

1 HB458
2 175457-4
3 By Representative Rowe
4 RFD: Judiciary
5 First Read: 22-MAR-16

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

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

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

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

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to domestic violence; to amend Sections
27 13A-6-130, 13A-6-131, 13A-6-132, 13A-6-134, 13A-6-138,

1 13A-6-142, 15-10-3, 15-13-190, 15-23-68, 30-5-2, 30-5-3,
2 30-5-5, 30-5-8, as last amended by Act 2015-493, 2015 Regular
3 Session, to clarify certain definitions; to further provide
4 for requirements for sworn petitions for protection orders; to
5 further provide for notice of hearing and service of process
6 requirements; to further provide for fines and penalties for
7 violations of protection orders and arrests without warrants
8 for violations of protection orders; to clarify provisions
9 relating to the release and bail of domestic violence
10 offenders; and to revise provisions relating to domestic
11 violence by strangulation or suffocation; to repeal Section
12 13A-6-139.1, Code of Alabama 1975, relating to definitions for
13 certain domestic violence offenses; and in connection
14 therewith would have as its purpose or effect the requirement
15 of a new or increased expenditure of local funds within the
16 meaning of Amendment 621 of the Constitution of Alabama of
17 1901, now appearing as Section 111.05 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 13A-6-130, 13A-6-131, 13A-6-132,
22 13A-6-134, 13A-6-138, 13A-6-142, 15-10-3, 15-13-190, 15-23-68,
23 30-5-2, 30-5-3, 30-5-5, 30-5-8, Code of Alabama 1975, as last
24 amended by Act 2015-493, 2015 Regular Session, are amended to
25 read as follows:

26 "§13A-6-130.

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

11 "(b) Domestic violence in the first degree is a
12 Class A felony, except that the defendant shall serve a
13 minimum term of imprisonment of one year without consideration
14 of probation, parole, good time credits, or any other
15 reduction in time for any second or subsequent conviction
16 under this subsection.

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

24 "§13A-6-131.

25 "(a) A person commits the crime of domestic violence
26 in the second degree if the person commits the crime of
27 assault in the second degree pursuant to Section 13A-6-21; the

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

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

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

25 "§13A-6-132.

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

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

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

26 "(c) A second conviction under subsection (a) is a
27 Class A misdemeanor, except the defendant shall serve a

1 minimum term of imprisonment of 10 days in a city or county
2 jail or detention facility without consideration for any
3 reduction in time.

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

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

9 "§13A-6-134.

10 "(a) If a law enforcement officer receives
11 complaints of domestic violence from two or more opposing
12 persons, or if both parties have injuries, the officer shall
13 evaluate each complaint separately to determine who was the
14 predominant aggressor. If the officer determines that one
15 person was the predominant physical aggressor, that person may
16 be arrested; however, a person who acts in a reasonable manner
17 to protect himself or herself or another family or household
18 member from domestic violence, ~~as defined in Section~~
19 ~~13A-6-139.1,~~ may not be arrested for a violation of Section
20 13A-6-130, 13A-6-131, or 13A-6-132. In determining whether a
21 person is the predominant aggressor the officer shall consider
22 all of the following:

23 "(1) Prior complaints of domestic violence.

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

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

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

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

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

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

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

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

23 "(2) The agency shall develop a "Legal Rights and
24 Remedies Notice to Victims" that includes a general summary of
25 the provisions of the Protection From Domestic Violence Act
26 using language a layperson may understand and the statewide
27 domestic violence hotline number, and shall distribute the

1 notice to be used by all law enforcement agencies throughout
2 the state.

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

8 "§13A-6-138.

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

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

14 "(2) SUFFOCATION. Intentionally causing asphyxia by
15 depriving a person of air or by preventing a person from
16 breathing through the inhalation of toxic gases or by blocking
17 or obstructing the airway of a person, by any means other than
18 by strangulation.

19 "(b) A person commits the crime of domestic violence
20 by strangulation or suffocation if he or she commits an
21 assault with intent to cause physical harm or commits the
22 crime of menacing pursuant to Section 13A-6-23, by
23 strangulation or suffocation or attempted strangulation or
24 suffocation ~~against a victim, as the term is defined in~~
25 Section 13A-6-139.1 and the victim is a current or former
26 spouse, parent, child, any person with whom the defendant has
27 a child in common, a present household member, or a person who

1 has or had a dating relationship. For the purpose of this
2 section, a household member excludes non-romantic or
3 non-intimate co-residents.

