SYNOPSIS: Under existing law, the crime of assault in the second degree is committed when a person, with an intent to prevent a peace officer, detention or correctional officer, emergency medical personnel, or firefighter from performing a lawful duty, intends to cause physical injury and causes physical injury to any person.

This bill would establish the crimes of assault against a first responder in the first and second degrees, would provide criminal penalties, including a mandatory minimum sentence for a violation, and would provide for a mandatory holding period for an arrest. The bill would also further provide for the crime of assault in the second degree to reflect the creation of the crimes of assault against a first responder in the first and second degrees.

Under existing law, it is a civil violation to damage certain monuments in the state.
This bill would establish the crimes of damaging a public monument in the first and second degrees, would provide criminal penalties, including a mandatory minimum sentence for a violation, and would provide for a mandatory holding period for an arrest.

Under existing law, the crimes of riot and inciting to riot are Class A misdemeanors.

This bill would establish the crime of aggravated riot, which would provide heightened criminal penalties for participating in a riot which results in damage to property or bodily injury to any person. The bill would also provide a mandatory holding period for an arrest for riot, inciting to riot, and aggravated riot, and would provide a mandatory minimum sentence for a violation.

Under existing law, the crimes of harassment and harassing communications are Class C misdemeanors.

This bill would provide that when a person commits the crime of harassment on or within 10 feet of the premises of a place of public accommodation, the person is guilty of a Class A misdemeanor. This bill would also further provide for the crime of harassing communications.
Under existing law, a person who has been convicted of a crime of violence, as defined, may not own a firearm, possess a firearm, or otherwise have a firearm under his or her custody or control.

This bill would further define the term crime of violence to include persons convicted of the crimes of assault against a first responder in the first or second degree, riot, or aggravated riot.

Under existing law, local law enforcement agencies are primarily funded by the political subdivisions of the state for whom the agencies serve.

This bill would provide that a political subdivision of the state that defunds a local law enforcement agency may not receive any state grant or aid money and may not receive any allocation of any state revenues directly shared with local governments that is not otherwise required by the Constitution of Alabama of 1901, until the local law enforcement agency is fully funded, with exceptions.

Under existing law, officers, employees, and agents of the state are immune from civil liability in their personal capacity under certain conditions.
This bill would provide that members of the governing body of a political subdivision of the state who defund a local law enforcement agency in the jurisdiction may be held civilly liable for violent crimes that occur in the political subdivision under certain conditions.

Under existing law, a person is ineligible to hold public office when the person has been convicted of treason, embezzlement of public funds, malfeasance of office, larceny, bribery, or any other crime punishable by imprisonment in the state or federal penitentiary.

This bill would specify that a person who is convicted of the crime of riot or aggravated riot is ineligible to hold public office.

Under existing law, a person charged with committing a crime is entitled to bail as a matter of right, with exception.

This bill would specify that a person is not entitled to bail as a matter of right if there is probable cause to believe that the person will not appear for trial or hearing, or that the liberty of the defendant constitutes an unreasonable danger to the defendant or the public.

This bill would also create a rebuttable presumption that if the person is charged with a violent offense, as defined, the person constitutes
an unreasonable danger to the defendant or the public.

Under existing law, the term violent offense is defined to include certain criminal offenses that are inherently violent in nature.

This bill would include within that definition the crimes of assault against a first responder, damaging a public monument, riot, and aggravated riot.

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

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

A BILL

TO BE ENTITLED

AN ACT

Relating to crimes and offenses; to create the crimes of assault against a first responder in the first and second degrees; to create the crimes of damaging a public monument in the first and second degrees; to amend Sections 13A-11-1, 13A-11-3, 13A-11-4, and 13A-11-70, Code of Alabama 1975; to provide further for the crimes of riot and inciting to riot; to add Section 13A-11-3.1 to the Code of Alabama 1975, to create the crime of aggravated riot; to amend Section 13A-6-21, Code of Alabama 1975, to provide further for the crime of assault in the second degree; to amend Sections 13A-11-8 and 13A-6-132, Code of Alabama 1975, to provide further for the crime of harassment; to add Section 13A-11-8.1 to the Code of Alabama 1975, to provide further for the crime of harassing communications; to impose a mandatory holding period and a mandatory minimum sentence for certain violations; to amend Section 36-1-12, Code of Alabama 1975, to provide further exceptions to the grant of sovereign immunity; to amend Section 36-2-1, Code of Alabama 1975, to further provide for the disqualification from holding public office; to amend Section 15-13-2, Code of Alabama 1975, to establish a
rebuttable presumption against the grant of bail under certain
conditions; to amend Section 12-25-32, Code of Alabama 1975,
to provide further for the definition of violent offense; to
provide restrictions on the issuance of state funds to a
political subdivision that reduces funding to a local law
enforcement agency under certain conditions; and in connection
therewith would have as its purpose or effect the requirement
of a new or increased expenditure of local funds within the
meaning of Amendment 621 of the Constitution of Alabama of
1901, now appearing as Section 111.05 of the Official
Recompilation of the Constitution of Alabama of 1901, as
amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) As used in this section, the term
first responder includes state and local law enforcement
officers, detention and correctional officers at any municipal
or county jail or state penitentiary, fire department and
voluntary fire department personnel, and emergency medical
personnel who are actively employed or on active volunteer
status and who are engaged in the performance of official
duties.

