

SB32 INTRODUCED



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



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SYNOPSIS:

Under existing law, a person commits the crime of murder or manslaughter if the person causes the death of another person under certain circumstances. Murder is a Class A felony and manslaughter is a Class B felony.

This bill would require any person who causes the death of another person using a machinegun under certain circumstances to be sentenced to life imprisonment without the possibility of parole if the defendant was 18 years of age or older at the time of the offense and to either life imprisonment without the possibility of parole or life imprisonment if the defendant was under 18 years of age at the time of the offense.

Under existing law, a person commits the crime of assault in the first degree or assault in the second degree if the person causes injury to another person under certain circumstances. Assault in the first degree is a Class B felony and assault in the second degree is a Class C felony.

This bill would provide that assault in the first degree and assault in the second degree where a machinegun is used is a Class A felony and the person shall be sentenced to life imprisonment.



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29 This bill would also define the term machinegun.

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31

32 A BILL

33 TO BE ENTITLED

34 AN ACT

35

36 Relating to crimes and offenses; to amend Sections
37 13A-6-1, 13A-6-2, 13A-6-3, as last amended by Act 2024-103,
38 2024 Regular Session, 13A-6-20, and 13A-6-21, as last amended
39 by Act 2024-91, 2024 Regular Session, Code of Alabama 1975, to
40 create the definition of machinegun; and to provide for
41 mandatory enhanced sentences for a person who causes the death
42 of another by means of a machinegun or causes an injury by
43 means of a machinegun.

44 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

45 Section 1. Sections 13A-6-1, 13A-6-2, 13A-6-3, as last
46 amended by Act 2024-103, 2024 Regular Session, 13A-6-20, and
47 13A-6-21, as last amended by Act 2024-91, 2024 Regular
48 Session, Code of Alabama 1975, are amended to read as follows:

49 "§13A-6-1

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

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

55 (2) HOMICIDE. A person commits criminal homicide if he
56 or she intentionally, knowingly, recklessly or with criminal



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57 negligence causes the death of another person.

58 (3) MACHINEGUN. Any of the following:

59 a. Any firearm that shoots, is designed to shoot, or
60 can be readily restored to shoot, more than one shot
61 automatically without manual reloading and by a single
62 function of the trigger.

63 b. Any part or combination of parts intended solely for
64 use in converting a firearm into a machinegun.

65 c. Any combination of parts from which a machinegun can
66 be assembled if the parts are in the possession or control of
67 a person.

68 ~~(3)~~ (4) PERSON. The term, when referring to the victim
69 of a criminal homicide or assault, means a human being,
70 including an unborn child in utero at any stage of
71 development, regardless of viability.

72 (b) (1) Article 1 or Article 2 shall not apply to the
73 death or injury to an unborn child alleged to be caused by
74 medication or medical care or treatment provided to a pregnant
75 woman when performed by a licensed physician or other licensed
76 health care provider.

77 (2) Mistake, or unintentional error on the part of a
78 licensed physician or other licensed health care provider or
79 his or her employee or agent or any person acting on behalf of
80 the patient shall not subject the licensed physician or other
81 licensed health care provider or person acting on behalf of
82 the patient to any criminal liability under this section.

83 (3) "Medical care" or "treatment" includes, but is not
84 limited to, ordering, dispensation, or administration of



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85 prescribed medications and medical procedures.

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

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

96 (e) Nothing in this section shall make it a crime to
97 perform or obtain an abortion that is otherwise legal. Nothing
98 in this section shall be construed to make an abortion legal
99 which is not otherwise authorized by law."

100 "§13A-6-2

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

103 (1) With intent to cause the death of another person,
104 ~~he or she~~ causes the death of that person or of another
105 person.

106 (2) Under circumstances manifesting extreme
107 indifference to human life, ~~he or she~~ recklessly engages in
108 conduct ~~which~~ that creates a grave risk of death to a person
109 other than himself or herself, and thereby causes the death of
110 another person.