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

6 "§13A-6-142.

7 "(a) A violation of a domestic violence protection
8 order is a Class A misdemeanor which shall be punishable as
9 provided by law.

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

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

22 "§15-10-3.

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

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

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

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

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

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

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

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

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

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

16 "(c) If the defendant is arrested under this section
17 for committing an act of domestic violence in violation of
18 domestic violence in the first degree, pursuant to Section
19 13A-6-130, domestic violence in the second degree, pursuant to
20 Section 13A-6-131, domestic violence in the third degree,
21 pursuant to Section 13A-6-132, interference with a domestic
22 violence emergency call, in violation of Section 13A-6-137, or
23 domestic violence by strangulation or suffocation, pursuant to
24 Section 13A-6-138, and violates a protection order, the
25 defendant shall be held in custody until brought before the
26 court ~~as expeditiously as possible~~ within 48 hours for the
27 purpose of enforcing the protection order and for

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

6 "§15-13-190.

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

1 "(b) The judge or magistrate shall make findings on
2 the record concerning those determinations and may impose
3 conditions of release or bail on the person to protect the
4 alleged victim of domestic violence or the person protected by
5 a protection order, and to ensure the appearance of the person
6 at a subsequent court proceeding. The conditions may include,
7 but need not be limited to, enjoining the person from
8 threatening to commit or committing acts of domestic violence
9 against the alleged victim; restraining and enjoining the
10 defendant from contacting the victim, ~~as described in Section~~
11 ~~30-5-7~~; prohibiting the person from possessing a firearm or
12 other weapon specified by the court, except when such weapon
13 is necessary for employment as a peace officer or military
14 personnel; and issuing any other order or modification of
15 orders above required to protect the safety of the alleged
16 victim or to ensure the appearance of the person in court. For
17 the purposes of this subsection, "contacting" includes, but is
18 not limited to, communicating with the victim verbally or in
19 any written form, either in person, telephonically,
20 electronically, or in any other manner, either directly or
21 indirectly through a third person.

22 "(c) If conditions of release are imposed, the judge
23 or magistrate shall issue a written order for conditional
24 release, immediately distribute a copy of the order to the law
25 enforcement agency having custody of the arrested or charged
26 person, place information pertaining to the order in the
27 domestic violence protection order registry, and provide the

1 law enforcement agency with any available information
2 concerning the location of the alleged victim in a manner that
3 protects the safety of the victim. Law enforcement shall
4 provide a copy of the written order to the victim within 24
5 hours of receipt, provided that the victim provides law
6 enforcement with current and accurate contact information, ~~in~~
7 ~~accordance with the process outlined in Section 30-5-8.~~

8 "(d) In cases in which the defendant has been placed
9 on conditional release or bail pursuant to this section or is
10 in violation of probation from an another case and is arrested
11 on a probation violation warrant, a violation of written
12 condition of release pursuant to this section, or a violation
13 of a prior protection order, the court shall consider
14 revocation of probation, conditional release, or bail. Should
15 the court order continue probation, conditional release, or
16 bail, the court shall order additional conditions imposed on
17 the defendant to provide protection to the victim of domestic
18 violence or the person protected by a protection order.
19 Additional conditions shall be included in a written order.

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

27 "§15-23-68.

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

13 "§30-5-2.

14 "In this chapter, the following words shall have the
15 following meanings unless the context clearly indicates
16 otherwise:

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

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

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

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

1 "d. Child Abuse. Torture or willful abuse of a
2 child, aggravated child abuse, or chemical endangerment of a
3 child as provided in Chapter 15, commencing with Section
4 26-15-1, of Title 26, known as the Alabama Child Abuse Act.

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

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

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

14 "h. Kidnapping. Kidnapping as defined under Sections
15 13A-6-43 and 13A-6-44.

16 "i. Menacing. Menacing as defined under Section
17 13A-6-23.

