

1 HB425  
2 197739-2  
3 By Representatives Faulkner, Rowe, Givan, Garrett, Coleman,  
4 Morris, Collins and Warren  
5 RFD: Judiciary  
6 First Read: 11-APR-19

ENGROSSED

A BILL

TO BE ENTITLED

AN ACT

Relating to domestic violence; to amend Sections 13A-6-130, 13A-6-131, as last amended by Act 2018-538, 2018 Regular Session, 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, and 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

1 Official Recompilation of the Constitution of Alabama of 1901,  
2 as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 13A-6-130, 13A-6-131, as last  
5 amended by Act 2018-538, 2018 Regular Session, 13A-6-132,  
6 13A-6-134, 13A-6-138, 13A-6-142, 15-10-3, 15-13-190, 15-23-68,  
7 30-5-2, 30-5-3, 30-5-5, and 30-5-8, Code of Alabama 1975, are  
8 amended to read as follows:

9 "§13A-6-130.

10 "(a) (1) A person commits the crime of domestic  
11 violence in the first degree if the person commits the crime  
12 of assault in the first degree pursuant to Section 13A-6-20~~or~~;  
13 aggravated stalking pursuant to Section 13A-6-91~~7~~; or burglary  
14 in the first degree pursuant to Section 13A-7-5 and the victim  
15 is a current or former spouse, parent, step-parent, child,  
16 step-child, any person with whom the defendant has a child in  
17 common, a present ~~or former~~ household member, or a person who  
18 has or had a dating relationship, ~~as defined in Section~~  
19 ~~13A-6-139.1~~, with the defendant.

20 "(2) For the purposes of this section, a household  
21 member excludes non-romantic or non-intimate co-residents, and  
22 a dating relationship means a current or former relationship  
23 of a romantic or intimate nature characterized by the  
24 expectation of affectionate or sexual involvement by either  
25 party.

26 "(b) Domestic violence in the first degree is a  
27 Class A felony, except that the defendant shall serve a

1 minimum term of imprisonment of one year without consideration  
2 of probation, parole, good time credits, or any other  
3 reduction in time for any second or subsequent conviction  
4 under this subsection.

5 ~~"(b)~~ (c) The minimum term of imprisonment imposed  
6 under subsection ~~(a)~~ (b) shall be double without consideration  
7 of probation, parole, good time credits, or any reduction in  
8 time if either of the following occur:

9 "(1) a A defendant willfully violates a protection  
10 order issued by a court of competent jurisdiction and in the  
11 process of violating the order commits domestic violence in  
12 the first degree.

13 ~~"(c) The minimum term of imprisonment imposed under~~  
14 ~~subsection (a) shall be double without consideration of~~  
15 ~~probation, parole, good time credits, or any reduction in time~~  
16 ~~if the~~ (2) The offense was committed in the presence of a  
17 child under the age of 14 years at the time of the offense, ~~if~~  
18 ~~the victim was the parent or legal guardian of the child who~~  
19 is the victim's child or step-child, the defendant's child or  
20 step-child, or who is a child residing in or visiting the  
21 household of the victim or defendant. For purposes of this  
22 subsection, "in the presence of a child" means ~~in the physical~~  
23 ~~presence of a child or having knowledge that a child is~~  
24 ~~present and may see or hear the act~~ that the child was in a  
25 position to see or hear the act.

26 "(d) The court shall make a written finding of fact,  
27 to be made part of the record upon conviction or adjudication,

1 of whether or not the act was committed in the presence of a  
2 child. ~~If a defendant has a trial by jury, if the jury finds~~  
3 ~~the defendant guilty, shall also find a special verdict as to~~  
4 ~~whether or not the defendant committed the act in the presence~~  
5 ~~of a child. If a defendant has a trial by jury and the jury~~  
6 ~~finds the defendant guilty, the jury shall also render a~~  
7 ~~special verdict as to whether or not the defendant committed~~  
8 ~~the act in the presence of a child.~~

9 "§13A-6-131.