(b) A person commits the crime of assault against a
first responder in the first degree when the person knowingly
does any of the following to a first responder:

(1) Causes serious physical injury to the first
responder.
(2) While using or displaying a deadly weapon, causes physical injury to the first responder.

(3) Causes physical injury to the first responder by strangulation or attempted strangulation.

(4) Causes physical injury to the first responder during a riot, aggravated riot, or unlawful assembly.

(5) Causes physical contact with the first responder and a reasonable person would regard the contact as extremely offensive or provocative, including, but not limited to, spitting, throwing, or otherwise transferring bodily fluids, bodily pathogens, or human waste onto the person of the first responder.

(c) A person arrested for a violation of this section may not be admitted to bail until after an appearance before a judge or magistrate within 48 hours of the arrest, and if the person is not taken before a judge or magistrate within 48 hours of the arrest, he or she shall be afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure.

(d) Assault against a first responder in the first degree is a Class B felony. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of one year imprisonment, a fine of fifteen thousand dollars ($15,000), and an order of restitution. The person is not eligible for release from imprisonment until he or she has served the entire mandatory minimum sentence.
(e) The restitution provided for in subsection (d) shall include, but not be limited to, all of the following:

(1) Costs of any and all medical treatment by any victim of the violation, including physical and occupational therapy and rehabilitation.

(2) Cost of any damage to property or full value of property if destroyed or damaged beyond repair.

(3) Any and all other losses suffered by any victim as a result of a violation of this section.

(f) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.

Section 2. (a) As used in this section, the term first responder includes state and local law enforcement officers, detention and correctional officers at any municipal or county jail or state penitentiary, fire department and voluntary fire department personnel, and emergency medical personnel who are actively employed or on active volunteer status and who are engaged in the performance of official duties.

(b) A person commits the crime of assault against a first responder in the second degree when the person knowingly causes physical injury to a first responder.

(c) A person arrested for a violation of this section may not be admitted to bail until after an appearance before a judge or magistrate within 48 hours of the arrest,
and if the person is not taken before a judge or magistrate within 48 hours of the arrest, he or she shall be afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure.

(d) Assault against a first responder in the second degree is a Class C felony. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of six months' imprisonment, a fine of five thousand dollars ($5,000), and an order of restitution. The person is not eligible for release from imprisonment until he or she has served the entire mandatory minimum sentence.

(e) The restitution provided for in subsection (d) shall include, but not be limited to, all of the following:

1. Costs of any and all medical treatment of or for any victim of the violation, including physical and occupational therapy and rehabilitation.

2. Cost of any damage to property or full value of property if destroyed or damaged beyond repair.

3. Any and all other losses suffered by any victim as a result of a violation of this section.

(f) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.

Section 3. Sections 13A-6-21 and 13A-6-132, Code of Alabama 1975, are amended to read as follows:

"§13A-6-21."
"(a) A person commits the crime of assault in the second degree if the person does any of the following:

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

"(2) With intent to cause physical injury to another person, he or she causes physical injury to any person by means of a deadly weapon or a dangerous instrument.

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

"(4) With intent to prevent a peace officer, as defined in Section 36-21-60, a detention or correctional officer at any municipal or county jail or state penitentiary, emergency medical personnel, cause physical injury to a utility worker, or a firefighter from performing a lawful duty, he or she intends to cause physical injury and he or she causes physical injury to any person. For the purpose of this subdivision, a person who is a peace officer who is employed or under contract while off duty by a private or public entity is a peace officer performing a lawful duty when the person is working in his or her approved uniform while off duty with the approval of his or her employing law enforcement agency. Provided, however, that nothing contained herein shall be deemed or construed as amending, modifying, or extending the classification of a peace officer as off duty for workers compensation purposes or any other benefits to which a peace officer is entitled.
officer may otherwise be entitled to under law when considered on duty. Additionally, nothing contained herein shall be deemed or construed as amending, modifying, or extending the tort liability of any municipality as a result of any action or inaction on the part of an off-duty police officer. For the purposes of this subdivision, utility worker means any person who is employed by an entity that owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, production, supply, distribution, sale, storage, conveyance, delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or telephone service, including two or more utilities rendering joint service.

