

House Judiciary Engrossed Substitute for HB76



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Sections 13A-6-130, 13A-6-131, 13A-6-132, 13A-6-138, and 30-5-2, Code of Alabama 1975, to include additional family members that may be a victim of domestic violence; 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 Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 13A-6-130, 13A-6-131, and 13A-6-132, 13A-6-138, and 30-5-2, Code of Alabama 1975, are amended to read as follows:

"§13A-6-130

(a) (1) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A-6-20; aggravated stalking pursuant to Section 13A-6-91; or burglary in the first degree pursuant to Section 13A-7-5 and the victim is a current or former spouse, parent, step-parent, child, step-child, grandparent, step-grandparent, grandchild,

House Judiciary Engrossed Substitute for HB76



29 step-grandchild, any person with whom the defendant has a
30 child in common, a present household member, or a person who
31 has or had a dating relationship with the defendant.

32 (2) For the purposes of this section, a household
33 member excludes non-romantic or non-intimate co-residents, and
34 a dating relationship means a current or former relationship
35 of a romantic or intimate nature characterized by the
36 expectation of affectionate or sexual involvement by either
37 party.

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

44 (c) The minimum term of imprisonment imposed under
45 subsection (b) shall be double without consideration of
46 probation, parole, good time credits, or any reduction in time
47 if either of the following occurs:

48 (1) A defendant willfully violates a protection order
49 issued by a court of competent jurisdiction and in the process
50 of violating the order commits domestic violence in the first
51 degree.

52 (2) The offense was committed in the presence of a
53 child under the age of 14 years at the time of the offense,
54 who is the victim's child or step-child, the defendant's child
55 or step-child, or who is a child residing in or visiting the
56 household of the victim or defendant. For purposes of this



House Judiciary Engrossed Substitute for HB76

57 subsection, "in the presence of a child" means that the child
58 was in a position to see or hear the act.

59 (d) The court shall make a written finding of fact, to
60 be made part of the record upon conviction or adjudication, of
61 whether or not the act was committed in the presence of a
62 child. If a defendant has a trial by jury and the jury finds
63 the defendant guilty, the jury shall also render a special
64 verdict as to whether or not the defendant committed the act
65 in the presence of a child."

66 "§13A-6-131

67 (a) (1) A person commits the crime of domestic violence
68 in the second degree if the person commits the crime of
69 assault in the second degree pursuant to Section 13A-6-21; the
70 crime of intimidating a witness pursuant to Section
71 13A-10-123; the crime of stalking pursuant to Section
72 13A-6-90; the crime of burglary in the second or third degree
73 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of
74 criminal mischief in the first degree pursuant to Section
75 13A-7-21 and the victim is a current or former spouse, parent,
76 step-parent, child, step-child, grandparent, step-grandparent,
77 grandchild, step-grandchild, any person with whom the
78 defendant has a child in common, a present household member,
79 or a person who has or had a dating relationship with the
80 defendant.

81 (2) For the purposes of this section, a household
82 member excludes non-romantic or non-intimate co-residents, and
83 a dating relationship means a current or former relationship
84 of a romantic or intimate nature characterized by the

House Judiciary Engrossed Substitute for HB76



85 expectation of affectionate or sexual involvement by either
86 party.

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

92 (c) The minimum term of imprisonment imposed under
93 subsection (b) shall be double without consideration of
94 probation, parole, good time credits, or any reduction in time
95 if either of the following applies:

96 (1) A defendant willfully violates a protection order
97 issued by a court of competent jurisdiction and in the process
98 of violating the order commits domestic violence in the second
99 degree.

100 (2) The offense was committed in the presence of a
101 child under the age of 14 years at the time of the offense,
102 who is the victim's child or step-child, the defendant's child
103 or step-child, or who is a child residing in or visiting the
104 household of the victim or defendant. For purposes of this
105 subsection, "in the presence of a child" means that the child
106 was in a position to see or hear the act.

