

1 HB320
2 165820-1
3 By Representatives Jones, Collins, Nordgren, Todd, Hall,
4 Coleman-Evans, Treadaway, South, Rowe, Moore (B), Pettus,
5 Ledbetter, Sanderford, Brown, Standridge, Givan, Whorton (I),
6 Rich, Hill (M), Patterson, Wood, Davis, Garrett, Williams
7 (JD), Clouse, Lee, Wingo, Boothe, Faust, Robinson, Chesteen,
8 Beckman, Hammon, Ingram, Sells, Shiver, Baker, McMillan, Boyd,
9 Bandy, Grimsley, Alexander, Williams (JW), Bracy, Martin,
10 Poole, Lindsey, Ford, Jackson, Drake, Carns, McClammy,
11 Fincher, England, Hill (J), Wadsworth, Morrow, Beech,
12 Lawrence, Hubbard, Gaston, Sessions, Tuggle, Millican, Johnson
13 (R), Hurst and Rogers
14 RFD: Judiciary
15 First Read: 18-MAR-15

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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 the victim from further acts
11 of domestic violence.

12 This bill would provide greater protection
13 and assistance to victims of domestic violence.

14 This bill would provide consistency to the
15 definition of domestic violence throughout the
16 code.

17 This bill would clarify the definition of
18 dating relationship as it relates to domestic
19 violence.

20 This bill would strengthen the provisions
21 relating to domestic violence protection orders and
22 require better communication among law enforcement
23 to ensure protection of a victim when a protection
24 order is issued.

25 This bill would require more assistance by
26 law enforcement officers to victims of domestic

1 violence when responding to incidents of domestic
2 violence.

3 This bill would transfer the responsibility
4 of certifying and monitoring domestic violence
5 shelters from the Office of Prosecution Services to
6 the Department of Economic and Community Affairs.

7 This bill would create a Domestic Violence
8 Trust Fund administered by the Department of
9 Economic and Community Affairs to fund domestic
10 violence centers in the state.

11 This bill would strengthen the requirements
12 for reporting incidents of domestic violence
13 throughout the state.

14 This bill would establish a certified
15 domestic violence center capital improvement grant
16 program under the Department of Economic and
17 Community Affairs.

18 This bill would provide that the Director of
19 the Department of Economic and Community Affairs,
20 or his or her designee, would oversee the
21 application process and would provide for the
22 information to be included in the application.

23 This bill would provide for the purposes for
24 which the grant funds can be used and would require
25 the director to conduct an annual needs assessment,
26 developed in coordination with the Alabama
27 Coalition Against Domestic Violence, to determine

1 the certified domestic violence centers most in
2 need of the grant funds.

3 This bill would require the director to
4 ensure that the grant funds awarded under this act
5 are being used in accordance with the purposes
6 specified by this act.

7 This bill would ensure confidentiality to a
8 certified domestic violence center involved in the
9 grant process and would provide for a limit on the
10 amount of grant funds to be awarded.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 Relating to domestic violence; to amend Sections
17 13A-6-130, 13A-6-131, 13A-6-132, 13A-6-134, 13A-6-138,
18 13A-6-140 to 13A-6-143, inclusive, 15-10-3, 15-13-190,
19 15-23-62, 15-23-68, 30-5-1, 30-5-2, 30-5-3, 30-5-5 to 30-5-8,
20 inclusive, 30-6-1 to 30-6-11, inclusive, 30-6-13, 30-7-1 to
21 30-7-6, inclusive, 30-9-1, 30-9-2, and 41-9-621, Code of
22 Alabama 1975; to add Article 9 (commencing with Section
23 41-23-150) to Chapter 23 of Title 41 of the Code of Alabama
24 1975; to provide greater protection and assistance to victims
25 of domestic violence; to provide consistency to the definition
26 of domestic violence throughout the code; to clarify the
27 definition of dating relationship as it relates to domestic

1 violence; to strengthen the provisions relating to domestic
2 violence protection orders and require better communication
3 among law enforcement to ensure protection of a victim when a
4 protection order is issued; to require more assistance by law
5 enforcement officers to victims of domestic violence when
6 responding to incidents of domestic violence; to transfer the
7 responsibility of certifying and monitoring domestic violence
8 shelters from the Office of Prosecution Services to the
9 Department of Economic and Community Affairs; to create a
10 Domestic Violence Trust Fund administered by the Department of
11 Economic and Community Affairs to fund domestic violence
12 centers in the state; to strengthen the requirements for
13 reporting incidents of domestic violence throughout the state;
14 to establish a certified domestic violence center capital
15 improvement grant program under the Department of Economic and
16 Community Affairs; to provide that the Director of the
17 Department of Economic and Community Affairs would oversee the
18 grant application process; to provide that the director in
19 coordination with the Alabama Coalition Against Domestic
20 Violence would develop and conduct a needs assessment; to
21 require the director to ensure grant funds are being used
22 accordingly; to ensure confidentiality to a certified domestic
23 violence center in the grant process; and to provide a limit
24 on the amount of grant funds to be awarded.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 13A-6-130, 13A-6-131, 13A-6-132,
27 13A-6-134, 13A-6-138, 13A-6-140 to 13A-6-143, inclusive,

1 15-10-3, 15-13-190, 15-23-62, 15-23-68, 30-5-1, 30-5-2,
2 30-5-3, 30-5-5 to 30-5-8, inclusive, 30-6-1 to 30-6-11,
3 inclusive, 30-6-13, 30-7-1 to 30-7-6, inclusive, 30-9-1,
4 30-9-2, and 41-9-621, Code of Alabama 1975, are amended to
5 read as follows:

6 "§13A-6-130.

7 "(a) A person commits the crime of domestic violence
8 in the first degree if the person commits the crime of assault
9 in the first degree pursuant to Section 13A-6-20 or aggravated
10 stalking pursuant to Section 13A-6-91, and the victim is a
11 current or former spouse, parent, child, any person with whom
12 the defendant has a child in common, a present or former
13 household member, or a person who has or had a dating ~~or~~
14 ~~engagement~~ relationship with the defendant as defined in
15 Section 30-5-2. Domestic violence in the first degree is a
16 Class A felony, except that the defendant shall serve a
17 minimum term of imprisonment of one year without consideration
18 of probation, parole, good time credits, or any other
19 reduction in time for any second or subsequent conviction
20 under this subsection.

21 "(b) The minimum term of imprisonment imposed under
22 subsection (a) shall be double without consideration of
23 probation, parole, good time credits, or any reduction in time
24 if a defendant willfully violates a protection order issued by
25 a court of competent jurisdiction and in the process of
26 violating the order commits domestic violence in the first
27 degree.

1 "§13A-6-131.

2 "(a) A person commits the crime of domestic violence
3 in the second degree if the person commits the crime of
4 assault in the second degree pursuant to Section 13A-6-21; the
5 crime of intimidating a witness pursuant to Section
6 13A-10-123; the crime of stalking pursuant to Section
7 13A-6-90; the crime of burglary in the second or third degree
8 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of
9 criminal mischief in the first degree pursuant to Section
10 13A-7-21 and the victim is a current or former spouse, parent,
11 child, any person with whom the defendant has a child in
12 common, a present or former household member, or a person who
13 has or had a dating ~~or engagement~~ relationship with the
14 defendant as defined in Section 30-5-2. Domestic violence in
15 the second degree is a Class B felony, except the defendant
16 shall serve a minimum term of imprisonment of six months
17 without consideration of probation, parole, good time credits,
18 or any reduction in time for any second or subsequent
19 conviction under this subsection.

20 "(b) The minimum term of imprisonment imposed under
21 subsection (a) shall be double without consideration of
22 probation, parole, good time credits, or any reduction in time
23 if a defendant willfully violates a protection order issued by
24 a court of competent jurisdiction and in the process of
25 violating the order commits domestic violence in the second
26 degree.

27 "§13A-6-132.

1 "(a) A person commits domestic violence in the third
2 degree if the person commits the crime of assault in the third
3 degree pursuant to Section 13A-6-22; the crime of menacing
4 pursuant to Section 13A-6-23; the crime of reckless
5 endangerment pursuant to Section 13A-6-24; the crime of
6 criminal coercion pursuant to Section 13A-6-25; the crime of
7 harassment pursuant to subsection (a) of Section 13A-11-8; the
8 crime of criminal surveillance pursuant to Section 13A-11-32;
9 the crime of harassing communications pursuant to subsection
10 (b) of Section 13A-11-8; the crime of criminal trespass in the
11 third degree pursuant to Section 13A-7-4; the crime of
12 criminal mischief in the second or third degree pursuant to
13 Sections 13A-7-22 and 13A-7-23; or the crime of arson in the
14 third degree pursuant to Section 13A-7-43; and the victim is a
15 current or former spouse, parent, child, any person with whom
16 the defendant has a child in common, a present or former
17 household member, or a person who has or had a dating ~~or~~
18 ~~engagement~~ relationship with the defendant as defined in
19 Section 30-5-2. Domestic violence in the third degree is a
20 Class A misdemeanor.

21 "(b) The minimum term of imprisonment imposed under
22 subsection (a) shall be 30 days without consideration of
23 reduction in time if a defendant willfully violates a
24 protection order issued by a court of competent jurisdiction
25 and in the process of violating the order commits domestic
26 violence in the third degree.

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

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

8 "(e) For purposes of determining second, third, or
9 subsequent number of convictions, convictions in municipal
10 court shall be included.

11 "§13A-6-134.

12 "(a) If a law enforcement officer receives
13 complaints of domestic violence from two or more opposing
14 persons, or if both parties have injuries, the officer shall
15 evaluate each complaint separately to determine who was the
16 predominant aggressor. If the officer determines that one
17 person was the predominant physical aggressor, ~~the officer~~
18 ~~need not arrest the other person alleged to have committed~~
19 ~~domestic violence~~ arrest is not the preferred response with
20 respect to a person who acts in a reasonable manner to protect
21 or defend himself or herself or another family or household
22 member from domestic violence. In determining whether a person
23 is the predominant aggressor the officer shall consider all of
24 the following:

25 "(1) Prior complaints of domestic violence.

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

4 "~~(3) The likelihood of future injury to each person~~
5 Whether the plaintiff had reasonable cause to believe he or
6 she was in imminent danger of becoming a victim of any act of
7 domestic violence.

8 "(4) Whether one of the persons acted in
9 self-defense.

10 "(b) A law enforcement officer shall not threaten,
11 suggest, or otherwise indicate the possible arrest of all
12 parties to discourage the request for intervention by law
13 enforcement by any party or base the decision to arrest or not
14 to arrest on either of the following:

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

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

19 "§13A-6-138.

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

22 "~~(1) QUALIFIED RELATIONSHIP. The victim is a spouse,~~
23 ~~former spouse, parent, stepparent, child, stepchild, or a~~
24 ~~person with whom the defendant has a child in common, or with~~
25 ~~whom the defendant has or had a dating or engagement~~
26 ~~relationship within 10 months preceding this event.~~

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

5 "~~(3)~~ (2) SUFFOCATION. Intentionally causing asphyxia
6 by depriving a person of air or by preventing a person from
7 breathing through the inhalation of toxic gases or by blocking
8 or obstructing the airway of a person, by any means other than
9 by strangulation ~~as defined in this section.~~

10 "(b) A person commits the crime of domestic violence
11 by strangulation or suffocation if ~~the person~~ he or she
12 commits an assault with intent to cause physical harm or
13 commits the crime of menacing pursuant to Section 13A-6-23, by
14 strangulation or suffocation or attempted strangulation or
15 suffocation against a ~~person with whom the defendant has a~~
16 ~~qualified relationship~~ victim of domestic violence, as the
17 terms are defined in Section 30-5-2.