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

"(6) With intent to cause physical injury to a health care worker, including a nurse, physician, technician, or any other person employed by or practicing at a hospital as defined in Section 22-21-20; a county or district health department; a long-term care facility; or a physician's office, clinic, or outpatient treatment facility during the course of or as a result of the performance of the duties of the health care worker or other person employed by or practicing at the hospital; the county or district health department; any health care facility owned or operated by the
State of Alabama; the long-term care facility; or the physician's office, clinic, or outpatient treatment facility; he or she causes physical injury to any person. This subdivision shall not apply to assaults by patients who are impaired by medication or to assaults on home health care workers while they are in private residences.

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

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

"(c) For the purposes of this section, utility worker means any person who is employed by an entity that owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, production, supply, distribution, sale, storage, conveyance, delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or telephone service, including two or more utilities rendering joint service.

"§13A-6-132.

"(a)(1) A person commits domestic violence in the third degree if the person commits the crime of assault in the third degree pursuant to Section 13A-6-22; the crime of
menacing pursuant to Section 13A-6-23; the crime of reckless endangerment pursuant to Section 13A-6-24; the crime of criminal coercion pursuant to Section 13A-6-25; the crime of harassment pursuant to subsection (a) of Section 13A-11-8; the crime of criminal surveillance pursuant to Section 13A-11-32; the crime of harassing communications pursuant to subsection (b) of Section 13A-11-8; Section 13A-11-8.1; the crime of criminal trespass in the third degree pursuant to Section 13A-7-4; the crime of criminal mischief in the second or third degree pursuant to Sections 13A-7-22 and 13A-7-23; or the crime of arson in the third degree pursuant to Section 13A-7-43; and the victim is a current or former spouse, parent, step-parent, child, step-child, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant.

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

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

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

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

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

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

Section 4. (a) As used in this section, the following terms shall have the following meanings:

(1) MONUMENT. A statue, portrait, or marker that is intended at the time of dedication to be a permanent memorial to an event, a group, a movement, or military service that is part of the history of the people or geography now comprising
the State of Alabama, or that after its dedication has become historically significant to the people of the state.

(2) PUBLIC PROPERTY. All property owned or leased by the state or any of its counties or municipalities.

(b) Except as otherwise authorized by law, a person commits the crime of damaging a public monument in the first degree if, with intent to damage property and while participating in a riot, aggravated riot, or unlawful assembly, he or she mars, marks, defaces, or damages, in a temporary or permanent manner, a monument located on public property.

(c) A person arrested for a violation of this section may not be admitted to bail until after an appearance before a judge or magistrate within 48 hours of the arrest, and if the person is not taken before a judge or magistrate within 48 hours of the arrest, he or she shall be afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure.

(d) Damaging a public monument in the first degree is a Class C felony. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of one year imprisonment, a fine of five thousand dollars ($5,000), and an order of restitution. The person is not eligible for release from imprisonment until he or she has served the entire mandatory minimum sentence.

(e) The restitution provided for in subsection (d) shall include, but not be limited to the cost of any damage to
the monument or, if destroyed or damaged beyond repair, the full value of the monument.

(f) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.

Section 5. (a) As used in this section, the following terms shall have the following meanings:

(1) MONUMENT. A statue, portrait, or marker that is intended at the time of dedication to be a permanent memorial to an event, a group, a movement, or military service that is part of the history of the people or geography now comprising the State of Alabama, or that after its dedication has become historically significant to the people of the state.

(2) PUBLIC PROPERTY. All property owned or leased by the state or any of its counties or municipalities.

(b) Except as otherwise authorized by law, a person commits the crime of damaging a public monument in the second degree if, with intent to damage property, he or she mars, marks, defaces, or damages, in a temporary or permanent manner, a monument located on public property.

(c) A person arrested for a violation of this section may not be admitted to bail until after an appearance before a judge or magistrate within 48 hours of the arrest, and if the person is not taken before a judge or magistrate within 48 hours of the arrest, he or she shall be afforded an
opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure.

(d) Damaging a public monument in the second degree is a Class D felony. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of six months' imprisonment, a fine of one thousand dollars ($1,000), and an order of restitution. The person is not eligible for release from imprisonment until he or she has served the entire mandatory minimum sentence.

(e) The restitution provided for in subsection (d) shall include, but not be limited to the cost of any damage to the monument or, if destroyed or damaged beyond repair, the full value of the monument.

(f) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.

Section 6. Sections 13A-11-1 and 13A-11-3, Code of Alabama 1975, are amended to read as follows:

"§13A-11-1."

"The following definitions apply in this article:

"(1) OBSTRUCT. To "obstruct" means to render impassable without unreasonable inconvenience or hazard. A gathering of persons to hear a person speak or otherwise communicate does not constitute an obstruction.

"(2) PUBLIC PLACE. A place to which the public or a substantial group of persons has access, and The term
includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, and hallways, lobbies and other portions of apartment houses not constituting rooms or apartments designed for actual residence. Provided, that no The term does not include a private dwelling and no place engaged for a private gathering is included within the meaning of public place with respect to any person specifically invited therein.

