

1 HB2
2 214109-2
3 By Representative Treadaway
4 RFD: Judiciary
5 First Read: 11-JAN-22
6 PFD: 06/28/2021

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to crimes and offenses; to create the
9 Anti-Aggravated Riot Act; to amend Sections 13A-6-21,
10 13A-11-1, 13A-11-3, 13A-11-4, and 15-10-3, Code of Alabama
11 1975, and to add Sections 13A-11-3.1 and 13A-11-5.1 to the
12 Code of Alabama 1975, to create the crimes of assault against
13 a first responder in the first and second degrees; to further
14 provide for the crimes of riot and inciting to riot; to create
15 the crime of aggravated riot; to provide further for the crime
16 of assault in the second degree; to create the crime of
17 unlawful traffic interference; to further provide for
18 penalties for certain violations; to further provide for the
19 arrest, release, and bail of certain offenders; to provide
20 restrictions on the issuance of certain state funds to a
21 political subdivision that abolishes or reduces funding to a
22 local law enforcement agency under certain conditions; and in
23 connection therewith would have as its purpose or effect the
24 requirement of a new or increased expenditure of local funds
25 within the meaning of Amendment 621 of the Constitution of
26 Alabama of 1901, as amended by Amendment 890, now appearing as

1 Section 111.05 of the Official ReCompilation of the
2 Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as the Anti-Aggravated Riot Act.

6 Section 2. (a) As used in this section, the term
7 first responder includes state, local, and tribal law
8 enforcement officers; dogs or horses employed by a law
9 enforcement agency for the principal purpose of aiding in the
10 detection of criminal activity, enforcement of laws, or
11 apprehension of criminal offenders; detention and correctional
12 officers at any municipal or county jail or state
13 penitentiary; fire department and voluntary fire department
14 personnel; and emergency medical personnel who are actively
15 employed or on active volunteer status.

16 (b) A person commits the crime of assault against a
17 first responder in the first degree when the person
18 intentionally does any of the following to a first responder
19 who is engaged in the performance of his or her official
20 duties:

21 (1) Causes serious physical injury to the first
22 responder.

23 (2) Causes physical injury by deadly weapon or
24 dangerous instrument to the first responder.

25 (3) Causes physical injury to the first responder by
26 strangulation or suffocation, or an attempt thereof.

1 (4) Causes physical injury to the first responder
2 during a riot, aggravated riot, or unlawful assembly.

3 (5) Causes or attempts to cause a first responder to
4 come into contact with bodily fluids, unless the first
5 responder consented to the contact or the contact was
6 necessary to provide medical care. For purposes of this
7 subdivision, "bodily fluids" has the same meaning as defined
8 under Section 13A-6-242, Code of Alabama 1975.

9 (c) Assault against a first responder in the first
10 degree is a Class B felony. The defendant shall serve a
11 minimum term of imprisonment of six months without
12 consideration of probation, parole, good time credits, or any
13 other reduction in time.

14 (d) In addition to any fine, the defendant shall pay
15 restitution, including, but not limited to, all of the
16 following:

17 (1) The costs of any and all medical treatment by
18 any victim of the violation, including physical and
19 occupational therapy and rehabilitation.

20 (2) The cost of any damage to property, or full
21 value of property if destroyed or damaged beyond repair.

22 (3) The cost of any and all other losses suffered by
23 any victim as a result of a violation of this section.

24 Section 3. (a) As used in this section, the term
25 first responder includes state, local, and tribal law
26 enforcement officers; dogs or horses employed by a law
27 enforcement agency for the principal purpose of aiding in the

1 detection of criminal activity, enforcement of laws, or
2 apprehension of criminal offenders; detention and correctional
3 officers at any municipal or county jail or state
4 penitentiary; fire department and voluntary fire department
5 personnel; and emergency medical personnel who are actively
6 employed or on active volunteer status.

7 (b) A person commits the crime of assault against a
8 first responder in the second degree when the person
9 intentionally causes physical injury to a first responder who
10 is engaged in the performance of his or her official duties.

11 (c) Assault against a first responder in the second
12 degree is a Class C felony. The defendant shall serve a
13 minimum term of imprisonment of three months without
14 consideration of probation, parole, good time credits, or any
15 other reduction in time.

16 (d) In addition to any fine, the defendant shall pay
17 restitution, including, but not limited to, all of the
18 following:

19 (1) The costs of any and all medical treatment of or
20 for any victim of the violation, including physical and
21 occupational therapy and rehabilitation.

