

1 HB389  
2 209873-1  
3 By Representative Morris  
4 RFD: Judiciary  
5 First Read: 09-FEB-21

SYNOPSIS: Under existing law, assault in the first degree requires serious physical injury or disfigurement.

Under existing law, intentionally causing physical injury by means of a deadly weapon or dangerous instrument constitutes assault in the second degree.

This bill would provide that intentionally causing physical injury by means of a firearm would constitute assault in the second degree.

Amendment 621 of the Constitution of Alabama of 1901, as amended by Amendment 890, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates  
2 funds, or provides a local source of revenue, to  
3 the entity for the purpose.

4 The purpose or effect of this bill would be  
5 to require a new or increased expenditure of local  
6 funds within the meaning of the amendment. If this  
7 bill is not enacted by a 2/3 vote, it will not  
8 become effective with regard to a local entity  
9 unless approved by the local entity or until, and  
10 only as long as, the Legislature appropriates funds  
11 or provides for a local source of revenue.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 Relating to assault; to amend Sections 13A-6-20 and  
18 13A-6-21, Code of Alabama 1975; to provide that intentionally  
19 causing physical injury by means of a firearm would constitute  
20 assault in the first degree; and in connection therewith to  
21 have as its purpose or effect the requirement of a new or  
22 increased expenditure of local funds within the meaning of  
23 Amendment 621 of the Constitution of Alabama of 1901, as  
24 amended by Amendment 890, now appearing as Section 111.05 of  
25 the Official Recompilation of the Constitution of Alabama of  
26 1901, as amended.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. 13A-6-20, Code of Alabama 1975, is  
2 amended to read as follows:

3                   "§13A-6-20.

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

6                   "(1) With intent to cause serious physical injury to  
7 another person, he or she causes serious physical injury to  
8 any person by means of a deadly weapon or a dangerous  
9 instrument;~~or.~~

10                   "(2) With intent to disfigure another person  
11 seriously and permanently, or to destroy, amputate, or disable  
12 permanently a member or organ of the body of another person,  
13 he or she causes such an injury to any person;~~or.~~

14                   "(3) Under circumstances manifesting extreme  
15 indifference to the value of human life, he or she recklessly  
16 engages in conduct which creates a grave risk of death to  
17 another person, and thereby causes serious physical injury to  
18 any person;~~or.~~

19                   "(4) In the course of and in furtherance of the  
20 commission or attempted commission of arson in the first  
21 degree, burglary in the first or second degree, escape in the  
22 first degree, kidnapping in the first degree, rape in the  
23 first degree, robbery in any degree, sodomy in the first  
24 degree, or any other felony clearly dangerous to human life,  
25 or of immediate flight therefrom, he or she causes a serious  
26 physical injury to another person;~~or.~~

1           "(5) While driving under the influence of alcohol or  
2 a controlled substance or any combination thereof in violation  
3 of Section 32-5A-191 or 32-5A-191.3, he or she causes serious  
4 physical injury to the person of another with a vehicle or  
5 vessel.

6           "(6) With intent to cause physical injury to another  
7 person, he or she causes physical injury to any person by  
8 means of a firearm.

9           "(b) Assault in the first degree is a Class B  
10 felony."

11           Section 2. Section 13A-6-21, Code of Alabama 1975,  
12 is amended to read as follows:

13           "§13A-6-21.

14           "(a) A person commits the crime of assault in the  
15 second degree if the person does any of the following:

16           "(1) With intent to cause serious physical injury to  
17 another person, he or she causes serious physical injury to  
18 any person.

19           "(2) With intent to cause physical injury to another  
20 person, he or she causes physical injury to any person by  
21 means of a deadly weapon or a dangerous instrument other than  
22 a firearm.

23           "(3) He or she recklessly causes serious physical  
24 injury to another person by means of a deadly weapon or a  
25 dangerous instrument.

26           "(4) (1) With intent to prevent a peace officer, as  
27 defined in Section 36-21-60, a detention or correctional

1 officer at any municipal or county jail or state penitentiary,  
2 emergency medical personnel, a utility worker, or a  
3 firefighter from performing a lawful duty, he or she intends  
4 to cause physical injury and he or she causes physical injury  
5 to any person.

6 (2) For the purpose of this subdivision, a person  
7 who is a peace officer who is employed or under contract while  
8 off duty by a private or public entity is a peace officer  
9 performing a lawful duty when the person is working in his or  
10 her approved uniform while off duty with the approval of his  
11 or her employing law enforcement agency. Provided, however,  
12 that nothing contained herein shall be deemed or construed as  
13 amending, modifying, or extending the classification of a  
14 peace officer as off-duty for workers compensation purposes or  
15 any other benefits to which a peace officer may otherwise be  
16 entitled to under law when considered on-duty. Additionally,  
17 nothing contained herein shall be deemed or construed as  
18 amending, modifying, or extending the tort liability of any  
19 municipality as a result of any action or inaction on the part  
20 of an off-duty police officer.

21 "(5) With intent to cause physical injury to a  
22 teacher or to an employee of a public educational institution  
23 during or as a result of the performance of his or her duty,  
24 he or she causes physical injury to any person.

25 "(6) With intent to cause physical injury to a  
26 health care worker, including a nurse, physician, technician,  
27 or any other person employed by or practicing at a hospital as

1 defined in Section 22-21-20; a county or district health  
2 department; a long-term care facility; or a physician's  
3 office, clinic, or outpatient treatment facility during the  
4 course of or as a result of the performance of the duties of  
5 the health care worker or other person employed by or  
6 practicing at the hospital; the county or district health  
7 department; any health care facility owned or operated by the  
8 State of Alabama; the long-term care facility; or the  
9 physician's office, clinic, or outpatient treatment facility;  
10 he or she causes physical injury to any person. This  
11 subdivision shall not apply to assaults by patients who are  
12 impaired by medication or to assaults on home health care  
13 workers while they are in private residences.

14 "(7) For a purpose other than lawful medical or  
15 therapeutic treatment, he or she intentionally causes stupor,  
16 unconsciousness, or other physical or mental impairment or  
17 injury to another person by administering to him or her,  
18 without his or her consent, a drug, substance or preparation  
19 capable of producing the intended harm.

20 "(b) Assault in the second degree is a Class C  
21 felony.

22 "(c) For the purposes of this section, utility  
23 worker means any person who is employed by an entity that  
24 owns, operates, leases, or controls any plant, property, or  
25 facility for the generation, transmission, manufacture,  
26 production, supply, distribution, sale, storage, conveyance,  
27 delivery, or furnishing to or for the public of electricity,

1 natural or manufactured gas, water, steam, sewage, or  
2 telephone service, including two or more utilities rendering  
3 joint service."

4 Section 3. The purpose or effect of this bill would  
5 be to require a new or increased expenditure of local funds  
6 within the meaning of Amendment 621 of the Constitution of  
7 Alabama of 1901, as amended by Amendment 890, now appearing as  
8 Section 111.05 of the Official Recompilation of the  
9 Constitution of Alabama of 1901, as amended. If this bill is  
10 not enacted by a 2/3 vote, it will not become effective with  
11 regard to a local entity unless approved by the local entity  
12 or until, and only as long as, the Legislature appropriates  
13 funds or provides for a local source of revenue.

14 Section 4. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.