

HB76 ENROLLED



1 L6QOYW-3
2 By Representative Simpson
3 RFD: Judiciary
4 First Read: 07-Mar-23
5 2023 Regular Session



HB76 Enrolled

1 Enrolled, An Act,

2

3

4

5 Relating to crimes and offenses; to amend Sections
6 13A-6-130, 13A-6-131, 13A-6-132, 13A-6-138, and 30-5-2, Code
7 of Alabama 1975, to include additional family members that may
8 be a victim of domestic violence; and in connection therewith
9 would have as its purpose or effect the requirement of a new
10 or increased expenditure of local funds within the meaning of
11 Section 111.05 of the Constitution of Alabama of 2022.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 13A-6-130, 13A-6-131, and
14 13A-6-132, 13A-6-138, and 30-5-2, Code of Alabama 1975, are
15 amended to read as follows:

16 "§13A-6-130

17 (a) (1) A person commits the crime of domestic violence
18 in the first degree if the person commits the crime of assault
19 in the first degree pursuant to Section 13A-6-20; aggravated
20 stalking pursuant to Section 13A-6-91; or burglary in the
21 first degree pursuant to Section 13A-7-5 and the victim is a
22 current or former spouse, parent, step-parent, child,
23 step-child, grandparent, step-grandparent, grandchild,
24 step-grandchild, any person with whom the defendant has a
25 child in common, a present household member, or a person who
26 has or had a dating relationship with the defendant.

27 (2) For the purposes of this section, a household
28 member excludes non-romantic or non-intimate co-residents, and



HB76 Enrolled

29 a dating relationship means a current or former relationship
30 of a romantic or intimate nature characterized by the
31 expectation of affectionate or sexual involvement by either
32 party.

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

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

43 (1) A defendant willfully violates a protection order
44 issued by a court of competent jurisdiction and in the process
45 of violating the order commits domestic violence in the first
46 degree.

47 (2) The offense was committed in the presence of a
48 child under the age of 14 years at the time of the offense,
49 who is the victim's child or step-child, the defendant's child
50 or step-child, or who is a child residing in or visiting the
51 household of the victim or defendant. For purposes of this
52 subsection, "in the presence of a child" means that the child
53 was in a position to see or hear the act.

54 (d) The court shall make a written finding of fact, to
55 be made part of the record upon conviction or adjudication, of
56 whether or not the act was committed in the presence of a



HB76 Enrolled

57 child. If a defendant has a trial by jury and the jury finds
58 the defendant guilty, the jury shall also render a special
59 verdict as to whether or not the defendant committed the act
60 in the presence of a child."

61 "§13A-6-131

62 (a) (1) A person commits the crime of domestic violence
63 in the second degree if the person commits the crime of
64 assault in the second degree pursuant to Section 13A-6-21; the
65 crime of intimidating a witness pursuant to Section
66 13A-10-123; the crime of stalking pursuant to Section
67 13A-6-90; the crime of burglary in the second or third degree
68 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of
69 criminal mischief in the first degree pursuant to Section
70 13A-7-21 and the victim is a current or former spouse, parent,
71 step-parent, child, step-child, grandparent, step-grandparent,
72 grandchild, step-grandchild, any person with whom the
73 defendant has a child in common, a present household member,
74 or a person who has or had a dating relationship with the
75 defendant.

76 (2) For the purposes of this section, a household
77 member excludes non-romantic or non-intimate co-residents, and
78 a dating relationship means a current or former relationship
79 of a romantic or intimate nature characterized by the
80 expectation of affectionate or sexual involvement by either
81 party.

82 (b) Domestic violence in the second degree is a Class B
83 felony, except the defendant shall serve a minimum term of
84 imprisonment of six months without consideration of probation,



HB76 Enrolled

85 parole, good time credits, or any reduction in time for any
86 second or subsequent conviction under this subsection.

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

91 (1) A defendant willfully violates a protection order
92 issued by a court of competent jurisdiction and in the process
93 of violating the order commits domestic violence in the second
94 degree.

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

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

109 "§13A-6-132

110 (a) (1) A person commits domestic violence in the third
111 degree if the person commits the crime of assault in the third
112 degree pursuant to Section 13A-6-22; the crime of menacing



HB76 Enrolled

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

129 (2) For the purpose of this section, a household member
130 excludes non-romantic or non-intimate co-residents, and a
131 dating relationship means a current or former relationship of
132 a romantic or intimate nature characterized by the expectation
133 of affectionate or sexual involvement by either party.

134 (b) Domestic violence in the third degree is a Class A
135 misdemeanor. The minimum term of imprisonment imposed under
136 subsection (a) shall be 30 days without consideration of
137 reduction in time if a defendant willfully violates a
138 protection order issued by a court of competent jurisdiction
139 and in the process of violating the order commits domestic
140 violence in the third degree.



