
Alabama Statutes

Title 13A. CRIMINAL CODE

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-NEW.

(a) As used in this act, the following terms have the following meanings:

- (1) DEFRAUD. A misrepresentation of a material fact made willfully to deceive or with reckless disregard as to its truth or falsity.
- (2) SYNTHETIC URINE. A substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.
- (3) URINE ADDITIVE. A substance that is designed to be added to human urine.

(b)

- (1) No person shall knowingly manufacture, market, sell, distribute, use, or possess synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test.
- (2) No person shall knowingly use his or her urine to defraud an alcohol, drug, or urine screening test if the person's urine was expelled or withdrawn before collection of the urine specimen for the test.

(c) This act does not apply to urine, synthetic urine, or a urine additive that is manufactured, marketed, sold, distributed, used, or possessed solely for educational, medical, or scientific research.

(d)

- (1) On a first conviction of a violation of subsection (b), the person is guilty of a Class B misdemeanor.
- (2) On a second or subsequent conviction of subsection (b), the person is guilty of a Class A misdemeanor.

(e) A person who collects urine specimens for alcohol, drug, or urine screening tests who knows or has reasonable cause to suspect that a person has used synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test in violation of subsection (b) shall report that knowledge or suspicion to the appropriate law enforcement agency.

Cite as Ala. Code § 13A-NEW (1975)

History. Amended by Act 2020-84, §1, eff. 6/1/2020.

Alabama Statutes

Title 13A. CRIMINAL CODE

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-NEW.

(a) As used in this act, the following terms have the following meanings:

- (1) DEFRAUD. A misrepresentation of a material fact made willfully to deceive or with reckless disregard as to its truth or falsity.
- (2) SYNTHETIC URINE. A substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.
- (3) URINE ADDITIVE. A substance that is designed to be added to human urine.

(b)

- (1) No person shall knowingly manufacture, market, sell, distribute, use, or possess synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test.
- (2) No person shall knowingly use his or her urine to defraud an alcohol, drug, or urine screening test if the person's urine was expelled or withdrawn before collection of the urine specimen for the test.

(c) This act does not apply to urine, synthetic urine, or a urine additive that is manufactured, marketed, sold, distributed, used, or possessed solely for educational, medical, or scientific research.

(d)

- (1) On a first conviction of a violation of subsection (b), the person is guilty of a Class B misdemeanor.
- (2) On a second or subsequent conviction of subsection (b), the person is guilty of a Class A misdemeanor.

(e) A person who collects urine specimens for alcohol, drug, or urine screening tests who knows or has reasonable cause to suspect that a person has used synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test in violation of subsection (b) shall report that knowledge or suspicion to the appropriate law enforcement agency.

Cite as Ala. Code § 13A-NEW (1975)

History. Amended by Act 2020-84, §1, eff. 6/1/2020.

3231

1 SB111

2

3

4 ENROLLED, An Act,

5 Relating to crimes and offenses; to prohibit the
6 manufacture, marketing, sale, distribution, use, and
7 possession of synthetic urine or a urine additive under
8 certain conditions; and in connection therewith would have as
9 its purpose or effect the requirement of a new or increased
10 expenditure of local funds within the meaning of Amendment 621
11 of the Constitution of Alabama of 1901, now appearing as
12 Section 111.05 of the Official Recompilation of the
13 Constitution of Alabama of 1901, as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 (1) DEFRAUD. A misrepresentation of a material fact
18 made willfully to deceive or with reckless disregard as to its
19 truth or falsity.

(2) SYNTHETIC URINE. A substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.

(3) URINE ADDITIVE. A substance that is designed to be added to human urine.

(b) (1) No person shall knowingly manufacture, market, sell, distribute, use, or possess synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test.

(2) No person shall knowingly use his or her urine to defraud an alcohol, drug, or urine screening test if the person's urine was expelled or withdrawn before collection of the urine specimen for the test.

(c) This act does not apply to urine, synthetic urine, or a urine additive that is manufactured, marketed, sold, distributed, used, or possessed solely for educational, medical, or scientific research.

(d) (1) On a first conviction of a violation of subsection (b), the person is guilty of a Class B misdemeanor.

(2) On a second or subsequent conviction of subsection (b), the person is guilty of a Class A misdemeanor.

(e) A person who collects urine specimens for alcohol, drug, or urine screening tests who knows or has reasonable cause to suspect that a person has used synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test in violation of subsection (b) shall report that knowledge or suspicion to the appropriate law enforcement agency.

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further
2 requirements and application under Amendment 621, now
3 appearing as Section 111.05 of the Official Recompilation of
4 the Constitution of Alabama of 1901, as amended, because the
5 bill defines a new crime or amends the definition of an
6 existing crime.

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

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 6. OFFENSES INVOLVING DANGER TO THE PERSON

Article 7. Domestic Violence in 1st, 2nd, and 3rd Degrees

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-6-130. Domestic violence - First degree

- (a)
 - (1) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A-6-20 ; aggravated stalking pursuant to Section 13A-6-91 ; or burglary in the first degree pursuant to Section 13A-7-5 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 purposes 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 first degree is a Class A felony, except that the defendant shall serve a minimum term of imprisonment of one year without consideration of probation, parole, good time credits, or any other reduction in time for any second or subsequent conviction under this subsection.
- (c) The minimum term of imprisonment imposed under subsection (b) shall be double without consideration of probation, parole, good time credits, or any reduction in time if either of the following occurs:
 - (1) 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 first degree.
 - (2) The offense was committed in the presence of a child under the age of 14 years at the time of the offense, who is the victim's child or step-child, the defendant's child or step-child, or who is a child residing in or visiting the household of the victim or defendant. For purposes of this subsection, "in the presence of a child" means that the child was in a position to see or hear the act.
- (d) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication, of whether or not the act was committed in the presence of a child. If a defendant has a trial by jury and the jury finds the defendant guilty, the jury shall also render a special verdict as to whether or not the defendant committed the act in the presence of a child.

Cite as Ala. Code § 13A-6-130 (1975)

History. Amended by Act 2019-252, §1, eff. 5/23/2019.

Amended by Act 2018-564, §1, eff. 7/1/2018.

Amended by Act 2018-538, §1, eff. 7/1/2018.

Amended by Act 2015-493, §2, eff. 1/1/2016.

Act 2000-266, p. 411, §1; Act 2011-581, §1.

