

House Judiciary Engrossed Substitute for HB76



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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."

### "§13A-6-138

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

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