"(3) RIOT. A tumultuous disturbance in a public place or penal institution by five or more persons assembled together and acting with a common intent which creates a grave danger of substantial damage to property or serious bodily injury to persons or substantially obstructs a law enforcement or other government function.

"(3)(4) TRANSPORTATION FACILITY. Any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. The term includes aircraft, water craft, railroad cars, buses and air, boat, railroad, and bus terminals and stations and all appurtenances thereto.

"§13A-11-3.

"(a) A person commits the crime of riot if, with five or more other persons, he wrongfully engages in tumultuous and violent conduct and thereby intentionally or recklessly causes or creates a grave risk of public terror or alarm he or she knowingly participates in a riot.
(b) A person arrested for a violation of this section may not be admitted to bail until after an appearance before a judge or magistrate within 48 hours of the arrest, and if the person is not taken before a judge or magistrate within 48 hours of the arrest, he or she shall be afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure.

(c) Riot is a Class A misdemeanor. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of 30 days' imprisonment and an order of restitution for any property damage or loss incurred as a result of the offense. The person is not eligible for release from imprisonment until he or she has served the entire mandatory minimum sentence.

(d) The restitution provided for in subsection (c) shall include, but not be limited to, all of the following:

(1) Costs of any and all medical treatment by any victim of the violation, including physical and occupational therapy and rehabilitation.

(2) Cost of any damage to property, or full value of property if destroyed or damaged beyond repair.

(3) Any and all other losses suffered by any victim as a result of a violation of this section.

(e) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.
Section 7. Section 13A-11-3.1 is added to Article 1 of Chapter 11 of Title 13A of the Code of Alabama 1975, to read as follows:

§13A-11-3.1.

(a) A person commits the crime of aggravated riot if he or she knowingly participates in a riot, the participants of which cause damage to property or bodily injury to any person.

(b) A person arrested for a violation of this section may not be admitted to bail until after an appearance before a judge or magistrate within 48 hours of the arrest, and if the person is not taken before a judge or magistrate within 48 hours of the arrest, he or she shall be afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure.

(c) Aggravated riot is a Class C felony. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of six months' imprisonment and an order of restitution for any property damage or loss incurred as a result of the offense. The person is not eligible for release from imprisonment until he or she has served the entire mandatory minimum sentence.

(d) The restitution provided for in subsection (c) shall include, but not be limited to, all of the following:

(1) Costs of any and all medical treatment by any victim of the violation, including physical and occupational therapy and rehabilitation.
(2) Cost of any damage to property, or full value of property if destroyed or damaged beyond repair.

(3) Any and all other losses suffered by any victim as a result of a violation of this section.

(e) When a criminal act is done by several persons under this section, in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if the act were done by the person alone.

Section 8. Sections 13A-11-4 and 13A-11-8, Code of Alabama 1975, are amended to read as follows:

§13A-11-4.

"(a) A person commits the crime of inciting to riot if he or she commands, solicits, incites, funds, or urges, or otherwise aids or abets another person to engage in tumultuous and violent conduct of a kind likely to cause or create a grave risk of public terror or alarm a riot.

"(b) A person arrested for a violation of this section may not be admitted to bail until after an appearance before a judge or magistrate within 48 hours of the arrest, and if the person is not taken before a judge or magistrate within 48 hours of the arrest, he or she shall be afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure.

"(c) Inciting to riot is a Class A misdemeanor. In any sentence imposed for a violation of this section, the court shall include a mandatory minimum sentence of 30 days imprisonment and an order of restitution for any property
damage or loss incurred as a result of the offense. The person
is not eligible for release from imprisonment until he or she
has served the entire mandatory minimum sentence.

"(d) The restitution provided for in subsection (c)
shall include, but not be limited to, all of the following:

"(1) Costs of any and all medical treatment of or
for any victim of the violation, including physical and
occupational therapy and rehabilitation.

"(2) Cost of any damage to property, or full value
of property if destroyed or damaged beyond repair.

"(3) Any and all other losses suffered by any victim
as a result of a violation of this section.

"(e) When a criminal act is done by several persons
under this section, in furtherance of the common intention of
all, each of the persons is liable for that act in the same
manner as if the act were done by the person alone.

"§13A-11-8.

"(a)(1) HARASSMENT. A person commits the crime of
harassment if, with intent to harass, annoy, or alarm another
person, he or she does either of the following:

"\(\text{(1)}\) Strikes, shoves, kicks, or otherwise touches
another person or otherwise subjects him or her to unwanted
physical contact.

"\(\text{(2)}\) Directs abusive or obscene language or makes
an obscene gesture towards another person.