§ 13A-6-131. Domestic violence - Second degree

- (a)
 - (1) A person commits the crime of domestic violence in the second degree if the person commits the crime of assault in the second degree pursuant to Section 13A-6-21; the crime of intimidating a witness pursuant to Section 13A-10-123; the crime of stalking pursuant to Section 13A-6-90; the crime of burglary in the second or third degree pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of criminal mischief in the first degree pursuant to Section 13A-7-21 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 purposes 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 second degree is a Class B felony, except the defendant shall serve a minimum term of imprisonment of six months without consideration of probation, parole, good time credits, or any reduction in time for any second or subsequent conviction under this subsection.
- (c) The minimum term of imprisonment imposed under subsection (b) shall be double without consideration of probation, parole, good time credits, or any reduction in time if either of the following applies:
 - (1) 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 second degree.
 - (2) The offense was committed in the presence of a child under the age of 14 years at the time of the offense, who is the victim's child or step-child, the defendant's child or step-child, or who is a child residing in or visiting the household of the victim or defendant. For purposes of this subsection, "in the presence of a child" means that the child was in a position to see or hear the act.
- (d) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication, of whether or not the act was committed in the presence of a child. If a defendant has a trial by jury and the jury finds the defendant guilty, the jury shall also render a special verdict as to whether or not the defendant committed the act in the presence of a child.

Cite as Ala. Code § 13A-6-131 (1975)

History. Amended by Act 2019-252, §1, eff. 5/23/2019.

Amended by Act 2018-564, §1, eff. 7/1/2018.

Amended by Act 2018-538, §1, eff. 7/1/2018.

Amended by Act 2015-493, §2, eff. 1/1/2016.

Act 2000-266, p. 411, §2; Act 2011-581, §1.

§ 13A-6-132. Domestic violence - Third degree

(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; 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.

Cite as Ala. Code § 13A-6-132 (1975)

History. Amended by Act 2019-252, §1, eff. 5/23/2019.

Amended by Act 2015-493, §2, eff. 1/1/2016.

Act 2000-266, p. 411, §3; Act 2011-581, §1.

§ 13A-6-133. Arrest without warrant - Generally

For the purposes of an arrest without a warrant pursuant to Section 15-10-3, the crimes of domestic violence in the first, second, and third degrees, and domestic violence by strangulation or suffocation shall be an offense involving domestic violence. A warrantless arrest for an offense involving domestic violence made pursuant to subdivision (8) of subsection (a) of Section 15-10-3, shall include a charge of a crime of domestic violence under this article.

Cite as Ala. Code § 13A-6-133 (1975)

History. Act 2000-266, p. 411, §4; Act 2011-581, §1.

§ 13A-6-134. Arrest without warrant - Determination of predominant aggressor; notice requirements; liability of officer

- (a) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, or if both parties have injuries, the officer shall evaluate each complaint separately to determine who was the predominant aggressor. If the officer determines that one person was the predominant physical aggressor, that person may be arrested; however, a person who acts in a reasonable manner to protect himself or herself or another family or household member from domestic violence may not be arrested for a violation of Section 13A-6-130, 13A-6-131, 13A-6-132, or 13A-6-138. In determining whether a person is the predominant aggressor, the officer shall consider all of the following:
 - (1) Prior complaints of domestic violence.
 - (2) The relative severity of the injuries inflicted on each person, including whether the injuries are offensive versus defensive in nature.
 - (3) The likelihood of future injury to each person.
 - (4) Whether the person had reasonable cause to believe he or she was in imminent danger of becoming a victim of any act of domestic violence.
 - (5) Whether one of the persons acted in self-defense.
- (b) A law enforcement officer shall not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage the request for intervention by law enforcement by any party or base the decision to arrest or not to arrest on either of the following:
 - (1) The specific consent or request of the victim.
 - (2) The officer's perception of the willingness of a victim or witness to the domestic violence to testify or otherwise participate in a judicial proceeding.
- (c)
 - (1) In addition to victim information services required pursuant to Section 15-23-62, a law enforcement officer, at the time of initial investigation, shall give a victim of domestic violence notice of the legal rights and remedies available on a standard form developed and distributed by the Alabama State Law Enforcement Agency pursuant to subdivision (2).
 - (2) The agency shall develop a "Legal Rights and Remedies Notice to Victims" that includes a general summary of the provisions of the Protection From Abuse Act using language a layperson may understand and the statewide domestic violence hotline number, and shall distribute the notice to all law enforcement

agencies throughout the state.

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

Cite as Ala. Code § 13A-6-134 (1975)

History. Amended by Act 2019-252, §1, eff. 5/23/2019.

Amended by Act 2015-493, §2, eff. 1/1/2016.

Act 2000-266, p. 411, §5; Act 2011-581, §1.

§ 13A-6-135. Relation to abuse laws

For the purposes of Chapter 5 of Title 30, the crimes of domestic violence in the first, second, and third degrees shall be included as acts, attempts, or threats of abuse as defined pursuant to Section 30-5-2.

Cite as Ala. Code § 13A-6-135 (1975)

History. Act 2000-266, p. 411, §6.

§ 13A-6-136. Relation to domestic or family abuse laws

For the purposes of Article 6, Chapter 3 of Title 30, the definition of "domestic or family abuse" includes an incident of domestic violence in the first, second, or third degrees pursuant to this article.

Cite as Ala. Code § 13A-6-136 (1975)

History. Act 2000-266, p. 411, §7.

§ 13A-6-137. Interference with a domestic violence emergency call

(a) A person commits the crime of interference with a domestic violence emergency call if he or she intentionally hinders, obstructs, disconnects, or in any way prevents the victim from calling for assistance.

(b) Interference with a domestic violence emergency call is a Class B misdemeanor.

Cite as Ala. Code § 13A-6-137 (1975)

History. Act 2011-581, §2.

§ 13A-6-138. Domestic violence by strangulation or suffocation

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

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

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

- (b) A person commits the crime of domestic violence by strangulation or suffocation if he or she commits an assault with intent to cause physical harm or commits the crime of menacing pursuant to Section 13A-6-23, by strangulation or suffocation or attempted strangulation or suffocation 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. 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.
- (c) Domestic violence by strangulation or suffocation is a Class B felony punishable as provided by law.

Cite as Ala. Code § 13A-6-138 (1975)

History. Amended by Act 2019-252, §1, eff. 5/23/2019.

