

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

1
2 ENROLLED, An Act,

3 Relating to domestic violence; to amend Sections
4 13A-6-130, 13A-6-131, as last amended by Act 2018-538, 2018
5 Regular Session, 13A-6-132, 13A-6-134, 13A-6-138, 13A-6-142,
6 15-10-3, 15-13-190, 15-23-68, 30-5-2, 30-5-3, 30-5-5, and
7 30-5-8, Code of Alabama 1975, to clarify certain definitions;
8 to further provide for requirements for sworn petitions for
9 protection orders; to further provide for notice of hearing
10 and service of process requirements; to further provide for
11 fines and penalties for violations of protection orders and
12 arrests without warrants for violations of protection orders;
13 to clarify provisions relating to the release and bail of
14 domestic violence offenders; and to revise provisions relating
15 to domestic violence by strangulation or suffocation; to
16 repeal Section 13A-6-139.1, Code of Alabama 1975, relating to
17 definitions for certain domestic violence offenses; and in
18 connection therewith would have as its purpose or effect the
19 requirement of a new or increased expenditure of local funds
20 within the meaning of Amendment 621 of the Constitution of
21 Alabama of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of Alabama of 1901,
23 as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§13A-6-130.

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

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

23 "(b) Domestic violence in the first degree is a
24 Class A felony, except that the defendant shall serve a
25 minimum term of imprisonment of one year without consideration

1 of probation, parole, good time credits, or any other
2 reduction in time for any second or subsequent conviction
3 under this subsection.

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

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

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

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

11 "§13A-6-131.

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

1 "(2) For the purposes of this section, a household
2 member excludes non-romantic or non-intimate co-residents, and
3 a dating relationship means a current or former relationship
4 of a romantic or intimate nature characterized by the
5 expectation of affectionate or sexual involvement by either
6 party.

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

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

16 "(1) ~~a~~ A defendant willfully violates a protection
17 order issued by a court of competent jurisdiction and in the
18 process of violating the order commits domestic violence in
19 the second degree.

20 "~~(c)~~ ~~The minimum term of imprisonment imposed under~~
21 ~~subsection (a) shall be double without consideration of~~
22 ~~probation, parole, good time credits, or any reduction in time~~
23 ~~if the~~ (2) The offense was committed in the presence of a
24 child under the age of 14 years at the time of the offense, ~~if~~
25 ~~the victim was the parent or legal guardian of the child~~ who

1 is the victim's child or step-child, the defendant's child or
2 step-child, or who is a child residing in or visiting the
3 household of the victim or defendant. For purposes of this
4 subsection, "in the presence of a child" means ~~in the physical~~
5 ~~presence of a child or having knowledge that a child is~~
6 ~~present and may see or hear the act~~ that the child was in a
7 position to see or hear the act.

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

18 "§13A-6-132.

19 "(a) (1) A person commits domestic violence in the
20 third degree if the person commits the crime of assault in the
21 third degree pursuant to Section 13A-6-22; the crime of
22 menacing pursuant to Section 13A-6-23; the crime of reckless
23 endangerment pursuant to Section 13A-6-24; the crime of
24 criminal coercion pursuant to Section 13A-6-25; the crime of
25 harassment pursuant to subsection (a) of Section 13A-11-8; the

1 crime of criminal surveillance pursuant to Section 13A-11-32;
2 the crime of harassing communications pursuant to subsection
3 (b) of Section 13A-11-8; the crime of criminal trespass in the
4 third degree pursuant to Section 13A-7-4; the crime of
5 criminal mischief in the second or third degree pursuant to
6 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the
7 third degree pursuant to Section 13A-7-43; and the victim is a
8 current or former spouse, parent, step-parent, child,
9 step-child, any person with whom the defendant has a child in
10 common, a present ~~or former~~ household member, or a person who
11 has or had a dating relationship, ~~as defined in Section~~
12 ~~13A-6-139.1~~, with the defendant.

13 "(2) For the purpose of this section, a household
14 member excludes non-romantic or non-intimate co-residents, and
15 a dating relationship means a current or former relationship
16 of a romantic or intimate nature characterized by the
17 expectation of affectionate or sexual involvement by either
18 party.

19 "(b) Domestic violence in the third degree is a
20 Class A misdemeanor. ~~(b)~~ The minimum term of imprisonment
21 imposed under subsection (a) shall be 30 days without
22 consideration of reduction in time if a defendant willfully
23 violates a protection order issued by a court of competent
24 jurisdiction and in the process of violating the order commits
25 domestic violence in the third degree.

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

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

8 "(e) If the defendant has a previous conviction for
9 domestic violence in the first degree pursuant to Section
10 13A-6-130, domestic violence in the second degree pursuant to
11 Section 13A-6-131, domestic violence by strangulation or
12 suffocation pursuant to Section 13A-6-138, or a domestic
13 violence conviction or other substantially similar conviction
14 from another state or jurisdiction, a conviction under
15 subsection (a) is a Class C felony.

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

19 "§13A-6-134.