"\(\text{(2)}\) (b) For purposes of this section, harassment
shall include a threat, verbal or nonverbal, made with the
intent to carry out the threat, that would cause a reasonable person who is the target of the threat to fear for his or her safety.

"(3) (c)(1) Except as provided in subdivision (2), Harassment is a Class C misdemeanor.

"(2) Harassment is a Class A misdemeanor if the crime is committed on or within 10 feet of the premises of a place of public accommodation, as that term is defined in 42 U.S.C. § 12181.

"(b)(1) HARASSING COMMUNICATIONS. A person commits the crime of harassing communications if, with intent to harass or alarm another person, he or she does any of the following:

"a. Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written or electronic communication, in a manner likely to harass or cause alarm.

"b. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

"c. Telephones another person and addresses to or about such other person any lewd or obscene words or language.

"Nothing in this section shall apply to legitimate business telephone communications.

"(2) Harassing communications is a Class C misdemeanor."
Section 9. Section 13A-11-8.1 is added to the Code of Alabama 1975, to read as follows:


(a) A person commits the crime of harassing communications if the person, with intent to harass or alarm another person, does any of the following:

(1) Contacts another person via telecommunication, e-mail, text messaging, or any other form of electronic communication for the purpose of harassing, molesting, threatening, or intimidating the person or the family of the person.

(2) Contacts another person via telecommunication, e-mail, text messaging, or any other form of electronic communication, with no purpose of legitimate communication, and directs foul or obscene language to the person.

(3) Threatens bodily harm via telecommunication, e-mail, text messaging, or any other form of electronic communication.

(4) Knowingly permits any device used for telecommunication, e-mail, text messaging, or any other form of electronic communication under the person's control to be used for any purpose prohibited by this subsection.

(b) Nothing in this section shall apply to legitimate business communications.

(c) Harassing communications is a Class C misdemeanor.
Section 10. Section 13A-11-70, Code of Alabama 1975, is amended to read as follows:

"§13A-11-70.

"For the purposes of this division, the following terms shall have the respective meanings ascribed by this section:

"(2) CRIME OF VIOLENCE. Any of the following crimes or an attempt to commit any of them, namely, murder, manslaughter, (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, and kidnapping, assault against a first responder in the first or second degree, riot, and aggravated riot. "Crime of violence" shall also mean any Class A felony or any Class B felony that has as an element serious physical injury, the distribution or manufacture of a controlled substance, or is of a sexual nature involving a child under the age of 12.

"(2) PERSON. Such The term includes any firm, partnership, association, or corporation.

"(3) PISTOL. Any firearm with a barrel less than 12 inches in length."

Section 11. (a) As used in this section, the term defunded jurisdiction means a political subdivision of the state that does either of the following:

(1) Abolishes or disbands, or substantially abolishes or disbands, the law enforcement agency of the
political subdivision without an intention to immediately
reconstitute the agency.

(2) Reduces by 10 percent or more the budget of the
law enforcement agency of the political subdivision without
reallocating a substantial majority of that money to another
community policing program; provided, that the jurisdiction
did not face a decrease in revenues of 10 percent or more in
the previous fiscal year, as certified by the Alabama
Department of Examiners of Public Accounts.

(b) A defunding jurisdiction is not eligible for and
may not receive any of the following:

(1) A state grant, gift, endowment, or any other sum
of money or aid from the State of Alabama or a department,
board, or agency thereof, including the Community Development
Block Grant program administered by the Alabama Department of
Economic and Community Affairs.

(2) Any allocation of any state revenues directly
shared with local governing bodies not otherwise guaranteed by
the Constitution of Alabama of 1901, including, but not
limited to, all of the following:

a. Motor carrier fuel tax revenues collected
pursuant to Sections 40-17-140 through 40-17-155, Code of
Alabama 1975.

b. Gasoline tax revenues collected pursuant to

c. Business privilege tax revenues collected
pursuant to Sections 40-14A-1, 40-14A-2, 40-14A-21 through
d. Alcoholic Beverage Control Board licensing and penalty revenue collected pursuant to Sections 28-3-1, 28-3A-1 through 28-3A-26, 28-4A-1 through 28-4A-6, 28-7-5 through 28-7-15, and 28-10-1 through 28-10-8, Code of Alabama 1975.

e. Motor vehicle license tax or registration fee revenues collected pursuant to Sections 32-6-51 through 32-6-710 and Sections 40-12-240 through 40-12-302, Code of Alabama 1975.


g. Beer tax revenues collected pursuant to Sections 28-3-1 and 28-3-183 through 28-3-199, Code of Alabama 1975.


(c) For purposes of the exception to the grant of sovereign immunity under Section 36-1-12, Code of Alabama 1975, the members of the local governing body of a defunded jurisdiction shall be deemed to have acted willfully in failing to provide for the public safety of the political subdivision.