10 "(a) (1) A person commits the crime of domestic  
11 violence in the second degree if the person commits the crime  
12 of assault in the second degree pursuant to Section 13A-6-21;  
13 the crime of intimidating a witness pursuant to Section  
14 13A-10-123; the crime of stalking pursuant to Section  
15 13A-6-90; the crime of burglary in the second or third degree  
16 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of  
17 criminal mischief in the first degree pursuant to Section  
18 13A-7-21 and the victim is a current or former spouse, parent,  
19 step-parent, child, step-child, any person with whom the  
20 defendant has a child in common, a present ~~or former~~ household  
21 member, or a person who has or had a dating relationship, ~~as~~  
22 ~~defined in Section 13A-6-139.1,~~ with the defendant.

23 "(2) For the purposes of this section, a household  
24 member excludes non-romantic or non-intimate co-residents, and  
25 a dating relationship means a current or former relationship  
26 of a romantic or intimate nature characterized by the

1 expectation of affectionate or sexual involvement by either  
2 party.

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

8 "~~(b)~~ (c) The minimum term of imprisonment imposed  
9 under subsection ~~(a)~~ (b) shall be double without consideration  
10 of probation, parole, good time credits, or any reduction in  
11 time if either of the following applies:

12 "(1) ~~a~~ A defendant willfully violates a protection  
13 order issued by a court of competent jurisdiction and in the  
14 process of violating the order commits domestic violence in  
15 the second degree.

16 "~~(c) 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 the~~ (2) The offense was committed in the presence of a  
20 child under the age of 14 years at the time of the offense, ~~if~~  
21 ~~the victim was the parent or legal guardian of the child who~~  
22 is the victim's child or step-child, the defendant's child or  
23 step-child, or who is a child residing in or visiting the  
24 household of the victim or defendant. For purposes of this  
25 subsection, "in the presence of a child" means ~~in the physical~~  
26 ~~presence of a child or having knowledge that a child is~~

1 ~~present and may see or hear the act~~ that the child was in a  
2 position to see or hear the act.

3 "(d) The court shall make a written finding of fact,  
4 to be made part of the record upon conviction or adjudication,  
5 of whether or not the act was committed in the presence of a  
6 child. ~~If a defendant has a trial by jury, if the jury finds~~  
7 ~~the defendant guilty, shall also find a special verdict as to~~  
8 ~~whether or not the defendant committed the act in the presence~~  
9 ~~of a child. If a defendant has a trial by jury and the jury~~  
10 ~~finds the defendant guilty, the jury shall also render a~~  
11 ~~special verdict as to whether or not the defendant committed~~  
12 ~~the act in the presence of a child.~~

13 "§13A-6-132.

14 "(a) (1) A person commits domestic violence in the  
15 third degree if the person commits the crime of assault in the  
16 third degree pursuant to Section 13A-6-22; the crime of  
17 menacing pursuant to Section 13A-6-23; the crime of reckless  
18 endangerment pursuant to Section 13A-6-24; the crime of  
19 criminal coercion pursuant to Section 13A-6-25; the crime of  
20 harassment pursuant to subsection (a) of Section 13A-11-8; the  
21 crime of criminal surveillance pursuant to Section 13A-11-32;  
22 the crime of harassing communications pursuant to subsection  
23 (b) of Section 13A-11-8; the crime of criminal trespass in the  
24 third degree pursuant to Section 13A-7-4; the crime of  
25 criminal mischief in the second or third degree pursuant to  
26 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the  
27 third degree pursuant to Section 13A-7-43; and the victim is a

1 current or former spouse, parent, step-parent, child,  
2 step-child, any person with whom the defendant has a child in  
3 common, a present ~~or former~~ household member, or a person who  
4 has or had a dating relationship, ~~as defined in Section~~  
5 ~~13A-6-139.1~~, with the defendant.

6 "(2) For the purpose of this section, a household  
7 member excludes non-romantic or non-intimate co-residents, and  
8 a dating relationship means a current or former relationship  
9 of a romantic or intimate nature characterized by the  
10 expectation of affectionate or sexual involvement by either  
11 party.