20 "(a) If a law enforcement officer receives
21 complaints of domestic violence from two or more opposing
22 persons, or if both parties have injuries, the officer shall
23 evaluate each complaint separately to determine who was the
24 predominant aggressor. If the officer determines that one
25 person was the predominant physical aggressor, that person may

1 be arrested; however, a person who acts in a reasonable manner
2 to protect himself or herself or another family or household
3 member from domestic violence, ~~as defined in Section~~
4 ~~13A-6-139.1~~, may not be arrested for a violation of Section
5 13A-6-130, 13A-6-131, ~~or~~ 13A-6-132, or 13A-6-138. In
6 determining whether a person is the predominant aggressor the
7 officer shall consider all of the following:

8 "(1) Prior complaints of domestic violence.

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

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

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

17 "(5) Whether one of the persons acted in
18 self-defense.

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

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

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

4 "(c) (1) In addition to victim information services
5 required pursuant to Section 15-23-62, a law enforcement
6 officer, at the time of initial investigation, shall give a
7 victim of domestic violence, ~~as those terms are defined in~~
8 ~~Section 13A-6-139.1,~~ notice of the legal rights and remedies
9 available on a standard form developed and distributed by the
10 Alabama State Law Enforcement Agency pursuant to subdivision
11 (2).

12 "(2) The agency shall develop a "Legal Rights and
13 Remedies Notice to Victims" that includes a general summary of
14 the provisions of the Protection From ~~Domestic Violence~~ Abuse
15 Act using language a layperson may understand and the
16 statewide domestic violence hotline number, and shall
17 distribute the notice to ~~be used by~~ all law enforcement
18 agencies throughout the state.

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

24 "§13A-6-138.

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

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

6 "(2) SUFFOCATION. Intentionally causing asphyxia by
7 depriving a person of air or by preventing a person from
8 breathing through the inhalation of toxic gases or by blocking
9 or obstructing the airway of a person, by any means other than
10 by strangulation.

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

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

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

5 "§13A-6-142.

6 "~~(a) A violation of a domestic violence protection~~
7 ~~order is a Class A misdemeanor which shall be punishable as~~
8 ~~provided by law~~ A person commits the crime of violation of a
9 domestic violence protection order if the person knowingly
10 commits any act prohibited by a domestic violence protection
11 order or willfully fails to abide by any term of a domestic
12 violence protection order.

13 "(b) A violation of a domestic violence protection
14 order is a Class A misdemeanor which shall be punishable as
15 provided by law. A second conviction for violation of a
16 domestic violence protection order, in addition to any other
17 penalty or fine, shall be punishable by a minimum of 30 days
18 imprisonment which may not be suspended. A third or subsequent
19 conviction ~~shall, in addition to any other penalty or fine, be~~
20 ~~punishable by a minimum sentence of 120 days imprisonment~~
21 ~~which may not be suspended~~ is a Class C felony.

22 "(c) In addition to any other fine or penalty
23 provided by law, the court shall order the defendant to pay an
24 additional fine of fifty dollars (\$50) for a violation of

1 domestic violence protection order to be distributed to the
2 Domestic Violence Trust Fund, established by Section 30-6-11.

3 "§15-10-3.

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

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

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

11 "(3) When a felony has been committed and the
12 officer has ~~reasonable~~ probable cause to believe that the
13 person arrested committed the felony.

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

18 "(5) When a charge has been made, upon ~~reasonable~~
19 probable cause, that the person arrested has committed a
20 felony.

21 "(6) When the officer has actual knowledge that a
22 warrant for the person's arrest for the commission of a felony
23 or misdemeanor has been issued, provided the warrant was
24 issued in accordance with this chapter. However, upon request
25 the officer shall show the warrant to the arrested person as

1 soon as possible. If the officer does not have the warrant in
2 his or her possession at the time of arrest the officer shall
3 inform the defendant of the offense charged and of the fact
4 that a warrant has been issued.

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

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

22 "(b) When a law enforcement officer investigates an
23 allegation of domestic violence or elder abuse, whether or not
24 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~~

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

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

1 "(1) ~~enjoining~~ Enjoining the person from threatening
2 to commit or committing acts of domestic violence against the
3 alleged victim~~;~~ .

4 "(2) a. ~~restraining~~ Restraining and enjoining the
5 defendant from contacting the victim~~, as described in Section~~
6 ~~30-5-7;~~ .

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

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

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

19 "(c) If conditions of release are imposed, the judge
20 or magistrate shall issue a written order for conditional
21 release, immediately distribute a copy of the order to the law
22 enforcement agency having custody of the arrested or charged
23 person, place information pertaining to the order in the
24 domestic violence protection order registry, and provide the
25 law enforcement agency with any available information

1 concerning the location of the alleged victim in a manner that
2 protects the safety of the victim. Law enforcement shall
3 provide a copy of the written order to the victim within 24
4 hours of receipt, provided that the victim provides law
5 enforcement with current and accurate contact information, ~~in~~
6 ~~accordance with the process outlined in Section 30-5-8.~~

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

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

1 "§15-23-68.