22 (2) The cost of any damage to property, or full
23 value of property if destroyed or damaged beyond repair.

24 (3) The cost of any and all other losses suffered by
25 any victim as a result of a violation of this section.

26 Section 4. Section 13A-6-21, Code of Alabama 1975,
27 is amended to read as follows:

1 "§13A-6-21.

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

4 "(1) With intent to cause serious physical injury to
5 another person, he or she causes serious physical injury to
6 any person.

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

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

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

1 ~~compensation purposes or any other benefits to which a peace~~
2 ~~officer may otherwise be entitled to under law when considered~~
3 ~~on-duty. Additionally, nothing contained herein shall be~~
4 ~~deemed or construed as amending, modifying, or extending the~~
5 ~~tort liability of any municipality as a result of any action~~
6 ~~or inaction on the part of an off-duty police officer. For the~~
7 ~~purposes of this subdivision, utility worker means any person~~
8 ~~who is employed by an entity that owns, operates, leases, or~~
9 ~~controls any plant, property, or facility for the generation,~~
10 ~~transmission, manufacture, production, supply, distribution,~~
11 ~~sale, storage, conveyance, delivery, or furnishing to or for~~
12 ~~the public of electricity, natural or manufactured gas, water,~~
13 ~~steam, sewage, or telephone service, including two or more~~
14 ~~utilities rendering joint service.~~

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

19 "(6) With intent to cause physical injury to a
20 health care worker, including a nurse, physician, technician,
21 or any other person employed by or practicing at a hospital as
22 defined in Section 22-21-20; a county or district health
23 department; a long-term care facility; or a physician's
24 office, clinic, or outpatient treatment facility during the
25 course of or as a result of the performance of the duties of
26 the health care worker or other person employed by or
27 practicing at the hospital; the county or district health

1 department; any health care facility owned or operated by the
2 State of Alabama; the long-term care facility; or the
3 physician's office, clinic, or outpatient treatment facility;
4 he or she causes physical injury to any person. This
5 subdivision shall not apply to assaults by patients who are
6 impaired by medication or to assaults on home health care
7 workers while they are in private residences.

8 "(7) For a purpose other than lawful medical or
9 therapeutic treatment, he or she intentionally causes stupor,
10 unconsciousness, or other physical or mental impairment, or
11 injury to another person by administering to him or her,
12 without his or her consent, a drug, substance, or preparation
13 capable of producing the intended harm.

14 "(b) Assault in the second degree is a Class C
15 felony.

16 ~~"(c) For the purposes of this section, utility~~
17 ~~worker means any person who is employed by an entity that~~
18 ~~owns, operates, leases, or controls any plant, property, or~~
19 ~~facility for the generation, transmission, manufacture,~~
20 ~~production, supply, distribution, sale, storage, conveyance,~~
21 ~~delivery, or furnishing to or for the public of electricity,~~
22 ~~natural or manufactured gas, water, steam, sewage, or~~
23 ~~telephone service, including two or more utilities rendering~~
24 ~~joint service.~~

25 Section 5. Sections 13A-11-1, 13A-11-3, and
26 13A-11-4, Code of Alabama 1975, are amended to read as
27 follows:

1 "§13A-11-1.

2 "The following definitions apply in this article:

3 "(1) OBSTRUCT. To "obstruct" means to render
4 impassable without unreasonable inconvenience or hazard. A
5 gathering of persons to hear a person speak or otherwise
6 communicate does not constitute an obstruction.

7 "(2) PUBLIC PLACE. A place to which the public or a
8 substantial group of persons has access, and includes, but is
9 not limited to, highways, transportation facilities, schools,
10 places of amusement, parks, playgrounds and hallways, lobbies
11 and other portions of apartment houses not constituting rooms
12 or apartments designed for actual residence; provided, that no
13 private dwelling and no place engaged for a private gathering
14 is included within the meaning of public place with respect to
15 any person specifically invited therein.

16 "(3) RIOT. The assemblage of five or more persons
17 resulting engaging in conduct which creates an immediate
18 danger of and/or results in damage to property or injury to
19 persons.

20 "~~(3)~~ (4) TRANSPORTATION FACILITY. Any conveyance,
21 premises or place used for or in connection with public
22 passenger transportation, whether by air, railroad, motor
23 vehicle, or any other method. It includes aircraft, water
24 craft, railroad cars, buses and air, boat, railroad and bus
25 terminals and stations, and all appurtenances thereto.