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

20 "§13A-6-140.

21 "(a) This article shall be known as the Domestic
22 Violence Protection Order Enforcement Act.

23 "(b) The purpose of this article is to define the
24 crime of violation of a domestic violence protection order.

25 "§13A-6-141.

1 "As used in this article, the following terms shall
2 have the following meanings, respectively, unless the context
3 clearly indicates otherwise:

4 "(1) DOMESTIC VIOLENCE ORDER. A domestic violence
5 protection order is any protection order issued pursuant to
6 the Protection from ~~Abuse~~ Domestic Violence Act, Sections
7 30-5-1 to 30-5-11, inclusive. The term includes the following:

8 "a. A restraining order, injunctive order, or order
9 of release from custody which has been issued in a circuit,
10 district, municipal, or juvenile court in a domestic relations
11 or family violence case;

12 "b. ~~an~~ An order issued by municipal, district, or
13 circuit court which places conditions on the pre-trial release
14 on defendants in criminal cases, including provisions of bail
15 pursuant to Section 15-13-190;

16 "c. ~~an~~ An order issued by another state or territory
17 which may be enforced under Sections 30-5B-1 through 30-5B-10.
18 Restraining or protection orders not issued pursuant to the
19 Protection From ~~Abuse~~ Domestic Violence Act, Sections 30-5-1
20 to 30-5-11, inclusive, must specify that a history of violence
21 or abuse exists for the provisions of this chapter to apply.

22 "(2) VIOLATION. The knowing commission of any act
23 prohibited by a domestic violence order or any willful failure
24 to abide by its terms.

25 "§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.

4 "(b) A second conviction for violation of a domestic
5 violence protection order, in addition to any other penalty or
6 fine, shall be punishable by a minimum of 30 days imprisonment
7 which may not be suspended. A third or subsequent conviction
8 shall, in addition to any other penalty or fine, be punishable
9 by a minimum sentence of 120 days imprisonment which may not
10 be suspended.

11 "§13A-6-143.

12 "A law enforcement officer may arrest any person for
13 the violation of this article if the officer has probable
14 cause to believe that the person has violated any provision of
15 a valid domestic violence protection order, whether temporary
16 or permanent. The presentation of a domestic violence
17 protection order constitutes probable cause for an officer to
18 believe that a valid order exists. For purposes of this
19 article, the domestic violence protection order may be
20 inscribed on a tangible copy or may be stored in an electronic
21 or other medium if it is retrievable in a detectable form.
22 Presentation of a certified copy of the domestic violence
23 protection order is not required for enforcement or to allow a
24 law enforcement officer to effect a warrantless arrest. If a
25 domestic violence protection order is not presented to or
26 otherwise confirmed by a law enforcement officer, the officer
27 may consider other information in determining whether there is

1 probable cause to believe that a valid domestic violence
2 protection order exists. The law enforcement officer may
3 arrest the defendant without a warrant although he or she did
4 not personally see the violation. Knowledge by the officer of
5 the existence or contents of, or both, or presentation to the
6 officer by the complainant of, a domestic violence protection
7 order shall constitute prima facie evidence of the validity of
8 the order.

9 "If a law enforcement officer of this state
10 determines that an otherwise valid domestic violence
11 protection order cannot be enforced because the defendant has
12 not been notified or served with the domestic violence
13 protection order, the law enforcement officer shall inform the
14 defendant of the order and allow the person a reasonable
15 opportunity to comply with the order's provisions before
16 enforcing the order. In the event the law enforcement officer
17 provides notice of the domestic violence protection order to
18 the defendant, the officer shall document this fact in the
19 written report.

20 "§15-10-3.

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

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

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

1 "(3) When a felony has been committed and the
2 officer has reasonable cause to believe that the person
3 arrested committed the felony.

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

8 "(5) When a charge has been made, upon reasonable
9 cause, that the person arrested has committed a felony.

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

19 "(7) When the officer has reasonable cause to
20 believe that a felony or misdemeanor has been committed by the
21 person arrested in violation of a protection order issued by a
22 court of competent jurisdiction.

23 "(8) When an offense involves domestic violence as
24 defined ~~by this section~~ in Section 30-5-2, and the arrest is
25 based on probable cause, regardless of whether the offense is
26 a felony or misdemeanor.

1 ~~"(b) For the purpose of this section, the following~~
2 ~~terms have the following meanings:~~

3 ~~"(1) ABUSE. Any offense under Sections 13A-6-60 to~~
4 ~~13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4,~~
5 ~~inclusive.~~

6 ~~"(2) ASSAULT. Any offense under Sections 13A-6-20 to~~
7 ~~13A-6-25, inclusive.~~

8 ~~"(3) FAMILY, HOUSEHOLD, OR DATING RELATIONSHIP~~
9 ~~MEMBERS. Includes a spouse, former spouse, parent, child, or~~
10 ~~any other person related by marriage or common law marriage,~~
11 ~~a person with whom the victim has a child in common, a present~~
12 ~~or former household member, or a person who has or had a~~
13 ~~dating relationship.~~

14 ~~(4) DOMESTIC VIOLENCE. Any incident resulting in the~~
15 ~~abuse, assault, harassment, or the attempt or threats thereof,~~
16 ~~between family, household, or dating or engagement~~
17 ~~relationship members.~~

18 ~~"(5) HARASSMENT. Any offense under Section 13A-11-8.~~

19 ~~"(c) (b) When a law enforcement officer investigates~~
20 ~~an allegation of domestic violence, whether or not an arrest~~
21 ~~is made, the officer shall make a written report of the~~
22 ~~alleged incident, including a statement of the complaint, and~~
23 ~~the disposition of the case.~~

24 ~~"§15-13-190.~~

25 ~~"(a) A person arrested for an offense involving~~
26 ~~domestic violence as defined in subdivisions (1) through (4)~~
27 ~~of subsection (b) of Section 15-10-3 Section 30-5-2, who~~

1 strikes, shoves, kicks, or otherwise touches a ~~person~~ victim
2 or ~~subject~~ subjects him or her to physical contact, or is
3 charged with a violation of a protection order, may not be
4 admitted to bail until after an appearance before a judge or
5 magistrate within ~~12 hours of the arrest, and if the person is~~
6 ~~not taken before a judge or magistrate within 12 hours~~ 48
7 hours of the arrest, and if the person is not taken before a
8 judge or magistrate within 48 hours of the arrest, he or she
9 shall be released on bail. Prior to the release of the person,
10 the judge or magistrate shall review the facts of the arrest
11 to determine whether the person is a threat to the alleged
12 victim, is a threat to public safety, and is reasonably likely
13 to appear in court.

14 "(b) The judge or magistrate shall make findings on
15 the record concerning those determinations and may impose
16 conditions of release or bail on the person to protect the
17 alleged victim of domestic violence or the person protected by
18 a protection order, and to ensure the appearance of the person
19 at a subsequent court proceeding. The conditions may include,
20 but need not be limited to, enjoining the person from
21 threatening to commit or committing acts of domestic violence
22 against the alleged victim; ~~prohibiting the person from~~
23 ~~telephoning, contacting, or otherwise communicating with the~~
24 ~~alleged victim with the intent to harass, either directly or~~
25 ~~indirectly; ordering the person to stay away from the home of~~
26 ~~the alleged victim, when the person and alleged victim are not~~
27 ~~residents of the same home, and ordering the person to stay~~

1 ~~away from any other location where the alleged victim is~~
2 ~~likely to be restraining and enjoining the defendant from~~
3 ~~contacting the victim, as described in Section 30-5-7;~~
4 prohibiting the person from possessing a firearm or other
5 weapon specified by the court, except when such weapon is
6 necessary for employment as a peace officer or military
7 personnel; and issuing any other order or modification of
8 orders above required to protect the safety of the alleged
9 victim or to ensure the appearance of the person in court.

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

22 "(d) In cases where the defendant has been placed on
23 or granted probation, conditional release, or bail pursuant to
24 Section 15-13-190 and is arrested on a probation violation
25 warrant, a violation of written condition of release pursuant
26 to Section 15-13-190, or a violation of a protection order,
27 the court shall consider revocation of probation, conditional

1 release, or bail. Should the court order continued probation,
2 conditional release, or bail, the court shall order additional
3 conditions imposed on the defendant to provide protection to
4 the victim of domestic violence or the person protected by a
5 protection order. Additional conditions shall be included in a
6 written order.

7 "§15-23-62.

8 "(a) Within 72 hours, unless the victim is
9 unavailable or incapacitated as a result of the crime, after
10 the initial contact between a victim of a reported crime and
11 the law enforcement agency either responding to the report of
12 the crime of the victim or another person, or having
13 responsibility for investigating the crime, the law
14 enforcement agency shall provide to the victim in a manner and
15 form designed and produced for the appropriate governmental
16 agency or office, the following information:

17 "(1) The availability of emergency and crisis
18 services.

19 "(2) The availability of victims' compensation
20 benefits and the name, address, and telephone number of the
21 Alabama Crime Victims Compensation Commission.

22 "(3) The name of the law enforcement officer and
23 telephone number of the law enforcement agency with the
24 following statement attached: "If within 60 days you are not
25 notified of an arrest in your case, you may call the telephone
26 number of the law enforcement agency for the status of the
27 case."

1 "(4) The procedural steps involved in a criminal
2 prosecution.

3 "(5) The rights authorized by the Alabama
4 Constitution on rights of victims, including a form to invoke
5 these rights.

6 "(6) The existence and eligibility requirements of
7 restitution and compensation pursuant to Section 15-18-65 et
8 seq. and Section 15-23-1 et seq.

9 "(7) A recommended procedure if the victim is
10 subjected to threats or intimidation.

11 "(8) The name and telephone number of the office of
12 the prosecuting attorney to contact for further information.

13 "(b) In addition to the information a law
14 enforcement officer is required to provide pursuant to
15 subsection (a), he or she shall also provide a victim of
16 domestic violence, as defined in Section 30-5-2, immediate
17 notice of the information required under Section 30-6-9.

18 "§15-23-68.

19 "The court shall provide a waiting area for the
20 victim separate from the defendant, relatives of the
21 defendant, and defense witnesses, if an area is available and
22 the use of the area is practical. If a separate waiting area
23 is not available, or its use impractical, the court shall
24 minimize contact of the victim with the defendant, relatives
25 of the defendant, and defense witnesses during court
26 proceedings. For victims of domestic violence, as defined in
27 Section 30-5-2, if a separate waiting area is not available,

1 the court shall consider creating and enforcing procedures so
2 that the defendant has no contact with the victim.

3 "§30-5-1.

4 "(a) This chapter shall be known as and may be cited
5 as the Protection From ~~Abuse~~ Domestic Violence Act.

6 "(b) This chapter shall be liberally construed and
7 applied to promote all of the following purposes:

8 "(1) To assure victims of domestic violence the
9 maximum protection from ~~abuse~~ domestic violence that the law
10 can provide.

11 "(2) To create a flexible and speedy remedy to
12 discourage violence and harassment against family members or
13 others with whom the perpetrator has continuing contact.

14 "(3) To expand the ability of law enforcement
15 officers to assist victims, to enforce the law effectively in
16 cases of domestic violence, and to prevent further incidents
17 of ~~abuse~~ domestic violence.

18 "(4) To facilitate equal enforcement of criminal law
19 by deterring and punishing violence against family members and
20 others who are personally involved with the perpetrators.

