

1 HB386
2 175119-1
3 By Representatives Rowe, Pettus, Rich, Farley, Hanes, Drake,
4 Henry, Harbison, Ball, Coleman, Wilcox, Ainsworth, Boothe and
5 Johnson (R)
6 RFD: Judiciary
7 First Read: 10-MAR-16

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8 SYNOPSIS: Under existing law, a person commits the
9 crime of assault in the second degree if he or she
10 intends to prevent a peace officer, a detention or
11 correctional officer, emergency medical personnel,
12 a utility worker, or a firefighter from performing
13 a lawful duty and causes physical injury to the
14 person and is guilty of a Class C felony.

15 This bill would provide that the commission
16 of second degree assault against these individuals
17 would be a Class B felony.

18 Amendment 621 of the Constitution of Alabama
19 of 1901, now appearing as Section 111.05 of the
20 Official Recompilation of the Constitution of
21 Alabama of 1901, as amended, prohibits a general
22 law whose purpose or effect would be to require a
23 new or increased expenditure of local funds from
24 becoming effective with regard to a local
25 governmental entity without enactment by a 2/3 vote
26 unless: it comes within one of a number of
27 specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

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

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

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16 To amend Section 13A-6-21, Code of Alabama 1975,
17 relating to assault in the second degree, to provide enhanced
18 criminal penalties for violations against law enforcement
19 officers, firefighters, and other specified individuals; and
20 in connection therewith would have as its purpose or effect
21 the requirement of a new or increased expenditure of local
22 funds within the meaning of Amendment 621 of the Constitution
23 of Alabama of 1901, now appearing as Section 111.05 of the
24 Official Recompilation of the Constitution of Alabama of 1901,
25 as amended.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 13A-6-21, Code of Alabama 1975,
2 is amended to read as follows:

3 "§13A-6-21.

4 "(a) A person commits the crime of assault in the
5 second degree if the person does any of the following:

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

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

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

15 "(4) With intent to prevent a peace officer, as
16 defined in Section 36-21-60, a detention or correctional
17 officer at any municipal or county jail or state penitentiary,
18 emergency medical personnel, a utility worker, or a
19 firefighter from performing a lawful duty, he or she intends
20 to cause physical injury and he or she causes physical injury
21 to any person. For the purpose of this subdivision, a person
22 who is a peace officer who is employed or under contract while
23 off duty by a private or public entity is a peace officer
24 performing a lawful duty when the person is working in his or
25 her approved uniform while off duty with the approval of his
26 or her employing law enforcement agency. Provided, however,
27 that nothing contained herein shall be deemed or construed as

1 amending, modifying, or extending the classification of a
2 peace officer as off-duty for workers compensation purposes or
3 any other benefits to which a peace officer may otherwise be
4 entitled to under law when considered on-duty. Additionally,
5 nothing contained herein shall be deemed or construed as
6 amending, modifying, or extending the tort liability of any
7 municipality as a result of any action or inaction on the part
8 of an off-duty police officer.

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

13 "(6) With intent to cause physical injury to a
14 health care worker, including a nurse, physician, technician,
15 or any other person employed by or practicing at a hospital as
16 defined in Section 22-21-20; a county or district health
17 department; a long-term care facility; or a physician's
18 office, clinic, or outpatient treatment facility during the
19 course of or as a result of the performance of the duties of
20 the health care worker or other person employed by or
21 practicing at the hospital; the county or district health
22 department; any health care facility owned or operated by the
23 State of Alabama; the long-term care facility; or the
24 physician's office, clinic, or outpatient treatment facility;
25 he or she causes physical injury to any person. This
26 subdivision shall not apply to assaults by patients who are

1 impaired by medication or to assaults on home health care
2 workers while they are in private residences.

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

9 "(b) (1) Assault Except as provided in subdivision
10 (2), assault in the second degree is a Class C felony.

11 "(2) Assault in the second degree based upon
12 subdivision (a) (4) is a Class B felony.

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

22 Section 2. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now
26 appearing as Section 111.05 of the Official Recompilation of
27 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

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