12 "(b) Domestic violence in the third degree is a  
13 Class A misdemeanor. ~~(b)~~ The minimum term of imprisonment  
14 imposed under subsection (a) shall be 30 days without  
15 consideration of reduction in time if a defendant willfully  
16 violates a protection order issued by a court of competent  
17 jurisdiction and in the process of violating the order commits  
18 domestic violence in the third degree.

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

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

26 "(e) If the defendant has a previous conviction for  
27 domestic violence in the first degree pursuant to Section



1 13A-6-130, domestic violence in the second degree pursuant to  
2 Section 13A-6-131, domestic violence by strangulation or  
3 suffocation pursuant to Section 13A-6-138, or a domestic  
4 violence conviction or other substantially similar conviction  
5 from another state or jurisdiction, a conviction under  
6 subsection (a) is a Class C felony.

7 ~~"(e)~~ (f) For purposes of determining second, third,  
8 or subsequent number of convictions, convictions in municipal  
9 court shall be included.

10 "§13A-6-134.

11 "(a) If a law enforcement officer receives  
12 complaints of domestic violence from two or more opposing  
13 persons, or if both parties have injuries, the officer shall  
14 evaluate each complaint separately to determine who was the  
15 predominant aggressor. If the officer determines that one  
16 person was the predominant physical aggressor, that person may  
17 be arrested; however, a person who acts in a reasonable manner  
18 to protect himself or herself or another family or household  
19 member from domestic violence, ~~as defined in Section~~  
20 ~~13A-6-139.1,~~ may not be arrested for a violation of Section  
21 13A-6-130, 13A-6-131, ~~or~~ 13A-6-132, or 13A-6-138. In  
22 determining whether a person is the predominant aggressor the  
23 officer shall consider all of the following:

24 "(1) Prior complaints of domestic violence.

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

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

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

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

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

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

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

17           "(c) (1) In addition to victim information services  
18 required pursuant to Section 15-23-62, a law enforcement  
19 officer, at the time of initial investigation, shall give a  
20 victim of domestic violence, ~~as those terms are defined in~~  
21 ~~Section 13A-6-139.1,~~ notice of the legal rights and remedies  
22 available on a standard form developed and distributed by the  
23 Alabama State Law Enforcement Agency pursuant to subdivision  
24 (2).

25           "(2) The agency shall develop a "Legal Rights and  
26 Remedies Notice to Victims" that includes a general summary of  
27 the provisions of the Protection From ~~Domestic Violence~~ Abuse

1 Act using language a layperson may understand and the  
2 statewide domestic violence hotline number, and shall  
3 distribute the notice to ~~be used by~~ all law enforcement  
4 agencies throughout the state.

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

10 "§13A-6-138.

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

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

16 "(2) SUFFOCATION. Intentionally causing asphyxia by  
17 depriving a person of air or by preventing a person from  
18 breathing through the inhalation of toxic gases or by blocking  
19 or obstructing the airway of a person, by any means other than  
20 by strangulation.

21 "(b) A person commits the crime of domestic violence  
22 by strangulation or suffocation if he or she commits an  
23 assault with intent to cause physical harm or commits the  
24 crime of menacing pursuant to Section 13A-6-23, by  
25 strangulation or suffocation or attempted strangulation or  
26 suffocation ~~against a victim, as the term is defined in~~  
27 ~~Section 13A-6-139.1~~ and the victim is a current or former

1 spouse, parent, step-parent, child, step-child, any person  
2 with whom the defendant has a child in common, a present  
3 household member, or a person who has or had a dating  
4 relationship. For the purpose of this section, a household  
5 member excludes non-romantic or non-intimate co-residents, and  
6 a dating relationship means a current or former relationship  
7 of a romantic or intimate nature characterized by the  
8 expectation of affectionate or sexual involvement by either  
9 party.

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

12 "§13A-6-142.

13 "~~(a) A violation of a domestic violence protection~~  
14 ~~order is a Class A misdemeanor which shall be punishable as~~  
15 ~~provided by law~~ A person commits the crime of violation of a  
16 domestic violence protection order if the person knowingly  
17 commits any act prohibited by a domestic violence protection  
18 order or willfully fails to abide by any term of a domestic  
19 violence protection order.

