

1 SB283
2 197739-1
3 By Senator Scofield
4 RFD: Judiciary
5 First Read: 16-APR-19

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8 SYNOPSIS: Under existing law, the commission of
9 domestic violence is a crime, and there are
10 provisions to protect domestic violence victims
11 from further acts of violence. Furthermore, during
12 the 2015 Regular Session, significant revisions
13 were made to the existing provisions in the law
14 governing domestic violence offenses and domestic
15 violence protection orders (Act 2015-496).

16 This bill would clarify certain provisions
17 of Act 2015-496, including clarification of
18 definitions, including dating relationships and
19 household members, certain requirements for sworn
20 petitions for protection orders, notice of hearing
21 and service of process requirements, fines and
22 penalties for violations of protection orders,
23 arrests without warrants for violation of
24 protection orders, release and bail of domestic
25 violence offenders, and provisions governing
26 domestic violence by strangulation or suffocation.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to domestic violence; to amend Sections
27 13A-6-130, 13A-6-131, as last amended by Act 2018-538, 2018

1 Regular Session, 13A-6-132, 13A-6-134, 13A-6-138, 13A-6-142,
2 15-10-3, 15-13-190, 15-23-68, 30-5-2, 30-5-3, 30-5-5, and
3 30-5-8, Code of Alabama 1975, to clarify certain definitions;
4 to further provide for requirements for sworn petitions for
5 protection orders; to further provide for notice of hearing
6 and service of process requirements; to further provide for
7 fines and penalties for violations of protection orders and
8 arrests without warrants for violations of protection orders;
9 to clarify provisions relating to the release and bail of
10 domestic violence offenders; and to revise provisions relating
11 to domestic violence by strangulation or suffocation; to
12 repeal Section 13A-6-139.1, Code of Alabama 1975, relating to
13 definitions for certain domestic violence offenses; and in
14 connection therewith would have as its purpose or effect the
15 requirement of a new or increased expenditure of local funds
16 within the meaning of Amendment 621 of the Constitution of
17 Alabama of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of Alabama of 1901,
19 as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 13A-6-130, 13A-6-131, as last
22 amended by Act 2018-538, 2018 Regular Session, 13A-6-132,
23 13A-6-134, 13A-6-138, 13A-6-142, 15-10-3, 15-13-190, 15-23-68,
24 30-5-2, 30-5-3, 30-5-5, and 30-5-8, Code of Alabama 1975, are
25 amended to read as follows:

26 "§13A-6-130.

1 "(a) (1) A person commits the crime of domestic
2 violence in the first degree if the person commits the crime
3 of assault in the first degree pursuant to Section 13A-6-20~~or~~;
4 aggravated stalking pursuant to Section 13A-6-91~~7~~; or burglary
5 in the first degree pursuant to Section 13A-7-5 and the victim
6 is a current or former spouse, parent, step-parent, child,
7 step-child, any person with whom the defendant has a child in
8 common, a present ~~or former~~ household member, or a person who
9 has or had a dating relationship, ~~as defined in Section~~
10 ~~13A-6-139.1~~, with the defendant.

11 "(2) For the purposes of this section, a household
12 member excludes non-romantic or non-intimate co-residents, and
13 a dating relationship means a current or former relationship
14 of a romantic or intimate nature characterized by the
15 expectation of affectionate or sexual involvement by either
16 party.

17 "(b) Domestic violence in the first degree is a
18 Class A felony, except that the defendant shall serve a
19 minimum term of imprisonment of one year without consideration
20 of probation, parole, good time credits, or any other
21 reduction in time for any second or subsequent conviction
22 under this subsection.

23 "~~(b)~~ (c) The minimum term of imprisonment imposed
24 under subsection ~~(a)~~ (b) shall be double without consideration
25 of probation, parole, good time credits, or any reduction in
26 time if either of the following occur:

1 "(1) ~~a~~ A defendant willfully violates a protection
2 order issued by a court of competent jurisdiction and in the
3 process of violating the order commits domestic violence in
4 the first degree.

5 "~~(c) The minimum term of imprisonment imposed under~~
6 ~~subsection (a) shall be double without consideration of~~
7 ~~probation, parole, good time credits, or any reduction in time~~
8 ~~if the~~ (2) The offense was committed in the presence of a
9 child under the age of 14 years at the time of the offense, if
10 the victim was the parent or legal guardian of the child who
11 is the victim's child or step-child, the defendant's child or
12 step-child, or who is a child residing in or visiting the
13 household of the victim or defendant. For purposes of this
14 subsection, "in the presence of a child" means ~~in the physical~~
15 ~~presence of a child or having knowledge that a child is~~
16 ~~present and may see or hear the act~~ that the child was in a
17 position to see or hear the act.

18 "(d) The court shall make a written finding of fact,
19 to be made part of the record upon conviction or adjudication,
20 of whether or not the act was committed in the presence of a
21 child. If a defendant has a trial by jury, if the jury finds
22 the defendant guilty, shall also find a special verdict as to
23 whether or not the defendant committed the act in the presence
24 of a child.