21 "(5) To recognize that domestic violence is a crime
22 that will not be excused or tolerated.

23 "(6) To provide for protection orders to prevent
24 domestic violence and provide for court jurisdiction and
25 venue; to provide for court hearing for petitions for relief;
26 and to provide for the contents and the issuance of protection
27 orders.

1 "§30-5-2.

2 "In this chapter, the following words shall have
3 the following meanings unless the context clearly indicates
4 otherwise:

5 "(1) COURT. A circuit court judge or, when the
6 circuit court judge is unavailable, a district court judge. A
7 district court judge may be designated by a written standing
8 order from the presiding circuit court judge to handle
9 protection from abuse cases.

10 "(2) DATING RELATIONSHIP. A significant relationship
11 of a romantic or intimate nature characterized by the
12 expectation of affectionate or sexual involvement over a
13 period of time and on a continuing basis during the course of
14 the relationship. A dating relationship does not include a
15 casual or business relationship.

16 "~~(1) (3) ABUSE. The occurrence of conduct directed~~
17 ~~at a plaintiff as defined by this chapter, including the~~
18 ~~following~~ DOMESTIC VIOLENCE. Any of the following acts
19 committed against a victim:

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

22 "b. Assault. Assault as defined under Sections
23 13A-6-20 to 13A-6-22, inclusive.

24 "c. Attempt. With the intent to commit any crime
25 under this section or any other criminal act under the laws of
26 this state, performing any overt act towards the commission of
27 the offense.

1 "d. Child abuse. Abusing children as defined under
2 Chapter 15, commencing with Section 26-15-1, of Title 26,
3 known as the Alabama Child Abuse Act.

4 "e. Criminal coercion. Criminal coercion as defined
5 under Section 13A-6-25.

6 "f. Criminal trespass. Entering or remaining in the
7 dwelling or on the premises of another after having been
8 warned not to do so either orally or in writing by the owner
9 of the premises or other authorized person as defined under
10 Sections 13A-7-2 to 13A-7-4.1, inclusive.

11 "g. Harassment. Harassment as defined under Section
12 13A-11-8.

13 "h. Kidnapping. Kidnapping as defined under Sections
14 13A-6-43 and 13A-6-44.

15 "i. Menacing. Menacing as defined under Section
16 13A-6-23.

17 "j. Other conduct. Any other conduct directed toward
18 a plaintiff covered by this chapter that could be punished as
19 a criminal act under the laws of this state.

20 "k. Reckless endangerment. Reckless endangerment as
21 defined under Section 13A-6-24.

22 "l. Sexual abuse. Any sexual offenses included in
23 Article 4, commencing with Section 13A-6-60, of Chapter 6 of
24 Title 13A.

25 "m. Stalking. Stalking as defined under Sections
26 13A-6-90 to 13A-6-94, inclusive.

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

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

8 ~~"(2) ADULT. Any person 19 years of age or older, or
9 who otherwise is emancipated.~~

10 ~~"(3) CHILD. A person 18 years of age or younger.~~

11 ~~"(4) COURT. A circuit court judge or, when the
12 circuit court judge is unavailable, a district court judge. A
13 district court judge may be designated by a written standing
14 order from the presiding circuit court judge to handle
15 protection from abuse cases.~~

16 ~~"(5) (4) PLAINTIFF. For the purposes of this
17 chapter, the term plaintiff is a person who is 18 years of age
18 or older, is or has been married, or is emancipated, and has
19 one of the following relationships: Either of the following in
20 need of protection from domestic violence:~~

21 ~~"a. A person who is at least 19 years old or is
22 otherwise emancipated and is the victim of domestic violence
23 or has reasonable cause to believe he or she is in imminent
24 danger of becoming the victim of domestic violence; or~~

25 ~~b. Any other person with legal standing to seek a
26 protection order, as provided in Section 30-5-5.~~

1 "(5) PROTECTION ORDER. Any order of protection
2 issued under this chapter for the purpose of preventing acts
3 of domestic violence.

4 "(6) REPEAT VIOLENCE. Two or more incidents of
5 domestic violence against a victim or the victim's immediate
6 family member, one of which must have occurred within six
7 months of the filing of the petition for a protection order.

8 "(7) THREAT. Any word or action, expressed or
9 implied, made to cause the victim to fear for his or her
10 safety or for the safety of another person.

11 "(8) VICTIM. A victim who is related to the person
12 who commits an act of domestic violence in any of the
13 following ways:

14 "a. ~~Related~~ Is related by marriage to the defendant,
15 including a common law marriage.

16 "b. Had a former marriage or common law marriage
17 with the defendant.

18 "c. Has a child in common with the defendant
19 regardless of whether the victim and defendant have ever been
20 married and regardless of whether they are currently residing
21 or have in the past resided together in the same household.

22 "d. Has or had a dating relationship with the
23 defendant. ~~A dating relationship means a recent frequent,~~
24 ~~intimate association, primarily characterized by the~~
25 ~~expectation of affectionate or sexual involvement within the~~
26 ~~last six months. A dating relationship does not include a~~
27 ~~casual or business relationship.~~

1 "e. Is a current or former household member. A
2 household member is a person maintaining or having maintained
3 a living arrangement with the defendant where he or she is in,
4 or was engaged in, a romantic or sexual relationship.

5 "§30-5-3.

6 "(a) It is the intent of the Legislature, with
7 respect to domestic violence cases, that at the first
8 appearance the court shall consider the safety of the victim,
9 the victim's children, and any other person who may be in
10 danger if the defendant is released, and exercise caution in
11 releasing defendants.

12 "(b) It is the intent of the Legislature, with
13 respect to protection orders against domestic violence issued
14 pursuant to this chapter, that the court shall:

15 "(1) Recognize that the plaintiff's safety may
16 require immediate removal of the defendant from the joint
17 residence and that there can be inherent danger in permitting
18 the defendant's partial or periodic access to the residence.

19 "(2) Ensure that the parties have a clear
20 understanding of the terms of the protection order, the
21 penalties for failure to comply, that the parties may not
22 amend the order verbally or in writing without court approval,
23 and that the parties may not mutually amend the protection
24 order.

25 "(3) Ensure that the parties have knowledge of legal
26 rights and remedies, including, but not limited to,

1 visitation, child support, retrieving property, counseling,
2 and enforcement or modification of the protection order.

3 "(4) Consider temporary child custody support when
4 the pleadings raise the issue and in the absence of other
5 support orders.

6 "(5) Consider supervised visitation, withholding
7 visitation, or other arrangements for visitation that will
8 best protect the child and plaintiff from harm.

9 "(6) Enforce, through a civil or criminal contempt
10 proceeding, a violation of a protection order against domestic
11 violence.

12 "(7) Consider requiring the defendant to complete a
13 batterers' intervention program. Any such program shall meet
14 the requirements specified in Section 30-7-6.

15 "(c) The courts, as provided in this chapter, shall
16 have jurisdiction to issue protection orders.

17 ~~"(b)~~ A protection order may be requested in any
18 pending civil or domestic relations action, as an independent
19 civil action, or in conjunction with the preliminary, final,
20 or post-judgment relief in a civil action. No person shall be
21 precluded from seeking relief pursuant to this chapter solely
22 on the basis that the person is not a spouse of the defendant
23 or is not the victim in need of protection from domestic
24 violence.

25 ~~"(c)~~ (d) A petition for a protection order may be
26 filed in any of the following locations:

1 "(1) Where the plaintiff or defendant currently or
2 temporarily resides.

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

6 "(3) Where a civil matter is pending before the
7 court in which the plaintiff and the defendant are opposing
8 parties.

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

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

23 "§30-5-5.

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

26 "(1) A person who is at least 19 years old or is
27 otherwise emancipated and is the victim of domestic violence

1 or has reasonable cause to believe he or she is in imminent
2 danger of becoming the victim of any act of domestic violence.

3 "(2) For cases of repeat violence or where the
4 defendant and victim are in a dating relationship, a family
5 member, household member, or legal guardian may petition for
6 relief on behalf of a child or other minor living in the
7 household.

8 "(3) A parent, legal guardian, ~~legal custodian,~~ or
9 the State Department of Human Resources may petition for
10 relief on behalf of the following:

11 "~~(1)~~ (4) A minor child.

12 "~~(2)~~ (5) Any person prevented by physical or mental
13 incapacity from seeking a protection order.

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

19 "(c) A sworn petition shall allege the incidents of
20 domestic violence, the specific facts and circumstances that
21 form the basis upon which relief is sought, and that the
22 plaintiff genuinely fears repeated acts of domestic violence.
23 With respect to a minor child who is living at home, the
24 parent or legal guardian seeking the protective order on
25 behalf of the child shall:

26 "(1) Have been an eyewitness to, or have direct
27 physical evidence or affidavits from eyewitnesses of, the

1 specific facts and circumstances that form the basis upon
2 which relief is sought, if the party against whom the
3 protection order is sought is also a parent, stepparent, or
4 legal guardian of the minor child; or

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

10 ~~"(c) (d)~~ The court shall not enter mutual orders.
11 The court shall issue separate orders that specifically and
12 independently state the prohibited behavior and relief granted
13 in order to protect the victim and the victim's immediate
14 family and to clearly provide law enforcement with sufficient
15 ~~direction when determining if a violation of the order has~~
16 ~~occurred directives.~~ For the purpose of judicial economy, a
17 ~~court may consolidate two separately filed petitions into a~~
18 ~~single case.~~

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

26 ~~"(e) (f)~~ (1) The following information shall not be
27 contained on any court document made available to the public

1 and the defendant by the circuit clerk's office: The
2 plaintiff's home address and, if applicable, business address;
3 a plaintiff's home telephone number and, if applicable,
4 business telephone number; the home or business address or
5 telephone number of any member of the plaintiff's family or
6 household; or an address that would reveal the confidential
7 location of a shelter for victims of domestic violence as
8 defined in Section 30-6-1.

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

15 "(3) If the plaintiff has not disclosed an address
16 or telephone number under this section the plaintiff shall
17 satisfy one of the following requirements:

18 "a. Designate and provide to the court an
19 alternative address.

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

23 "~~(f)~~ (g) No court costs and fees shall be assessed
24 for the filing and service of a petition for a protection
25 order, for the issuance or registration of a protection order,
26 or for the issuance of a witness subpoena under this chapter.

1 Costs and fees may be assessed against the defendant at the
2 discretion of the court.

3 "§30-5-6.

4 "(a) The court shall hold a hearing after the filing
5 of a petition under this chapter upon the request of the
6 defendant or within 10 days of the perfection of service. The
7 defendant shall be personally served with a copy of the
8 petition, the notice of hearing, and any temporary protection
9 orders, prior to the hearing. A final hearing shall be set at
10 which the standard of proof shall be a preponderance of the
11 evidence. If the defendant has not been served, a final
12 hearing may be continued to allow for service to be perfected.

13 "(b) The court may enter such temporary ex parte
14 protection orders as it deems necessary to protect the
15 plaintiff victim or children from ~~abuse~~ domestic violence, or
16 the immediate and present danger of ~~abuse~~ domestic violence to
17 the plaintiff victim or children, upon good cause shown. The
18 court shall grant or deny a petition for a temporary ex parte
19 protection order filed under this chapter within three
20 business days of the filing of the petition. Any granted
21 temporary ex parte protection order shall be effective until
22 the final hearing date.

