SB26
170955-1
By Senator Dial
RFD: Finance and Taxation General Fund
First Read: 03-AUG-15
SYNOPSIS: Under existing law, the definition of criminal homicide would not apply to a legal abortion or otherwise make an abortion legal.

This bill would further provide for the definition of the word person for the purpose of criminal homicide or assault to remove the provision that a person may not be prosecuted for conduct relating to an abortion for which the consent of the pregnant woman or a person authorized by law to act on her behalf has been obtained or for which consent is implied by law or any woman with respect to her unborn child and that it is not a crime to perform or obtain an abortion that is otherwise legal, and to provide that nothing in this act shall be construed to make an abortion legal which is not otherwise authorized by law.

Amendment 621 of the Constitution of Alabama of 1901, 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 affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

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

A BILL

TO BE ENTITLED

AN ACT

To amend Section 13A-6-1 of the Code of Alabama 1975, relating to the definition of person for the purpose of criminal homicide or assault; to remove the provision that a person may not be prosecuted for conduct relating to an abortion for which the consent of the pregnant woman or a
person authorized by law to act on her behalf has been obtained or for which consent is implied by law or any woman with respect to her unborn child and that it is not a crime to perform or obtain an abortion that is otherwise legal, and to provide that nothing in this act shall be construed to make an abortion legal which is not otherwise authorized by law; 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 Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§13A-6-1.

(a) As used in Article 1 and Article 2, the following terms shall have the 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 intentionally, knowingly, recklessly or with criminal negligence causes the death of another person.

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

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

"Mistake, or unintentional error on the part of a
licensed physician or other licensed health care provider or
his or her employee or agent or any person acting on behalf of
the patient shall not subject the licensed physician or other
licensed health care provider or person acting on behalf of
the patient to any criminal liability under this section.

"Medical care or treatment includes, but is not
limited to, ordering, dispensation or administration of
prescribed medications and medical procedures.

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

"(d) Nothing in Article 1 or Article 2 shall permit
the prosecution of (1) any person for conduct relating to an
abortion for which the consent of the pregnant woman or a
person authorized by law to act on her behalf has been
obtained or for which consent is implied by law or (2) any
woman with respect to her unborn child.
"(e) Nothing in this section shall make it a crime to perform or obtain an abortion that is otherwise legal. Nothing in this section shall be construed to make an abortion legal which is not otherwise authorized by law."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.