107 (d) The court shall make a written finding of fact, to
108 be made part of the record upon conviction or adjudication, of
109 whether or not the act was committed in the presence of a
110 child. If a defendant has a trial by jury and the jury finds
111 the defendant guilty, the jury shall also render a special
112 verdict as to whether or not the defendant committed the act

House Judiciary Engrossed Substitute for HB76



113 in the presence of a child."

114 "§13A-6-132

115 (a) (1) A person commits domestic violence in the third
116 degree if the person commits the crime of assault in the third
117 degree pursuant to Section 13A-6-22; the crime of menacing
118 pursuant to Section 13A-6-23; the crime of reckless
119 endangerment pursuant to Section 13A-6-24; the crime of
120 criminal coercion pursuant to Section 13A-6-25; the crime of
121 harassment pursuant to subsection (a) of Section 13A-11-8; the
122 crime of criminal surveillance pursuant to Section 13A-11-32;
123 the crime of harassing communications pursuant to subsection
124 (b) of Section 13A-11-8; the crime of criminal trespass in the
125 third degree pursuant to Section 13A-7-4; the crime of
126 criminal mischief in the second or third degree pursuant to
127 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the
128 third degree pursuant to Section 13A-7-43; and the victim is a
129 current or former spouse, parent, step-parent, child,
130 step-child, grandparent, step-grandparent, grandchild,
131 step-grandchild, any person with whom the defendant has a
132 child in common, a present household member, or a person who
133 has or had a dating relationship with the defendant.

134 (2) For the purpose of this section, a household member
135 excludes non-romantic or non-intimate co-residents, and a
136 dating relationship means a current or former relationship of
137 a romantic or intimate nature characterized by the expectation
138 of affectionate or sexual involvement by either party.

139 (b) Domestic violence in the third degree is a Class A
140 misdemeanor. The minimum term of imprisonment imposed under



House Judiciary Engrossed Substitute for HB76

141 subsection (a) shall be 30 days without consideration of
142 reduction in time if a defendant willfully violates a
143 protection order issued by a court of competent jurisdiction
144 and in the process of violating the order commits domestic
145 violence in the third degree.

146 (c) A second conviction under subsection (a) is a Class
147 A misdemeanor, except the defendant shall serve a minimum term
148 of imprisonment of 10 days in a city or county jail or
149 detention facility without consideration for any reduction in
150 time.

151 (d) A third or subsequent conviction under subsection
152 (a) is a Class C felony.

153 (e) If the defendant has a previous conviction for
154 domestic violence in the first degree pursuant to Section
155 13A-6-130, domestic violence in the second degree pursuant to
156 Section 13A-6-131, domestic violence by strangulation or
157 suffocation pursuant to Section 13A-6-138, or a domestic
158 violence conviction or other substantially similar conviction
159 from another state or jurisdiction, a conviction under
160 subsection (a) is a Class C felony.

161 (f) For purposes of determining second, third, or
162 subsequent number of convictions, convictions in municipal
163 court shall be included."

164 "§13A-6-138

165 (a) For the purposes of this section, the following
166 terms have the following meanings:

167 (1) STRANGULATION. Intentionally causing asphyxia by
168 closure or compression of the blood vessels or air passages of

House Judiciary Engrossed Substitute for HB76



169 the neck as a result of external pressure on the neck.

170 (2) SUFFOCATION. Intentionally causing asphyxia by
171 depriving a person of air or by preventing a person from
172 breathing through the inhalation of toxic gases or by blocking
173 or obstructing the airway of a person, by any means other than
174 by strangulation.

175 (b) A person commits the crime of domestic violence by
176 strangulation or suffocation if he or she commits an assault
177 with intent to cause physical harm or commits the crime of
178 menacing pursuant to Section 13A-6-23, by strangulation or
179 suffocation or attempted strangulation or suffocation and the
180 victim is a current or former spouse, parent, step-parent,
181 child, step-child, grandparent, step-grandparent, grandchild,
182 step-grandchild, any person with whom the defendant has a
183 child in common, a present household member, or a person who
184 has or had a dating relationship with the defendant. For the
185 purpose of this section, a household member excludes
186 non-romantic or non-intimate co-residents, and a dating
187 relationship means a current or former relationship of a
188 romantic or intimate nature characterized by the expectation
189 of affectionate or sexual involvement by either party.