Amended by Act 2015-493, §2, eff. 1/1/2016.

Act 2011-581, §3.

§ 13A-6-139. Costs of prosecution or warrant recall of domestic violence, stalking, or sexual assault offenses

Notwithstanding any other provision of law, no court costs shall be assessed against any victim of domestic violence, stalking, or sexual assault in connection with the prosecution or warrant recall of a domestic violence, stalking, or sexual assault offense.

Cite as Ala. Code § 13A-6-139 (1975)

History. Act 2011-581, §4.

§ 13A-6-139.1. [Repealed]

Cite as Ala. Code § 13A-6-139.1 (1975)

History. Repealed by Act 2019-252, §2, eff. 5/23/2019.

Prior History: (Added by Act 2015-493, §1, eff. 1/1/2016.)

§ 13A-6-139.2. Recordkeeping

Each agency in the state that is involved with the enforcement, monitoring, or prosecution of crimes of domestic violence shall collect and maintain records of each domestic violence incident for access by investigators preparing for bond hearings and prosecutions for acts of domestic violence.

Cite as Ala. Code § 13A-6-139.2 (1975)

History. Added by Act 2015-493, §3, eff. 1/1/2016.

Alabama Acts of the 2019 Regular Session

HB 425, Act 252

ENROLLED, An Act,

Relating to domestic violence; to amend Sections 13A-6-130, 13A-6-131, as last amended by Act 2018-538, 2018 Regular Session, 13A-6-132, 13A-6-134, 13A-6-138, 13A-6-142, 15-10-3, 15-13-190, 15-23-68, 30-5-2, 30-5-3, 30-5-5, and 30-5-8, Code of Alabama 1975, to clarify certain definitions; to further provide for requirements for sworn petitions for protection orders; to further provide for notice of hearing and service of process requirements; to further provide for fines and penalties for violations of protection orders and arrests without warrants for violations of protection orders; to clarify provisions relating to the release and bail of domestic violence offenders; and to revise provisions relating to domestic violence by strangulation or suffocation; to repeal Section 13A-6-139.1, Code of Alabama 1975, relating to definitions for certain domestic violence offenses; 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. Sections 13A-6-130, 13A-6-131, as last amended by Act 2018-538, 2018 Regular Session, 13A-6-132, 13A-6-134, 13A-6-138, 13A-6-142, 15-10-3, 15-13-190, 15-23-68, 30-5-2, 30-5-3, 30-5-5, and 30-5-8, Code of Alabama 1975, are amended to read as follows:

"§13A-6-130.

"(a)(1) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A-6-20 or; aggravated stalking pursuant to Section 13A-6-91; or burglary in the first degree pursuant to Section 13A-7-5 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 or former household member, or a person who has or had a dating relationship, as defined in Section 13A-6-139.1, with the defendant.

"(2) For the purposes 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 first degree is a Class A felony, except that the defendant shall serve a minimum term of imprisonment of one year without consideration of probation, parole, good time credits, or any other reduction in time for any second or subsequent conviction under this subsection.

"(c) The minimum term of imprisonment imposed under subsection (a) (b) shall be double without consideration of probation, parole, good time credits, or any reduction in time if either of the following occur:

"(1) 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 first degree.

"(c) The minimum term of imprisonment imposed under subsection (a) shall be double without

~~consideration of probation, parole, good time credits, or any reduction in time if the (2) The offense was committed in the presence of a child under the age of 14 years at the time of the offense, if the victim was the parent or legal guardian of the child who is the victim's child or step-child, the defendant's child or step-child, or who is a child residing in or visiting the household of the victim or defendant. For purposes of this subsection, "in the presence of a child" means in the physical presence of a child or having knowledge that a child is present and may see or hear the act that the child was in a position to see or hear the act.~~

"(d) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication, of whether or not the act was committed in the presence of a child. If a defendant has a trial by jury, if the jury finds the defendant guilty, shall also find a special verdict as to whether or not the defendant committed the act in the presence of a child. If a defendant has a trial by jury and the jury finds the defendant guilty, the jury shall also render a special verdict as to whether or not the defendant committed the act in the presence of a child.

"§13A-6-131.

"(a)(1) A person commits the crime of domestic violence in the second degree if the person commits the crime of assault in the second degree pursuant to Section 13A-6-21; the crime of intimidating a witness pursuant to Section 13A-10-123; the crime of stalking pursuant to Section 13A-6-90; the crime of burglary in the second or third degree pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of criminal mischief in the first degree pursuant to Section 13A-7-21 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 or former household member, or a person who has or had a dating relationship, as defined in Section 13A-6-139.1, with the defendant.

"(2) For the purposes 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 second degree is a Class B felony, except the defendant shall serve a minimum term of imprisonment of six months without consideration of probation, parole, good time credits, or any reduction in time for any second or subsequent conviction under this subsection.

"(b) (c) The minimum term of imprisonment imposed under subsection (a) (b) shall be double without consideration of probation, parole, good time credits, or any reduction in time if either of the following applies:

"(1) a 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 second degree.

"(c) The minimum term of imprisonment imposed under subsection (a) shall be double without consideration of probation, parole, good time credits, or any reduction in time if the (2) The offense was committed in the presence of a child under the age of 14 years at the time of the offense, if the victim was the parent or legal guardian of the child who is the victim's child or step-child, the defendant's child or step-child, or who is a child residing in or visiting the household of the victim or defendant. For purposes of this subsection, "in the presence of a child" means in the physical presence of a child or having knowledge that a child is present and may see or hear the act that the child was in a position to see or hear the act.

"(d) The court shall make a written finding of fact, to be made part of the record upon conviction or

adjudication, of whether or not the act was committed in the presence of a child. If a defendant has a trial by jury, if the jury finds the defendant guilty, shall also find a special verdict as to whether or not the defendant committed the act in the presence of a child. If a defendant has a trial by jury and the jury finds the defendant guilty, the jury shall also render a special verdict as to whether or not the defendant committed the act in the presence of a child.

"§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; 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 or former household member, or a person who has or had a dating relationship, as defined in Section 13A-6-130.1, 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. (b) 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.

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

"§13A-6-134.

