

1 HB59  
2 188571-2  
3 By Representatives Harbison, Standridge, Pettus, Shedd, Fridy,  
4 Faulkner, South, Mooney, Lovvorn, Rich, Fincher, Butler,  
5 Nordgren, Garrett, Brown, Crawford, Greer, Williams (JW),  
6 Wilcox, Sanderford, Ingram, McCutcheon and Hurst  
7 RFD: Judiciary  
8 First Read: 09-JAN-18  
9 PFD: 01/04/2018

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8 SYNOPSIS: Under existing law, certain periods of  
9 incarceration are required for persons convicted of  
10 first, second, or third degree domestic violence.

11 This bill would double the incarceration  
12 periods for convictions of first or second degree  
13 domestic violence if the offenses were committed  
14 with knowledge of the presence of a child under the  
15 age of 14 years at the time of the offense, if the  
16 victim was the parent or legal guardian of the  
17 child.

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 Sections 13A-6-130 and 13A-6-131, Code of  
17 Alabama 1975, to provide increased incarceration periods and  
18 enhanced penalties for convictions of domestic violence in the  
19 first and second degree; and in connection therewith would  
20 have as its purpose or effect the requirement of a new or  
21 increased expenditure of local funds within the meaning of  
22 Amendment 621 of the Constitution of Alabama of 1901, now  
23 appearing as Section 111.05 of the Official Recompilation of  
24 the Constitution of Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 13A-6-130 and 13A-6-131, Code of  
27 Alabama 1975, are amended to read as follows:

1           "§13A-6-130.

2           "(a) A person commits the crime of domestic violence  
3 in the first degree if the person commits the crime of assault  
4 in the first degree pursuant to Section 13A-6-20 or aggravated  
5 stalking pursuant to Section 13A-6-91, and the victim is a  
6 current or former spouse, parent, child, any person with whom  
7 the defendant has a child in common, a present or former  
8 household member, or a person who has or had a dating  
9 relationship, as defined in Section 13A-6-139.1, with the  
10 defendant. Domestic violence in the first degree is a Class A  
11 felony, except that the defendant shall serve a minimum term  
12 of imprisonment of one year without consideration of  
13 probation, parole, good time credits, or any other reduction  
14 in time for any second or subsequent conviction under this  
15 subsection.

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

23           "(c) The minimum term of imprisonment imposed under  
24 subsection (a) shall be double without consideration of  
25 probation, parole, good time credits, or any reduction in time  
26 if the offense was committed with knowledge of the presence of

1 a child under the age of 14 years at the time of the offense,  
2 if the victim was the parent or legal guardian of the child.

3 "§13A-6-131.

4 "(a) A person commits the crime of domestic violence  
5 in the second degree if the person commits the crime of  
6 assault in the second degree pursuant to Section 13A-6-21; the  
7 crime of intimidating a witness pursuant to Section  
8 13A-10-123; the crime of stalking pursuant to Section  
9 13A-6-90; the crime of burglary in the second or third degree  
10 pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of  
11 criminal mischief in the first degree pursuant to Section  
12 13A-7-21 and the victim is a current or former spouse, parent,  
13 child, any person with whom the defendant has a child in  
14 common, a present or former household member, or a person who  
15 has or had a dating relationship, as defined in Section  
16 13A-6-139.1, with the defendant. Domestic violence in the  
17 second degree is a Class B felony, except the defendant shall  
18 serve a minimum term of imprisonment of six months without  
19 consideration of probation, parole, good time credits, or any  
20 reduction in time for any second or subsequent conviction  
21 under this subsection.

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

1 violating the order commits domestic violence in the second  
2 degree.

3 "(c) The minimum term of imprisonment imposed under  
4 subsection (a) shall be double without consideration of  
5 probation, parole, good time credits, or any reduction in time  
6 if the offense was committed with knowledge of the presence of  
7 a child under the age of 14 years at the time of the offense,  
8 if the victim was the parent or legal guardian of the child."

9 Section 2. 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 3. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.