23 "(c) When it appears to the court that an immediate
24 and present danger of violence exists, the court may grant a
25 temporary protection order which may be granted in an ex parte
26 hearing, pending a full hearing, and may grant such relief as
27 the court deems proper, including a protection order enjoining

1 the defendant from committing any acts of violence and
2 prohibiting contact as described in Section 30-5-7.

3 "(d) In an ex parte hearing for the purpose of
4 obtaining such protection order, no evidence other than the
5 verified pleading or affidavit shall be used as evidence,
6 unless the defendant appears at the hearing or has received
7 actual notice of the hearing.

8 "(e) Any such ex parte protection order shall be
9 effective for a fixed period not to exceed 30 calendar days. A
10 full hearing, as provided by this section, shall be set for a
11 date no later than the date when the temporary protection
12 order ceases to be effective. The court may grant a
13 continuance of the ex parte protection order and the full
14 hearing before or during a hearing, for good cause shown by
15 any party.

16 ~~"(c)~~ (f) If a final hearing under subsection (a) is
17 continued, the court may make or extend temporary ex parte
18 protection orders under subsection (b) as it deems reasonably
19 necessary to protect the victim from further acts of domestic
20 violence or the immediate and present danger of domestic
21 violence.

22 "§30-5-7.

23 "(a) If it appears from a petition for a protection
24 order or a petition to modify a protection order that ~~abuse~~
25 domestic violence has occurred or from a petition for a
26 modification of a protection order that a modification is
27 warranted, the court may:

1 "(1) Without notice or hearing, immediately issue an
2 ex parte protection order or modify an ex parte protection
3 order as it deems necessary.

4 "(2) After providing notice as required by the
5 Alabama Rules of Civil Procedure, issue a final protection
6 order or modify a protection order after a hearing whether or
7 not the defendant appears.

8 "(b) A court may grant any of the following relief
9 without notice and a hearing in an ex parte protection order
10 or an ex parte modification of a protection order:

11 "(1) Enjoin the defendant from threatening to commit
12 or committing acts of ~~abuse, as defined in this chapter,~~
13 domestic violence against the plaintiff or children of the
14 plaintiff, and any other person designated by the court.

15 "(2) Restrain and enjoin the defendant from
16 harassing, stalking, annoying, ~~telephoning, contacting, or~~
17 ~~otherwise communicating, directly or indirectly, with the~~
18 ~~plaintiff or children or threatening,~~ or engaging in conduct
19 that would place the plaintiff, minors, children of the
20 plaintiff, or any other person designated by the court in
21 reasonable fear of bodily injury or contacting the plaintiff
22 or children, which includes, but is not limited to, the
23 following prohibited acts: Communicating with the victim
24 verbally or in any written form, either in person,
25 telephonically, electronically, or in any other manner, either
26 directly or indirectly through a third person.

1 "~~(3) Order the defendant to stay away from the~~
2 ~~residence~~ Restrain and enjoin the defendant from having
3 physical or violent contact with the plaintiff or the
4 plaintiff's property, or from going within 500 feet of the
5 plaintiff's residence even if the residence is shared with the
6 defendant, vehicle, school, or place of employment of the
7 plaintiff, any children, or any other person designated by the
8 court, or order the defendant to stay away from any specified
9 place frequented by the plaintiff, any children, or any person
10 designated by the court ~~where the court determines the~~
11 ~~defendant has no legitimate reason to frequent.~~

12 "(4) Award temporary custody of any children of the
13 parties.

14 "(5) Enjoin the defendant from interfering with the
15 plaintiff's efforts to remove any children of the plaintiff or
16 from removing any children from the jurisdiction of the court,
17 and direct the appropriate law enforcement officer to
18 accompany the plaintiff during the effort to remove any
19 children of the plaintiff as necessary to protect the
20 plaintiff or any children from domestic violence or child
21 abuse.

22 "(6) Enjoin the defendant from removing any children
23 from the individual having legal custody of the children,
24 except as subsequently authorized by a custody or visitation
25 order issued by a court of competent jurisdiction.

1 "(7) Remove and exclude the defendant from the
2 residence of the plaintiff, regardless of ownership of the
3 residence.

4 "(8) Order possession and use of an automobile and
5 other essential personal effects, regardless of ownership, and
6 direct the appropriate law enforcement officer to accompany
7 the plaintiff to the residence of the parties or to other
8 specified locations as necessary to protect the plaintiff or
9 any children from abuse.

10 "(9) Order other relief as it deems necessary to
11 provide for the safety and welfare of the plaintiff or any
12 children and any person designated by the court.

13 "(10) Prohibit the defendant from transferring,
14 concealing, encumbering, or otherwise disposing of specified
15 property mutually owned or leased by the parties.

16 "(c) The court may grant any of the following relief
17 in a final protection order or a modification of a protection
18 order after notice and a hearing, whether or not the defendant
19 appears:

20 "(1) Grant the relief available in subsection (b).

21 "(2) Specify arrangements for visitation of any
22 children by the defendant on a basis that gives primary
23 consideration to the safety of the plaintiff or any children,
24 or both, and require supervision by a third party or deny
25 visitation if necessary to protect the safety of the plaintiff
26 or any children, or both.

1 "(3) Order the defendant to pay attorney's fees and
2 court costs.

3 "(4) When the defendant has a duty to support the
4 plaintiff or any children living in the residence or household
5 and the defendant is the sole owner or lessee, grant to the
6 plaintiff possession of the residence or household to the
7 exclusion of the defendant by evicting the defendant or
8 restoring possession to the plaintiff, or both, or by consent
9 agreement allowing the defendant to provide suitable alternate
10 housing.

11 "(5) Order the defendant to pay temporary reasonable
12 support for the plaintiff or any children in the plaintiff's
13 custody, or both, when the defendant has a legal obligation to
14 support such persons. The amount of temporary support awarded
15 shall be in accordance with Child Support Guidelines found in
16 Rule 32 of the Alabama Rules of Judicial Administration.

17 "(6) Order the defendant to provide temporary
18 possession of a vehicle to the plaintiff, if the plaintiff has
19 no other means of transportation of his or her own ~~and the~~
20 ~~defendant either has control of more than one vehicle or has~~
21 ~~alternate means of transportation.~~

22 "(d) (1) Any temporary ex parte order issued
23 pursuant to this chapter shall remain in effect until the
24 final protection order is entered. While the final protection
25 order is in effect, the court may amend its order at any time
26 upon subsequent petition being filed by either party and a
27 hearing held pursuant to this chapter.

1 "(2) Any final protection order is of permanent
2 duration, subject to appellate review, unless otherwise
3 specified or modified by a subsequent court order.

4 "(e) No order or agreement under this chapter shall
5 in any manner affect title to any real property, except final
6 subsequent proceedings available by law.

7 "(f) A temporary or final judgment on a protective
8 order entered pursuant to this section shall, on its face,
9 indicate:

10 "(1) That the injunction is valid and enforceable in
11 all counties in the state.

12 "(2) That law enforcement officers may use their
13 arrest powers pursuant to Section 15-10-3 and to enforce the
14 terms of the injunction.

15 "(3) That the court had jurisdiction over the
16 parties and matter under the laws of the state and that
17 reasonable notice and opportunity to be heard was given to the
18 person against whom the order is sought sufficient to protect
19 that person's right to due process.

20 "(4) The date the defendant was served with the
21 temporary or final order, if obtainable.

22 "§30-5-8.

23 "(a) A copy of any order under this chapter shall be
24 issued to the plaintiff, the defendant, and the law
25 enforcement officials with jurisdiction to enforce the order.
26 Certain information in these orders shall be entered in the
27 Protection Order Registry of the Administrative Office of

1 Courts in order to electronically transmit information to and
2 between criminal justice agencies relating to protection
3 orders issued throughout the state. Such information shall
4 include, but is not limited to, information as to the
5 existence and status of any protection orders for verification
6 purposes.

7 "(b) Ex parte and final protection orders shall be
8 in a format as provided by the Administrative Office of
9 Courts. If a court wishes to provide additional information in
10 these standardized court orders, the court may attach
11 additional pages containing this additional information.

12 "(c) (1) The clerk of the court shall furnish a copy
13 of the final protection order and notice of hearing, if any,
14 to the appropriate law enforcement agency where the defendant
15 resides or can be found, and an officer of that law
16 enforcement agency shall serve it upon the defendant as soon
17 thereafter as possible on any day of the week and at any time
18 of the day or night. When requested by the law enforcement
19 agency, the clerk of the court may transmit a facsimile copy
20 of a protection order that has been certified by the clerk,
21 and this facsimile copy may be served in the same manner as a
22 certified copy. Upon receiving a facsimile copy, the law
23 enforcement officer shall verify receipt with the sender
24 before attempting to serve it upon the defendant. In addition,
25 if a law enforcement agency is in possession of a protection
26 order that has been certified by the clerk of the court, a law
27 enforcement officer may transmit a facsimile copy of the

1 protection order to a law enforcement officer, who shall serve
2 it in the same manner as a certified copy.

3 "(2) Within 24 hours of a protection order being
4 issued to a defendant by a court, the clerk of the court shall
5 furnish the plaintiff with a copy of the protection order. If
6 the plaintiff requests the assistance of a law enforcement
7 agency, the court may order that an officer from the
8 appropriate law enforcement agency accompany and assist the
9 plaintiff, and assist in the execution or service of the
10 protection order. If the defendant has been located but not
11 yet served, a law enforcement officer shall accept a copy of
12 the protection order, certified by the clerk of the court,
13 from the plaintiff and immediately serve it upon a defendant.

14 "(4) Within 24 hours after service of process of a
15 protection order upon a defendant, the law enforcement officer
16 or constable shall forward the written proof of service of
17 process and a copy of the protection order to the law
18 enforcement agency with jurisdiction over the residence of the
19 plaintiff, who shall make information relating to the
20 protection order available to other law enforcement agencies
21 electronically, and by entering the information into the
22 Protection Order Registry of the Administrative Office of
23 Courts.

24 "(d) If a court vacates or changes a protection
25 order, notice shall be given to the plaintiff and to the law
26 enforcement agency with jurisdiction over the residence of the
27 plaintiff within 24 hours.

1 "(e) The Alabama Law Enforcement Agency shall
2 develop an automated process by which a plaintiff may request
3 notification of service of the protection order and other
4 court actions related to the protection order. The automated
5 notice shall be made within 12 hours after a law enforcement
6 officer serves a protection order upon the defendant. The
7 notification shall include, at a minimum, the date, time, and
8 location where the protection order was served. When a
9 plaintiff makes a request for notification, the clerk shall
10 apprise the plaintiff of his or her right to request in
11 writing that the information identifying the plaintiff be made
12 exempt from public records requirements in Section 36-12-40.
13 Upon implementation of the automated process, information held
14 by the clerks and law enforcement agencies in conjunction with
15 this process that reveals a home or employment telephone
16 number, cellular telephone number, home or employment address,
17 electronic mail address, or other electronic means of
18 identification of a plaintiff requesting notification of
19 service of a protection order or other court actions, is
20 exempt from Section 36-12-40 upon written request of the
21 plaintiff. Notwithstanding the provisions of this subsection,
22 any state or federal agency that is authorized to have access
23 to such information by any provision of law shall be granted
24 access in the furtherance of such agency's statutory duties.

25 "(f) If a protection order is lifted, terminated, or
26 otherwise rendered no longer effective by ruling of the court,
27 the clerk of the court shall notify the appropriate law

1 enforcement agency receiving original notification of the
2 protection order as provided in subsection (c).