25 "§13A-6-131.

26 "(a) (1) A person commits the crime of domestic
27 violence in the second degree if the person commits the crime

1 of assault in the second degree pursuant to Section 13A-6-21;
2 the crime of intimidating a witness pursuant to Section
3 13A-10-123; the crime of stalking pursuant to Section
4 13A-6-90; the crime of burglary in the second or third degree
5 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of
6 criminal mischief in the first degree pursuant to Section
7 13A-7-21 and the victim is a current or former spouse, parent,
8 step-parent, child, step-child, any person with whom the
9 defendant has a child in common, a present ~~or former~~ household
10 member, or a person who has or had a dating relationship, ~~as~~
11 ~~defined in Section 13A-6-139.1,~~ with the defendant.

12 "(2) For the purposes of this section, a household
13 member excludes non-romantic or non-intimate co-residents, and
14 a dating relationship means a current or former relationship
15 of a romantic or intimate nature characterized by the
16 expectation of affectionate or sexual involvement by either
17 party.

18 "(b) Domestic violence in the second degree is a
19 Class B felony, except the defendant shall serve a minimum
20 term of imprisonment of six months without consideration of
21 probation, parole, good time credits, or any reduction in time
22 for any second or subsequent conviction under this subsection.

23 ~~"(b) (c)~~ (c) The minimum term of imprisonment imposed
24 under subsection ~~(a)~~ (b) shall be double without consideration
25 of probation, parole, good time credits, or any reduction in
26 time if either of the following applies:

1 "(1) ~~a~~ A defendant willfully violates a protection
2 order issued by a court of competent jurisdiction and in the
3 process of violating the order commits domestic violence in
4 the second degree.

5 "~~(c) The minimum term of imprisonment imposed under~~
6 ~~subsection (a) shall be double without consideration of~~
7 ~~probation, parole, good time credits, or any reduction in time~~
8 ~~if the~~ (2) The offense was committed in the presence of a
9 child under the age of 14 years at the time of the offense, if
10 the victim was the parent or legal guardian of the child who
11 is the victim's child or step-child, the defendant's child or
12 step-child, or who is a child residing in or visiting the
13 household of the victim or defendant. For purposes of this
14 subsection, "in the presence of a child" means ~~in the physical~~
15 ~~presence of a child or having knowledge that a child is~~
16 ~~present and may see or hear the act~~ that the child was in a
17 position to see or hear the act.

18 "(d) The court shall make a written finding of fact,
19 to be made part of the record upon conviction or adjudication,
20 of whether or not the act was committed in the presence of a
21 child. If a defendant has a trial by jury, if the jury finds
22 the defendant guilty, shall also find a special verdict as to
23 whether or not the defendant committed the act in the presence
24 of a child.

25 "§13A-6-132.

26 "(a) (1) A person commits domestic violence in the
27 third degree if the person commits the crime of assault in the

1 third degree pursuant to Section 13A-6-22; the crime of
2 menacing pursuant to Section 13A-6-23; the crime of reckless
3 endangerment pursuant to Section 13A-6-24; the crime of
4 criminal coercion pursuant to Section 13A-6-25; the crime of
5 harassment pursuant to subsection (a) of Section 13A-11-8; the
6 crime of criminal surveillance pursuant to Section 13A-11-32;
7 the crime of harassing communications pursuant to subsection
8 (b) of Section 13A-11-8; the crime of criminal trespass in the
9 third degree pursuant to Section 13A-7-4; the crime of
10 criminal mischief in the second or third degree pursuant to
11 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the
12 third degree pursuant to Section 13A-7-43; and the victim is a
13 current or former spouse, parent, step-parent, child,
14 step-child, any person with whom the defendant has a child in
15 common, a present ~~or former~~ household member, or a person who
16 has or had a dating relationship, ~~as defined in Section~~
17 ~~13A-6-139.1~~, with the defendant.

18 "(2) For the purpose of this section, a household
19 member excludes non-romantic or non-intimate co-residents, and
20 a dating relationship means a current or former relationship
21 of a romantic or intimate nature characterized by the
22 expectation of affectionate or sexual involvement by either
23 party.

24 "(b) Domestic violence in the third degree is a
25 Class A misdemeanor. ~~(b)~~ The minimum term of imprisonment
26 imposed under subsection (a) shall be 30 days without
27 consideration of reduction in time if a defendant willfully

1 violates a protection order issued by a court of competent
2 jurisdiction and in the process of violating the order commits
3 domestic violence in the third degree.

4 "(c) A second conviction under subsection (a) is a
5 Class A misdemeanor, except the defendant shall serve a
6 minimum term of imprisonment of 10 days in a city or county
7 jail or detention facility without consideration for any
8 reduction in time.