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

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

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

26 "m. Stalking. Stalking as defined under Sections
27 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) COURT. A circuit court judge, ~~a district court~~
9 ~~judge, or~~ a special circuit court judge appointed pursuant to
10 Section 12-1-14 or 12-1-14.1. A, or a district court judge may
11 ~~be~~ designated by a written standing order from the presiding
12 circuit court judge to handle protection from abuse cases.

13 ~~"(3) DATING RELATIONSHIP.~~

14 ~~"a. A significant relationship of a romantic or~~
15 ~~intimate nature characterized by the expectation of~~
16 ~~affectionate or sexual involvement over a period of time and~~
17 ~~on a continuing basis during the course of the relationship.~~

18 ~~"b. A dating relationship includes the period of~~
19 ~~engagement to be married.~~

20 ~~"c. A dating relationship does not include a casual~~
21 ~~or business relationship or a relationship that ended more~~
22 ~~than 12 months prior to the filing of the petition for a~~
23 ~~protection order.~~

24 ~~"(4) (3) PLAINTIFF.~~ An individual who has standing to
25 file a petition under Section 30-5-5.

1 "~~(5)~~ (4) PROTECTION ORDER. Any order of protection
2 from abuse issued under this chapter for the purpose of
3 preventing acts of abuse as defined in this chapter.

4 "~~(6)~~ (5) THREAT. Any word or action, expressed or
5 implied, made to cause the plaintiff to fear for his or her
6 safety or for the safety of another person.

7 "~~(7)~~ (6) VICTIM. An individual who is related to the
8 person who commits an act of abuse in any of the following
9 ways:

10 "~~a. Is related by marriage to the defendant,~~
11 ~~including a common law marriage.~~

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

14 "~~e.~~ b. Has a child in common with the defendant
15 regardless of whether the victim and defendant have ever been
16 married and regardless of whether they are currently residing
17 or have in the past resided together in the same household.

18 "~~d.~~ c. Has or had a dating relationship with the
19 defendant. A dating relationship does not include a casual or
20 business relationship or a relationship that ended more than
21 12 months prior to the filing of the petition for a protection
22 order.

23 "~~e.~~ d. Is a current or former household member. A
24 household member is a person maintaining or having maintained
25 a living arrangement with the defendant where he or she is in,
26 or was engaged in, a romantic or sexual relationship.

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

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

7 "§30-5-3.

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

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

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

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

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

20 "(3) Where the abuse occurred.

21 "(4) Where a civil matter is pending before the
22 court in which the plaintiff and the defendant are opposing
23 parties.

24 "(d) When custody, visitation, or support, or a
25 combination of them, of a child or children has been
26 established in a previous court order in this state, or an
27 action containing any of the issues above is pending in a

1 court in this state in which the plaintiff and the defendant
2 are opposing parties, a copy of any temporary ex parte
3 protection order issued pursuant to this chapter and the case
4 giving rise thereto should be transferred to the court of
5 original venue of custody, visitation, or support for further
6 disposition as soon as practical taking into account the
7 safety of the plaintiff and any children.

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

10 "§30-5-5.

11 "(a) The following persons have standing to file a
12 sworn petition for a protection order under this chapter as a
13 plaintiff:

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

19 "(2) A parent, legal guardian, next friend, or the
20 State Department of Human Resources may petition for relief on
21 behalf of the following:

22 "a. A minor child.

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

25 "(b) Standardized petitions for actions pursuant to
26 this chapter shall be made available through the circuit
27 clerks' offices around the state. The circuit clerk shall not

1 ~~be required to~~ provide assistance to persons in completing the
2 forms or in presenting their case to the court.

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

10 "(1) ~~Have been an eyewitness to, or have direct~~
11 ~~evidence or affidavits from eyewitnesses of, the specific~~
12 ~~facts and circumstances that form the basis upon which relief~~
13 ~~is sought, if the party against whom the protection order is~~
14 ~~sought is also a parent, stepparent, or legal guardian of the~~
15 ~~minor child; or~~

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

21 "(d) The court shall not enter mutual orders. The
22 court shall issue separate orders that specifically and
23 independently state the prohibited behavior and relief granted
24 in order to protect the victim and the victim's immediate
25 family and to clearly provide law enforcement with sufficient
26 directives.