3 "(g) (1) The court shall enforce through a civil or
4 criminal contempt proceeding, a violation of a protection
5 order. The court shall enforce the defendant's compliance with
6 the protection order by imposing a fine, imprisonment, or
7 court costs as provided by law. Any fine shall not exceed the
8 fine permitted for a similar offense. The clerk of the court
9 shall collect and receive such costs or fines. On a monthly
10 basis, the clerk shall transfer the moneys collected from
11 finer pursuant to this subsection to the State Treasury for
12 deposit in the Domestic Violence Trust Fund established by
13 Section 30-6-11.

14 "(2) If the defendant is arrested under Section
15 15-10-3 for committing an act of domestic violence in
16 violation of a protection order, the defendant shall be held
17 in custody until brought before the court as expeditiously as
18 possible for the purpose of enforcing the protection order and
19 for admittance to bail in accordance with Section 15-13-190
20 and the applicable rules of criminal procedure, pending a
21 hearing.

22 "§30-6-1.

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

26 "(1) ABUSE. Any offense under Sections 13A-6-60 to
27 13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4,

1 inclusive, occurring among family, household, dating, or
2 engagement relationship members as defined in Section 15-10-3.

3 "(2) ACADV. The Alabama Coalition Against Domestic
4 Violence, Incorporated.

5 "(3) ADVOCATE. An employee or volunteer of a program
6 for victims of domestic violence receiving funds under this
7 chapter who has a primary function of rendering advice,
8 counseling, or assistance to victims of domestic violence; who
9 supervises the employees or volunteers of the program; or who
10 administers the program.

11 "(4) AGENCY. The Alabama Law Enforcement Agency.

12 "(5) CLIENT. Any individual receiving services from
13 a certified domestic violence center.

14 "(6) DIRECTOR. The Director of the Department of
15 Economic and Community Affairs.

16 "~~(4)~~ (7) DOMESTIC VIOLENCE SHELTER OR FACILITY
17 CENTER. A facility which provides services or shelter to adult
18 An entity that provides services or shelter to domestic
19 violence victims and their accompanying children as herein
20 defined and which has been certified by the Office of
21 Prosecution Services to receive funds and is a member of the
22 ACADV.

23 "~~(5) OFFICE. The Office of Prosecution Services.~~

24 "~~(6)~~ (8) VICTIM. Any individual or victim as defined
25 in Section 30-5-2 suffering assault, battery, rape, or other
26 abuse as defined in subdivision (1) and any dependent of the
27 individual or victim, including a child.

1 "Terms not otherwise defined by this chapter shall
2 have the meaning given to them by the Alabama Criminal Code,
3 Title 13A, or other provisions of law, as the case may be.

4 "§30-6-2.

5 "The Legislature recognizes that ~~certain persons who~~
6 ~~assault, batter, or otherwise abuse their children, spouses~~
7 ~~and other family members and the persons subject to such abuse~~
8 ~~are in need of treatment and rehabilitation.~~ persons who are
9 victims of domestic violence are in need of critical
10 lifesaving services from specialized facilities that possess
11 relevant expertise to assist such persons. It is the intent of
12 the Legislature to assist in the development of certified
13 domestic violence ~~shelters~~ centers and the creation of
14 appropriate expanded services for the victims of ~~such abuse~~
15 and to provide a place where the parties involved may be
16 separated until they can be properly assisted domestic
17 violence so that all victims obtain services needed. It is
18 further recognized that it is important to prevent domestic
19 violence by determining the root causes of such violence.

20 "§30-6-3.

21 "(a) ~~It shall be the duty of the office to~~ The
22 director shall do all of the following:

23 "~~(1) To establish minimum program requirements and~~
24 ~~standards for certifying domestic violence facilities to~~
25 ~~receive state funds pursuant to this chapter.~~

26 "~~(2) To receive applications for state funding of~~
27 ~~the facilities pursuant to this chapter.~~

1 ~~"(3) To approve or reject each application within 60~~
2 ~~days of receipt of the application.~~

3 ~~"(4) To distribute funds to a certified facility~~
4 ~~beginning on October 1 of the year immediately succeeding the~~
5 ~~year in which the facility's application was approved.~~

6 ~~"(5) To evaluate annually each shelter for~~
7 ~~compliance with the minimum standards.~~

8 ~~"(b) The office or the district attorney from any~~
9 ~~participating circuit may enter and inspect the premises of~~
10 ~~domestic violence shelter at any reasonable hour in order to~~
11 ~~effectively evaluate the state of compliance of the facility~~
12 ~~with this chapter and rules in force pursuant thereto.~~

13 ~~"(c) The Executive Committee of the Alabama District~~
14 ~~Attorneys Association shall prescribe by rule the procedures~~
15 ~~by which subdivision (1) of subsection (a) shall be~~
16 ~~implemented.~~

17 "(1) Operate the domestic violence program and, in
18 collaboration with ACADV, coordinate and administer statewide
19 activities related to the prevention of domestic violence.

20 "(2) Have the right to enter and inspect the
21 premises of domestic violence centers that are applying for an
22 initial certification or facing potential suspension or
23 revocation of certification to effectively evaluate the state
24 of compliance with minimum standards.

25 "(3) Promote the involvement of domestic violence
26 centers in the coordination, development, and planning of
27 domestic violence programming.

1 "(4) Coordinate with state agencies that have
2 health, education, or criminal justice responsibilities to
3 raise awareness of domestic violence and promote consistent
4 policy implementation.

5 "(5) Cooperate with, assist in, and participate in,
6 programs of other properly qualified state or federal
7 agencies, schools of medicine, hospitals, and health clinics
8 in planning and conducting research on the prevention of
9 domestic violence and the provision of services to clients.

10 "(6) Contract with ACADV for the creation of minimum
11 standards of service provision, training, and technical
12 assistance to certified domestic violence centers, and for the
13 evaluation of services provided by domestic violence centers.

14 "(7) Consider applications from certified domestic
15 violence centers for capital improvement grants and award
16 those grants pursuant to Section 41-23-143.

17 "(8) Adopt by rule procedures to administer this
18 chapter, including developing criteria for the approval,
19 suspension, or rejection of certification of domestic violence
20 centers.

21 "(9) Receive and approve or reject applications for
22 funding of certified domestic violence centers. When approving
23 funding for a newly certified domestic violence center, the
24 director shall make every effort to minimize any adverse
25 economic impact on existing certified domestic violence
26 centers or services provided within the same service area. In
27 order to minimize duplication of services, the department

1 shall make every effort to encourage subcontracting
2 relationships from existing certified domestic violence
3 centers within the same service area. In distributing funds
4 from the Domestic Violence Trust Fund and state funds for
5 certified domestic violence centers, the director shall use a
6 formula as specified in Section 30-6-6.

7 "(10) Establish and manage a Domestic Violence Trust
8 Fund for the purposes of collecting and distributing funds
9 pursuant to this chapter.

10 ~~"(d) (b)~~ Any facility which shelters children,
11 pursuant to this chapter, shall be exempt from the provisions
12 of Title 38, Chapter 7.

13 "§30-6-4.

14 "The ACADV shall do all of the following:

15 ~~"(1) Formulate and conduct a research and evaluation~~
16 ~~program on domestic violence and cooperate with and assist and~~
17 ~~participate in programs of other properly qualified agencies,~~
18 ~~including any agency of the state, federal government, schools~~
19 ~~of medicine, hospitals, and clinics, in planning and~~
20 ~~conducting research on the prevention, care, treatment, and~~
21 ~~rehabilitation of persons engaged in or subject to domestic~~
22 ~~violence.~~

23 "(1) Receive and approve or reject applications for
24 initial certification of domestic violence centers and
25 annually renew the certification thereafter upon successful
26 evaluation of certification standards.

1 "(2) Create minimum certification qualification and
2 administrative standards to ensure the health, safety, and
3 welfare of domestic violence victims and their children.

4 "(3) Evaluate certified domestic violence centers in
5 order to determine compliance with certification standards.

6 "(4) Conduct statewide training and technical
7 assistance for certified domestic violence centers and
8 partnering organizations.

9 "(5) Have the right to enter and inspect the
10 premises of certified domestic violence centers for monitoring
11 purposes and initial inspection of domestic violence centers
12 applying for certification.

13 ~~"(2) (6) Serve as a clearinghouse for information~~
14 ~~relating to spouse abuse and domestic violence.~~

15 ~~"(3) Carry on educational programs on domestic~~
16 ~~violence for the benefit of the general public, persons~~
17 ~~engaged in or subject to spouse abuse, professional persons,~~
18 ~~or others who care for or may be engaged in the care and~~
19 ~~treatment of persons engaged in or subject to spouse abuse and~~
20 ~~domestic violence.~~

21 ~~"(4) Enlist the assistance by contract or otherwise,~~
22 ~~of public and voluntary health, education, welfare, and~~
23 ~~rehabilitation centers or agencies in a concerted effort to~~
24 ~~prevent child abuse and domestic violence and to treat or~~
25 ~~provide shelter for persons engaged in or subject to such~~
26 ~~abuse or violence.~~

27 "§30-6-5.

1 ~~"On or before 30 days prior to each regular session~~
2 ~~of the Legislature, the ACADV shall report to the office, and~~
3 ~~the office~~ The ACADV shall furnish to the Governor, President
4 of the Senate and the Speaker of the House of Representatives,
5 ~~on or before the third day of each regular session,~~ a report
6 on the status of domestic violence in Alabama which shall
7 include, but not be limited to, the following:

8 "(1) The incidence of domestic violence in this
9 state ~~and in each county.~~

10 "(2) An identification of the areas of the state
11 where domestic violence is of significant proportions,
12 including the number of cases of domestic violence officially
13 reported, as well as an assessment of the degree of unreported
14 cases of domestic violence.

15 ~~"(2) (3)~~ The identification and description of the
16 types of programs in the state that assist victims or persons
17 initiating the violence and abuse who commit domestic
18 violence, including information on its programs.

19 ~~"(3) (4)~~ The number and characteristics of persons
20 treated by or assisted by local who receive services from
21 local domestic violence programs or certified domestic
22 violence centers receiving that receive funding through ACADV.

23 ~~"(4) The number and characteristics of persons~~
24 ~~perpetrating domestic violence identified by centers receiving~~
25 ~~funding.~~

26 ~~"(5) An inventory and evaluation of existing~~
27 ~~prevention programs.~~

1 "§30-6-6.

2 "(a) In order to be ~~funded and certified~~, each
3 ~~facility~~ domestic violence center shall do all of the
4 following:

5 "~~(1) Provide a shelter, whether public or private,~~
6 ~~which will serve as a center to receive and house adult~~
7 ~~persons who are domestic violence victims and their~~
8 ~~accompanying children.~~

9 "~~(2) Receive the periodic written endorsement of the~~
10 ~~participating circuit's district attorney and the local law~~
11 ~~enforcement agency within the jurisdiction of the site.~~

12 "(1) Provide a facility that shall serve as a center
13 to receive and house persons who are victims of domestic
14 violence. For the purpose of this chapter, minor children and
15 other dependents of a victim, when the dependents are partly
16 or wholly dependent on the victim for support or services, may
17 be sheltered with the victim in a domestic violence center.

18 "~~(3)~~ (2) Provide minimum services which shall
19 include, but not be limited to, information and referral
20 services, counseling case management services, temporary
21 emergency shelter for more than 24 hours for adult victims and
22 their accompanying children, a 24-hour hotline, training for
23 law enforcement personnel, assessment and appropriate referral
24 of resident children, outreach services as defined by
25 standards for counties without a physical emergency shelter
26 facility, and educational services for community awareness
27 relative to the incidence of domestic violence, the prevention

1 of ~~abuse~~ domestic violence, and the care, treatment, and
2 rehabilitation for persons engaged in or subject to ~~such abuse~~
3 domestic violence. If a 24-hour hotline, professional
4 training, or community education is already provided by a
5 certified domestic violence center within its designated
6 service area, the director may exempt such certification
7 requirements for a new domestic violence center serving the
8 same service area in order to avoid duplication of services.

