendant shall be subject to bail according to the
20 Alabama Rules of Criminal Procedure.

21 "§15-13-190.

22 "(a) A person arrested for ~~an offense involving~~
23 ~~domestic violence as defined in Section 13A-6-139.1, who~~
24 ~~strikes, shoves, kicks, or otherwise touches a victim, as~~
25 ~~defined in Section 13A-6-139.1, or subjects him or her to~~
26 ~~physical contact, or is charged with domestic violence in the~~

first degree, pursuant to Section 13A-6-130, domestic violence in the second degree, pursuant to Section 13A-6-131, domestic violence in the third degree, pursuant to Section 13A-6-132, interference with a domestic violence emergency call, in violation of Section 13A-6-137, or domestic violence by strangulation or suffocation, pursuant to Section 13A-6-138, or a violation of a domestic violence protection order, may not be admitted to bail until after an appearance before a judge or magistrate within 24 hours of the arrest, and if the person is not taken before a judge or magistrate within 24 hours of the arrest, he or she shall be ~~released on bail~~ afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure. Prior to the release of the person, the judge or magistrate shall review the facts of the arrest to determine whether the person is a threat to the alleged victim, is a threat to public safety, and is reasonably likely to appear in court.

"(b) The judge or magistrate shall make findings on the record concerning those determinations and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or the person protected by a protection order, and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include, but need not be limited to, enjoining the person from threatening to commit or committing acts of domestic violence against the alleged victim; restraining and enjoining the

1 defendant from contacting the victim, ~~as described in Section~~
2 ~~30-5-7~~; prohibiting the person from possessing a firearm or
3 other weapon specified by the court, except when such weapon
4 is necessary for employment as a peace officer or military
5 personnel; and issuing any other order or modification of
6 orders above required to protect the safety of the alleged
7 victim or to ensure the appearance of the person in court. For
8 the purposes of this subsection, "contacting" includes, but is
9 not limited to, communicating with the victim verbally or in
10 any written form, either in person, telephonically,
11 electronically, or in any other manner, either directly or
12 indirectly through a third person.

13 "(c) If conditions of release are imposed, the judge
14 or magistrate shall issue a written order for conditional
15 release, immediately distribute a copy of the order to the law
16 enforcement agency having custody of the arrested or charged
17 person, place information pertaining to the order in the
18 domestic violence protection order registry, and provide the
19 law enforcement agency with any available information
20 concerning the location of the alleged victim in a manner that
21 protects the safety of the victim. Law enforcement shall
22 provide a copy of the written order to the victim within 24
23 hours of receipt, provided that the victim provides law
24 enforcement with current and accurate contact information, ~~in~~
25 ~~accordance with the process outlined in Section 30-5-8.~~

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

12 Additional conditions shall be included in a written order.

13 "(e) A person who willfully violates a condition of
14 pretrial release provided in this section, when the original
15 arrest was for an act of domestic violence ~~as defined in~~
16 ~~Section 13A-6-139.1,~~ shall be subject to the penalties
17 provided in Section 13A-6-142, and shall receive an enhanced
18 penalty and additional sentence of imprisonment in accordance
19 with Section 13A-6-142.

20 "§15-23-68.

21 "The court shall provide a waiting area for the
22 victim separate from the defendant, relatives of the
23 defendant, and defense witnesses, if an area is available and
24 the use of the area is practical. If a separate waiting area
25 is not available, or its use impractical, the court shall
26 minimize contact of the victim with the defendant, relatives

1 of the defendant, and defense witnesses during court
2 proceedings. For victims of domestic violence, ~~as the terms~~
3 ~~are defined in Sections 13A-6-139.1 and 30-5-2,~~ if a separate
4 waiting area is not available, the presiding circuit judge
5 shall create procedures so that the defendant has no contact
6 with the victim.

7 "§30-5-2.

8 "In this chapter, the following words shall have the
9 following meanings unless the context clearly indicates
10 otherwise:

11 " (1) ABUSE. An act ~~of domestic violence~~ committed
12 against a victim, which is any of the following:

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

15 "b. Assault. Assault as defined under Sections
16 13A-6-20 to 13A-6-22, inclusive.

17 "c. Attempt. ~~With the intent to commit any crime~~
18 ~~under this section or any other criminal act under the laws of~~
19 ~~this state, performing any overt act towards the commission of~~
20 ~~the offense~~ Attempt as defined under Section 13A-4-2.