190 (c) Domestic violence by strangulation or suffocation
191 is a Class B felony punishable by law."

192 "§30-5-2

193 In this chapter, the following words ~~shall~~ have the
194 following meanings unless the context clearly indicates
195 otherwise:

196 (1) ABUSE. An act committed against a victim, which is

House Judiciary Engrossed Substitute for HB76



197 any of the following:
198 a. Arson. Arson as defined under Sections
199 13A-7-40 to 13A-7-43, inclusive.

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

202 c. Attempt. Attempt as defined under Section 13A-4-2.

203 d. Child Abuse. Torture or willful abuse of a child,
204 aggravated child abuse, or chemical endangerment of a child as
205 provided in Chapter 15, commencing with Section 26-15-1, of
206 Title 26, known as the Alabama Child Abuse Act.

207 e. Criminal Coercion. Criminal coercion as defined
208 under Section 13A-6-25.

209 f. Criminal Trespass. Criminal trespass as defined
210 under Sections 13A-7-2 to 13A-7-4.1, inclusive.

211 g. Harassment. Harassment as defined under Section
212 13A-11-8.

213 h. Kidnapping. Kidnapping as defined under Sections
214 13A-6-43 and 13A-6-44.

215 i. Menacing. Menacing as defined under Section
216 13A-6-23.

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

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

222 l. Sexual Abuse. Any sexual offenses included in
223 Article 4, commencing with Section 13A-6-60, of Chapter 6 of
224 Title 13A.

225 m. Stalking. Stalking as defined under Sections



House Judiciary Engrossed Substitute for HB76

225 13A-6-90 to 13A-6-94, inclusive.

226 n. Theft. Theft as defined under Sections 13A-8-1 to
227 13A-8-5, inclusive.

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

230 (2) COURT. A circuit court judge, a district court
231 judge appointed as a special circuit court judge pursuant to
232 law or a district court judge designated by a written standing
233 order from the presiding circuit court judge to handle
234 protection from abuse cases.

235 (3) DATING RELATIONSHIP. A relationship or former
236 relationship of a romantic or intimate nature characterized by
237 the expectation of affectionate or sexual involvement by
238 either party.

239 a. A dating relationship includes the period of
240 engagement to be married.

241 b. A dating relationship does not include a casual or
242 business relationship or a relationship that ended more than
243 12 months prior to the filing of the petition for a protection
244 order.

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

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

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



House Judiciary Engrossed Substitute for HB76

- 253 (7) VICTIM. An individual who is related in any of the
254 following ways to the person who commits an act of abuse:
- 255 a. Has a current or former marriage, including common
256 law marriage, with the defendant.
- 257 b. Has a child in common with the defendant regardless
258 of whether the victim and defendant have ever been married and
259 regardless of whether they are currently residing or have in
260 the past resided together in the same household.
- 261 c. Has or had a dating relationship with the defendant.
262 A dating relationship does not include a casual or business
263 relationship or a relationship that ended more than 12 months
264 prior to the filing of the petition for a protection order.
- 265 d. Is a current or former household member. For
266 purposes of this chapter, a "household member" excludes
267 non-romantic or non-intimate co-residents.
- 268 e. A relative of a current or former household member
269 as defined in paragraph d. who also lived with the defendant.
- 270 f. An individual who is a parent, stepparent, child, or
271 stepchild.
- 272 g. An individual who is a grandparent,
273 step-grandparent, grandchild, or step-grandchild."

274 Section 2. Although this bill would have as its purpose
275 or effect the requirement of a new or increased expenditure of
276 local funds, the bill is excluded from further requirements
277 and application under Section 111.05 of the Constitution of
278 Alabama of 2022, because the bill defines a new crime or
279 amends the definition of an existing crime.

280 Section 3. This act shall become effective on the first

House Judiciary Engrossed Substitute for HB76



281 day of the third month following its passage and approval by
282 the Governor, or its otherwise becoming law.