9 "(3) Participate in the provision of orientation and
10 training programs developed for law enforcement officers,
11 social workers, and other professionals and paraprofessionals
12 who work with domestic violence victims to better enable such
13 persons to deal effectively with incidents of domestic
14 violence.

15 "(4) comply with rules adopted pursuant to this
16 chapter.

17 "(5) File with ACADV a list of the names of the
18 domestic violence advocates who are employed or who volunteer
19 at the domestic violence center who may claim a privilege
20 under Section 30-6-8 to refuse to disclose a confidential
21 communication between a victim of domestic violence and the
22 advocate regarding the domestic violence inflicted upon the
23 victim. The list shall include the title of the position held
24 by the advocate whose name is listed and a description of the
25 duties of that position. A domestic violence center shall file
26 amendments to this list as necessary.

1 "(6) Demonstrate local need and ability to sustain
2 operations through a history of 18 consecutive months of
3 operation as a domestic violence center, including 12 months
4 operation of an emergency shelter, and a business plan that
5 addresses future operations and funding of future operations.

6 "(7) If the domestic violence center is a new center
7 applying for certification, demonstrate that the services
8 provided address a need identified in the most current
9 statewide needs assessment approved by the director. If the
10 center applying for initial certification proposes providing
11 services in an area that has an existing certified domestic
12 violence center, the center applying for initial certification
13 shall demonstrate an unmet need in that service area and
14 describe its efforts to avoid duplication of services.

15 ~~"(b) Domestic violence facilities may be established~~
16 ~~throughout the state as private, local, state, or federal~~
17 ~~funds are available. Any local agency or organization may~~
18 ~~apply to participate in certification and state funding~~
19 ~~pursuant to this chapter. This chapter shall not be construed~~
20 ~~to prohibit any agency or organization from uniting with a~~
21 ~~like agency or organization, within or without the same county~~
22 ~~or within or without any adjacent circuit, in the joint~~
23 ~~establishment or operation of any domestic violence facility.~~

24 "(b) Each domestic violence center shall be a member
25 in good standing with the ACADV.

26 "(c) If the ACADV or director finds that there is a
27 failure by a domestic violence center to comply with the

1 requirements and standards established under this chapter or
2 with any rules adopted pursuant thereto, the ACADV may deny,
3 suspend, or revoke the certification, or may temporarily
4 extend the certification to allow the domestic violence center
5 to implement a corrective action plan.

6 "(d) The annual certificate automatically expires on
7 June 30 of each year unless it is renewed.

8 ~~"(c) The facilities~~ (e) Domestic violence centers
9 shall establish procedures pursuant to which persons subject
10 to domestic violence may seek services from these facilities
11 on a voluntary basis.

12 ~~"(d) Each facility~~ (f) Each domestic violence center
13 shall be a 501(c)(3) nonprofit corporation and shall have a
14 board composed of at least three citizens, one of whom shall
15 be a member of a local, municipal, or county law enforcement
16 agency.

17 ~~"(e) No individual facility shall receive a total~~
18 ~~amount in excess of two hundred fifty thousand dollars~~
19 ~~(\$250,000) annually.~~

20 ~~"(f) Each facility shall submit their proposed~~
21 ~~budget at the request of the office and prior to any~~
22 ~~application for funds.~~

23 "(g) In order to receive funding from the Domestic
24 Violence Trust Fund and state funds, a domestic violence
25 center shall do all of the following:

26 "(1) Obtain certification pursuant to this chapter:
27 provided, however, the issuance of a certification does not

1 obligate the ACADV or the Alabama Department of Economic and
2 Community Affairs to provide monies distributed through the
3 Domestic Violence Trust Fund.

4 "(2) Receive at least 10 percent of its funding from
5 one or more local, municipal, or county sources, public or
6 private, provided contributions in kind, whether materials,
7 commodities, transportation, office space, other types of
8 facilities, or personal services, may be evaluated and counted
9 as part of the required local funding.

10 "(h) (1) All funds collected and appropriated for
11 certified domestic violence centers shall be distributed
12 annually according to an allocation formula approved by the
13 director. In developing the formula, the factors of
14 population, rural characteristics, geographical area, and the
15 incidence of domestic violence shall be considered.

16 "(2) A contract between the director or ACADV and a
17 certified domestic violence center shall contain provisions
18 ensuring the availability and geographic necessity of services
19 throughout the service area. For this purpose, a center may
20 distribute funds through subcontracts or to center satellites,
21 if such arrangements and any subcontracts are approved by the
22 director.

23 "(i) If any of the required services are exempted
24 from certification by the director under this section, the
25 domestic violence center may not receive funding from the
26 ACADV or the Alabama Department of Economic and Community
27 Affairs for those services.

1 "§30-6-7.

2 ~~"Each circuit shall receive a proportionate share of~~
3 ~~the total funding appropriated, as the population of the~~
4 ~~circuit or circuits jointly bear to the total population of~~
5 ~~the state, according to the most recent federal decennial~~
6 ~~census, for implementation of this chapter. Each facility~~
7 ~~shall receive the funds as determined by the policy adopted by~~
8 ~~the office. The formula for such funding shall be deemed a~~
9 ~~public record. The office may not expend in excess of ten~~
10 ~~percent of the funds administered by it to implement this~~
11 ~~chapter. Of the funds administered by the office to implement~~
12 ~~this chapter, the office shall retain 60 percent of the funds~~
13 ~~or eighty thousand dollars (\$80,000), whichever is greater,~~
14 ~~and shall disburse the remainder of the implementation funds~~
15 ~~received during the previous fiscal year to the ACADV upon~~
16 ~~satisfactory receipt of the report described in Section 30-6-5~~
17 ~~for that year.~~

18 "The Alabama Department of Economic and Community
19 Affairs shall transfer to the ACADV those funds necessary for
20 the ACADV to implement its respective functions pursuant to
21 this chapter, but in no event may the department transfer less
22 than 10 percent of the total available funds from the Domestic
23 Violence Trust Fund to the ACADV on an annual basis. In
24 addition, the department may pay its administration costs
25 necessary to fulfill the requirements of this chapter from the
26 Domestic Violence Trust Fund; provided, however, the
27 department may not expend more than eight percent of the total

1 available funds from the Domestic Violence Trust Fund on an
2 annual basis.

3 "§30-6-8.

4 "Information received by the ~~office, the circuit,~~
5 ~~any district attorney or his or her employees,~~ director or by
6 authorized persons employed by or volunteering services to a
7 facility domestic violence center, through files, reports,
8 inspection, or otherwise, ~~shall be deemed~~ is confidential
9 information, ~~except as otherwise herein provided,~~ and shall
10 not be disclosed publicly in such a manner as to identify
11 ~~individuals or facilities~~ and exempt from the provisions of
12 Section 36-12-40. Information about the location of domestic
13 violence centers and facilities is confidential and exempt
14 from the provisions of Section 36-12-40. Oral communications
15 between a domestic violence victim and an advocate and written
16 reports and records concerning the victim may not be disclosed
17 without the written consent of the victim. This privilege does
18 not relieve a person from any duty imposed pursuant to Section
19 26-14-1 or Section 38-9-2. However, when cooperating with
20 protective investigation services staff, the staff and
21 volunteers of a domestic violence center shall protect the
22 confidentiality of other clients at the center. A victim or
23 advocate may not claim this privilege when providing evidence
24 in proceedings concerning child abuse, but may claim this
25 privilege in all other proceedings, both criminal and civil.
26 ~~This privilege expires upon the death of the victim. Each~~
27 ~~facility, with the approval of the office, shall establish its~~

1 ~~own rules, regulations, and policies for the performance of~~
2 ~~the responsibilities charged to it in this chapter. The office~~
3 director shall ensure that the information obtained under
4 authority of this chapter shall be restricted to the items
5 germane to the implementation thereof and shall ensure that
6 the provisions are administered so as not to accumulate any
7 information or distribute any information that is not required
8 by this chapter. ~~The office and each participating district~~
9 ~~attorney shall ensure that adequate safeguards are~~
10 ~~incorporated so that data available is used only by properly~~
11 ~~authorized persons, facilities, and agencies.~~

12 "§30-6-9.

13 "(a) Any law enforcement officer who investigates an
14 alleged incident of domestic violence shall assist the victim
15 in obtaining medical treatment, if required as a result of the
16 alleged incident to which the officer responds, and shall
17 ~~advise the person subject to the abuse of the availability of~~
18 ~~a facility from which he or she~~ victim that there is a
19 domestic violence center from which the victim may receive
20 services. In addition to victim information services required
21 pursuant to Section 15-23-62, the law enforcement officer
22 shall give the victim at the time of initial investigation
23 immediate notice of the legal rights and remedies notice
24 available on a standard form developed and distributed by the
25 Alabama Law Enforcement Agency pursuant to subsection (b).

26 "(b) The agency shall develop a "Legal Rights and
27 Remedies Notice to Victims" that includes a general summary of

1 the provisions of the Protection From Domestic Violence Act
2 using simple English as well as Spanish, and shall distribute
3 the notice to be used by all law enforcement agencies
4 throughout the state. The notice shall include:

5 "(1) The resource listing, including telephone
6 number, for the area domestic violence center designated by
7 the director; and

8 "(2) A copy of the following statement: "IF YOU ARE
9 THE VICTIM OF DOMESTIC VIOLENCE, you may ask the district
10 attorney or prosecutor to file a criminal complaint. You also
11 have the right to go to court and file a petition requesting
12 an order of protection against domestic violence which may
13 include, but need not be limited to, the provisions which
14 restrain the abuser from further acts of domestic violence;
15 direct the abuser to leave your household; prevent the abuser
16 from entering your residence, school, business, or place of
17 employment; award you custody of your minor child or children;
18 and direct the abuser to pay support to you and the minor
19 children if the abuser has a legal obligation to do so."

20 "(c) (1) When a law enforcement officer investigates
21 an allegation that an incident of domestic violence has
22 occurred, the officer shall handle the incident pursuant to
23 the arrest policy provided in Section 13A-6-133. Whether or
24 not an arrest is made, the officer shall make a written police
25 report that is complete and clearly indicates the alleged
26 offense was an incident of domestic violence. The police
27 report shall be given to the officer's supervisor and filed

1 with the appropriate law enforcement agency. The report shall
2 include:

3 "a. A description of physical injuries observed, if
4 any.

5 "b. If the law enforcement officer decides not to
6 make an arrest or decides to arrest two or more parties, the
7 grounds for not arresting anyone or for arresting two or more
8 parties.

9 "c. A statement that indicates that a copy of the
10 legal rights and remedies notice described in subsection (a)
11 was given to the victim.

12 "(2) Whenever possible, the law enforcement officer
13 shall obtain a written statement from the victim and witnesses
14 concerning the alleged domestic violence. The officer shall
15 submit the report to the supervisor or other person to whom
16 the law enforcement agency's rules or policies require. The
17 law enforcement agency shall, without charge, send a copy of
18 the initial police report, as well as any subsequent,
19 supplemental, or related report, which excludes victim or
20 witness statements or other materials that are part of an
21 active criminal investigation and are exempt from disclosure
22 under Section 36-12-40, to the nearest certified domestic
23 violence center within 24 hours of the law enforcement
24 agency's receipt of the report. The report furnished to the
25 domestic violence center shall include a narrative description
26 of the domestic violence incident.

