

1 HB445
2 211817-4
3 By Representatives Treadaway, McMillan, Moore (P), Wood (R),
4 Drake, Shedd, Faulkner, Brown (K), Ledbetter, Bedsole, Farley,
5 Reynolds, Whorton, Pettus, Standridge, Nordgren, Robertson,
6 Marques, Rich, Gaston, Kitchens, Simpson, Carns, Wheeler,
7 McCutcheon, Hurst, Sanderford, Holmes, Baker, Sorrells,
8 Oliver, Whitt, Stringer, Crawford, Isbell, Estes, Blackshear,
9 Wadsworth, Brown (C), Wingo, Collins, Wood (D), Sells, Kiel,
10 Meadows, Wilcox, Smith, Garrett, Sorrell, Lovvorn and Mooney
11 RFD: Judiciary
12 First Read: 24-FEB-21

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to create the Anti-Aggravated Riot Act; to amend Sections 13A-6-21, 13A-11-1, 13A-11-3, 13A-11-4, and 15-10-3, Code of Alabama 1975, and to add Sections 13A-11-3.1 and 13A-11-5.1 to the Code of Alabama 1975, to create the crimes of assault against a first responder in the first and second degrees; to further provide for the crimes of riot and inciting to riot; to create the crime of aggravated riot; to provide further for the crime of assault in the second degree; to create the crime of unlawful traffic interference; to further provide for penalties for certain violations; to further provide for the arrest, release, and bail of certain offenders; to provide restrictions on the issuance of certain state funds to a political subdivision that abolishes or 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, as amended by Amendment 890, now appearing as

1 Section 111.05 of the Official ReCompilation of the
2 Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as the Anti-Aggravated Riot Act.

6 Section 2. (a) As used in this section, the term
7 first responder includes state, local, and tribal law
8 enforcement officers; dogs or horses employed by a law
9 enforcement agency for the principal purpose of aiding in the
10 detection of criminal activity, enforcement of laws, or
11 apprehension of criminal offenders; detention and correctional
12 officers at any municipal or county jail or state
13 penitentiary; fire department and voluntary fire department
14 personnel; and emergency medical personnel who are actively
15 employed or on active volunteer status.

16 (b) A person commits the crime of assault against a
17 first responder in the first degree when the person
18 intentionally does any of the following to a first responder
19 who is engaged in the performance of his or her official
20 duties:

21 (1) Causes serious physical injury to the first
22 responder.

23 (2) Causes physical injury by deadly weapon or
24 dangerous instrument to the first responder.

25 (3) Causes physical injury to the first responder by
26 strangulation or suffocation, or an attempt thereof.

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

3 (5) Causes or attempts to cause a first responder to
4 come into contact with bodily fluids, unless the first
5 responder consented to the contact or the contact was
6 necessary to provide medical care. For purposes of this
7 subdivision, "bodily fluids" has the same meaning as defined
8 under Section 13A-6-242, Code of Alabama 1975.

9 (c) Assault against a first responder in the first
10 degree is a Class B felony. The defendant shall serve a
11 minimum term of imprisonment of six months without
12 consideration of probation, parole, good time credits, or any
13 other reduction in time.

14 (d) In addition to any fine, the defendant shall pay
15 restitution, including but not limited to all of the
16 following:

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

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

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

24 Section 3. (a) As used in this section, the term
25 first responder includes state, local, and tribal law
26 enforcement officers; dogs or horses employed by a law
27 enforcement agency for the principal purpose of aiding in the

1 detection of criminal activity, enforcement of laws, or
2 apprehension of criminal offenders; detention and correctional
3 officers at any municipal or county jail or state
4 penitentiary; fire department and voluntary fire department
5 personnel; and emergency medical personnel who are actively
6 employed or on active volunteer status.

7 (b) A person commits the crime of assault against a
8 first responder in the second degree when the person
9 intentionally causes physical injury to a first responder who
10 is engaged in the performance of his or her official duties.

11 (c) Assault against a first responder in the second
12 degree is a Class C felony. The defendant shall serve a
13 minimum term of imprisonment of three months without
14 consideration of probation, parole, good time credits, or any
15 other reduction in time.

16 (d) In addition to any fine, the defendant shall pay
17 restitution, including but not limited to all of the
18 following:

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

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

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

26 Section 4. Section 13A-6-21, Code of Alabama 1975,
27 is amended to read as follows:

1 "§13A-6-21.