21 "d. Child Abuse. Torture or willful abuse of a
22 child, aggravated child abuse, or chemical endangerment of a
23 child as provided in Chapter 15, commencing with Section
24 26-15-1, of Title 26, known as the Alabama Child Abuse Act.

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

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

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

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

"i. Menacing. Menacing as defined under Section

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

"k. Reckless Endangerment. Reckless endangerment as defined under Section 13A-6-24.

"1. Sexual Abuse. Any sexual offenses included in Article 4, commencing with Section 13A-6-60, of Chapter 6 of Title 13A.

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

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

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

"(2) COURT. A circuit court judge, ~~a district court judge, or a special circuit court judge appointed pursuant to Section 12-1-14 or 12-1-14.1.~~ A, or a district court judge ~~may~~ be designated by a written standing order from the presiding circuit court judge to handle protection from abuse cases.

" (3) DATING RELATIONSHIP.

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

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

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

"(4) PLAINTIFF. An individual who has standing to file a petition under Section 30-5-5.

"(5) PROTECTION ORDER. Any order of protection from abuse issued under this chapter for the purpose of preventing acts of abuse as defined in this chapter.

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

1 "(7) VICTIM. An individual who is related to the
2 person who commits an act of abuse in any of the following
3 ways:

4 "~~a. Is related by marriage to the defendant,~~
5 ~~including a common law marriage.~~

6 "~~b. Had a. Has a current or former marriage or,~~
7 ~~including common law marriage,~~ with the defendant.

8 "~~c. Has a child in common with the defendant~~
9 regardless of whether the victim and defendant have ever been
10 married and regardless of whether they are currently residing
11 or have in the past resided together in the same household.

12 "~~d. Has or had a dating relationship with the~~
13 ~~defendant. A dating relationship does not include a casual or~~
14 ~~business relationship or a relationship that ended more than~~
15 ~~12 months prior to the filing of the petition for a protection~~
16 ~~order.~~

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

21 "~~f. A relative of a current or former household~~
22 ~~member as defined in paragraph e. who also lived with the~~
23 ~~defendant.~~

24 "~~g. An individual who is a parent, stepparent,~~
25 ~~child, or stepchild and who is in or has maintained a living~~
26 ~~arrangement with the defendant.~~

1 "§30-5-3.

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

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

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

10 "(1) Where the plaintiff or defendant resides.

11 "(2) Where the plaintiff is temporarily located if
12 he or she has left his or her residence to avoid further
13 abuse.

14 "(3) Where the abuse occurred.

15 "(4) Where a civil matter is pending before the
16 court in which the plaintiff and the defendant are opposing
17 parties.

18 "(d) When custody, visitation, or support, or a
19 combination of them, of a child or children has been
20 established in a previous court order in this state, or an
21 action containing any of the issues above is pending in a
22 court in this state in which the plaintiff and the defendant
23 are opposing parties, a copy of any temporary ex parte
24 protection order issued pursuant to this chapter and the case
25 giving rise thereto should be transferred to the court of
26 original venue of custody, visitation, or support for further

1 disposition as soon as practical taking into account the
2 safety of the plaintiff and any children.

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

5 "§30-5-5.

6 "(a) The following persons have standing to file a
7 sworn petition for a protection order under this chapter as a
8 plaintiff:

9 "(1) A person who is at least 18 years old or is
10 otherwise emancipated and is the victim of abuse, as defined
11 in Section 30-5-2, or has reasonable cause to believe he or
12 she is in imminent danger of becoming the victim of any act of
13 abuse.

14 "(2) A parent, legal guardian, next friend, or the
15 State Department of Human Resources may petition for relief on
16 behalf of the following:

17 "a. A minor child.

18 "b. Any person prevented by physical or mental
19 incapacity from seeking a protection order.