111 (3) ~~He or she commits~~ Commits or attempts to commit
112 arson in the first degree, burglary in the first or second



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113 degree, escape in the first degree, kidnapping in the first
114 degree, rape in the first degree, robbery in any degree,
115 sodomy in the first degree, aggravated child abuse under
116 Section 26-15-3.1, or any other felony clearly dangerous to
117 human life and, in the course of and in furtherance of the
118 crime that he or she is committing or attempting to commit, or
119 in immediate flight therefrom, he or she, or another
120 participant if there be any, causes the death of any person.

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

125 (b) A person does not commit murder under ~~subdivisions~~
126 subdivision (a) (1) or (a) (2) ~~of this section~~ if he or she was
127 moved to act by a sudden heat of passion caused by provocation
128 recognized by law, and before there had been a reasonable time
129 for the passion to cool and for reason to reassert itself. The
130 burden of injecting the issue of killing under legal
131 provocation is on the defendant, but this does not shift the
132 burden of proof. This subsection does not apply to a
133 prosecution for, or preclude a conviction of, manslaughter or
134 other crime.

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

136 .

137 b. The punishment for murder or any offense committed
138 under aggravated circumstances by a person 18 years of age or
139 older, as provided by Article 2 of Chapter 5 ~~of this title~~, is
140 death or life imprisonment without parole, which punishment



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141 shall be determined and fixed as provided by Article 2 of
142 Chapter 5 ~~of this title or any amendments thereto~~. The
143 punishment for murder or any offense committed under
144 aggravated circumstances by a person under ~~the age of~~ 18 years
145 of age, as provided by Article 2 of Chapter 5, is either life
146 imprisonment without parole, or life, which punishment shall
147 be determined and fixed as provided by Article 2 of Chapter 5
148 ~~of this title or any amendments thereto~~ and the applicable
149 Alabama Rules of Criminal Procedure.

150 c. The punishment for murder where the death was caused
151 by a machinegun committed by a person 18 years of age or older
152 is life imprisonment without the possibility of parole. The
153 punishment for murder where the death was caused by a
154 machinegun committed by a person under 18 years of age is
155 either life imprisonment without parole or life imprisonment.

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

159 "§13A-6-3

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

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

163 (2) Causes the death of another person under
164 circumstances that would constitute murder under Section
165 13A-6-2; except, that he or she causes the death due to a
166 sudden heat of passion caused by provocation recognized by
167 law, and before a reasonable time for the passion to cool and
168 for reason to reassert itself.



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169 (3)a. Knowingly sells, furnishes, gives away, delivers,
170 or distributes a controlled substance in violation of Section
171 13A-12-211, which contains fentanyl, any mixture containing
172 fentanyl, any synthetic controlled substance fentanyl, or any
173 synthetic controlled substance fentanyl analogue as described
174 in Sections 20-2-23 and 20-2-25, and the person to whom the
175 controlled substance is sold, furnished, given, delivered, or
176 distributed dies as a proximate result of the use of the
177 controlled substance; provided, nothing in this subdivision
178 shall be construed to apply to a licensed physician engaged in
179 the practice of medicine, a licensed pharmacist engaged in the
180 practice of pharmacy, or a licensed dentist engaged in the
181 practice of dentistry.

182 b. It is not a defense to this subdivision that the
183 person who sold, furnished, gave away, delivered, or
184 distributed the controlled substance had no knowledge that the
185 controlled substance contained fentanyl, any mixture
186 containing fentanyl, any synthetic controlled substance
187 fentanyl, or any synthetic controlled substance fentanyl
188 analogue as described in ~~Section~~Sections 20-2-23 and 20-2-25.

189 (b) (1) ~~Manslaughter~~ Except as provided in subdivision
190 (2), manslaughter is a Class B felony.