"(a) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, or if both parties have injuries, the officer shall evaluate each complaint separately to determine who was the predominant aggressor. If the officer determines that one person was the predominant physical aggressor, that person may be arrested; however, a person who acts in a

reasonable manner to protect himself or herself or another family or household member from domestic violence, as defined in Section 13A-6-139.1, may not be arrested for a violation of Section 13A-6-130, 13A-6-131, or 13A-6-132, or 13A-6-138. In determining whether a person is the predominant aggressor the officer shall consider all of the following:

- "(1) Prior complaints of domestic violence.
- "(2) The relative severity of the injuries inflicted on each person, including whether the injuries are offensive versus defensive in nature.
- "(3) The likelihood of future injury to each person.
- "(4) Whether the person had reasonable cause to believe he or she was in imminent danger of becoming a victim of any act of domestic violence, as the terms are defined in Section 13A-6-139.1.
- "(5) Whether one of the persons acted in self-defense.

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

- "(1) The specific consent or request of the victim.
- "(2) The officer's perception of the willingness of a victim or witness to the domestic violence to testify or otherwise participate in a judicial proceeding.

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

"(2) The agency shall develop a "Legal Rights and Remedies Notice to Victims" that includes a general summary of the provisions of the Protection From Domestic Violence Abuse Act using language a layperson may understand and the statewide domestic violence hotline number, and shall distribute the notice to be used by all law enforcement agencies throughout the state.

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

"§13A-6-138.

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

- "(1) STRANGULATION. Intentionally causing asphyxia by closure or compression of the blood vessels or air passages of the neck as a result of external pressure on the neck.
- "(2) SUFFOCATION. Intentionally causing asphyxia by depriving a person of air or by preventing a person from breathing through the inhalation of toxic gases or by blocking or obstructing the airway of a person, by any means other than by strangulation.

"(b) A person commits the crime of domestic violence by strangulation or suffocation if he or she commits an assault with intent to cause physical harm or commits the crime of menacing pursuant to Section 13A-6-23, by strangulation or suffocation or attempted strangulation or suffocation ~~against a victim, as the term is defined in Section 13A-6-139.1 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. 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.~~

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

"§13A-6-142.

"(a) ~~A violation of a domestic violence protection order is a Class A misdemeanor which shall be punishable as provided by law. A person commits the crime of violation of a domestic violence protection order if the person knowingly commits any act prohibited by a domestic violence protection order or willfully fails to abide by any term of a domestic violence protection order.~~

"(b) ~~A violation of a domestic violence protection order is a Class A misdemeanor which shall be punishable as provided by law. A second conviction for violation of a domestic violence protection order, in addition to any other penalty or fine, shall be punishable by a minimum of 30 days imprisonment which may not be suspended. A third or subsequent conviction shall, in addition to any other penalty or fine, be punishable by a minimum sentence of 120 days imprisonment which may not be suspended is a Class C felony.~~

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

"§15-10-3.

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

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

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

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

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

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

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

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

"(8) When an offense involves ~~a crime of domestic violence as defined in Section 13A-6-139.1, including 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 in the third degree, pursuant to Section 13A-6-132, interference with a domestic violence emergency call, in violation of Section 13A-6-137, or domestic violence by strangulation or suffocation, pursuant to Section 13A-6-138, or elder abuse as defined in Section 38-9F-3, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.~~

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

"(c) If the defendant is arrested under this section for committing an act of domestic violence, ~~including 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 in the third degree, pursuant to Section 13A-6-132, interference with a domestic violence emergency call, in violation of Section 13A-6-137, or domestic violence by strangulation or suffocation, pursuant to Section 13A-6-138, in violation of a domestic violence protection order, or an act of elder abuse in violation of an elder abuse protection order, the defendant shall be held in custody until brought before the court as expeditiously as possible within 48 hours for the purpose of enforcing the protection order and for consideration of bail in accordance with Section 15-13-190 and the applicable rules of criminal procedure, pending a hearing. If the defendant is not brought before the court within 48 hours, the defendant shall be subject to bail according to the Alabama Rules of Criminal Procedure.~~

"§15-13-190.

"(a) A person arrested for an offense involving domestic violence as defined in Section 13A-6-139.1, ~~who strikes, shoves, kicks, or otherwise touches a victim, as defined in Section 13A-6-139.1, or subjects him or her to physical contact, or is charged with 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 in the third degree, pursuant to Section 13A-6-132, interference with a domestic violence emergency call, in violation of Section 13A-6-137, or domestic violence by strangulation or suffocation, pursuant to Section 13A-6-138, or a violation of a domestic violence protection order, may not be admitted to bail until after an appearance before a judge or magistrate within 24 hours of the arrest, and if the person is not taken before a judge or magistrate within 24 hours of the arrest, he or she shall be released on bail afforded an opportunity to make bail in accordance with the Alabama Rules of Criminal Procedure. Prior to the release of the person, the judge or magistrate shall review the facts of the arrest to determine whether the person is a threat to~~

~~the alleged victim, is a threat to public safety, and is reasonably likely to appear in court.~~

"(b) The judge or magistrate shall make findings on the record concerning these determinations and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or the person protected by a protection order, and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include, but need not be limited to, the following:

"(1) enjoining Enjoining the person from threatening to commit or committing acts of domestic violence against the alleged victim;

"(2) a. restraining Restraining and enjoining the defendant from contacting the victim, ~~as described in Section 30-5-7;~~

"b. For the purposes of this subsection, contacting includes, but is not limited to, communicating with the victim verbally or in any written form, either in person, telephonically, electronically, or in any other manner, either directly or indirectly through a third person.

"(3) prohibiting Prohibiting the person from possessing a firearm or other weapon specified by the court, except when such weapon is necessary for employment as a peace officer or military personnel; and,

"(4) issuing Issuing any other order or modification of orders above required to protect the safety of the alleged victim or to ensure the appearance of the person in court.

"(c) If conditions of release are imposed, the judge or magistrate shall issue a written order for conditional release, immediately distribute a copy of the order to the law enforcement agency having custody of the arrested or charged person, place information pertaining to the order in the domestic violence protection order registry, and provide the law enforcement agency with any available information concerning the location of the alleged victim in a manner that protects the safety of the victim. Law enforcement shall provide a copy of the written order to the victim within 24 hours of receipt, provided that the victim provides law enforcement with current and accurate contact information, ~~in accordance with the process outlined in Section 30-5-8.~~

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

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

"§15-23-68.

