

SB32 ENGROSSED



1 SB32
2 EN1B92C-2
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 04-Feb-25
6 PFD: 31-Dec-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Sections 13A-6-1, 13A-6-2, 13A-6-3, as last amended by Act 2024-103, 2024 Regular Session, 13A-6-20, and 13A-6-21, as last amended by Act 2024-91, 2024 Regular Session, Code of Alabama 1975, to create the definition of machinegun; and to provide for mandatory enhanced sentences for a person who causes the death of another by means of a machinegun or causes an injury by means of a machinegun.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 13A-6-1, 13A-6-2, 13A-6-3, as last amended by Act 2024-103, 2024 Regular Session, 13A-6-20, and 13A-6-21, as last amended by Act 2024-91, 2024 Regular Session, Code of Alabama 1975, are amended to read as follows:

"§13A-6-1

(a) As used in Article 1 and Article 2, the following terms ~~shall have the following meanings ascribed to them by this section:~~

(1) CRIMINAL HOMICIDE. Murder, manslaughter, or criminally negligent homicide.

(2) HOMICIDE. A person commits criminal homicide if he



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29 or she intentionally, knowingly, recklessly or with criminal
30 negligence causes the death of another person.

31 (3) MACHINEGUN. a. Any of the following:

32 1. Any firearm that shoots, is designed to shoot, or
33 can be readily restored to shoot, more than one shot
34 automatically without manual reloading and by a single
35 function of the trigger.

36 2. Any part or combination of parts intended solely for
37 use in converting a firearm into a machinegun.

38 3. Any combination of parts from which a machinegun can
39 be assembled if the parts are in the possession or control of
40 a person.

41 b. The term does not include the following: Any part,
42 combination of parts, or device that is designed or intended
43 to increase a firearm's rate of fire but that does not enable
44 a semiautomatic firearm to fire more than two shots, without
45 manual reloading, by a single function of the trigger.

46 ~~(3)(4)~~ PERSON. The term, when referring to the victim
47 of a criminal homicide or assault, means a human being,
48 including an unborn child in utero at any stage of
49 development, regardless of viability.

50 (b) (1) Article 1 or Article 2 shall not apply to the
51 death or injury to an unborn child alleged to be caused by
52 medication or medical care or treatment provided to a pregnant
53 woman when performed by a licensed physician or other licensed
54 health care provider.

55 (2) Mistake, or unintentional error on the part of a
56 licensed physician or other licensed health care provider or



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57 his or her employee or agent or any person acting on behalf of
58 the patient shall not subject the licensed physician or other
59 licensed health care provider or person acting on behalf of
60 the patient to any criminal liability under this section.

61 (3) "Medical care" or "treatment" includes, but is not
62 limited to, ordering, dispensation, or administration of
63 prescribed medications and medical procedures.

64 (c) A victim of domestic violence or sexual assault may
65 not be charged under Article 1 or Article 2 for the injury or
66 death of an unborn child caused by a crime of domestic
67 violence or rape perpetrated upon her.

68 (d) Nothing in Article 1 or Article 2 shall permit the
69 prosecution of ~~(1)~~: (i) any person for conduct relating to an
70 abortion for which the consent of the pregnant woman or a
71 person authorized by law to act on her behalf has been
72 obtained or for which consent is implied by law; or ~~(2)~~ (ii)
73 any woman with respect to her unborn child.

74 (e) Nothing in this section shall make it a crime to
75 perform or obtain an abortion that is otherwise legal. Nothing
76 in this section shall be construed to make an abortion legal
77 which is not otherwise authorized by law."

78 "§13A-6-2

79 (a) A person commits the crime of murder if he or she
80 does any of the following:

81 (1) With intent to cause the death of another person,
82 ~~he or she~~ causes the death of that person or of another
83 person.

84 (2) Under circumstances manifesting extreme



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85 indifference to human life, ~~he or she~~ recklessly engages in
86 conduct ~~which~~ that creates a grave risk of death to a person
87 other than himself or herself, and thereby causes the death of
88 another person.

89 (3) ~~He or she commits~~ Commits or attempts to commit
90 arson in the first degree, burglary in the first or second
91 degree, escape in the first degree, kidnapping in the first
92 degree, rape in the first degree, robbery in any degree,
93 sodomy in the first degree, aggravated child abuse under
94 Section 26-15-3.1, or any other felony clearly dangerous to
95 human life and, in the course of and in furtherance of the
96 crime that he or she is committing or attempting to commit, or
97 in immediate flight therefrom, he or she, or another
98 participant if there be any, causes the death of any person.

99 (4) ~~He or she commits~~ Commits the crime of arson and a
100 qualified governmental or volunteer firefighter or other
101 public safety officer dies while performing his or her duty
102 resulting from the arson.