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

195 "§13A-6-20

196 (a) A person commits the crime of assault in the first



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197 degree if he or she does any of the following:

198 (1) With intent to cause serious physical injury to
199 another person, ~~he or she~~ causes serious physical injury to
200 any person by means of a deadly weapon or a dangerous
201 instrument; ~~or~~.

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

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

211 (4) In the course of and in furtherance of the
212 commission or attempted commission of arson in the first
213 degree, burglary in the first or second degree, escape in the
214 first degree, kidnapping in the first degree, rape in the
215 first degree, robbery in any degree, sodomy in the first
216 degree or any other felony clearly dangerous to human life, or
217 of immediate flight therefrom, ~~he or she~~ causes a serious
218 physical injury to another person; ~~or~~.

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

224 (b) (1) Assault—Except as provided in subdivision (2),



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225 assault in the first degree is a Class B felony.

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

229 "§13A-6-21

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

232 (1) With intent to cause serious physical injury to
233 another person, ~~he or she~~ causes serious physical injury to
234 any person.

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

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

241 (4)a. With intent to prevent a peace officer, as
242 defined in Section 36-21-60, a detention or correctional
243 officer at any municipal or county jail or state penitentiary,
244 emergency medical personnel, a utility worker, or a
245 firefighter from performing a lawful duty, ~~he or she~~ intends
246 to cause physical injury and ~~he or she~~ causes physical injury
247 to any person.

248 b. For the purpose of this subdivision, a person who is
249 a peace officer who is employed or under contract while off
250 duty by a private or public entity is a peace officer
251 performing a lawful duty when the person is working in his or
252 her approved uniform while off duty with the approval of his



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253 or her employing law enforcement agency. Provided, however,
254 that nothing contained in this subdivision shall be deemed or
255 construed as amending, modifying, or extending the
256 classification of a peace officer as off-duty for workers'
257 compensation purposes or any other benefits to which a peace
258 officer may otherwise be entitled to under law when considered
259 on-duty. Additionally, nothing contained in this subdivision
260 shall be deemed or construed as amending, modifying, or
261 extending the tort liability of any municipality as a result
262 of any action or inaction on the part of an off-duty police
263 officer.

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

268 (6) With intent to cause physical injury to a health
269 care worker, including a nurse, physician, technician, or any
270 other person employed by or practicing at a hospital as
271 defined in Section 22-21-20; a county or district health
272 department; a long-term care facility; a physician's office,
273 clinic, or outpatient treatment facility during the course of
274 or as a result of the performance of the duties of the health
275 care worker or other person employed by or practicing at the
276 hospital; the county or district health department; any health
277 care facility owned or operated by the State of Alabama; the
278 long-term care facility; the physician's office, clinic, or
279 outpatient treatment facility; or a pharmacist, pharmacy
280 technician, pharmacy intern, pharmacy extern, or pharmacy



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281 cashier; ~~he or she~~ causes physical injury to any person. This
282 subdivision shall apply to assaults on home health care
283 workers while they are in a private residence. This
284 subdivision shall not apply to assaults by patients who are
285 impaired by medication.

286 (7) For a purpose other than lawful medical or
287 therapeutic treatment, ~~he or she~~ intentionally causes stupor,
288 unconsciousness, or other physical or mental impairment or
289 injury to another person by administering to him or her,
290 without his or her consent, a drug, substance or preparation
291 capable of producing the intended harm.

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

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

301 (b) (1) ~~Assault~~ Except as provided in subdivision (2),
302 assault in the second degree is a Class C felony.

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

306 (c) For the purposes of this section, "utility worker"
307 means any person who is employed by an entity that owns,
308 operates, leases, or controls any plant, property, or facility



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309 for the generation, transmission, manufacture, production,
310 supply, distribution, sale, storage, conveyance, delivery, or
311 furnishing to or for the public of electricity, natural or
312 manufactured gas, water, steam, sewage, or telephone service,
313 including two or more utilities rendering joint service."

314 Section 2. This act shall become effective on October
315 1, 2025.