9 "(d) A third or subsequent conviction under
10 subsection (a) is a Class C felony.

11 "(e) If the defendant has a previous conviction for
12 domestic violence in the first degree pursuant to Section
13 13A-6-130, domestic violence in the second degree pursuant to
14 Section 13A-6-131, domestic violence by strangulation or
15 suffocation pursuant to Section 13A-6-138, or a domestic
16 violence conviction or other substantially similar conviction
17 from another state or jurisdiction, a conviction under
18 subsection (a) is a Class C felony.

19 "~~(e)~~ (f) For purposes of determining second, third,
20 or subsequent number of convictions, convictions in municipal
21 court shall be included.

22 "§13A-6-134.

23 "(a) If a law enforcement officer receives
24 complaints of domestic violence from two or more opposing
25 persons, or if both parties have injuries, the officer shall
26 evaluate each complaint separately to determine who was the
27 predominant aggressor. If the officer determines that one

1 person was the predominant physical aggressor, that person may
2 be arrested; however, a person who acts in a reasonable manner
3 to protect himself or herself or another family or household
4 member from domestic violence, ~~as defined in Section~~
5 ~~13A-6-139.1,~~ may not be arrested for a violation of Section
6 13A-6-130, 13A-6-131, ~~or~~ 13A-6-132, or 13A-6-138. In
7 determining whether a person is the predominant aggressor the
8 officer shall consider all of the following:

9 "(1) Prior complaints of domestic violence.

10 "(2) The relative severity of the injuries inflicted
11 on each person, including whether the injuries are offensive
12 versus defensive in nature.

13 "(3) The likelihood of future injury to each person.

14 "(4) Whether the person had reasonable cause to
15 believe he or she was in imminent danger of becoming a victim
16 of any act of domestic violence, ~~as the terms are defined in~~
17 ~~Section 13A-6-139.1.~~

18 "(5) Whether one of the persons acted in
19 self-defense.

20 "(b) A law enforcement officer shall not threaten,
21 suggest, or otherwise indicate the possible arrest of all
22 parties to discourage the request for intervention by law
23 enforcement by any party or base the decision to arrest or not
24 to arrest on either of the following:

25 "(1) The specific consent or request of the victim.

1 "(2) The officer's perception of the willingness of
2 a victim of or witness to the domestic violence to testify or
3 otherwise participate in a judicial proceeding.

4 "(c) (1) In addition to victim information services
5 required pursuant to Section 15-23-62, a law enforcement
6 officer, at the time of initial investigation, shall give a
7 victim of domestic violence, ~~as those terms are defined in~~
8 ~~Section 13A-6-139.1,~~ notice of the legal rights and remedies
9 available on a standard form developed and distributed by the
10 Alabama State Law Enforcement Agency pursuant to subdivision
11 (2).

12 "(2) The agency shall develop a "Legal Rights and
13 Remedies Notice to Victims" that includes a general summary of
14 the provisions of the Protection From ~~Domestic Violence~~ Abuse
15 Act using language a layperson may understand and the
16 statewide domestic violence hotline number, and shall
17 distribute the notice to ~~be used by~~ all law enforcement
18 agencies throughout the state.

19 "(d) A law enforcement officer is not liable in any
20 civil action filed by any party for an arrest based on
21 probable cause, enforcement of a court order, or service of
22 process arising from an alleged incident of domestic violence,
23 pursuant to Sections 36-1-12 and 6-5-338, as applicable.

24 "§13A-6-138.

25 "(a) For the purposes of this section, the following
26 terms have the following meanings:

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

4 "(2) SUFFOCATION. Intentionally causing asphyxia by
5 depriving a person of air or by preventing a person from
6 breathing through the inhalation of toxic gases or by blocking
7 or obstructing the airway of a person, by any means other than
8 by strangulation.

9 "(b) A person commits the crime of domestic violence
10 by strangulation or suffocation if he or she commits an
11 assault with intent to cause physical harm or commits the
12 crime of menacing pursuant to Section 13A-6-23, by
13 strangulation or suffocation or attempted strangulation or
14 suffocation ~~against a victim, as the term is defined in~~
15 Section 13A-6-139.1 and the victim is a current or former
16 spouse, parent, step-parent, child, step-child, any person
17 with whom the defendant has a child in common, a present
18 household member, or a person who has or had a dating
19 relationship. For the purpose of this section, a household
20 member excludes non-romantic or non-intimate co-residents, and
21 a dating relationship means a current or former relationship
22 of a romantic or intimate nature characterized by the
23 expectation of affectionate or sexual involvement by either
24 party.

25 "(c) Domestic violence by strangulation or
26 suffocation is a Class B felony punishable as provided by law.

27 "§13A-6-142.

1 ~~"(a) A violation of a domestic violence protection~~
2 ~~order is a Class A misdemeanor which shall be punishable as~~
3 ~~provided by law~~ A person commits the crime of violation of a
4 domestic violence protection order if the person knowingly
5 commits any act prohibited by a domestic violence protection
6 order or willfully fails to abide by any term of a domestic
7 violence protection order.