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

8 "(f) (1) The following information shall not be
9 contained on any court document made available to the public
10 and the defendant by the circuit clerk's office: The
11 plaintiff's home address and, if applicable, business address;
12 a plaintiff's home telephone number and, if applicable,
13 business telephone number; the home or business address or
14 telephone number of any member of the plaintiff's family or
15 household; or an address that would reveal the confidential
16 location of a shelter for victims of domestic violence as
17 defined in Section 30-6-1.

18 "(2) If disclosure of the plaintiff's address, the
19 address of any member of the plaintiff's family or household,
20 or an address that would reveal the confidential location of a
21 shelter for victims of domestic violence is necessary to
22 determine jurisdiction or to consider a venue issue, it shall
23 be made orally and in camera.

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

1 "a. Designate and provide to the court an
2 alternative address.

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

6 "(g) No court costs and fees shall be assessed for
7 the filing and service of a petition for a protection order,
8 for the issuance or registration of a protection order, or for
9 the issuance of a witness subpoena under this chapter. Costs
10 and fees may be assessed against the defendant at the
11 discretion of the court.

12 "§30-5-8.

13 "(a) (1) A copy of the notice of final hearing or any
14 order under this chapter shall be sent to the plaintiff within
15 24 hours of issuance, provided the plaintiff provides the
16 court with current and accurate contact information, and to
17 the law enforcement officials with jurisdiction ~~to enforce the~~
18 ~~order~~ over the residence of the plaintiff. The clerk of the
19 court may furnish a certified copy of the notice of final
20 hearing or ~~final~~ protection order, if any, electronically.

21 "(2) A copy of ~~any~~ the notice of final hearing ~~or~~
22 and order under this chapter shall be ~~issued to~~ served upon
23 the defendant as soon as possible pursuant to Rule 4 of the
24 Alabama Rules of Civil Procedure.

25 "(3) Certain information in these orders shall be
26 entered in the Protection Order Registry of the Administrative
27 Office of Courts and shall be electronically transmitted to

1 the Alabama Law Enforcement Agency for entry into the National
2 Crime Information Center, ~~the National Law Enforcement~~
3 ~~Telecommunication System,~~ and the Law Enforcement Tactical
4 System. Such information shall include, but is not limited to,
5 information as to the existence and status of any protection
6 orders for verification 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) Within 24 hours after ~~issuance of a protection~~
13 ~~order~~ receiving proof of service of process, the clerk of
14 court shall forward a copy of the written proof of service of
15 process ~~and a copy of the protection order~~ to the law
16 enforcement ~~agency~~ agencies with jurisdiction over the
17 residence of the plaintiff. The information shall be entered
18 into the Protection Order Registry of the Administrative
19 Office of Courts and shall be electronically transmitted to
20 the Alabama Law Enforcement Agency for entry into the National
21 Crime Information Center, ~~the National Law Enforcement~~
22 ~~Telecommunication System,~~ and the Law Enforcement Tactical
23 System.

24 "(d) If a court vacates or modifies a protection
25 order, ~~notice~~ the order shall be sent within 24 hours to the
26 plaintiff, provided that the plaintiff provides the court with
27 current and accurate contact information, to the defendant,

1 and to the law enforcement officials ~~with jurisdiction to~~
2 ~~enforce the order~~ where the victim resides.

3 (e) (1) The Alabama Law Enforcement Agency shall
4 develop an automated process by which a plaintiff may request
5 notification of service of the protection order and other
6 court actions related to the protection order. The automated
7 notice shall be made within 12 hours after a law enforcement
8 officer serves a protection order upon the defendant. The
9 notification shall include, at a minimum, the date, time, and
10 where the protection order was served. The information
11 identifying the plaintiff referenced under subdivision (2)
12 shall be exempt from public records requirements in Section
13 36-12-40.

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

26 "~~(f) In addition to any other fine or penalty~~
27 ~~provided by law, the defendant shall pay an additional fine of~~

1 ~~fifty dollars (\$50) for a violation of a protection order. On~~
2 ~~a monthly basis, the clerk of the court shall transfer the~~
3 ~~additional fines collected pursuant to this subsection to the~~
4 ~~State Treasury for deposit in the Domestic Violence Trust~~
5 ~~Fund, established by Section 30-6-11."~~

6 Section 2. Section 13A-6-139.1, Code of Alabama
7 1975, relating to definitions for certain domestic violence
8 offenses, is repealed.

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

17 Section 4. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.