"The court shall provide a waiting area for the victim separate from the defendant, relatives of the defendant, and defense witnesses, if an area is available and the use of the area is practical. If a separate waiting area is not available, or its use impractical, the court shall minimize contact of the

victim with the defendant, relatives of the defendant, and defense witnesses during court proceedings. For victims of domestic violence, as the terms are defined in Sections 13A-6-139.1 and 30-5-2, if a separate waiting area is not available, the presiding circuit judge shall create procedures so that the defendant has no contact with the victim.

"§30-5-2.

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

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

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

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

"c. Attempt. ~~With the intent to commit any crime under this section or any other criminal act under the laws of this state, performing any overt act towards the commission of the offense~~ Attempt as defined under Section 13A-4-2.

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

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

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

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

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

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

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

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

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

"m. Stalking. Stalking as defined under Sections 13A-6-90 to 13A-6-94, inclusive.

"n. Theft. ~~Knowingly obtaining or exerting unauthorized control or obtaining control by deception over property owned by or jointly owned by the plaintiff and another. Theft includes theft~~ Theft as defined under Sections 13A-8-1 to 13A-8-5, inclusive.

"o. Unlawful Imprisonment. Unlawful imprisonment as defined under Sections 13A-6-41 and 13A-6-42.

"(2) COURT. A circuit court judge, a district court judge, or a district court judge appointed as a special circuit court judge appointed pursuant to Section 12-1-14 or 12-1-14.1. A law or a district court judge may be designated by a written standing order from the presiding circuit court judge to handle protection from abuse cases.

"(3) DATING RELATIONSHIP. A relationship or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.

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

"b. a. A dating relationship includes the period of engagement to be married.

"e. b. A dating relationship does not include a casual or business relationship or a relationship that ended more than 12 months prior to the filing of the petition for a protection order.

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

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

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

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

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

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

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

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

"e. d. Is a current or former household member. A household member is a person maintaining or having maintained a living arrangement with the defendant where he or she is in, or was engaged in, a romantic or sexual relationship. For purposes of this chapter, a household member excludes non-romantic or non-intimate co-residents.

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

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

"\$30-5-3.

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

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

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

"(1) Where the plaintiff or defendant resides.

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

"(3) Where the abuse occurred.

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

"(d) When custody, visitation, or support, or a combination of them, of a child or children has been established in a previous court order in this state, or an action containing any of the issues above is pending in a court in this state in which the plaintiff and the defendant are opposing parties, a copy of any temporary ex parte protection order issued pursuant to this chapter and the case giving rise thereto should be transferred to the court of original venue of custody, visitation, or support for further disposition as soon as practical taking into account the safety of the plaintiff and any children.

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

"§30-5-5.

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

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

"(2) A parent, legal guardian, next friend, or court appointed guardian ad litem, or the State Department of Human Resources may petition for relief on behalf of the following:

"a. A minor child.

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

"(b) Standardized petitions for actions pursuant to this chapter shall be made available through the circuit clerks' offices around the state. The circuit clerk shall not be required to provide assistance to persons in completing the forms or in presenting their case to the court.

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

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

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

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

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

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

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

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

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

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

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

"§30-5-8.

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

"(2) A copy of any notice of hearing or order the petition and ex parte protection order, if issued, under this chapter shall be issued to served upon the defendant as soon as possible pursuant to Rule 4 of the Alabama Rules of Civil Procedure. A copy of the notice of final hearing and any other order under this chapter shall be issued to the defendant as soon as possible.

"(3) Certain information in these orders cases shall be entered in the Protection Order Registry of the Administrative Office of Courts and shall be electronically transmitted by the Administrative Office of Courts to the Alabama State Law Enforcement Agency for entry into the National Crime Information Center, the National Law Enforcement Telecommunication System, and the Law Enforcement Tactical System. Such The information shall include, but is National Crime Information Center, the National Law Enforcement Telecommunication System, and the Law Enforcement Tactical System and into the National Crime Information Center as approved by the Alabama Justice Information Commission. Such The information shall include, but is not limited to, information as to the existence and status of any protection orders for verification purposes.

"(b) Ex parte and final protection orders shall be in a format as provided by the Administrative Office of Courts. If a court wishes to provide additional information in these standardized court orders, the court may attach additional pages containing this additional information.

"(c) Within 24 hours after issuance of a protection order receiving proof of service of process of the petition and ex parte order, if issued, the clerk of court shall forward a copy of the written proof of service of process and a copy of the protection order to the law enforcement agency agencies with jurisdiction over the residence of the plaintiff. The information shall be entered into the Protection Order Registry of the Administrative Office of Courts and shall be electronically transmitted by the Administrative Office of Courts to the Alabama State Law Enforcement Agency for entry into the National Crime Information Center, the National Law Enforcement Telecommunication System, and the Law Enforcement Tactical System. forward the written proof of service of process and a copy of the protection order to the law enforcement agency with jurisdiction over the residence of the plaintiff. The information shall be entered enter the service date into the Protection Order Registry of the Administrative Office of Courts and the information shall be electronically transmitted by the Administrative Office of Courts to the Alabama State Law Enforcement Agency for entry into the National Crime Information Center, the National Law Enforcement Telecommunication System, and. The Alabama State Law Enforcement Agency shall enter the information into the Law Enforcement Tactical System and into the National Crime Information Center as approved by the Alabama Justice Information Commission.

"(d) If a court vacates or modifies a protection order, notice the order shall be sent within 24 hours to the plaintiff, provided that the plaintiff provides the court with current and accurate contact information, to the defendant, and to the law enforcement officials with jurisdiction to enforce the order where the victim resides.

(e)(1) The Alabama State Law Enforcement Agency shall develop an automated process by which a plaintiff may request notification of service of the ex parte protection order and other court actions related to the protection order as determined and approved by the Alabama Justice Information Commission. The automated notice shall be made within 12 hours after a law enforcement officer serves a an ex parte protection order upon the defendant. The notification shall include, at a minimum, the date, time, and where the protection order was served. The information identifying the plaintiff referenced under subdivision (2) shall be exempt from public records requirements in Section 36-12-40.