2 "The court shall provide a waiting area for the
3 victim separate from the defendant, relatives of the
4 defendant, and defense witnesses, if an area is available and
5 the use of the area is practical. If a separate waiting area
6 is not available, or its use impractical, the court shall
7 minimize contact of the victim with the defendant, relatives
8 of the defendant, and defense witnesses during court
9 proceedings. For victims of domestic violence, ~~as the terms~~
10 ~~are defined in Sections 13A-6-139.1 and 30-5-2,~~ if a separate
11 waiting area is not available, the presiding circuit judge
12 shall create procedures so that the defendant has no contact
13 with the victim.

14 "§30-5-2.

15 "In this chapter, the following words shall have the
16 following meanings unless the context clearly indicates
17 otherwise:

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

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

22 "b. Assault. Assault as defined under Sections
23 13A-6-20 to 13A-6-22, inclusive.

24 "c. Attempt. ~~With the intent to commit any crime~~
25 ~~under this section or any other criminal act under the laws of~~

1 ~~this state, performing any overt act towards the commission of~~
2 ~~the offense~~ Attempt as defined under Section 13A-4-2.

3 "d. Child Abuse. Torture or willful abuse of a
4 child, aggravated child abuse, or chemical endangerment of a
5 child as provided in Chapter 15, commencing with Section
6 26-15-1, of Title 26, known as the Alabama Child Abuse Act.

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

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

14 "g. Harassment. Harassment as defined under Section
15 13A-11-8.

16 "h. Kidnapping. Kidnapping as defined under Sections
17 13A-6-43 and 13A-6-44.

18 "i. Menacing. Menacing as defined under Section
19 13A-6-23.

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

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

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

4 "m. Stalking. Stalking as defined under Sections
5 13A-6-90 to 13A-6-94, inclusive.

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

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

13 "(2) COURT. A circuit court judge, ~~a district court~~
14 ~~judge, or a district court judge appointed as~~ a special
15 circuit court judge ~~appointed pursuant to Section 12-1-14 or~~
16 ~~12-1-14.1. A law or a district court judge may be~~ designated
17 by a written standing order from the presiding circuit court
18 judge to handle protection from abuse cases.

19 "(3) DATING RELATIONSHIP. A relationship or former
20 relationship of a romantic or intimate nature characterized by
21 the expectation of affectionate or sexual involvement by
22 either party.

23 "~~a. A significant relationship of a romantic or~~
24 ~~intimate nature characterized by the expectation of~~

1 ~~affectionate or sexual involvement over a period of time and~~
2 ~~on a continuing basis during the course of the relationship.~~

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

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

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

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

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

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

20 ~~"a. Is related by marriage to the defendant,~~
21 ~~including a common law marriage.~~

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

24 ~~"c. b.~~ Has a child in common with the defendant
25 regardless of whether the victim and defendant have ever been

1 married and regardless of whether they are currently residing
2 or have in the past resided together in the same household.

3 ~~"d. c.~~ Has or had a dating relationship with the
4 defendant. A dating relationship does not include a casual or
5 business relationship or a relationship that ended more than
6 12 months prior to the filing of the petition for a protection
7 order.

8 ~~"e. d.~~ Is a current or former household member. ~~A~~
9 ~~household member is a person maintaining or having maintained~~
10 ~~a living arrangement with the defendant where he or she is in,~~
11 ~~or was engaged in, a romantic or sexual relationship~~ For
12 purposes of this chapter, a household member excludes
13 non-romantic or non-intimate co-residents.

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

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

20 "§30-5-3.

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

23 "(b) A protection order may be requested in any
24 pending civil or domestic relations action, as an independent

1 civil action, or in conjunction with the preliminary, final,
2 or post-judgment relief in a civil action.

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

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

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

9 "(3) Where the abuse occurred.

10 "(4) Where a civil matter is pending before the
11 court in which the plaintiff and the defendant are opposing
12 parties.

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

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

1 "§30-5-5.

2 "(a) The following persons have standing to file a
3 sworn petition for a protection order under this chapter as a
4 plaintiff:

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

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

13 "a. A minor child.

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

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

21 "(c) A sworn petition shall allege the incidents of
22 abuse, the specific facts and circumstances that form the
23 basis upon which relief is sought, and that the plaintiff
24 genuinely fears subsequent acts of abuse by the defendant.
25 ~~With respect to a minor child who is living at home, the~~

1 ~~parent, legal guardian, or next friend seeking the protective~~
2 ~~order on behalf of the child shall:~~

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

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

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

20 ~~"(e) Any plaintiff who files a petition under this~~
21 ~~chapter may do so through an attorney or may represent himself~~
22 ~~or herself ~~pro se~~ throughout the legal process outlined in~~
23 ~~this chapter, including, but not limited to, the filing of~~
24 ~~pleadings, motions, and any other legal documents with any~~

1 court, and the appearance in ex parte and formal court
2 proceedings on his or her behalf.

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

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

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

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

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

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

10 "§30-5-8.

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

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

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

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

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

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

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

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

13 Section 2. Section 13A-6-139.1, Code of Alabama
14 1975, relating to definitions for certain domestic violence
15 offenses, is repealed.

16 Section 3. 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.

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 02-MAY-19, as amended.

Jeff Woodard
Clerk

Senate

14-MAY-19

Passed