26 "§13A-11-3.

1 "(a) A person commits the crime of riot if, ~~with~~
2 ~~five or more other persons, he wrongfully engages in~~
3 ~~tumultuous and violent conduct and thereby intentionally or~~
4 ~~recklessly causes or creates a grave risk of public terror or~~
5 ~~alarm~~ after receiving an order to disperse by a law
6 enforcement officer or when in violation of a curfew, the
7 person intentionally participates in a riot.

8 "(b) Riot is a Class A misdemeanor. On conviction,
9 the defendant shall serve a minimum term of imprisonment of 30
10 days without consideration of probation, parole, good time
11 credits, or any other reduction in time.

12 "(c) In addition to any fine, the defendant shall
13 pay restitution, including, but not limited to, all of the
14 following:

15 "(1) The costs of any and all medical treatment by
16 any victim of the violation, including physical and
17 occupational therapy and rehabilitation.

18 "(2) The cost of any damage to property, or full
19 value of property if destroyed or damaged beyond repair.

20 "(3) The cost of any and all other losses suffered
21 by any victim as a result of a violation of this section.

22 "§13A-11-4.

23 "(a) A person commits the crime of inciting to riot
24 if he or she commands, solicits, incites, funds, or urges, or
25 otherwise aids or abets another person to engage in ~~tumultuous~~
26 ~~and violent conduct of a kind likely to cause or create a~~

1 ~~grave risk of public terror or alarm~~ a riot or aggravated riot.

2 "(b) Inciting to riot is a Class A misdemeanor. On
3 conviction, the defendant shall serve a minimum term of
4 imprisonment of 30 days without consideration of probation,
5 parole, good time credits, or any other reduction in time.

6 "(c) In addition to any fine, the defendant shall
7 pay restitution, including, but not limited to, all of the
8 following:

9 "(1) The costs of any and all medical treatment of
10 or for any victim of the violation, including physical and
11 occupational therapy and rehabilitation.

12 "(2) The cost of any damage to property, or full
13 value of property if destroyed or damaged beyond repair.

14 "(3) The cost of any and all other losses suffered
15 by any victim as a result of a violation of this section."

16 Section 6. Sections 13A-11-3.1 and 13A-11-5.1 are
17 added to Article 1 of Chapter 11 of Title 13A of the Code of
18 Alabama 1975, to read as follows:

19 §13A-11-3.1.

20 (a) A person commits the crime of aggravated riot
21 if, after receiving an order to disperse by a law enforcement
22 officer or when in violation of a curfew, the person
23 intentionally participates in a riot, the participants of
24 which collectively cause damage to property in an amount which
25 exceeds two thousand five hundred dollars (\$2,500) or cause
26 physical injury to any one or more persons.

1 (b) Aggravated riot is a Class C felony. On
2 conviction, the defendant shall serve a minimum term of
3 imprisonment of three months without consideration of
4 probation, parole, good time credits, or any other reduction
5 in time.

6 (c) In addition to any fine, the defendant shall pay
7 restitution, including, but not limited to, all of the
8 following:

9 (1) The costs of any and all medical treatment by
10 any victim of the violation, including physical and
11 occupational therapy and rehabilitation.

12 (2) The cost of any damage to property, or full
13 value of property if destroyed or damaged beyond repair.

14 (3) The cost of any and all other losses suffered by
15 any victim as a result of a violation of this section.

16 §13A-11-5.1.

17 (a) (1) A person commits the crime of unlawful
18 traffic interference if the person intentionally or recklessly
19 impedes vehicular traffic by walking, standing, sitting,
20 kneeling, lying, or placing an object in such a manner as to
21 block passage of a vehicle on a public highway or interstate
22 highway.

23 (2) This section does not apply to any of the
24 following:

25 a. A person who, by permit or otherwise, has
26 permission to operate in the public roadway from an

1 appropriate government authority, including a law enforcement
2 officer.

3 b. A person who operates in the roadway to direct
4 traffic away from a hazardous road condition, an obstacle, or
5 the scene of an accident.

6 (b) (1) Except as provided in subdivision (2),
7 unlawful traffic interference is a Class A misdemeanor.

8 (2) On a second or subsequent violation under
9 subdivision (1), or if a violation of this section resulted in
10 physical injury or damage to property, the person is guilty of
11 a Class C felony.

12 (c) A defendant convicted of violating this section
13 shall serve a minimum term of imprisonment of 30 days without
14 consideration of probation, parole, good time credits, or any
15 other reduction in time.