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

1 ~~punishable by a minimum sentence of 120 days imprisonment~~  
2 ~~which may not be suspended~~ is a Class C felony.

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.

26 "(6) When the officer has actual knowledge that a  
27 warrant for the person's arrest for the commission of a felony

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

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

14 "(8) When an offense involves a crime of domestic  
15 violence as defined in Section 13A-6-139.1, including domestic  
16 violence in the first degree, pursuant to Section 13A-6-130,  
17 domestic violence in the second degree, pursuant to Section  
18 13A-6-131, domestic violence in the third degree, pursuant to  
19 Section 13A-6-132, interference with a domestic violence  
20 emergency call, in violation of Section 13A-6-137, or domestic  
21 violence by strangulation or suffocation, pursuant to Section  
22 13A-6-138, or elder abuse as defined in Section 38-9F-3, and  
23 the arrest is based on probable cause, ~~regardless of whether~~  
24 ~~the offense is a felony or misdemeanor.~~

25 "(b) When a law enforcement officer investigates an  
26 allegation of domestic violence or elder abuse, whether or not  
27 an arrest is made, the officer shall make a written report of

1 the alleged incident, including a statement of the complaint,  
2 and the disposition of the case.

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

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

17 " (b) The judge or magistrate ~~shall make findings on~~  
18 ~~the record concerning those determinations and may impose~~  
19 conditions of release or bail on the person to protect the  
20 alleged victim of domestic violence or the person protected by  
21 a protection order, and to ensure the appearance of the person  
22 at a subsequent court proceeding. The conditions may include,  
23 but need not be limited to, the following:

24 "(1) enjoining Enjoining the person from threatening  
25 to commit or committing acts of domestic violence against the  
26 alleged victim.



1           "(2) a. ~~restraining~~ Restraining and enjoining the  
2 defendant from contacting the victim,~~as described in Section~~  
3 ~~30-5-7, .~~

4           "b. For the purposes of this subsection, contacting  
5 includes, but is not limited to, communicating with the victim  
6 verbally or in any written form, either in person,  
7 telephonically, electronically, or in any other manner, either  
8 directly or indirectly through a third person.

9           "(3) ~~prohibiting~~ Prohibiting the person from  
10 possessing a firearm or other weapon specified by the court,  
11 except when such weapon is necessary for employment as a peace  
12 officer or military personnel,~~and.~~

13           "(4) ~~issuing~~ Issuing any other order or modification  
14 of orders above required to protect the safety of the alleged  
15 victim or to ensure the appearance of the person in court.

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

1 enforcement with current and accurate contact information, ~~in~~  
2 ~~accordance with the process outlined in Section 30-5-8.~~

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

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

22 "§15-23-68.

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

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

8 "§30-5-2.

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

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

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

16 "b. Assault. Assault as defined under Sections  
17 13A-6-20 to 13A-6-22, inclusive.

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

22 "d. Child Abuse. Torture or willful abuse of a  
23 child, aggravated child abuse, or chemical endangerment of a  
24 child as provided in Chapter 15, commencing with Section  
25 26-15-1, of Title 26, known as the Alabama Child Abuse Act.

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

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

6           "g. Harassment. Harassment as defined under Section  
7 13A-11-8.

8           "h. Kidnapping. Kidnapping as defined under Sections  
9 13A-6-43 and 13A-6-44.

10          "i. Menacing. Menacing as defined under Section  
11 13A-6-23.

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

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

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

20          "m. Stalking. Stalking as defined under Sections  
21 13A-6-90 to 13A-6-94, inclusive.

22          "n. Theft. ~~Knowingly obtaining or exerting~~  
23 ~~unauthorized control or obtaining control by deception over~~  
24 ~~property owned by or jointly owned by the plaintiff and~~  
25 ~~another. Theft includes theft~~ Theft as defined under Sections  
26 13A-8-1 to 13A-8-5, inclusive.

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

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

9           "(3) DATING RELATIONSHIP. A relationship or former  
10 relationship of a romantic or intimate nature characterized by  
11 the expectation of affectionate or sexual involvement by  
12 either party.

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

17           ~~"b. a.~~ A dating relationship includes the period of  
18 engagement to be married.