8 "(b) A violation of a domestic violence protection
9 order is a Class A misdemeanor which shall be punishable as
10 provided by law. A second conviction for violation of a
11 domestic violence protection order, in addition to any other
12 penalty or fine, shall be punishable by a minimum of 30 days
13 imprisonment which may not be suspended. A third or subsequent
14 conviction ~~shall, in addition to any other penalty or fine, be~~
15 ~~punishable by a minimum sentence of 120 days imprisonment~~
16 ~~which may not be suspended~~ is a Class C felony.

17 "(c) In addition to any other fine or penalty
18 provided by law, the court shall order the defendant to pay an
19 additional fine of fifty dollars (\$50) for a violation of
20 domestic violence protection order to be distributed to the
21 Domestic Violence Trust Fund, established by Section 30-6-11.

22 "§15-10-3.

23 "(a) An officer may arrest a person without a
24 warrant, on any day and at any time in any of the following
25 instances:

26 "(1) If a public offense has been committed or a
27 breach of the peace threatened in the presence of the officer.

1 "(2) When a felony has been committed, though not in
2 the presence of the officer, by the person arrested.

3 "(3) When a felony has been committed and the
4 officer has ~~reasonable~~ probable cause to believe that the
5 person arrested committed the felony.

6 "(4) When the officer has ~~reasonable~~ probable cause
7 to believe that the person arrested has committed a felony,
8 although it may afterwards appear that a felony had not in
9 fact been committed.

10 "(5) When a charge has been made, upon ~~reasonable~~
11 probable cause, that the person arrested has committed a
12 felony.

13 "(6) When the officer has actual knowledge that a
14 warrant for the person's arrest for the commission of a felony
15 or misdemeanor has been issued, provided the warrant was
16 issued in accordance with this chapter. However, upon request
17 the officer shall show the warrant to the arrested person as
18 soon as possible. If the officer does not have the warrant in
19 his or her possession at the time of arrest the officer shall
20 inform the defendant of the offense charged and of the fact
21 that a warrant has been issued.

22 "(7) When the officer has ~~reasonable~~ probable cause
23 to believe that a felony or misdemeanor has been committed by
24 the person arrested in violation of a protection order,
25 including a domestic violence protection order, including a
26 domestic violence protection order or an elder abuse
27 protection order, issued by a court of competent jurisdiction.

1 "(8) When an offense involves a crime of domestic
2 violence as defined in Section 13A-6-139.1, including domestic
3 violence in the first degree, pursuant to Section 13A-6-130,
4 domestic violence in the second degree, pursuant to Section
5 13A-6-131, domestic violence in the third degree, pursuant to
6 Section 13A-6-132, interference with a domestic violence
7 emergency call, in violation of Section 13A-6-137, or domestic
8 violence by strangulation or suffocation, pursuant to Section
9 13A-6-138, or elder abuse as defined in Section 38-9F-3, and
10 the arrest is based on probable cause, regardless of whether
11 the offense is a felony or misdemeanor.

12 "(b) When a law enforcement officer investigates an
13 allegation of domestic violence or elder abuse, whether or not
14 an arrest is made, the officer shall make a written report of
15 the alleged incident, including a statement of the complaint,
16 and the disposition of the case.

17 "(c) If the defendant is arrested under this section
18 for committing an act of domestic violence, including domestic
19 violence in the first degree, pursuant to Section 13A-6-130,
20 domestic violence in the second degree, pursuant to Section
21 13A-6-131, domestic violence in the third degree, pursuant to
22 Section 13A-6-132, interference with a domestic violence
23 emergency call, in violation of Section 13A-6-137, or domestic
24 violence by strangulation or suffocation, pursuant to Section
25 13A-6-138, in violation of a domestic violation protection
26 order, or an act of elder abuse in violation of an elder abuse
27 protection order, the defendant shall be held in custody until

1 brought before the court ~~as expeditiously as possible~~ within
2 48 hours for the purpose of enforcing the protection order and
3 for consideration of bail in accordance with Section 15-13-190
4 and the applicable rules of criminal procedure, pending a
5 hearing. If the defendant is not brought before the court
6 within 48 hours, the defendant shall be subject to bail
7 according to the Alabama Rules of Criminal Procedure.

8 "§15-13-190.