16 (d) In addition to any fine, the defendant shall pay
17 restitution, including, but not limited to, all of the
18 following:

19 (1) The costs of any and all medical treatment of or
20 for any victim of the violation, including physical and
21 occupational therapy and rehabilitation.

22 (2) The cost of any damage to property, or full
23 value of property if destroyed or damaged beyond repair.

24 (3) The cost of any and all other losses suffered by
25 any victim as a result of a violation of this section.

26 Section 7. Section 15-10-3, Code of Alabama 1975, is
27 amended to read as follows:

1 "§15-10-3.

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

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

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

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

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

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

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

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

6 "(8) When an offense involves a crime of domestic
7 violence, including domestic violence in the first degree,
8 pursuant to Section 13A-6-130, domestic violence in the second
9 degree, pursuant to Section 13A-6-131, domestic violence in
10 the third degree, pursuant to Section 13A-6-132, interference
11 with a domestic violence emergency call, in violation of
12 Section 13A-6-137, or domestic violence by strangulation or
13 suffocation, pursuant to Section 13A-6-138, ~~in or a violation~~
14 of a domestic violence protection order, pursuant to Section
15 13A-6-142, or the offense involves the crime of elder abuse as
16 defined in Section 38-9F-3, including elder abuse in the first
17 degree pursuant to Section 13A-6-192, elder abuse in the
18 second degree pursuant to Section 13A-6-193, or elder abuse in
19 the third degree pursuant to Section 13A-6-194, in or a
20 violation of an elder abuse protection order pursuant to
21 Section 38-9F-3, and the arrest is based on probable cause.

22 "(9) When an offense involves assault against a
23 first responder in the first degree, as provided under Section
24 2 of the act adding this amendatory language; assault against
25 a first responder in the second degree, as provided under
26 Section 3 of the act adding this amendatory language; riot, as
27 provided under Section 13A-11-3; inciting to riot, as provided

1 under Section 13A-11-4; aggravated riot, as provided under
2 Section 13A-11-3.1; or unlawful traffic interference, as
3 provided under Section 13A-11-5.1.

4 "(b) When a law enforcement officer investigates an
5 allegation of domestic violence or elder abuse, whether or not
6 an arrest is made, the officer shall make a written report of
7 the alleged incident, including a statement of the complaint,
8 and the disposition of the case.

9 "(c) If the defendant is arrested under this section
10 for committing ~~an act of domestic violence, including~~ domestic
11 violence in the first degree, pursuant to Section 13A-6-130,
12 domestic violence in the second degree, pursuant to Section
13 13A-6-131, domestic violence in the third degree, pursuant to
14 Section 13A-6-132, interference with a domestic violence
15 emergency call, in violation of Section 13A-6-137, or domestic
16 violence by strangulation or suffocation, pursuant to Section
17 13A-6-138, in violation of a domestic violence protection
18 order, pursuant to Section 13A-6-142, or an act of elder
19 abuse, including elder abuse in the first degree pursuant to
20 Section 13A-6-192, elder abuse in the second degree pursuant
21 to Section 13A-6-193, or elder abuse in the third degree
22 pursuant to Section 13A-6-194, in violation of an elder abuse
23 protection order ~~pursuant to Section 38-9F-3,~~ the defendant
24 shall be held in custody until brought before the court within
25 48 hours for the purpose of enforcing the protection order and
26 for consideration of bail in accordance with Section 15-13-190
27 and the applicable rules of criminal procedure, pending a

1 hearing. If the defendant is not brought before the court
2 within 48 hours, the defendant shall be subject to bail
3 according to the Alabama Rules of Criminal Procedure.

4 "(d) If the defendant is arrested for committing an
5 act of assault against a first responder in the first degree
6 as provided under Section 2 of the act adding this amendatory
7 language; assault against a first responder in the second
8 degree, as provided under Section 3 of the act adding this
9 amendatory language; riot, as provided under Section 13A-11-3;
10 inciting to riot, as provided under Section 13A-11-4;
11 aggravated riot, as provided under Section 13A-11-3.1; or
12 unlawful traffic interference, as provided under Section
13 13A-11-5.1; the defendant shall be held in custody until
14 brought before the court within 24 hours for consideration of
15 bail in accordance with Section 15-13-190 and the applicable
16 rules of criminal procedure, pending a hearing. If the
17 defendant is not brought before the court within 24 hours, the
18 defendant shall be subject to bail according to the Alabama
19 Rules of Criminal Procedure."