Section 12. Sections 36-1-12 and 36-2-1, Code of Alabama 1975, are amended to read as follows:

"§36-1-12.
(a) For the purposes of this section, "education employee" means a certified or noncertified employee of the State Board of Education or any local board of education and an employee of the Alabama Institute for Deaf and Blind, the Alabama School of Fine Arts, the Department of Youth Services, or the Alabama School of Mathematics and Science.

(b) An officer, employee, or agent of the state, including, but not limited to, an education employee, acting in his or her official capacity is immune from civil liability in any suit pursuant to Article I, Section 14, of the Constitution of Alabama of 1901.

(c) An officer, employee, or agent of the state, including, but not limited to, an education employee, is immune from civil liability in his or her personal capacity when the conduct made the basis of the claim is based upon the agent's doing any of the following:

(1) Formulating plans, policies, or designs.

(2) Exercising his or her judgment in the administration of a department or agency of government, including, but not limited to, examples such as:

a. Making administrative adjudications.

b. Allocating resources.

c. Negotiating contracts.

d. Hiring, firing, transferring, assigning, or supervising personnel.

(3) Discharging duties imposed on a department or agency by statute, rule, or regulation, insofar as the
statute, rule, or regulation prescribes the manner for
performing the duties and the state agent performs the duties
in that manner.

"(4) Exercising judgment in the enforcement of the
criminal laws of the state, including, but not limited to, law
enforcement officers' arresting or attempting to arrest
persons.

"(5) Exercising judgment in the discharge of duties
imposed by statute, rule, or regulation in releasing
prisoners, counseling or releasing persons of unsound mind, or
educating students.

"(d) Notwithstanding subsection (c), an education
employee, officer, employee, or agent of the state is not
immune from civil liability in his or her personal capacity if
under any of the following circumstances:

"(1) The Constitution or laws of the United States,
or the Constitution of this state, or laws, rules, or
regulations of this state enacted or promulgated adopted for
the purpose of regulating the activities of a governmental
agency require otherwise. or_

"(2) The education employee, officer, employee, or
agent acts willfully, maliciously, fraudulently, in bad faith,
beyond his or her authority, or under a mistaken
interpretation of the law.

"(3) A person, who is the victim of a crime of
violence that occurred in a defunded jurisdiction, as defined
in Section 11 of the act amending this code section,
estimates by clear and convincing evidence that the officer, employee, or agent of the state is a member of the governing body of the defunded jurisdiction and acted willfully in failing to provide for the protection of persons and property in the jurisdiction.

"(e) This section shall not be construed to eliminate, alter, or otherwise modify any other immunity regarding officers, employees, or agents of the state established under the Constitution and laws of this state.

"§36-2-1.

"(a) The following persons shall be ineligible to and disqualified from holding office under the authority of this state:

"(1) Those who are not qualified electors, except as otherwise expressly provided.

"(2) Those who have not been inhabitants of the state, county, district, or circuit for the period required by the constitution and laws of the state.

"(3) Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, riot, inciting to riot, aggravated riot, or any other crime punishable by imprisonment in the state or federal penitentiary and those who are idiots, mentally impaired or insane.

"(4) Those against whom there is a judgment unpaid for any moneys received by them in any official
capacity due to the United States, this state or any county or
municipality thereof;

"(5) Soldiers, seamen, or marines in the regular
Army or Navy Armed Forces of the United States.

"(b) No person holding an office of profit under the
United States shall, during his continuance in such office,
hold any office of profit under this state, nor shall any
person hold two offices of profit at one and the same time
under this state, except constables, notaries public, and
commissioners of deeds."

Section 13. Section 15-13-2, Code of Alabama 1975,
is amended to read as follows:


"(a) In all cases other than those specified in
subsection (a) of Section 15-13-3, a defendant who is held in
custody pending trial or hearing for an offense, civil or
criminal contempt, or otherwise is, before conviction,
entitled to bail as a matter of right, unless there is
probable cause to believe that either of the following are
true:

"(1) The defendant will not appear for trial or
hearing or as otherwise directed.

"(2) The liberty of the defendant constitutes an
unreasonable danger to the defendant or the public.

"(b) A court shall presume, subject to rebuttal,
that no condition or combination of conditions will reasonably
assure the appearance of the defendant or the safety of the
public if the defendant is currently charged with a violent
offense, as defined under Section 12-25-32."

Section 14. Section 12-25-32, Code of Alabama 1975, is amended to read as follows:

"$12-25-32.

"For the purposes of this article, the following
terms have the following meanings:

"(1) COMMISSION. The Alabama Sentencing Commission, established as a state agency under the Supreme Court by this chapter.