9 "(a) A person arrested for ~~an offense involving~~
10 ~~domestic violence as defined in Section 13A-6-139.1, who~~
11 ~~strikes, shoves, kicks, or otherwise touches a victim, as~~
12 ~~defined in Section 13A-6-139.1, or subjects him or her to~~
13 ~~physical contact, or is charged with~~ domestic violence in the
14 first degree, pursuant to Section 13A-6-130, domestic violence
15 in the second degree, pursuant to Section 13A-6-131, domestic
16 violence in the third degree, pursuant to Section 13A-6-132,
17 interference with a domestic violence emergency call, in
18 violation of Section 13A-6-137, or domestic violence by
19 strangulation or suffocation, pursuant to Section 13A-6-138,
20 or a violation of a domestic violence protection order, may
21 not be admitted to bail until after an appearance before a
22 judge or magistrate within 24 hours of the arrest, and if the
23 person is not taken before a judge or magistrate within 24
24 hours of the arrest, he or she shall be ~~released on bail~~
25 afforded an opportunity to make bail in accordance with the
26 Alabama Rules of Criminal Procedure. ~~Prior to the release of~~
27 ~~the person, the judge or magistrate shall review the facts of~~

1 ~~the arrest to determine whether the person is a threat to the~~
2 ~~alleged victim, is a threat to public safety, and is~~
3 ~~reasonably likely to appear in court.~~

4 "(b) The judge or magistrate ~~shall make findings on~~
5 ~~the record concerning those determinations and~~ may impose
6 conditions of release or bail on the person to protect the
7 alleged victim of domestic violence or the person protected by
8 a protection order, and to ensure the appearance of the person
9 at a subsequent court proceeding. The conditions may include,
10 but need not be limited to, the following:

11 "(1) enjoining Enjoining the person from threatening
12 to commit or committing acts of domestic violence against the
13 alleged victim, ~~and~~.

14 "(2) a. restraining Restraining and enjoining the
15 defendant from contacting the victim, ~~as described in Section~~
16 ~~30-5-7, and~~.

17 "b. For the purposes of this subsection, contacting
18 includes, but is not limited to, communicating with the victim
19 verbally or in any written form, either in person,
20 telephonically, electronically, or in any other manner, either
21 directly or indirectly through a third person.

22 "(3) prohibiting Prohibiting the person from
23 possessing a firearm or other weapon specified by the court,
24 except when such weapon is necessary for employment as a peace
25 officer or military personnel, ~~and~~.

1 "(4) ~~issuing~~ Issuing any other order or modification
2 of orders above required to protect the safety of the alleged
3 victim or to ensure the appearance of the person in court.

4 "(c) If conditions of release are imposed, the judge
5 or magistrate shall issue a written order for conditional
6 release, immediately distribute a copy of the order to the law
7 enforcement agency having custody of the arrested or charged
8 person, place information pertaining to the order in the
9 domestic violence protection order registry, and provide the
10 law enforcement agency with any available information
11 concerning the location of the alleged victim in a manner that
12 protects the safety of the victim. Law enforcement shall
13 provide a copy of the written order to the victim within 24
14 hours of receipt, provided that the victim provides law
15 enforcement with current and accurate contact information,~~in~~
16 ~~accordance with the process outlined in Section 30-5-8.~~

17 "(d) In cases in which the defendant has been placed
18 on conditional release or bail pursuant to this section or is
19 in violation of probation from ~~an~~ another case and is arrested
20 on a probation violation warrant, a violation of written
21 condition of release pursuant to this section, or a violation
22 of a prior protection order, the court shall consider
23 revocation of probation, conditional release, or bail. Should
24 the court order continue probation, conditional release, or
25 bail, the court shall order additional conditions imposed on
26 the defendant to provide protection to the victim of domestic

1 violence or the person protected by a protection order.
2 Additional conditions shall be included in a written order.

3 "(e) A person who willfully violates a condition of
4 pretrial release provided in this section, when the original
5 arrest was for an act of domestic violence ~~as defined in~~
6 ~~Section 13A-6-139.1,~~ shall be subject to the penalties
7 provided in Section 13A-6-142, and shall receive an enhanced
8 penalty and additional sentence of imprisonment in accordance
9 with Section 13A-6-142.

10 "§15-23-68.

11 "The court shall provide a waiting area for the
12 victim separate from the defendant, relatives of the
13 defendant, and defense witnesses, if an area is available and
14 the use of the area is practical. If a separate waiting area
15 is not available, or its use impractical, the court shall
16 minimize contact of the victim with the defendant, relatives
17 of the defendant, and defense witnesses during court
18 proceedings. For victims of domestic violence, ~~as the terms~~
19 ~~are defined in Sections 13A-6-139.1 and 30-5-2,~~ if a separate
20 waiting area is not available, the presiding circuit judge
21 shall create procedures so that the defendant has no contact
22 with the victim.

23 "§30-5-2.

24 "In this chapter, the following words shall have the
25 following meanings unless the context clearly indicates
26 otherwise:

1 "(1) ABUSE. An act ~~of domestic violence~~ committed
2 against a victim, which is any of the following:

3 "a. Arson. Arson as defined under Sections 13A-7-40
4 to 13A-7-43, inclusive.

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

7 "c. Attempt. ~~With the intent to commit any crime~~
8 ~~under this section or any other criminal act under the laws of~~
9 ~~this state, performing any overt act towards the commission of~~
10 ~~the offense~~ Attempt as defined under Section 13A-4-2.