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

25 "(c) A sworn petition shall allege the incidents of
26 abuse, the specific facts and circumstances that form the

1 basis upon which relief is sought, and that the plaintiff
2 genuinely fears subsequent acts of abuse by the defendant.
3 ~~With respect to a minor child who is living at home, the~~
4 ~~parent, legal guardian, or next friend seeking the protective~~
5 ~~order on behalf of the child shall:~~

6 ~~"(1) Have been an eyewitness to, or have direct~~
7 ~~evidence or affidavits from eyewitnesses of, the specific~~
8 ~~facts and circumstances that form the basis upon which relief~~
9 ~~is sought, if the party against whom the protection order is~~
10 ~~sought is also a parent, stepparent, or legal guardian of the~~
11 ~~minor child, or~~

12 ~~"(2) Have a reasonable cause to believe that the~~
13 ~~minor child is a victim of abuse to form the basis upon which~~
14 ~~relief is sought, if the party against whom the protection~~
15 ~~order is sought is a person other than a parent, stepparent,~~
16 ~~or legal guardian of a minor child.~~

17 ~~"(d) The court shall not enter mutual orders. The~~
18 ~~court shall issue separate orders that specifically and~~
19 ~~independently state the prohibited behavior and relief granted~~
20 ~~in order to protect the victim and the victim's immediate~~
21 ~~family and to clearly provide law enforcement with sufficient~~
22 ~~directives.~~

23 ~~"(e) Any plaintiff who files a petition under this~~
24 ~~chapter may do so through an attorney or may represent himself~~
25 ~~or herself ~~pro~~se throughout the legal process outlined in~~
26 ~~this chapter, including, but not limited to, the filing of~~

1 pleadings, motions, and any other legal documents with any
2 court, and the appearance in ex parte and formal court
3 proceedings on his or her behalf.

4 "(f) (1) The following information shall not be
5 contained on any court document made available to the public
6 and the defendant by the circuit clerk's office: The
7 plaintiff's home address and, if applicable, business address;
8 a plaintiff's home telephone number and, if applicable,
9 business telephone number; the home or business address or
10 telephone number of any member of the plaintiff's family or
11 household; or an address that would reveal the confidential
12 location of a shelter for victims of domestic violence as
13 defined in Section 30-6-1.

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

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

23 "a. Designate and provide to the court an
24 alternative address.

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

"(g) No court costs and fees shall be assessed for the filing and service of a petition for a protection order, for the issuance or registration of a protection order, or for the issuance of a witness subpoena under this chapter. Costs and fees may be assessed against the defendant at the discretion of the court.

"§30-5-8.

"(a) (1) A copy of ~~the~~ any notice of hearing or any order under this chapter shall be sent to the plaintiff within 24 hours of issuance, provided the plaintiff provides the court with current and accurate contact information, and to the law enforcement officials with jurisdiction ~~to enforce the order over the residence of the plaintiff.~~ The clerk of the court may furnish a certified copy of the notice of final hearing or final protection order, if any, electronically.

"(2) A copy of any notice of hearing or order under this chapter shall be issued to the defendant as soon as possible pursuant to Rule 4 of the Alabama Rules of Civil Procedure the petition and ex parte protection order, if issued, under this chapter shall be served upon the defendant as soon as possible pursuant to Rule 4 of the Alabama Rules of Civil Procedure. A copy of the notice of final hearing and

1 final protection order shall be issued to the defendant as
2 soon as possible.

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

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

18 "(c) Within 24 hours after ~~issuance of a protection~~
19 ~~order receiving proof of service of process of the petition~~
20 and ex parte order, if issued, the clerk of court shall
21 forward a copy of the written proof of service of process ~~and~~
22 ~~a copy of the protection order~~ to the law enforcement ~~agency~~
23 agencies with jurisdiction over the residence of the
24 plaintiff. The information shall be entered into the
25 Protection Order Registry of the Administrative Office of
26 Courts and shall be electronically transmitted by the

1 Administrative Office of Courts to the Alabama Law Enforcement
2 Agency for entry into the National Crime Information Center,
3 the National Law Enforcement Telecommunication System, and the
4 Law Enforcement Tactical System.

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

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 ex parte protection order and
14 other court actions related to the protection order. The
15 automated notice shall be made within 12 hours after a law
16 enforcement officer serves a an ex parte protection order upon
17 the defendant. The notification shall include, at a minimum,
18 the date, time, and where the protection order was served. The
19 information identifying the plaintiff referenced under
20 subdivision (2) shall be exempt from public records
21 requirements in Section 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

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

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

15 Section 2. Section 13A-6-139.1, Code of Alabama
16 1975, relating to definitions for certain domestic violence
17 offenses, is repealed.

18 Section 3. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 4. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.