"(2) CONTINUUM OF PUNISHMENTS. An array of
punishment options, from probation to incarceration, graduated in restrictiveness according to the degree of supervision of the offender including, but not limited to, all of the following:

"a. Active Incarceration. A sentence, other than an intermediate punishment or unsupervised probation, that requires an offender to serve a sentence of imprisonment. The term includes time served in a work release program operated as a custody option by the Alabama Department of Corrections or in the Supervised Intensive Restitution program of the Department of Corrections pursuant to Article 7, commencing with Section 15-18-110, of Chapter 18 of Title 15.

"b. Intermediate Punishment. A sentence that may include assignment to any community based punishment program or may include probation with conditions or probation in conjunction with a period of confinement. Intermediate
punishments include, but are not limited to, all of the following options:

"1. A split sentence pursuant to Section 15-18-8.

"2. Assignment to a community punishment and corrections program pursuant to the Alabama Community Punishment and Corrections Act or local acts.

"3. Assignment to a community based manual labor work program pursuant to Sections 14-5-30 to 14-5-37, inclusive.

"4. Intensive probation supervision pursuant to Section 15-22-56.


"6. Community service work.

"7. County probation.

"8. Day fines or means-based fines.


"10. Drug or alcohol testing.

"11. Drug court programs.

"12. Educational programs.


"14. Home confinement or house arrest.

"15. Ignition interlock.

"16. Intermittent confinement.

"17. Jail and prison diversion programs.

"18. Job readiness and work.

"19. Literacy and basic learning.

"20. Pretrial diversion programs.

"22. Residential community based punishment programs in which the offender is required to spend at least eight hours per day, or overnight, within a facility and is required to participate in activities such as counseling, treatment, social skills training, or employment training, conducted at the residential facility or at another specified location.

"23. Restorative justice as established in Section 12-17-226.6.

"(i) Victim impact panels.

"(ii) Voluntary victim offender conferencing.

"(iii) Voluntary victim offender mediation.

"24. Self-help groups.

"25. Sobriety or breath alcohol remote monitoring.


"27. Treatment alternatives to street crime (TASC).

"28. Voice recognition, curfew restriction, or employment monitoring.

"29. Work release, other than those work release programs operated by the Alabama Department of Corrections, as a custody option.

"c. Unsupervised Probation. A sentence in a criminal case that includes a period of probation but does not include supervision, active incarceration, or an intermediate punishment.

"d. Post-release Supervision. A mandatory period of supervision following sentences of active incarceration as
defined in paragraph a. that may include one or more intermediate punishment options.

"(3) COURT. Unless otherwise stated, a district or circuit court exercising jurisdiction to sentence felony offenders.

"(4) EVIDENCE-BASED PRACTICES. Policies, procedures, programs, and practices proven by widely accepted and published research to reliably produce reductions in recidivism.

"(5) FELONY OFFENSE. A noncapital felony offense.

"(6) INITIAL VOLUNTARY STANDARDS. The voluntary sentencing standards effective on October 1, 2006. These standards were based on statewide historic sentences imposed with normative adjustments designed to reflect current sentencing policies.

"(7) NONVIOLENT OFFENSE. All offenses which are not violent offenses.

"(8) NONVIOLENT OFFENDER. Any offender who does not qualify as a violent offender pursuant to subdivision (14).

"(9) OFFENDER. A person convicted of a noncapital felony offense.

"(10) RELEASE AUTHORITY. Any public official, agency, or other entity authorized by law to release a sentenced offender from incarceration or other conditions of a sentence.

"(11) VALIDATED RISK AND NEEDS ASSESSMENT. An actuarial tool that has been validated and established by
1 administrative rule in Alabama to determine the likelihood of
2 an offender engaging in future criminal behavior. The Board of
3 Pardons and Paroles and the Department of Corrections shall
4 adopt compatible tools to conduct a validated risk and needs
5 assessment upon offenders within the jurisdiction of the
6 state. A validated risk and needs assessment shall include,
7 but not be limited to, an offender's prior criminal history,
8 the nature and severity of the present offense, and potential
9 for future violence.
10 "(12) TRUTH-IN-SENTENCING STANDARDS. Truth in
11 sentencing is scheduled to become effective October 1, 2020.
12 "(13) UNDER SUPERVISION. All offenders under the
13 supervision of any criminal justice agency or program
14 including, but not limited to, any of the following entities:
15 "a. The Alabama Department of Corrections.
16 "b. State or county probation offices.
17 "c. Community corrections programs pursuant to
18 Alabama Community Corrections Act.
19 "d. Jails.
20 "e. State or local law enforcement agencies.
21 "f. Any court.
22 "(14) VIOLENT OFFENDER. A violent offender is an
23 offender who has been convicted of a violent offense, or who
24 is determined by the trial court judge or a release authority
25 to have demonstrated a propensity for violence, aggression, or
26 weapons related behavior based on the criminal history or
behavior of the offender while under supervision of any
criminal justice system agency or entity.

"(15) VIOLENT OFFENSE.