11 "d. Child Abuse. Torture or willful abuse of a
12 child, aggravated child abuse, or chemical endangerment of a
13 child as provided in Chapter 15, commencing with Section
14 26-15-1, of Title 26, known as the Alabama Child Abuse Act.

15 "e. Criminal Coercion. Criminal coercion as defined
16 under Section 13A-6-25.

17 "f. Criminal Trespass. ~~Entering or remaining in the~~
18 ~~dwelling or on the premises of another after having been~~
19 ~~warned not to do so either orally or in writing by the owner~~
20 ~~of the premises or other authorized person~~ Criminal trespass
21 as defined under Sections 13A-7-2 to 13A-7-4.1, inclusive.

22 "g. Harassment. Harassment as defined under Section
23 13A-11-8.

24 "h. Kidnapping. Kidnapping as defined under Sections
25 13A-6-43 and 13A-6-44.

26 "i. Menacing. Menacing as defined under Section
27 13A-6-23.

1 "j. Other Conduct. Any other conduct directed toward
2 a plaintiff covered by this chapter that could be punished as
3 a criminal act under the laws of this state.

4 "k. Reckless Endangerment. Reckless endangerment as
5 defined under Section 13A-6-24.

6 "l. Sexual Abuse. Any sexual offenses included in
7 Article 4, commencing with Section 13A-6-60, of Chapter 6 of
8 Title 13A.

9 "m. Stalking. Stalking as defined under Sections
10 13A-6-90 to 13A-6-94, inclusive.

11 "n. Theft. ~~Knowingly obtaining or exerting~~
12 ~~unauthorized control or obtaining control by deception over~~
13 ~~property owned by or jointly owned by the plaintiff and~~
14 ~~another. Theft includes theft~~ Theft as defined under Sections
15 13A-8-1 to 13A-8-5, inclusive.

16 "o. Unlawful Imprisonment. Unlawful imprisonment as
17 defined under Sections 13A-6-41 and 13A-6-42.

18 "(2) COURT. A circuit court judge, ~~a district court~~
19 ~~judge, or a district court judge appointed as a special~~
20 ~~circuit court judge appointed pursuant to Section 12-1-14 or~~
21 ~~12-1-14.1. A law or a district court judge ~~may be~~ designated~~
22 by a written standing order from the presiding circuit court
23 judge to handle protection from abuse cases.

24 "(3) DATING RELATIONSHIP. A relationship or former
25 relationship of a romantic or intimate nature characterized by
26 the expectation of affectionate or sexual involvement by
27 either party.

1 ~~"a. A significant relationship of a romantic or~~
2 ~~intimate nature characterized by the expectation of~~
3 ~~affectionate or sexual involvement over a period of time and~~
4 ~~on a continuing basis during the course of the relationship.~~

5 ~~"b. a.~~ A dating relationship includes the period of
6 engagement to be married.

7 ~~"c. b.~~ A dating relationship does not include a
8 casual or business relationship or a relationship that ended
9 more than 12 months prior to the filing of the petition for a
10 protection order.

11 "(4) PLAINTIFF. An individual who has standing to
12 file a petition under Section 30-5-5.

13 "(5) PROTECTION ORDER. Any order of protection from
14 abuse issued under this chapter for the purpose of preventing
15 acts of abuse as defined in this chapter.

16 "(6) THREAT. Any word or action, expressed or
17 implied, made to cause the plaintiff to fear for his or her
18 safety or for the safety of another person.

19 "(7) VICTIM. An individual who is related in any of
20 the following ways to the person who commits an act of abuse
21 ~~in any of the following ways:~~

22 ~~"a. Is related by marriage to the defendant,~~
23 ~~including a common law marriage.~~

24 ~~"b. Had a.~~ Has a current or former marriage or,
25 including common law marriage, with the defendant.

26 ~~"c. b.~~ Has a child in common with the defendant
27 regardless of whether the victim and defendant have ever been

1 married and regardless of whether they are currently residing
2 or have in the past resided together in the same household.

3 ~~"d. c.~~ Has or had a dating relationship with the
4 defendant. A dating relationship does not include a casual or
5 business relationship or a relationship that ended more than
6 12 months prior to the filing of the petition for a protection
7 order.

8 ~~"e. d.~~ Is a current or former household member. A
9 household member is a person maintaining or having maintained
10 a living arrangement with the defendant where he or she is in,
11 or was engaged in, a romantic or sexual relationship For
12 purposes of this chapter, a household member excludes
13 non-romantic or non-intimate co-residents.

14 ~~"f. e.~~ A relative of a current or former household
15 member as defined in paragraph ~~e. d.~~ who also lived with the
16 defendant.

17 ~~"g. f.~~ An individual who is a parent, stepparent,
18 child, or stepchild and who is in or has maintained a living
19 arrangement with the defendant.