20 Section 8. ~~(a) (1) As used in this section, the term~~
21 ~~defunded jurisdiction means a political subdivision of the~~
22 ~~state that is certified by the Attorney General as having~~
23 ~~abolished or disbanded, or substantially abolished or~~
24 ~~disbanded, the law enforcement agency of the political~~
25 ~~subdivision without an intention to immediately reconstitute~~
26 ~~the agency.~~

1 ~~(2) A rebuttable presumption arises that a political~~
2 ~~subdivision has substantially abolished or disbanded the law~~
3 ~~enforcement agency of the political subdivision if the~~
4 ~~political subdivision reduces by 50 percent or more the budget~~
5 ~~of the law enforcement agency of the political subdivision~~
6 ~~without reallocating a substantial majority of that money to~~
7 ~~another community policing program.~~

8 ~~(3) A political subdivision may rebut the~~
9 ~~presumption by proving by clear and convincing evidence that~~
10 ~~the budget reduction was a fiscally appropriate decision as a~~
11 ~~result of a decrease in revenues in the previous fiscal year,~~
12 ~~or by proving that, the budget reduction notwithstanding, the~~
13 ~~law enforcement agency of the political subdivision is~~
14 ~~sufficiently funded to provide law enforcement services to the~~
15 ~~political subdivision.~~

16 ~~(b) A defunded jurisdiction is not eligible for and~~
17 ~~may not receive any of the following:~~

18 ~~(1) A state grant, gift, endowment, or any other sum~~
19 ~~of money or aid from the State of Alabama or a department,~~
20 ~~board, or agency thereof.~~

21 ~~(2) Any allocation of state revenues directly shared~~
22 ~~with local governing bodies not otherwise guaranteed by the~~
23 ~~Constitution of Alabama of 1901, including, but not limited~~
24 ~~to, revenue from the Rebuild Alabama Act, Act 2019-2, 2019 1st~~
25 ~~Special Session; and the net profits derived from the proceeds~~
26 ~~of the Alabama liquor stores as provided under Section~~
27 ~~28-3-74, Code of Alabama 1975.~~

1 ~~(c) Upon certification by the Attorney General that~~
2 ~~a political subdivision of the state is a defunded~~
3 ~~jurisdiction, the state Comptroller shall withhold the~~
4 ~~distribution of the revenue described under subsection (b) to~~
5 ~~which the defunded jurisdiction would otherwise be entitled~~
6 ~~into a special fund within the State Treasury until the~~
7 ~~Attorney General certifies that the political subdivision has~~
8 ~~restored funding to the political subdivision's law~~
9 ~~enforcement agency.~~

10 ~~(d) This section does not apply to a political~~
11 ~~subdivision of the state which, as of the effective date of~~
12 ~~this act, employs less than 20 full-time law enforcement~~
13 ~~officers.~~

14 (a) A political subdivision of the state shall not
15 reduce the budget of a law enforcement agency by 50 percent or
16 more relative to the previous fiscal year, unless any of the
17 following apply:

18 (1) The political subdivision reallocated a
19 substantial majority of the money for another law enforcement
20 purpose.

21 (2) The budget reduction was a fiscally appropriate
22 decision as a result of a decrease in revenues in the previous
23 fiscal year.

24 (3) The budget reduction notwithstanding, the law
25 enforcement agency is sufficiently funded to provide law
26 enforcement services to the political subdivision.

1 (b) If the Attorney General determines that a
2 political subdivision has reduced the law enforcement agency's
3 budget in violation of subsection (a), the Attorney General
4 may bring a declaratory judgment action against the political
5 subdivision to enjoin the reduction in funding. The action
6 shall be brought in the circuit court of the county in which
7 the political subdivision is located.

8 (c) This section does not apply to a political
9 subdivision of the state that employs fewer than 20 full-time
10 law enforcement officers.

11 Section 9. 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, as amended
15 by Amendment 890, now appearing as Section 111.05 of the
16 Official Recompilation of the Constitution of Alabama of 1901,
17 as amended, because the bill defines a new crime or amends the
18 definition of an existing crime.

19 Section 10. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the 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-JAN-22

Read for the second time and placed
on the calendar 3 amendments 09-FEB-22

Read for the third time and passed
as amended..... 22-FEB-22

Yeas 75, Nays 22, Abstains 0

Jeff Woodard
Clerk