103 (b) A person does not commit murder under ~~subdivisions~~
104 subdivision (a) (1) or (a) (2) ~~of this section~~ if he or she was
105 moved to act by a sudden heat of passion caused by provocation
106 recognized by law, and before there had been a reasonable time
107 for the passion to cool and for reason to reassert itself. The
108 burden of injecting the issue of killing under legal
109 provocation is on the defendant, but this does not shift the
110 burden of proof. This subsection does not apply to a
111 prosecution for, or preclude a conviction of, manslaughter or
112 other crime.



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113 (c) (1)a. Murder is a Class A felony; ~~provided, that the~~
114 ~~.~~

115 b. The punishment for murder or any offense committed
116 under aggravated circumstances by a person 18 years of age or
117 older, as provided by Article 2 of Chapter 5 ~~of this title~~, is
118 death or life imprisonment without parole, which punishment
119 shall be determined and fixed as provided by Article 2 of
120 Chapter 5 ~~of this title or any amendments thereto~~. The
121 punishment for murder or any offense committed under
122 aggravated circumstances by a person under ~~the age of 18~~ years
123 of age, as provided by Article 2 of Chapter 5, is either life
124 imprisonment without parole, or life, which punishment shall
125 be determined and fixed as provided by Article 2 of Chapter 5
126 ~~of this title or any amendments thereto~~ and the applicable
127 Alabama Rules of Criminal Procedure.

128 c. The punishment for murder where the death was caused
129 by a machinegun committed by a person 18 years of age or older
130 is life imprisonment without the possibility of parole. The
131 punishment for murder where the death was caused by a
132 machinegun committed by a person under 18 years of age is
133 either life imprisonment without parole or life imprisonment.

134 (2) If the defendant is sentenced to life on a capital
135 offense, the defendant must serve a minimum of 30 years, day
136 for day, prior to first consideration of parole."

137 "§13A-6-3

138 (a) A person commits the crime of manslaughter if he or
139 she does any of the following:

140 (1) Recklessly causes the death of another person.



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141 (2) Causes the death of another person under
142 circumstances that would constitute murder under Section
143 13A-6-2; except, that he or she causes the death due to a
144 sudden heat of passion caused by provocation recognized by
145 law, and before a reasonable time for the passion to cool and
146 for reason to reassert itself.

147 (3)a. Knowingly sells, furnishes, gives away, delivers,
148 or distributes a controlled substance in violation of Section
149 13A-12-211, which contains fentanyl, any mixture containing
150 fentanyl, any synthetic controlled substance fentanyl, or any
151 synthetic controlled substance fentanyl analogue as described
152 in Sections 20-2-23 and 20-2-25, and the person to whom the
153 controlled substance is sold, furnished, given, delivered, or
154 distributed dies as a proximate result of the use of the
155 controlled substance; provided, nothing in this subdivision
156 shall be construed to apply to a licensed physician engaged in
157 the practice of medicine, a licensed pharmacist engaged in the
158 practice of pharmacy, or a licensed dentist engaged in the
159 practice of dentistry.

160 b. It is not a defense to this subdivision that the
161 person who sold, furnished, gave away, delivered, or
162 distributed the controlled substance had no knowledge that the
163 controlled substance contained fentanyl, any mixture
164 containing fentanyl, any synthetic controlled substance
165 fentanyl, or any synthetic controlled substance fentanyl
166 analogue as described in ~~Section~~Sections 20-2-23 and 20-2-25.

167 (b) (1) Manslaughter—Except as provided in subdivision
168 (2), manslaughter is a Class B felony.



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169 (2) Manslaughter is a Class A felony if the death was
170 caused by a machinegun, and on a conviction, the defendant
171 shall be sentenced to life imprisonment without the
172 possibility of parole."

173 "§13A-6-20

174 (a) A person commits the crime of assault in the first
175 degree if he or she does any of the following:

176 (1) With intent to cause serious physical injury to
177 another person, ~~he or she~~ causes serious physical injury to
178 any person by means of a deadly weapon or a dangerous
179 instrument; ~~or.~~

180 (2) With intent to disfigure another person seriously
181 and permanently, or to destroy, amputate, or disable
182 permanently a member or organ of the body of another person,
183 ~~he or she~~ causes such an injury to any person; ~~or.~~

184 (3) Under circumstances manifesting extreme
185 indifference to the value of human life, ~~he or she~~ recklessly
186 engages in conduct ~~which~~ that creates a grave risk of death to
187 another person, and thereby causes serious physical injury to
188 any person; ~~or.~~

189 (4) In the course of and in furtherance of the
190 commission or attempted commission of arson in the first
191 degree, burglary in the first or second degree, escape in the
192 first degree, kidnapping in the first degree, rape in the
193 first degree, robbery in any degree, sodomy in the first
194 degree or any other felony clearly dangerous to human life, or
195 of immediate flight therefrom, ~~he or she~~ causes a serious
196 physical injury to another person; ~~or.~~



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197 (5) While driving under the influence of alcohol or a
198 controlled substance or any combination thereof in violation
199 of Section 32-5A-191 or 32-5A-191.3, ~~he or she~~ causes serious
200 physical injury to the person of another with a vehicle or
201 vessel.