20 "§30-5-3.

21 "(a) The courts, as provided in this chapter, shall
22 have jurisdiction to issue protection orders.

23 "(b) A protection order may be requested in any
24 pending civil or domestic relations action, as an independent
25 civil action, or in conjunction with the preliminary, final,
26 or post-judgment relief in a civil action.

1 "(c) A petition for a protection order may be filed
2 in any of the following locations:

3 "(1) Where the plaintiff or defendant resides.

4 "(2) Where the plaintiff is temporarily located if
5 he or she has left his or her residence to avoid further
6 abuse.

7 "(3) Where the abuse occurred.

8 "(4) Where a civil matter is pending before the
9 court in which the plaintiff and the defendant are opposing
10 parties.

11 "(d) When custody, visitation, or support, or a
12 combination of them, of a child or children has been
13 established in a previous court order in this state, or an
14 action containing any of the issues above is pending in a
15 court in this state in which the plaintiff and the defendant
16 are opposing parties, a copy of any temporary ex parte
17 protection order issued pursuant to this chapter and the case
18 giving rise thereto should be transferred to the court of
19 original venue of custody, visitation, or support for further
20 disposition as soon as practical taking into account the
21 safety of the plaintiff and any children.

22 "(e) A minimum period of residency of a plaintiff is
23 not required to petition the court for an order of protection.

24 "§30-5-5.

25 "(a) The following persons have standing to file a
26 sworn petition for a protection order under this chapter as a
27 plaintiff:

1 "(1) A person who is at least 18 years old or is
2 otherwise emancipated and is the victim of abuse, as defined
3 in Section 30-5-2, or has reasonable cause to believe he or
4 she is in imminent danger of becoming the victim of any act of
5 abuse.

6 "(2) A parent, legal guardian, next friend, or court
7 appointed guardian ad litem, or the State Department of Human
8 Resources may petition for relief on behalf of the following:

9 "a. A minor child.

10 "b. Any person prevented by physical or mental
11 incapacity from seeking a protection order.

12 "(b) Standardized petitions for actions pursuant to
13 this chapter shall be made available through the circuit
14 clerks' offices around the state. The circuit clerk shall not
15 ~~be required to~~ provide assistance to persons in completing the
16 forms or in presenting their case to the court.

17 "(c) A sworn petition shall allege the incidents of
18 abuse, the specific facts and circumstances that form the
19 basis upon which relief is sought, and that the plaintiff
20 genuinely fears subsequent acts of abuse by the defendant.
21 ~~With respect to a minor child who is living at home, the~~
22 ~~parent, legal guardian, or next friend seeking the protective~~
23 ~~order on behalf of the child shall:~~

24 "~~(1) Have been an eyewitness to, or have direct~~
25 ~~evidence or affidavits from eyewitnesses of, the specific~~
26 ~~facts and circumstances that form the basis upon which relief~~
27 ~~is sought, if the party against whom the protection order is~~

1 ~~sought is also a parent, stepparent, or legal guardian of the~~
2 ~~minor child; or~~

3 ~~"(2) Have a reasonable cause to believe that the~~
4 ~~minor child is a victim of abuse to form the basis upon which~~
5 ~~relief is sought, if the party against whom the protection~~
6 ~~order is sought is a person other than a parent, stepparent,~~
7 ~~or legal guardian of a minor child.~~

8 "(d) The court shall not enter mutual orders. The
9 court shall issue separate orders that specifically and
10 independently state the prohibited behavior and relief granted
11 in order to protect the victim and the victim's immediate
12 family and to clearly provide law enforcement with sufficient
13 directives.

14 "(e) Any plaintiff who files a petition under this
15 chapter may do so through an attorney or may represent himself
16 or herself ~~pro se~~ throughout the legal process outlined in
17 this chapter, including, but not limited to, the filing of
18 pleadings, motions, and any other legal documents with any
19 court, and the appearance in ex parte and formal court
20 proceedings on his or her behalf.

21 "(f) (1) The following information shall not be
22 contained on any court document made available to the public
23 and the defendant by the circuit clerk's office: The
24 plaintiff's home address and, if applicable, business address;
25 a plaintiff's home telephone number and, if applicable,
26 business telephone number; the home or business address or
27 telephone number of any member of the plaintiff's family or

1 household; or an address that would reveal the confidential
2 location of a shelter for victims of domestic violence as
3 defined in Section 30-6-1.

4 "(2) If disclosure of the plaintiff's address, the
5 address of any member of the plaintiff's family or household,
6 or an address that would reveal the confidential location of a
7 shelter for victims of domestic violence is necessary to
8 determine jurisdiction or to consider a venue issue, it shall
9 be made orally and in camera.

10 "(3) If the plaintiff has not disclosed an address
11 or telephone number under this section, the plaintiff shall
12 satisfy one of the following requirements:

13 "a. Designate and provide to the court an
14 alternative address.