1 "(d) Whenever a law enforcement officer determines
2 upon probable cause that an act of domestic violence has been
3 committed within the jurisdiction of the officer, the officer
4 may arrest the person or persons suspected of its commission
5 and charge such person or persons with the appropriate crime.
6 The decision to arrest and charge shall not require consent of
7 the victim.

8 "(e) (1) When complaints are received from two or
9 more parties, the officers shall evaluate each complaint
10 separately to determine whether there is probable cause for
11 arrest.

12 "(2) If a law enforcement officer has probable cause
13 to believe two or more persons have committed a misdemeanor or
14 felony, or if two or more persons make complaints to the
15 officer, the officer shall try to determine who was the
16 predominant aggressor according to Section 13A-6-134. Arrest
17 is the preferred response only with respect to the predominant
18 physical aggressor and not the preferred response with respect
19 to a person who acts in a reasonable manner to protect himself
20 or herself or another family or household member from domestic
21 violence.

22 "(f) No law enforcement officer shall be held
23 liable, in any civil action, for an arrest based on probable
24 cause, enforcement in good faith of a court order, or service
25 of process in good faith under this section arising from an
26 alleged incident of domestic violence brought by any party.

1 "(g) A person who willfully violates a condition of
2 pretrial release provided in Section 15-13-190, when the
3 original arrest was for an act of domestic violence as defined
4 in Section 30-5-2, shall be subject to Section 13A-6-142, and
5 shall receive an enhanced penalty and additional jail time in
6 accordance with Section 13A-6-142.

7 "§30-6-10.

8 "The ~~office~~ director is authorized to promulgate,
9 issue and implement reasonable rules, regulations and
10 standards necessary to administer and implement the provisions
11 of this chapter.

12 "§30-6-11.

13 "The department shall establish a Domestic Violence
14 Trust Fund for the specific purpose of funding certified
15 domestic violence centers. Commencing October 1, 1999, and
16 thereafter, in addition to any and all other fees collected
17 for any marriage license, the ~~probate judge~~ marriage license
18 issuing agent shall collect thirty dollars (\$30). ~~which shall~~
19 be forwarded to the district attorney of the judicial circuit
20 of his or her county. The funds, as well as those fines
21 imposed pursuant to subsection (g) of Section 30-5-8, shall be
22 designated only for the purposes of this chapter, and
23 forwarded monthly to the ~~office for distribution on a formula,~~
24 pursuant to Section 30-6-7 and this chapter. Provided,
25 however, no department for deposit in the Domestic Violence
26 Trust Fund. No unspent and unencumbered funds generated by
27 this chapter shall revert to the General Fund of the State

1 Treasury at the end of the fiscal year. Any such unspent and
2 unencumbered funds shall be returned to the respective
3 judicial circuits from which they were generated. The district
4 attorney shall use the funds exclusively for the purposes of
5 establishing, maintaining, or funding, or any combination
6 thereof, of domestic violence shelters. The funds shall be
7 used for the establishment or maintenance of a domestic
8 violence shelter within 12 months of the end of the fiscal
9 year during which they were collected. If funds collected
10 pursuant to this chapter have not been expended for the
11 purposes of establishing or maintaining a domestic violence
12 shelter within the time period designated in this section,
13 those funds shall revert to the office for distribution to
14 certified domestic violence facilities according to the
15 formula established by the office pursuant to Section 30-6-7
16 and this chapter.

17 "§30-6-13.

18 "The provisions of this chapter are supplemental and
19 shall be construed in pari materia with other laws relating to
20 domestic relations, ~~abuse~~ domestic violence, and law
21 enforcement; and provided, that those laws or parts of laws
22 which are in direct conflict or inconsistent herewith are
23 hereby repealed.

24 "§30-7-1.

25 "The Alabama Coalition Against Domestic Violence,
26 Incorporated, shall establish standards for domestic violence
27 ~~shelters~~ centers for membership in the coalition. Standards

1 shall include minimum standards for the safe and effective
2 provision of services to victims of domestic violence and
3 their children.

4 "§30-7-2.

5 "~~(a)~~ The following minimum standards for domestic
6 violence ~~shelters~~ centers shall be used by the coalition to
7 determine membership in the coalition and be eligible for
8 receiving funds administered by the coalition or the Alabama
9 Department of Economic and Community Affairs. Any domestic
10 violence ~~shelter~~ center seeking membership shall meet the
11 following qualifications:

12 "(1) Be a ~~community-based, nonprofit agency~~
13 501(c)(3) nonprofit corporation created for the purpose of
14 operating a domestic violence center, provided it may be
15 affiliated with a larger private organization, but must be a
16 distinct entity with its own corporate structure and budget.
17 Existing domestic violence centers certified prior to the
18 effective date of this act shall be exempt from the foregoing
19 requirement. All funding and budget issues pertaining to the
20 operation of the domestic violence program shall be reported
21 independently from other activities.

22 "(2) Have as its primary ~~function the elimination~~
23 ~~and reduction of domestic violence~~ mission the provision of
24 services to victims of domestic violence, as defined in
25 Section 30-5-2.

1 "(3) Provide emergency shelter, counseling services,
2 case management and advocacy, and referral, and 24-hour
3 hotline telephone services for domestic violence victims.

4 "~~(4) Operate its principal place of business or~~
5 ~~service activity in the state.~~

6 "~~(5) (4) Agree to, accept, adopt, and implement the~~
7 ~~prevailing Alabama Coalition Against Domestic Violence shelter~~
8 ~~center standards.~~

9 "~~(6) (5) Be governed by a board of directors which~~
10 ~~reflects the community it serves.~~

11 "~~(7) (6) Affirm in writing its commitment to the~~
12 ~~specific and primary purpose of the Alabama Coalition Against~~
13 ~~Domestic Violence as stated in an affirmation of unity~~
14 ~~membership affiliate agreements.~~

15 "~~(8) (7) Be an associate member of the Alabama~~
16 ~~Coalition Against Domestic Violence for one year prior to~~
17 ~~application for full membership.~~

18 "~~(b) The coalition shall certify any domestic~~
19 ~~violence shelter meeting the qualifications set forth in~~
20 ~~subsection (a).~~

21 "§30-7-3.

22 Any domestic violence ~~shelter~~ center within the
23 state that meets the standards established by this chapter and
24 is certified by the coalition as a full member in the
25 coalition shall be eligible to receive funds that are
26 appropriated from the ~~state~~ General Fund to the coalition.

27 "§30-7-4.

1 "(a) Any domestic violence ~~shelter~~ center within the
2 state that desires to become certified by the coalition may
3 request certification. Upon approval and certification by the
4 ~~board of directors of the~~ coalition, a domestic violence
5 center may receive ~~state funding from~~ funding appropriated by
6 the Legislature specifically to the coalition.

7 (b) State funds received by the coalition from
8 appropriations by the Legislature may be used for
9 administrative expenses. Administrative expenses paid from
10 state funds shall not exceed eight percent of the total
11 appropriation received in any one period of appropriation.

12 "§30-7-5.

13 "The coalition, through its board of directors,
14 shall be responsible for allocating state appropriated funds
15 to existing and new domestic violence ~~shelters~~ centers that
16 have been certified pursuant to this chapter.

17 "§30-7-6.

18 "(a) There shall be established batterers'
19 intervention programs in order to direct services to those
20 persons who are adjudged to have committed an act of domestic
21 violence, as defined in Section 30-5-2, those against whom an
22 injunction for protection against domestic violence is
23 entered, those referred by the court or local domestic
24 violence center, and those who volunteer to attend such
25 programs. The primary purpose of the programs shall be to
26 protect the safety of victims of domestic violence and the
27 safety of the victim's children, if present.

1 "(b) The coalition shall establish minimum program
2 and treatment standards for ~~perpetrator counseling~~ batterers'
3 intervention programs. The standards shall be used as
4 guidelines by the courts for recommending referral to the
5 programs. ~~Perpetrator~~ Batterers' intervention programs shall:

6 "(1) Be operated by community-based, nonprofit
7 agencies that are governed by a board of directors which
8 reflects the community each serves.

9 "(2) Have as the primary goal ~~of the treatment~~
10 ~~program~~ the reduction and elimination of domestic violence.

11 "(3) Operate its principal place of business or
12 service activity in the state.

13 "(4) Agree to, accept, adopt, and implement the
14 prevailing minimum standards for ~~perpetrator~~ intervention
15 programs as established by the coalition.

16 "(5) Be at least 29 weeks in length and include at
17 least 24 sessions, plus appropriate intake, assessment, and
18 orientation programming.

19 "(6) Be a psychoeducational model that employs
20 program content based on tactics of power and control in which
21 one person exerts control over another.

22 "~~(b) Perpetrator treatment programs shall not be~~
23 ~~eligible to receive state funds allocated to the coalition for~~
24 ~~disbursement to shelters. The facilitators, supervisors, and~~
25 ~~trainees shall be certified to provide these programs through~~
26 ~~initial certification, and the programs and personnel shall be~~

1 annually monitored by the Department of Economic and Community
2 Affairs to ensure that they meet specified standards.

3 "(c) The programs shall be funded through reasonable
4 fees collected from the batterers who attend the programs,
5 except the programs may be funded, in whole or in part, from
6 any local, state, or federal program that provides funding for
7 batterers' intervention programs. Consideration shall be given
8 to those participants who may be considered indigent, as
9 determined by the programs.

10 "(d) The programs shall be conducted in a manner
11 that holds the batterer accountable for acts of domestic
12 violence. The programs shall address the perpetration of
13 violence between intimate partners, spouses, ex-spouses, those
14 who share a child in common, or those who are cohabitants in
15 intimate relationships, for the purpose of exercising power
16 and control by one over the other.

17 "(e) It will endanger victims if courts and other
18 referral agencies refer victims or their family or household
19 members to batterers' intervention programs. For the
20 protection of victims, their families, and household members,
21 the court or local domestic violence centers making referrals
22 should refer perpetrators only, not victims, to programs that
23 appropriately address the violence committed.

24 "§30-9-1.

25 "As used in this chapter the term domestic violence
26 fatality review team means an organization that includes, but

1 is not limited to, representatives from the following agencies
2 or organizations:

3 "(1) ~~Municipal and state law~~ Law enforcement
4 agencies.

5 "(2) The Attorney General and the President of the
6 Alabama District Attorney's Association, for state level teams
7 or the district attorney of each judicial circuit for local or
8 regional teams.

9 "(3) The Alabama Department of Forensic Sciences.

10 "(4) Certified domestic violence centers.

11 "(5) Child protection service providers.

12 "(6) The Administrative Office of Courts.

13 "(7) The municipal and circuit clerks of the court.

14 "(8) Victim service programs.

15 "(9) Providers of civil legal assistance to victims.

16 "(10) Child death review teams.

17 "(11) Members of the business community.

18 "(12) County probation or corrections agencies.

19 "(13) Any other persons who have knowledge regarding
20 domestic violence fatalities, nonlethal incidents of domestic
21 violence, or suicide, including research, policy, law, and
22 other matters connected with fatal incidents.

23 "(14) The humane societies or shelters.

24 "(15) Certified perpetrator intervention programs.

25 "(16) The Alabama Coalition Against Domestic
26 Violence.

27 "(17) The coroner or county medical examiner.

1 "(18) The Department of Human Resources.