202 (b) (1) Assault Except as provided in subdivision (2),
203 assault in the first degree is a Class B felony.

204 (2) Assault in the first degree is a Class A felony if
205 the injury was caused by a machinegun, and on a conviction,
206 the defendant shall be sentenced to life imprisonment."

207 "§13A-6-21

208 (a) A person commits the crime of assault in the second
209 degree if ~~the person~~ he or she does any of the following:

210 (1) With intent to cause serious physical injury to
211 another person, ~~he or she~~ causes serious physical injury to
212 any person.

213 (2) With intent to cause physical injury to another
214 person, ~~he or she~~ causes physical injury to any person by
215 means of a deadly weapon or a dangerous instrument.

216 (3) ~~He or she recklessly~~ Recklessly causes serious
217 physical injury to another person by means of a deadly weapon
218 or a dangerous instrument.

219 (4)a. With intent to prevent a peace officer, as
220 defined in Section 36-21-60, a detention or correctional
221 officer at any municipal or county jail or state penitentiary,
222 emergency medical personnel, a utility worker, or a
223 firefighter from performing a lawful duty, ~~he or she~~ intends
224 to cause physical injury and ~~he or she~~ causes physical injury



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225 to any person.

226 b. For the purpose of this subdivision, a person who is
227 a peace officer who is employed or under contract while off
228 duty by a private or public entity is a peace officer
229 performing a lawful duty when the person is working in his or
230 her approved uniform while off duty with the approval of his
231 or her employing law enforcement agency. Provided, however,
232 that nothing contained in this subdivision shall be deemed or
233 construed as amending, modifying, or extending the
234 classification of a peace officer as off-duty for workers'
235 compensation purposes or any other benefits to which a peace
236 officer may otherwise be entitled to under law when considered
237 on-duty. Additionally, nothing contained in this subdivision
238 shall be deemed or construed as amending, modifying, or
239 extending the tort liability of any municipality as a result
240 of any action or inaction on the part of an off-duty police
241 officer.

242 (5) With intent to cause physical injury to a teacher
243 or to an employee of a public educational institution during
244 or as a result of the performance of his or her duty, ~~he or~~
245 ~~she~~ causes physical injury to any person.

246 (6) With intent to cause physical injury to a health
247 care worker, including a nurse, physician, technician, or any
248 other person employed by or practicing at a hospital as
249 defined in Section 22-21-20; a county or district health
250 department; a long-term care facility; a physician's office,
251 clinic, or outpatient treatment facility during the course of
252 or as a result of the performance of the duties of the health



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253 care worker or other person employed by or practicing at the
254 hospital; the county or district health department; any health
255 care facility owned or operated by the State of Alabama; the
256 long-term care facility; the physician's office, clinic, or
257 outpatient treatment facility; or a pharmacist, pharmacy
258 technician, pharmacy intern, pharmacy extern, or pharmacy
259 cashier; ~~he or she~~ causes physical injury to any person. This
260 subdivision shall apply to assaults on home health care
261 workers while they are in a private residence. This
262 subdivision shall not apply to assaults by patients who are
263 impaired by medication.

264 (7) For a purpose other than lawful medical or
265 therapeutic treatment, ~~he or she~~ intentionally causes stupor,
266 unconsciousness, or other physical or mental impairment or
267 injury to another person by administering to him or her,
268 without his or her consent, a drug, substance or preparation
269 capable of producing the intended harm.

270 (8) With intent to cause physical injury to a
271 Department of Human Resources employee or any employee
272 performing social work, as defined in Section 34-30-1, during
273 or as a result of the performance of his or her duty, ~~he or~~
274 ~~she~~ causes physical injury to any person.

275 (9) With intent to cause physical injury to a letter
276 carrier, as defined in Section 32-6-380, during or as a result
277 of the performance of his or her duty, ~~he or she~~ causes
278 physical injury to any person.

279 (b) (1) Assault—Except as provided in subdivision (2),
280 assault in the second degree is a Class C felony.



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281 (2) Assault in the second degree is a Class A felony if
282 the injury was caused by a machinegun, and on a conviction,
283 the defendant shall be sentenced to life imprisonment.

284 (c) For the purposes of this section, "utility worker"
285 means any person who is employed by an entity that owns,
286 operates, leases, or controls any plant, property, or facility
287 for the generation, transmission, manufacture, production,
288 supply, distribution, sale, storage, conveyance, delivery, or
289 furnishing to or for the public of electricity, natural or
290 manufactured gas, water, steam, sewage, or telephone service,
291 including two or more utilities rendering joint service."

292 Section 2. This act shall become effective on October
293 1, 2025.



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296 Senate

297 Read for the first time and referred04-Feb-25
298 to the Senate committee on Judiciary
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300 Read for the second time and placed12-Feb-25
301 on the calendar:
302 0 amendments
303
304 Read for the third time and passed13-Feb-25
305 as amended
306 Yeas 30
307 Nays 1
308 Abstains 0
309
310

Patrick Harris,
Secretary.

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