HB76 Enrolled

141 (c) A second conviction under subsection (a) is a Class
142 A misdemeanor, except the defendant shall serve a minimum term
143 of imprisonment of 10 days in a city or county jail or
144 detention facility without consideration for any reduction in
145 time.

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

148 (e) If the defendant has a previous conviction for
149 domestic violence in the first degree pursuant to Section
150 13A-6-130, domestic violence in the second degree pursuant to
151 Section 13A-6-131, domestic violence by strangulation or
152 suffocation pursuant to Section 13A-6-138, or a domestic
153 violence conviction or other substantially similar conviction
154 from another state or jurisdiction, a conviction under
155 subsection (a) is a Class C felony.

156 (f) For purposes of determining second, third, or
157 subsequent number of convictions, convictions in municipal
158 court shall be included."

159 "§13A-6-138

160 (a) For the purposes of this section, the following
161 terms have the following meanings:

162 (1) STRANGULATION. Intentionally causing asphyxia by
163 closure or compression of the blood vessels or air passages of
164 the neck as a result of external pressure on the neck.

165 (2) SUFFOCATION. Intentionally causing asphyxia by
166 depriving a person of air or by preventing a person from
167 breathing through the inhalation of toxic gases or by blocking
168 or obstructing the airway of a person, by any means other than



HB76 Enrolled

169 by strangulation.

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

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

187 "§30-5-2

188 In this chapter, the following words ~~shall~~ have the
189 following meanings unless the context clearly indicates
190 otherwise:

191 (1) ABUSE. An act committed against a victim, which is
192 any of the following:
193 a. Arson. Arson as defined under Sections
194 13A-7-40 to 13A-7-43, inclusive.

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

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



HB76 Enrolled

197 d. Child Abuse. Torture or willful abuse of a child,
198 aggravated child abuse, or chemical endangerment of a child as
199 provided in Chapter 15, commencing with Section 26-15-1, of
200 Title 26, known as the Alabama Child Abuse Act.

201 e. Criminal Coercion. Criminal coercion as defined
202 under Section 13A-6-25.

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

205 g. Harassment. Harassment as defined under Section
206 13A-11-8.

207 h. Kidnapping. Kidnapping as defined under Sections
208 13A-6-43 and 13A-6-44.

209 i. Menacing. Menacing as defined under Section
210 13A-6-23.

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

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

216 l. Sexual Abuse. Any sexual offenses included in
217 Article 4, commencing with Section 13A-6-60, of Chapter 6 of
218 Title 13A.

219 m. Stalking. Stalking as defined under Sections
220 13A-6-90 to 13A-6-94, inclusive.

221 n. Theft. Theft as defined under Sections 13A-8-1 to
222 13A-8-5, inclusive.

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



HB76 Enrolled

225 (2) COURT. A circuit court judge, a district court
226 judge appointed as a special circuit court judge pursuant to
227 law or a district court judge designated by a written standing
228 order from the presiding circuit court judge to handle
229 protection from abuse cases.

230 (3) DATING RELATIONSHIP. A relationship or former
231 relationship of a romantic or intimate nature characterized by
232 the expectation of affectionate or sexual involvement by
233 either party.

234 a. A dating relationship includes the period of
235 engagement to be married.

236 b. A dating relationship does not include a casual or
237 business relationship or a relationship that ended more than
238 12 months prior to the filing of the petition for a protection
239 order.

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

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

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

248 (7) VICTIM. An individual who is related in any of the
249 following ways to the person who commits an act of abuse:

250 a. Has a current or former marriage, including common
251 law marriage, with the defendant.

252 b. Has a child in common with the defendant regardless



HB76 Enrolled

253 of whether the victim and defendant have ever been married and
254 regardless of whether they are currently residing or have in
255 the past resided together in the same household.

256 c. Has or had a dating relationship with the defendant.
257 A dating relationship does not include a casual or business
258 relationship or a relationship that ended more than 12 months
259 prior to the filing of the petition for a protection order.

260 d. Is a current or former household member. For
261 purposes of this chapter, a "household member" excludes
262 non-romantic or non-intimate co-residents.

263 e. A relative of a current or former household member
264 as defined in paragraph d. who also lived with the defendant.

265 f. An individual who is a parent, stepparent, child, or
266 stepchild.

267 g. An individual who is a grandparent,
268 step-grandparent, grandchild, or step-grandchild."

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

275 Section 3. This act shall become effective on the first
276 day of the third month following its passage and approval by
277 the Governor, or its otherwise becoming law.



HB76 Enrolled

278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303

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 27-Apr-23, as amended.

John Treadwell
Clerk

Senate

31-May-23

Passed