2 "(19) The Alabama Department of Child Abuse and
3 Neglect Prevention or its designee.

4 "(20) Other representatives as determined by the
5 review team.

6 "§30-9-2.

7 "(a) A statewide domestic violence fatality review
8 team ~~may shall~~ be established ~~on the local, regional, or state~~
9 ~~level~~ to review fatal and near-fatal incidents of domestic
10 violence, related domestic violence matters, and suicides. ~~For~~
11 ~~domestic violence fatality review teams that service local or~~
12 ~~regional jurisdictions, the team shall be chaired by the~~
13 ~~district attorney of that particular jurisdiction.~~ Additional
14 teams at the local and regional level may be established as
15 well in conjunction with local law enforcement agencies, the
16 local domestic violence center, and local judicial officers
17 including the court, prosecutor, and public defender. The
18 membership of a domestic violence fatality review team shall
19 be inclusive and reflect the racial, gender, geographic,
20 urban/rural, and economic diversity of the state. The review
21 may include an examination of events leading up to the
22 domestic violence incident, available community resources,
23 current laws and policies, and actions taken by organizations,
24 agencies, and individuals incident to the events and the
25 parties. Any information or action deemed relevant by the
26 review team, including an assessment of public records and

1 records for which public records exemptions are granted may
2 also be included within the purview of the review.

3 "(b) Domestic violence fatality review teams shall
4 be established for the purpose of learning how to prevent
5 domestic violence through early intervention and improving the
6 quality of the response by individuals and institutions to
7 domestic violence. The specific structure and operating
8 procedures employed by a review team shall be determined at
9 the local level. The review team may determine the number and
10 type of incidents it wishes to review and shall make policy
11 and other recommendations on how the community may more
12 effectively respond to the needs of domestic violence victims.

13 "(c) Any member of a domestic violence fatality
14 review team or any person acting as a witness to or
15 investigator for a domestic violence fatality review team, in
16 addition to any immunity provided otherwise in state law,
17 shall not be liable to any person for damages as a result of
18 any action taken within the scope of the functions of that
19 review team if such action was taken without malice and in a
20 reasonable belief that such action or recommendation is
21 warranted by the facts made known to him or her.

22 "(d) The statewide domestic violence fatality review
23 team is assigned to the Alabama Attorney General for
24 administrative purposes.

25 "(e) The Attorney General, in collaboration with the
26 Alabama Coalition Against Domestic Violence and the statewide
27 domestic violence fatality review team, shall produce an

1 annual report. The report shall review the number and type of
2 domestic violence fatalities and near fatalities and shall
3 make policy and other recommendations on how the state and
4 stakeholders may more effectively reduce the incidence of
5 domestic violence fatalities in the state.

6 ~~"(c)~~ (f) Information, testimony, records, reports,
7 recommendations, or other evidence obtained, generated, or
8 transmitted by a domestic violence fatality review team shall
9 not be subject to discovery, subpoena, or introduction into
10 evidence in any civil or criminal action, or in any
11 administrative or disciplinary proceeding by any department or
12 employing agency if the information or records arose out of
13 matters that are the subject of evaluation and review by the
14 review team. However, information, documents, and records
15 otherwise independently discovered and available from other
16 sources shall not be exempt from discovery, subpoena, or
17 introduction into evidence solely because the information,
18 documents, or records were presented to or reviewed by a
19 review team.

20 ~~"(d)~~ (g) A person who attends or participates in a
21 meeting of a domestic violence fatality review team may not
22 testify in any civil or criminal action or administrative or
23 disciplinary proceedings concerning any records or information
24 produced or presented to the review team or the proceedings or
25 deliberations of the review team authorized by this section.
26 This subsection does not preclude or exempt any person who
27 testifies before a review team or who is a member of a review

1 team from testifying to matters otherwise within his or her
2 knowledge.

3 "~~(e)~~ (h) Any information or records otherwise
4 confidential or privileged ~~in accordance with~~ or exempt from
5 disclosure under Section 36-12-40 or under another provision
6 of Alabama law which are obtained by or provided to a review
7 team conducting activities as described pursuant to this
8 chapter shall remain confidential or privileged or exempt from
9 disclosure as otherwise provided by law. Any portion of a
10 report produced by the review team that contains information
11 that is otherwise confidential or privileged in accordance
12 with Alabama law shall remain confidential or privileged as
13 otherwise provided by law.

14 "§41-9-621.

15 "The commission, acting through the Director of the
16 Alabama Criminal Justice Information Center, shall:

17 "(1) Develop, operate and maintain an information
18 system which will support the collection, storage, retrieval,
19 analysis and dissemination of all crime and offender data
20 described in this article consistent with those principles of
21 scope, security and responsiveness prescribed by this article;

22 "(2) Cooperate with all criminal justice agencies
23 within the state in providing those forms, procedures,
24 standards and related training assistance necessary for the
25 uniform operation of the statewide ACJIC crime reporting and
26 criminal justice information system;

1 "(3) Offer assistance and, when practicable,
2 instruction to all criminal justice agencies in establishing
3 efficient systems for information management;

4 "(4) Compile statistics on the nature and extent of
5 crime in Alabama and compile data for planning and operating
6 criminal justice agencies; provided, that such statistics
7 shall not identify persons. The commission shall make
8 available all such statistical information obtained to the
9 Governor, the Legislature, the judiciary and any such other
10 governmental agencies whose primary responsibilities include
11 the planning, development or execution of crime reduction
12 programs. Access to such information by such governmental
13 agencies shall be on an individual written request basis or in
14 accordance with the approved operational procedure, wherein
15 must be demonstrated a need to know, the intent of any
16 analyses and dissemination of such analyses, and shall be
17 subject to any security provisions deemed necessary by the
18 commission;

19 "(5) In compiling the annual report on domestic
20 violence in Alabama, shall include the results of the
21 warrantless arrest policy provided for under Section 13A-6-133
22 including separate statistics on occurrences of and arrests
23 for domestic versus nondomestic violence, such as stalking,
24 battery, aggravated battery, assault, aggravated assault,
25 sexual battery, the illegal use of firearms, arson, homicide,
26 murder, manslaughter, or the attempt of any of the above; and
27 shall report annual domestic violence statistics to the

1 relevant federal agency for national reporting required by
2 federal regulations or directives.

3 ~~"(5)~~ (6) Periodically publish statistics, no less
4 frequently than annually, that do not identify persons and
5 report such information to the chief executive officers of the
6 agencies and branches of government concerned; such
7 information shall accurately reflect the level and nature of
8 crime in this state and the general operation of the agencies
9 within the criminal justice system;

10 ~~"(6)~~ (7) Make available, upon request, to all
11 criminal justice agencies in this state, to all federal
12 criminal justice and criminal identification agencies and to
13 state criminal justice and criminal identification agencies in
14 other states any information in the files of the ACJIC which
15 will aid these agencies in crime fighting; for this purpose
16 the ACJIC shall operate 24 hours per day, seven days per week;

17 ~~"(7)~~ (8) Cooperate with other agencies of this
18 state, the crime information agencies of other states and the
19 uniform crime reports and national crime information center
20 systems of the Federal Bureau of Investigation or any entity
21 designated by the federal government as the central
22 clearinghouse for criminal justice information systems in
23 developing and conducting an interstate, national and
24 international system of criminal identification, records and
25 statistics;

26 ~~"(8)~~ (9) Provide the administrative mechanisms and
27 procedures necessary to respond to those individuals who file

1 requests to view their own records as provided for elsewhere
2 in this article and to cooperate in the correction of the
3 central ACJIC records and those of contributing agencies when
4 their accuracy has been successfully challenged either through
5 the related contributing agencies or by court order issued on
6 behalf of the individual;

7 "~~(9)~~ (10) Institute the necessary measures in the
8 design, implementation and continued operation of the criminal
9 justice information system to ensure the privacy and security
10 of the system. Such security measures must meet standards to
11 be set by the commission as well as those set by the
12 nationally operated systems for interstate sharing of such
13 information; and

14 "~~(10)~~ (11) Designate in writing agents or employees
15 of the ACJIC who shall be and are hereby constituted peace
16 officers of the State of Alabama with full and unlimited
17 police power and jurisdiction to enforce the laws of this
18 state pertaining to the operation and administration of the
19 Alabama Criminal Justice Information System and the storage,
20 use and dissemination of information processed therein."

21 Section 2. Each agency in the state that is involved
22 with the enforcement, monitoring, or prosecution of crimes of
23 domestic violence shall collect and maintain records of each
24 domestic violence incident for access by investigators
25 preparing for bond hearings and prosecutions for acts of
26 domestic violence. This information shall be provided to the

1 court at first appearance hearings and all subsequent
2 hearings.

3 Section 3. Article 9 (commencing with Section
4 41-23-150) is added to Chapter 23 of Title 41 of the Code of
5 Alabama 1975, to read as follows:

6 Article 9. Domestic Violence Center Capital
7 Improvement Grant Program.

8 §41-23-150.

9 (a) For the purposes of this article, the following
10 terms shall have the following meanings:

11 (1) ACADV. The Alabama Coalition Against Domestic
12 Violence.

13 (2) DIRECTOR. The Director of the Department of
14 Economic and Community Affairs.

15 (b) There is established a certified domestic
16 violence center capital improvement grant program under the
17 Department of Economic and Community Affairs.

18 (c) A certified domestic violence center, as
19 provided for in Section 30-6-6 of the Code of Alabama 1975,
20 may apply to the director, or his or her designee, for a
21 capital improvement grant. The grant application shall provide
22 all of the following information:

23 (1) A statement specifying the capital improvement
24 and the projected costs that the certified domestic violence
25 center proposes to make with the grant funds.

26 (2) The proposed strategy for making the capital
27 improvement.

1 (3) The organizational structure that will carry out
2 the capital improvement.

3 (4) Evidence that the certified domestic violence
4 center has difficulty in obtaining funding or that the funds
5 available for the proposed improvement are inadequate.

6 (5) Evidence that the grant funds will assist in
7 meeting the needs of victims of domestic violence and their
8 children in the certified domestic violence center service
9 area.

10 (6) Evidence of a satisfactory recordkeeping system
11 to account for grant fund expenditures.

12 (7) Evidence of the ability to generate a local
13 match.

14 (8) A clear statement addressing who owns the real
15 property, building, and structures upon which domestic
16 violence services are being provided or will be provided.

17 (d) A certified domestic violence center may receive
18 funding subject to legislative appropriation, upon application
19 to the director, for projects to construct, acquire, repair,
20 improve, or upgrade systems, facilities, or equipment, subject
21 to availability of grant funds.

22 (e) An award of grant funds under this article shall
23 be made in accordance with a needs assessment developed by the
24 ACADV and the director. The director shall perform annually
25 the needs assessment and shall rank in order of need those
26 centers that are requesting grant funds for capital
27 improvement.

1 (f) The director, in collaboration with the ACADV,
2 shall establish criteria for awarding the capital improvement
3 grant funds that shall be used exclusively for support and
4 assistance with the capital improvement needs of the certified
5 domestic violence center.

6 (g) The director shall ensure that the grant funds
7 awarded under this article are used solely for the purposes
8 specified in this article. The director shall also ensure that
9 the grant process maintains the confidentiality of the
10 location of the certified domestic violence center applying
11 for the grant. The total amount of the grants awarded under
12 this article may not exceed the amount appropriated for the
13 program.

14 Section 4. The provisions of this act are severable.
15 If any part of this act is declared invalid or
16 unconstitutional, that declaration shall not affect the part
17 which remains.

18 Section 5. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.