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

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

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

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

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

1 ~~compensation purposes or any other benefits to which a peace~~
2 ~~officer may otherwise be entitled to under law when considered~~
3 ~~on-duty. Additionally, nothing contained herein shall be~~
4 ~~deemed or construed as amending, modifying, or extending the~~
5 ~~tort liability of any municipality as a result of any action~~
6 ~~or inaction on the part of an off-duty police officer. For the~~
7 ~~purposes of this subdivision, utility worker means any person~~
8 ~~who is employed by an entity that owns, operates, leases, or~~
9 ~~controls any plant, property, or facility for the generation,~~
10 ~~transmission, manufacture, production, supply, distribution,~~
11 ~~sale, storage, conveyance, delivery, or furnishing to or for~~
12 ~~the public of electricity, natural or manufactured gas, water,~~
13 ~~steam, sewage, or telephone service, including two or more~~
14 ~~utilities rendering joint service.~~

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

19 "(6) With intent to cause physical injury to a
20 health care worker, including a nurse, physician, technician,
21 or any other person employed by or practicing at a hospital as
22 defined in Section 22-21-20; a county or district health
23 department; a long-term care facility; or a physician's
24 office, clinic, or outpatient treatment facility during the
25 course of or as a result of the performance of the duties of
26 the health care worker or other person employed by or
27 practicing at the hospital; the county or district health

1 department; any health care facility owned or operated by the
2 State of Alabama; the long-term care facility; or the
3 physician's office, clinic, or outpatient treatment facility;
4 he or she causes physical injury to any person. This
5 subdivision shall not apply to assaults by patients who are
6 impaired by medication or to assaults on home health care
7 workers while they are in private residences.

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

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

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

25 Section 5. Sections 13A-11-1, 13A-11-3, and
26 13A-11-4, Code of Alabama 1975, are amended to read as
27 follows:

1 "§13A-11-1.

2 "The following definitions apply in this article:

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

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

16 ~~"(3) RIOT. The assemblage of five or more persons~~
17 ~~resulting in conduct which does either of the following:~~

18 ~~"a. Creates an immediate danger of damage to~~
19 ~~property or injury to persons.~~

20 ~~"b. Substantially obstructs law enforcement or other~~
21 ~~governmental functions or services.~~

22 "(3) RIOT. The assemblage of five or more persons
23 resulting in conduct which creates an immediate danger of
24 damage to property or injury to persons.

25 ~~"(3)~~ (4) TRANSPORTATION FACILITY. Any conveyance,
26 premises or place used for or in connection with public
27 passenger transportation, whether by air, railroad, motor

1 vehicle or any other method. It includes aircraft, water
2 craft, railroad cars, buses and air, boat, railroad and bus
3 terminals and stations and all appurtenances thereto.

4 "§13A-11-3.

5 "(a) A person commits the crime of riot if, after
6 receiving an order to disperse by a law enforcement officer or
7 when in violation of a curfew, the person, with five or more
8 other persons, he wrongfully engages in tumultuous and violent
9 conduct and thereby intentionally or recklessly causes or
10 creates a grave risk of public terror or alarm intentionally
11 participates in a riot.

12 "(b) Riot is a Class A misdemeanor. The defendant
13 shall serve a minimum term of imprisonment of 30 days without
14 consideration of probation, parole, good time credits, or any
15 other reduction in time.

16 "(c) In addition to any fine, the defendant shall
17 pay restitution, including but not limited to all of the
18 following:

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

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

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

26 "§13A-11-4.

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

7 "(b) Inciting to riot is a Class A misdemeanor. The
8 defendant shall serve a minimum term of imprisonment of 30
9 days without consideration of probation, parole, good time
10 credits, or any other reduction in time.

11 "(c) In addition to any fine, the defendant shall
12 pay restitution, including but not limited to all of the
13 following:

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

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

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

21 Section 6. Sections 13A-11-3.1 and 13A-11-5.1 are
22 added to Article 1 of Chapter 11 of Title 13A of the Code of
23 Alabama 1975, to read as follows:

24 §13A-11-3.1.

25 (a) A person commits the crime of aggravated riot
26 if, after receiving an order to disperse by a law enforcement
27 officer or when in violation of a curfew, the person

1 intentionally participates in a riot, the participants of
2 which collectively cause damage to property in an amount which
3 exceeds two thousand five hundred dollars (\$2,500) or cause
4 physical injury to any one or more persons.