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

~~"(f) In addition to any other fine or penalty provided by law, the defendant shall pay an additional fine of fifty dollars (\$50) for a violation of a protection order. On a monthly basis, the clerk of the court shall transfer the additional fines collected pursuant to this subsection to the State Treasury for deposit in the Domestic Violence Trust Fund, established by Section 30-6-11."~~

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

Section 3. 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 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 12. OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Article 5. Drug Offenses

Division 2. Drug Possession and Sale Offenses

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-12-214. Unlawful possession of marihuana in the second degree

- (a) A person commits the crime of unlawful possession of marihuana in the second degree if, except as otherwise authorized, he possesses marihuana for his personal use only.
- (b) Unlawful possession of marihuana in the second degree is a Class A misdemeanor.

Cite as Ala. Code § 13A-12-214 (1975)

History. Acts 1987, No. 87-603, p. 1047, §5.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 12. OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Article 5. Drug Offenses

Division 2. Drug Possession and Sale Offenses

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-12-214.1. Unlawful possession of certain chemical compounds

- (a) The possession of salvia divinorum or salvinorum A, including all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts shall be illegal in this state.
- (b) A violation of subsection (a) shall be subject to the same penalties as a violation of Sections 13A-12-213 and 13A-12-214.

Cite as Ala. Code § 13A-12-214.1 (1975)

History. Amended by Act 2012-267, §2, eff. 5/10/2012.

Act 2010-717, p. 1778, §1.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 12. OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Article 5. Drug Offenses

Division 2. Drug Possession and Sale Offenses

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-12-214.2. Possession and use of cannabidiol

(a) This section shall be known and may be cited as "Carly's Law."

(b) As used in this section, the following words shall have the following meanings:

- (1) AUTHORIZED BY THE UAB DEPARTMENT. Authorized by the UAB Department means that Cannabidiol (CBD) has been prescribed by a health care practitioner employed by or on behalf of the UAB Department.
- (2) CANNABIDIOL (CBD). [13956-29-1]. A (nonpsychoactive) cannabinoid found in the plant Cannabis sativa L. or any other preparation thereof that is essentially free from plant material, and has a THC level of no more than 3 percent. Also known as (synonyms):
2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-p entyl-1,3-benzenediol;
trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;
(-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);
D1(2)-trans-Cannabidiol.
- (3) DEBILITATING EPILEPTIC CONDITION. Epilepsy or other neurological disorder, or the treatment of epilepsy or other neurological disorder that, as diagnosed by a board-certified neurologist under the employment or authority of the UAB Department, produces serious, debilitating, or life-threatening seizures.
- (4) UAB DEPARTMENT. The Department of Neurology at the University of Alabama at Birmingham, its successors, or any subdivisions.

(c) In a prosecution for the unlawful possession of marijuana under the laws of this state, it is an affirmative and complete defense to the prosecution that the defendant has a debilitating epileptic condition and used or possessed cannabidiol (CBD) pursuant to a prescription authorized by the UAB Department.

(d) In a prosecution for the unlawful possession of marijuana under the laws of this state, it is an affirmative and complete defense to the prosecution that the defendant possessed cannabidiol (CBD) because he or she is the parent or caretaker of an individual who has a debilitating epileptic condition and who has a prescription for the possession and use of cannabidiol (CBD) as authorized by the UAB Department, and where the parent or caretaker's possession of the CBD is on behalf of and otherwise for the prescribed person's use only.

(e) An agency of this state or a political subdivision thereof, including any law enforcement agency, may not initiate proceedings to remove a child from the home of a parent based

solely upon the parent's or child's possession or use of cannabidiol (CBD) as authorized by this section.

- (f) A prescription for the possession or use of cannabidiol (CBD) as authorized by this section shall be provided exclusively by the UAB Department for a debilitating epileptic condition. Health care practitioners of the UAB Department shall be the sole authorized source of any prescription for the use of cannabidiol (CBD), and shall be the sole authorized source to use cannabidiol (CBD) in or as a part of the treatment of a person diagnosed with a debilitating epileptic condition. A health care practitioner of the UAB Department shall have the sole authority to determine the use or amount of cannabidiol (CBD), if any, in the treatment of an individual diagnosed with a debilitating epileptic condition.
- (g) The UAB Department and any UAB School of Medicine affiliated pediatric training entity, including any authorized physician, nurse, attendant, or agent thereof, shall not be subject to prosecution for the unlawful possession, use, distribution, or prescription of marijuana under the laws of this state for its activities arising directly out of or directly related to the prescription or use of cannabidiol (CBD) in the treatment of individuals diagnosed with a debilitating epileptic condition.
- (h) The UAB Department will establish a research and development study purposed to determine medical uses and benefits of cannabidiol (CBD) for individuals with debilitating epileptic conditions.
- (i) The UAB Department and any UAB School of Medicine affiliated pediatric training entity, including any authorized physician, nurse, attendant or agent thereof, shall not be subject to prosecution for the unlawful possession, use, or distribution of marijuana under the laws of this state for its activities arising directly out of or directly related to the department's research and development activities in pursuit of medical benefits and uses of cannabidiol (CBD) , as long as the prescription, treatment or use of cannabidiol (CBD) is provided only to individuals diagnosed with a debilitating epileptic condition.
- (j) Pursuant to the filing requirements of Rule 15.3 of the Alabama Rules of Criminal Procedure, the defendant shall produce a valid prescription, certification of a debilitating epileptic condition, and the name of the prescribing health care professional authorized by the UAB Department.
- (k) This section is repealed July 1, 2020.
- (l) Nothing in this section shall be construed to allow or accommodate the prescription, testing, medical use, or possession of any other form of Cannabis other than that defined by this section.

Cite as Ala. Code § 13A-12-214.2 (1975)

History. Amended by Act 2019-511, §2, eff. 6/10/2019.

Added by Act 2014-277, §§1 through 4, eff. 7/1/2014.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 12. OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Article 5. Drug Offenses

Division 2. Drug Possession and Sale Offenses

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-12-214.3. Possession and use of cannabidiol for certain debilitating conditions

(a) (1) This section shall be known and may be cited as Leni's Law.

(2) For the purposes of this section, the following terms shall have the following meanings:

- a. CANNABIDIOL (CBD). [1 3956-29-29]. A (nonpsychoactive) cannabinoid found in the plant Cannabis sativa L. or any other preparation thereof that is free from plant material, and has a THC level (delta-9-tetrahydrocannabinol) of no more than three percent relative to CBD according to the rules adopted by the Alabama Department of Forensic Sciences. Also known as (synonyms): 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol; trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol; (-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI); D1(2)-tran-Cannabidiol and that is tested by a independent third-party laboratory.
- b. DEBILITATING MEDICAL CONDITION. A chronic or debilitating disease or medical condition including one that produces seizures for which a person is under treatment.