15 "b. Elect to substitute the business address and
16 telephone number of his or her attorney of record in place of
17 the address of the plaintiff on any court document.

18 "(g) No court costs and fees shall be assessed for
19 the filing and service of a petition for a protection order,
20 for the issuance or registration of a protection order, or for
21 the issuance of a witness subpoena under this chapter. Costs
22 and fees may be assessed against the defendant at the
23 discretion of the court.

24 "§30-5-8.

25 "(a) (1) A copy of ~~the~~ any notice of hearing or any
26 protection order under this chapter shall be sent to the
27 plaintiff within 24 hours of issuance, provided the plaintiff

1 provides the court with current and accurate contact
2 information, and to the law enforcement officials with
3 jurisdiction ~~to enforce the order~~ over the residence of the
4 plaintiff. The clerk of the court may furnish a certified copy
5 of the notice of final hearing or ~~final~~ protection order, if
6 any, electronically.

7 "(2) A copy of ~~any notice of hearing or order~~ the
8 petition and ex parte protection order, if issued, under this
9 chapter shall be ~~issued to~~ served upon the defendant as soon
10 as possible pursuant to Rule 4 of the Alabama Rules of Civil
11 Procedure. A copy of the notice of final hearing and any other
12 order under this chapter shall be issued to the defendant as
13 soon as possible.

14 "(3) Certain information in these ~~orders~~ cases shall
15 be entered in the Protection Order Registry of the
16 Administrative Office of Courts and shall be electronically
17 transmitted by the Administrative Office of Courts to the
18 Alabama State Law Enforcement Agency for entry into the
19 National Crime Information Center, ~~the National Law~~
20 ~~Enforcement Telecommunication System,~~ and the Law Enforcement
21 Tactical System. ~~Such~~ The information shall include, but is
22 not limited to, information as to the existence and status of
23 any protection orders for verification purposes.

24 "(b) Ex parte and final protection orders shall be
25 in a format as provided by the Administrative Office of
26 Courts. If a court wishes to provide additional information in

1 these standardized court orders, the court may attach
2 additional pages containing this additional information.

3 "(c) Within 24 hours after ~~issuance of a protection~~
4 ~~order~~ receiving proof of service of process of the petition
5 and ex parte order, if issued, the clerk of court shall
6 forward a copy of the written proof of service of process ~~and~~
7 ~~a copy of the protection order~~ to the law enforcement ~~agency~~
8 agencies with jurisdiction over the residence of the
9 plaintiff. The information shall be entered into the
10 Protection Order Registry of the Administrative Office of
11 Courts and shall be electronically transmitted by the
12 Administrative Office of Courts to the Alabama State Law
13 Enforcement Agency for entry into the National Crime
14 Information Center, ~~the National Law Enforcement~~
15 ~~Telecommunication System~~, and the Law Enforcement Tactical
16 System.

17 "(d) If a court vacates or modifies a protection
18 order, ~~notice~~ the order shall be sent within 24 hours to the
19 plaintiff, provided that the plaintiff provides the court with
20 current and accurate contact information, to the defendant,
21 and to the law enforcement officials ~~with jurisdiction to~~
22 ~~enforce the order~~ where the victim resides.

23 (e) (1) The Alabama State Law Enforcement Agency
24 shall develop an automated process by which a plaintiff may
25 request notification of service of the ex parte protection
26 order and other court actions related to the protection order.
27 The automated notice shall be made within 12 hours after a law

1 enforcement officer serves a an ex parte protection order upon
2 the defendant. The notification shall include, at a minimum,
3 the date, time, and where the protection order was served. The
4 information identifying the plaintiff referenced under
5 subdivision (2) shall be exempt from public records
6 requirements in Section 36-12-40.

7 "(2) Upon implementation of the automated process,
8 information held by the clerks and law enforcement agencies in
9 conjunction with this process that reveals a home or
10 employment telephone number, cellular telephone number, home
11 or employment address, electronic mail address, or other
12 electronic means of identification of a plaintiff requesting
13 notification of service of a protection order or other court
14 actions is exempt from Section 36-12-40. Notwithstanding the
15 provisions of this subsection, any state or federal agency
16 that is authorized to have access to such information by any
17 provision of law shall be granted access in the furtherance of
18 the agency's statutory duties.

19 ~~"(f) In addition to any other fine or penalty~~
20 ~~provided by law, the defendant shall pay an additional fine of~~
21 ~~fifty dollars (\$50) for a violation of a protection order. On~~
22 ~~a monthly basis, the clerk of the court shall transfer the~~
23 ~~additional fines collected pursuant to this subsection to the~~
24 ~~State Treasury for deposit in the Domestic Violence Trust~~
25 ~~Fund, established by Section 30-6-11."~~

1 Section 2. Section 13A-6-139.1, Code of Alabama
2 1975, relating to definitions for certain domestic violence
3 offenses, is repealed.

4 Section 3. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 4. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.