5 (b) Aggravated riot is a Class C felony. The
6 defendant shall serve a minimum term of imprisonment of three
7 months without consideration of probation, parole, good time
8 credits, or any other reduction in time.

9 (c) In addition to any fine, the defendant shall pay
10 restitution, including but not limited to all of the
11 following:

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

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

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

19 §13A-11-5.1.

20 (a) (1) A person commits the crime of unlawful
21 traffic interference if the person intentionally or recklessly
22 impedes vehicular traffic by walking, standing, sitting,
23 kneeling, lying, or placing an object in such a manner as to
24 block passage of a vehicle on a public highway or interstate
25 highway.

26 (2) This section does not apply to any of the
27 following:

1 a. A person who, by permit or otherwise, has
2 permission to operate in the public roadway from an
3 appropriate government authority, including a law enforcement
4 officer.

5 b. A person who operates in the roadway to direct
6 traffic away from a hazardous road condition, an obstacle, or
7 the scene of an accident.

8 (b) (1) Except as provided in subdivision (2),
9 unlawful traffic interference is a Class A misdemeanor.

10 (2) On a second or subsequent violation under
11 subdivision (1), or if a violation of this section resulted in
12 physical injury or damage to property, the person is guilty of
13 a Class C felony.

14 (c) A defendant convicted of violating this section
15 shall serve a minimum term of imprisonment of 30 days without
16 consideration of probation, parole, good time credits, or any
17 other reduction in time.

18 (d) In addition to any fine, the defendant shall pay
19 restitution, including but not limited to all of the
20 following:

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

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

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

1 Section 7. Section 15-10-3, Code of Alabama 1975, is
2 amended to read as follows:

3 "§15-10-3.

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

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

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

11 "(3) When a felony has been committed and the
12 officer has probable cause to believe that the person arrested
13 committed the felony.

14 "(4) When the officer has probable cause to believe
15 that the person arrested has committed a felony, although it
16 may afterwards appear that a felony had not in fact been
17 committed.

18 "(5) When a charge has been made, upon probable
19 cause, that the person arrested has committed a felony.

20 "(6) When the officer has actual knowledge that a
21 warrant for the person's arrest for the commission of a felony
22 or misdemeanor has been issued, provided the warrant was
23 issued in accordance with this chapter. However, upon request
24 the officer shall show the warrant to the arrested person as
25 soon as possible. If the officer does not have the warrant in
26 his or her possession at the time of arrest the officer shall

1 inform the defendant of the offense charged and of the fact
2 that a warrant has been issued.

3 "(7) When the officer has probable cause to believe
4 that a felony or misdemeanor has been committed by the person
5 arrested in violation of a protection order, including a
6 domestic violence protection order or an elder abuse
7 protection order, issued by a court of competent jurisdiction.

8 "(8) When an offense involves a crime of domestic
9 violence, including domestic violence in the first degree,
10 pursuant to Section 13A-6-130, domestic violence in the second
11 degree, pursuant to Section 13A-6-131, domestic violence in
12 the third degree, pursuant to Section 13A-6-132, interference
13 with a domestic violence emergency call, in violation of
14 Section 13A-6-137, ~~or~~ domestic violence by strangulation or
15 suffocation, pursuant to Section 13A-6-138, or violation of a
16 domestic violence protection order, pursuant to Section
17 13A-6-142, or the offense involves the crime of elder abuse as
18 defined in Section ~~38-9F-3~~, including elder abuse in the first
19 degree pursuant to Section 13A-6-192, elder abuse in the
20 second degree pursuant to Section 13A-6-193, elder abuse in
21 the third degree pursuant to Section 13A-6-194, or a violation
22 of an Elder Abuse Protection Order pursuant to Section
23 38-9F-3, and the arrest is based on probable cause.

24 "(9) When an offense involves assault against a
25 first responder in the first degree, as provided under Section
26 2 of the act adding this amendatory language; assault against
27 a first responder in the second degree, as provided under

1 Section 3 of the act adding this amendatory language; riot, as
2 provided under Section 13A-11-3; inciting to riot, as provided
3 under Section 13A-11-4; aggravated riot, as provided under
4 Section 13A-11-3.1; or unlawful traffic interference, as
5 provided under Section 13A-11-5.1.

6 "(b) When a law enforcement officer investigates an
7 allegation of domestic violence or elder abuse, whether or not
8 an arrest is made, the officer shall make a written report of
9 the alleged incident, including a statement of the complaint,
10 and the disposition of the case.