(3) In addition to the affirmative defense provided in Section 13A-12-214.2, in a prosecution for the unlawful possession of marijuana in the second degree under Section 13A-12-214, it is an affirmative and complete defense that the defendant used or possessed CBD if the defendant satisfies either of the following:

- a. He or she has a debilitating medical condition.
- b. He or she is the parent or legal guardian of a minor who has a debilitating medical condition, and the CBD is being used by the minor.

(4) An agency of this state or a political subdivision thereof, including any law enforcement agency, may not initiate proceedings to remove a child from the home of a parent or guardian, nor initiate any child protection action or proceedings, based solely upon the parent's or child's possession or use of CBD as allowed by this section.

(5) Nothing in this section shall be construed to require the various individual or group insurance organizations providing protection, indemnity, or insurance against hospital, medical, or surgical expenses, or health maintenance organizations to provide payment or reimbursement for prescriptions of CBD.

- (6) Nothing in this section shall be construed to allow or accommodate the prescription, testing, medical use, or possession of any other form of Cannabis other than that defined in this section.
- (b) The Legislature finds and declares the following:

 - (1) This section is intended to authorize only the limited use of nonpsychoactive CBD as defined in this section only for specified debilitating conditions that produce seizures, and is not intended as a generalized authorization of medical marijuana.
 - (2) It is the intent of the Legislature to maintain existing criminal prohibitions of marijuana, except as expressly provided in existing law or as expressly provided in this section.

Cite as Ala. Code § 13A-12-214.3 (1975)

History. Added by Act 2016-268, § 1 and 2, eff. 6/1/2016.

Alabama Statutes

Title 12. COURTS

Chapter 15. JUVENILE PROCEEDINGS

Article 1. General Provisions

Current through the 2020 Regular Session Acts 1 through 206

§ 12-15-102. Definitions

When used in this chapter, the following words and phrases have the following meanings:

- (1) **ADULT.** An individual 19 years of age or older.
- (2) **AFTERCARE.** Conditions and supervision as the juvenile court orders after release from the Department of Youth Services.
- (3) **CHILD.** An individual under the age of 18 years, or under 21 years of age and before the juvenile court for a delinquency matter arising before that individual's 18th birthday, or under 19 years of age and before the juvenile court for a child in need of supervision matter or commitment to the State Department of Mental Health or under 19 years of age and before the juvenile court for a proceeding initiated under Section 12-15-115(b)(2). Where a delinquency petition alleges that an individual, prior to the individual's 18th birthday, has committed an offense for which there is no statute of limitation pursuant to Section 15-3-5, the term child also shall include the individual subject to the petition, regardless of the age of the individual at the time of filing.
- (4) **CHILD IN NEED OF SUPERVISION.** A child who has been adjudicated by a juvenile court for doing any of the following and who is in need of care, rehabilitation, or supervision:
 - a. Being subject to the requirement of compulsory school attendance, is habitually truant from school as defined by the State Board of Education in the Alabama Administrative Code. Notwithstanding the foregoing, a child shall not be found in need of supervision pursuant to this subdivision if the juvenile court determines that the parent, legal guardian, or legal custodian of the child was solely responsible for the nonattendance of the child.
 - b. Disobeys the reasonable and lawful demands of his or her parent, legal guardian, or legal custodian and is beyond the control of the parent, legal guardian, or legal custodian.
 - c. Leaves, or remains away from, the home without the permission of the parent, legal guardian, legal custodian, or person with whom he or she resides.
 - d. Commits an offense established by law but not classified as criminal.
- (5) **CHILD'S ATTORNEY.** A licensed attorney who provides legal services for a child, or for a minor in a mental commitment proceeding, and who owes the same duties of undivided loyalty, confidentiality, and competent representation to the child or minor as is due an adult client.
- (6) **DELINQUENT ACT.** An act committed by a child that is designated a violation,

misdemeanor, or felony offense pursuant to the law of the municipality, county, or state in which the act was committed or pursuant to federal law. This term shall not apply to any of the following:

a. An offense when committed by a child 16 or 17 years of age as follows:

1. A nonfelony traffic offense or water safety offense other than one charged pursuant to Section 32-5A-191 or 32-5A-191.3 or a municipal ordinance prohibiting the same conduct.
2. A capital offense.
3. A Class A felony.
4. A felony which has as an element the use of a deadly weapon.
5. A felony which has as an element the causing of death or serious physical injury.
6. A felony which has as an element the use of a dangerous instrument against any person who is one of the following:
 - (i) A law enforcement officer or official.
 - (ii) A correctional officer or official.
 - (iii) A parole or probation officer or official.
 - (iv) A juvenile court probation officer or official.
 - (v) A district attorney or other prosecuting officer or official.
 - (vi) A judge or judicial official.
 - (vii) A court officer or official.
 - (viii) A person who is a grand juror, juror, or witness in any legal proceeding of whatever nature when the offense stems from, is caused by, or is related to the role of the person as a juror, grand juror, or witness.
 - (ix) A teacher, principal, or employee of the public education system of Alabama.
7. Trafficking in drugs in violation of Section 13A-12-231, or as the same may be amended.
8. Any lesser included offense of the offenses in subparagraphs 1 to 7, inclusive, charged or any lesser felony offense charged arising from the same facts and circumstances and committed at the same time as the offenses listed in subparagraphs 1 to 7, inclusive.

b. Any criminal act, offense, or violation committed by a child under the age of 18 years who has been previously convicted or adjudicated a youthful offender.

(8) **DEPENDENT CHILD.**

a. A child who has been adjudicated dependent by a juvenile court and is in need of care or supervision and meets any of the following circumstances:

1. Whose parent, legal guardian, legal custodian, or other custodian subjects the child or any other child in the household to abuse, as defined in Section 12-15-301 or neglect as defined in Section 12-15-301, or allows the child to be so subjected.
2. Who is without a parent, legal guardian, or legal custodian willing and able to provide for the care, support, or education of the child.
3. Whose parent, legal guardian, legal custodian, or other custodian neglects or refuses, when able to do so or when the service is offered without charge, to provide or allow medical, surgical, or other care necessary for the health or well-being of the child.
4. Whose parent, legal guardian, legal custodian, or other custodian fails, refuses, or neglects to send the child to school in accordance with the terms of the compulsory school attendance laws of this state.
5. Whose parent, legal guardian, legal custodian, or other custodian has abandoned the child, as defined in subdivision (1) of Section 12-15-301.
6. Whose parent, legal guardian, legal custodian, or other custodian is unable or unwilling to discharge his or her responsibilities to and for the child.
7. Who has been placed for care or adoption in violation of the law.
8. Who, for any other cause, is in need of the care and protection of the state.

b. The commission of one or more status offenses as defined in subdivision (4) of Section 12-15-201 is not a sufficient basis for an adjudication of dependency.