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

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

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

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

4           "(7) VICTIM. An individual who is related in any of  
5 the following ways to the person who commits an act of abuse  
6 ~~in any of the following ways:~~

7           ~~"a. Is related by marriage to the defendant,~~  
8 ~~including a common law marriage.~~

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

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

15           ~~"d. c.~~ c. Has or had a dating relationship with the  
16 defendant. A dating relationship does not include a casual or  
17 business relationship or a relationship that ended more than  
18 12 months prior to the filing of the petition for a protection  
19 order.

20           ~~"e. d.~~ d. Is a current or former household member. A  
21 household member is a person maintaining or having maintained  
22 a living arrangement with the defendant where he or she is in,  
23 or was engaged in, a romantic or sexual relationship For  
24 purposes of this chapter, a household member excludes  
25 non-romantic or non-intimate co-residents.

1           "~~f.~~ e. A relative of a current or former household  
2 member as defined in paragraph ~~e.~~ d. who also lived with the  
3 defendant.

4           "~~g.~~ f. An individual who is a parent, stepparent,  
5 child, or stepchild ~~and who is in or has maintained a living~~  
6 ~~arrangement with the defendant.~~

7           "§30-5-3.

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

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

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

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

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

20           "(3) Where the abuse occurred.

21           "(4) Where a civil matter is pending before the  
22 court in which the plaintiff and the defendant are opposing  
23 parties.

24           "(d) When custody, visitation, or support, or a  
25 combination of them, of a child or children has been  
26 established in a previous court order in this state, or an  
27 action containing any of the issues above is pending in a

1 court in this state in which the plaintiff and the defendant  
2 are opposing parties, a copy of any temporary ex parte  
3 protection order issued pursuant to this chapter and the case  
4 giving rise thereto should be transferred to the court of  
5 original venue of custody, visitation, or support for further  
6 disposition as soon as practical taking into account the  
7 safety of the plaintiff and any children.

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

10 "§30-5-5.

11 "(a) The following persons have standing to file a  
12 sworn petition for a protection order under this chapter as a  
13 plaintiff:

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

19 "(2) A parent, legal guardian, next friend, or court  
20 appointed guardian ad litem, or the State Department of Human  
21 Resources may petition for relief on behalf of the following:

22 "a. A minor child.

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

25 "(b) Standardized petitions for actions pursuant to  
26 this chapter shall be made available through the circuit  
27 clerks' offices around the state. The circuit clerk shall not



1 ~~be required to~~ provide assistance to persons in completing the  
2 forms or in presenting their case to the court.

3 "(c) A sworn petition shall allege the incidents of  
4 abuse, the specific facts and circumstances that form the  
5 basis upon which relief is sought, and that the plaintiff  
6 genuinely fears subsequent acts of abuse by the defendant.  
7 ~~With respect to a minor child who is living at home, the~~  
8 ~~parent, legal guardian, or next friend seeking the protective~~  
9 ~~order on behalf of the child shall:~~

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

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

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

1           "(e) Any plaintiff who files a petition under this  
2 chapter may do so through an attorney or may represent himself  
3 or herself ~~pro se~~ throughout the legal process outlined in  
4 this chapter, including, but not limited to, the filing of  
5 pleadings, motions, and any other legal documents with any  
6 court, and the appearance in ex parte and formal court  
7 proceedings on his or her behalf.

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

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

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

1           "a. Designate and provide to the court an  
2 alternative address.

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

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

12           "§30-5-8.

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

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

1 order under this chapter 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 State Law Enforcement Agency for entry into the  
8 ~~National Crime Information Center, the National Law~~  
9 ~~Enforcement Telecommunication System, and the Law Enforcement~~  
10 ~~Tactical System. Such The information shall include, but is~~  
11 ~~National Crime Information Center, the National Law~~  
12 ~~Enforcement Telecommunication System, and the~~ Law Enforcement  
13 Tactical System and into the National Crime Information Center  
14 as approved by the Alabama Justice Information Commission.  
15 ~~Such~~ The information shall include, but is not limited to,  
16 information as to the existence and status of any protection  
17 orders for verification purposes.