11 "(c) If the defendant is arrested under this section
12 for committing ~~an act of domestic violence, including~~ domestic
13 violence in the first degree, pursuant to Section 13A-6-130,
14 domestic violence in the second degree, pursuant to Section
15 13A-6-131, domestic violence in the third degree, pursuant to
16 Section 13A-6-132, interference with a domestic violence
17 emergency call, in violation of Section 13A-6-137, or domestic
18 violence by strangulation or suffocation, pursuant to Section
19 13A-6-138, ~~in a~~ violation of a domestic violence protection
20 order, pursuant to Section 13A-6-142, or an act of elder abuse
21 ~~in violation of an elder abuse protection order~~ elder abuse in
22 the first degree pursuant to Section 13A-6-192, elder abuse in
23 the second degree pursuant to Section 13A-6-193, elder abuse
24 in the third degree pursuant to Section 13A-6-194, or a
25 violation of an Elder Abuse Protection Order pursuant to
26 Section 38-9F-3, the defendant shall be held in custody until
27 brought before the court within 48 hours for the purpose of

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

7 "(d) If the defendant is arrested for committing an
8 act of assault against a first responder in the first degree
9 as provided under Section 2 of the act adding this amendatory
10 language, assault against a first responder in the second
11 degree as provided under Section 3 of the act adding this
12 amendatory language, riot as provided under Section 13A-11-3,
13 inciting to riot as provided under Section 13A-11-4,
14 aggravated riot, as provided under Section 13A-11-3.1, or
15 unlawful traffic interference as provided under Section
16 13A-11-5.1, the defendant shall be held in custody until
17 brought before the court within 24 hours for consideration of
18 bail in accordance with Section 15-13-190 and the applicable
19 rules of criminal procedure, pending a hearing. If the
20 defendant is not brought before the court within 24 hours, the
21 defendant shall be subject to bail according to the Alabama
22 Rules of Criminal Procedure."

23 Section 8. (a) (1) As used in this section, the term
24 defunded jurisdiction means a political subdivision of the
25 state that is certified by the Attorney General as having
26 abolished or disbanded, or substantially abolished or
27 disbanded, the law enforcement agency of the political

1 subdivision without an intention to immediately reconstitute
2 the agency.

3 (2) A rebuttable presumption arises that a political
4 subdivision has substantially abolished or disbanded the law
5 enforcement agency of the political subdivision if the
6 political subdivision reduces by 50 percent or more the budget
7 of the law enforcement agency of the political subdivision
8 without reallocating a substantial majority of that money to
9 another community policing program.

10 (3) A political subdivision may rebut the
11 presumption by proving by clear and convincing evidence that
12 the budget reduction was a fiscally appropriate decision as a
13 result of a decrease in revenues in the previous fiscal year,
14 or by proving that, the budget reduction notwithstanding, the
15 law enforcement agency of the political subdivision is
16 sufficiently funded to provide law enforcement services to the
17 political subdivision.

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

20 (1) A state grant, gift, endowment, or any other sum
21 of money or aid from the State of Alabama or a department,
22 board, or agency thereof.

23 (2) Any allocation of state revenues directly shared
24 with local governing bodies not otherwise guaranteed by the
25 Constitution of Alabama of 1901, including, but not limited
26 to, revenue from the Rebuild Alabama Act, Act 2019-2 (1st
27 Special Session); and the net profits derived from the

1 proceeds of the Alabama liquor stores under Section 28-3-74,
2 Code of Alabama 1975.

3 (c) Upon certification by the Attorney General that
4 a political subdivision of the state is a defunded
5 jurisdiction, the state Comptroller shall withhold the
6 distribution of the revenue described under subsection (b) to
7 which the defunded jurisdiction would otherwise be entitled
8 into a special fund within the State Treasury until the
9 Attorney General certifies that the political subdivision has
10 restored funding to the political subdivision's law
11 enforcement agency.

12 (d) This section does not apply to a political
13 subdivision of the state which, as of the effective date of
14 this act, employs less than 20 full-time law enforcement
15 officers.

16 Section 9. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, as amended
20 by Amendment 890, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of Alabama of 1901,
22 as amended, because the bill defines a new crime or amends the
23 definition of an existing crime.

24 Section 10. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 24-FEB-21

Read for the second time and placed
on the calendar with 1 substitute
and 1 amendment..... 16-MAR-21

Read for the third time and passed
as amended..... 18-MAR-21

Yeas 74, Nays 25, Abstains 1

Jeff Woodard
Clerk