"a. For the purposes of this article, a violent
offense includes each of the following offenses, or any
substantially similar offense to those listed in this
subdivision created after June 20, 2003:

"1. Capital murder pursuant to Sections 13A-6-2 and
13A-5-40.

"2. Murder pursuant to Section 13A-6-2.

"3. Manslaughter pursuant to Section 13A-6-3.

"4. Criminally negligent homicide pursuant to
Section 13A-6-4.

"5. Assault I pursuant to Section 13A-6-20.

"6. Assault II pursuant to Section 13A-6-21.

"7. Compelling street gang membership pursuant to
Section 13A-6-26.

"8. Kidnapping I pursuant to Section 13A-6-43.

"9. Kidnapping II pursuant to Section 13A-6-44.

"10. Rape I pursuant to Section 13A-6-61.

"11. Rape II pursuant to Section 13A-6-62.

"12. Sodomy I pursuant to Section 13A-6-63.

"13. Sodomy II pursuant to Section 13A-6-64.

"14. Sexual torture pursuant to Section 13A-6-65.1.

"15. Sexual abuse I pursuant to Section 13A-6-66.

"16. Enticing a child to enter a vehicle for immoral
17. Stalking pursuant to Section 13A-6-90.
18. Aggravated stalking pursuant to Section 13A-6-91.
19. Soliciting a child by computer pursuant to Section 13A-6-110.
20. Domestic violence I pursuant to Section 13A-6-130.
21. Domestic violence II pursuant to Section 13A-6-131.
22. Burglary I pursuant to Section 13A-7-5.
23. Burglary II pursuant to Section 13A-7-6.
24. Burglary III pursuant to subdivision (1) or subdivision (2) of subsection (a) of Section 13A-7-7.
25. Arson I pursuant to Section 13A-7-41.
26. Criminal possession of explosives pursuant to Section 13A-7-44.
27. Extortion I pursuant to Section 13A-8-14.
28. Robbery I pursuant to Section 13A-8-41.
29. Robbery II pursuant to Section 13A-8-42.
30. Robbery III pursuant to Section 13A-8-43.
31. Pharmacy robbery pursuant to Section 13A-8-51.
32. Terrorist threats pursuant to Section 13A-10-15.
33. Escape I pursuant to Section 13A-10-31.
34. Promoting prison contraband I pursuant to Section 13A-10-36, involving a deadly weapon or dangerous instrument.
"35. Intimidating a witness pursuant to Section 13A-10-123.

"36. Intimidating a juror pursuant to Section 13A-10-127.

"37. Treason pursuant to Section 13A-11-2.

"38. Discharging a weapon into an occupied building, dwelling, automobile, etc., pursuant to Section 13A-11-61.

"39. Promoting prostitution I pursuant to Section 13A-12-111.

"40. Production of obscene matter involving a minor pursuant to Section 13A-12-197.

"41. Trafficking pursuant to Section 13A-12-231.

"42. Child abuse pursuant to Section 26-15-3.

"43. Elder abuse pursuant to Section 38-9-7.

"44. Terrorism pursuant to Section 13A-10-152.

"45. Hindering prosecution for terrorism pursuant to Section 13A-10-154.

"46. Domestic violence III pursuant to subsection (d) of Section 13A-6-132.

"47. Domestic violence by strangulation or suffocation pursuant to Section 13A-6-138.

"48. Human trafficking I pursuant to Section 13A-6-152.

"49. Human trafficking II pursuant to Section 13A-6-153.

"50. Hindering prosecution in the first degree pursuant to Section 13A-10-43.
"51. Riot pursuant to Section 13A-11-3.

"52. Aggravated riot pursuant to 13A-11-3.1.

"53. Inciting to riot pursuant to 13A-11-4.

"54. Assault against a first responder I pursuant to Section 1 of the act amending this code section.

"55. Assault against a first responder II pursuant to Section 2 of the act amending this code section.

"56. Damaging a public monument I pursuant to Section 4 of the act amending this code section.

"57. Damaging a public monument II pursuant to Section 5 of the act amending this code section.

"58. Any substantially similar offense for which an Alabama offender has been convicted under prior Alabama law or the law of any other state, the District of Columbia, the United States, or any of the territories of the United States.

"b. The basis for defining these offenses as violent is that each offense meets at least one of the following criteria:

"1. Has as an element, the use, attempted use, or threatened use of a deadly weapon or dangerous instrument or physical force against the person of another.

"2. Involves a substantial risk of physical injury against the person of another.

"3. Is a nonconsensual sex offense.

"4. Is particularly reprehensible.
"c. Any attempt, conspiracy, or solicitation to commit a violent offense shall be considered a violent offense for the purposes of this article.

d. Any criminal offense which meets the criteria provided in paragraph b. enacted after 2003."

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

Section 16. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law, except Section 12 becomes effective upon the passage of a constitutional amendment authorizing the amendatory language of the section.