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

23 "(c) Within 24 hours after ~~issuance of a protection~~  
24 ~~order~~ receiving proof of service of process of the petition  
25 and ex parte order, if issued, the clerk of court shall  
26 ~~forward a copy of the written proof of service of process and~~  
27 ~~a copy of the protection order to the law enforcement agency~~

1 ~~agencies with jurisdiction over the residence of the~~  
2 ~~plaintiff. The information shall be entered into the~~  
3 ~~Protection Order Registry of the Administrative Office of~~  
4 ~~Courts and shall be electronically transmitted by the~~  
5 ~~Administrative Office of Courts to the Alabama State Law~~  
6 ~~Enforcement Agency for entry into the National Crime~~  
7 ~~Information Center , the National Law Enforcement~~  
8 ~~Telecommunication System, and the Law Enforcement Tactical~~  
9 ~~System. forward the written proof of service of process and a~~  
10 ~~copy of the protection order to the law enforcement agency~~  
11 ~~with jurisdiction over the residence of the plaintiff. The~~  
12 ~~information shall be entered~~ enter the service date into the  
13 Protection Order Registry of the Administrative Office of  
14 Courts and the information shall be electronically transmitted  
15 by the Administrative Office of Courts to the Alabama State  
16 Law Enforcement Agency ~~for entry into the National Crime~~  
17 ~~Information Center, the National Law Enforcement~~  
18 ~~Telecommunication System, and.~~ The Alabama State Law  
19 Enforcement Agency shall enter the information into the Law  
20 Enforcement Tactical System and into the National Crime  
21 Information Center as approved by the Alabama Justice  
22 Information Commission.

23 "(d) If a court vacates or modifies a protection  
24 order, ~~notice~~ the order shall be sent within 24 hours to the  
25 plaintiff, provided that the plaintiff provides the court with  
26 current and accurate contact information, to the defendant,

1 and to the law enforcement officials ~~with jurisdiction to~~  
2 ~~enforce the order~~ where the victim resides.

3 (e) (1) The Alabama State Law Enforcement Agency  
4 shall develop an automated process by which a plaintiff may  
5 request notification of service of the ex parte protection  
6 order and other court actions related to the protection order  
7 as determined and approved by the Alabama Justice Information  
8 Commission. The automated notice shall be made within 12 hours  
9 after a law enforcement officer serves ~~a~~ an ex parte  
10 protection order upon the defendant. The notification shall  
11 include, at a minimum, the date, time, and where the  
12 protection order was served. The information identifying the  
13 plaintiff referenced under subdivision (2) shall be exempt  
14 from public records requirements in Section 36-12-40.

15 "(2) Upon implementation of the automated process,  
16 information held by the clerks and law enforcement agencies in  
17 conjunction with this process that reveals a home or  
18 employment telephone number, cellular telephone number, home  
19 or employment address, electronic mail address, or other  
20 electronic means of identification of a plaintiff requesting  
21 notification of service of a protection order or other court  
22 actions is exempt from Section 36-12-40. Notwithstanding the  
23 provisions of this subsection, any state or federal agency  
24 that is authorized to have access to such information by any  
25 provision of law shall be granted access in the furtherance of  
26 the agency's statutory duties.

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

8           Section 2. Section 13A-6-139.1, Code of Alabama  
9 1975, relating to definitions for certain domestic violence  
10 offenses, is repealed.

11           Section 3. Although this bill would have as its  
12 purpose or effect the requirement of a new or increased  
13 expenditure of local funds, the bill is excluded from further  
14 requirements and application under Amendment 621, now  
15 appearing as Section 111.05 of the Official Recompilation of  
16 the Constitution of Alabama of 1901, as amended, because the  
17 bill defines a new crime or amends the definition of an  
18 existing crime.

19           Section 4. This act shall become effective  
20 immediately following its passage and approval by the  
21 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 ..... 11-APR-19

Read for the second time and placed  
on the calendar 1 amendment ..... 25-APR-19

Read for the third time and passed  
as amended..... 02-MAY-19

Yeas 98, Nays 0, Abstains 0

Jeff Woodard  
Clerk