(9) **DETENTION.** The temporary placement of children alleged or adjudicated to be delinquent in secure custody as defined herein pending juvenile court disposition or transfer to a residential facility for further care of a child adjudicated delinquent.

(10) **GUARDIAN AD LITEM.** A licensed attorney appointed by a juvenile court to protect the best interests of an individual without being bound by the expressed wishes of that individual.

(11) **INTAKE OFFICER.** A juvenile probation officer or an employee of the judicial branch of government, who is neutral and detached from executive and legislative branch activities, designated by the juvenile court judge to initiate original delinquency, dependency, and child in need of supervision cases, as well as cases designated in Section 12-15-132, before the juvenile court. The juvenile court intake officer shall be appointed a magistrate pursuant to Rule 18, Alabama Rules of Judicial Administration, to issue warrants of arrest for individuals 18 years of age or older committing criminal offenses under the jurisdiction of the juvenile court.

- (12) JUVENILE COURT. The juvenile or family court division of the circuit or district court having jurisdiction over matters as provided by this chapter.
- (13) JUVENILE DETENTION FACILITY. Any facility owned or operated by the state, any county, or other legal entity licensed by and contracted with the Department of Youth Services for the detention of children.
- (14) LAW ENFORCEMENT OFFICER. Any person, however denominated, who is authorized by law to exercise the police powers of the state, a county, or local governments.
- (15) LEGAL CUSTODIAN. A parent, person, agency, or department to whom legal custody of a child under the jurisdiction of the juvenile court pursuant to this chapter has been awarded by order of the juvenile court or other court of competent jurisdiction.
- (16) LEGAL CUSTODY. A legal status created by order of the juvenile court which vests in a legal custodian the right to have physical custody of a child under the jurisdiction of the juvenile court pursuant to this chapter and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, clothing, education, and medical care, all subject to the powers, rights, duties, and responsibilities of the legal guardian of the person of the child and subject to any residual parental rights and responsibilities. A parent, person, agency, or department granted legal custody shall exercise the rights and responsibilities personally, unless otherwise restricted by the juvenile court.
- (17) LEGAL GUARDIAN. A person who has been appointed by a probate court pursuant to the Alabama Uniform Guardianship and Protective Proceedings Act, Chapter 2A (commencing with Section 26-2A-1) of Title 26 to be a guardian of a person under 19 years of age who has not otherwise had the disabilities of minority removed. This term does not include a guardian ad litem as defined in this section.
- (18) MINOR. An individual who is under the age of 19 years and who is not a child within the meaning of this chapter.
- (19) PARENT. The legal mother or the legal father of a child under the jurisdiction of the juvenile court pursuant to this chapter.
- (20) PICK-UP ORDER. In any case before the juvenile court, an order directing any law enforcement officer or other person authorized by this chapter to take a child into custody and to deliver the child to a place of detention, shelter, or other care designated by the juvenile court.
- (21) PROBATION. The legal status created by order of the juvenile court following an adjudication of delinquency or in need of supervision whereby a child is permitted to remain in a community subject to supervision and return to the juvenile court for violation of probation at any time during the period of probation.
- (22) RESIDENTIAL FACILITY. A dwelling, other than a detention or shelter care facility, providing living accommodations, care, treatment, and maintenance for children, including, but not limited to, institutions, foster family homes, group homes, half-way houses, and forestry camps operated, accredited, or licensed by a federal or state department or agency.
- (23) RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES. Those rights and

responsibilities remaining with a parent after a transfer of legal custody of a child under the jurisdiction of the juvenile court pursuant to this chapter, including, but not necessarily limited to, the right of visitation, the right to withhold consent to adoption, the right to determine religious affiliation, and the responsibility for support, unless determined by order of the juvenile court not to be in the best interests of the child.

(24) **SECURE CUSTODY.** As used with regard to juvenile detention facilities and the Department of Youth Services, this term means residential facilities with construction features designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, including rooms and buildings that contain alarm devices that prevent departure; fences; or other physical structures. This term does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

(25) **SHELTER CARE.** The temporary care of children in group homes, foster care, relative placement, or other nonpenal facilities.

Cite as Ala. Code § 12-15-102 (1975)

History. Amended by Act 2019-447, §1, eff. 9/1/2019.

Acts 1975, No. 1205, p. 2384, §5-101; Acts 1988, No. 88-226, p. 353, §1; Acts 1990, No. 90-674, p. 1304, §1; Acts 1996, No. 96-726, p. 1214, §1; Acts 1997, No. 97-621, p. 1087, §1; Act 98-392, p. 782, §2; §12-15-1; amended and renumbered by Act 2008-277, p. 441, §1.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY

Article 2A. Voyeurism

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-11-40. Definitions

(a) As used in this article, the following words shall have the following meanings:

- (1) **INTIMATE AREAS.** Any portion of a person's body, whether or not covered by undergarments, that are traditionally covered by undergarments to protect that portion from public view, including genitals, pubic areas, buttocks, and female breasts.
- (2) **PHOTOGRAPHS or FILMS.** The making of a photograph, motion picture film, videotape, digital image, digital video, or any other recording or transmission of the image or recording of a person.
- (3) **UNDERGARMENTS.** Articles of clothing worn under clothing that conceal intimate areas from view.

Cite as Ala. Code § 13A-11-40 (1975)

History. Added by Act 2019-481, §1, eff. 9/1/2019.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY

Article 2A. Voyeurism

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-11-41. Voyeurism in the first degree

- (a) A person commits the crime of voyeurism in the first degree if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly photographs or films the intimate areas of another person, whether through, under, or around clothing, without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.
- (b) Voyeurism in the first degree is a Class C felony, except if the defendant is 18 years of age or younger on the date of the offense, voyeurism in the first degree is a Class A misdemeanor.
- (c) The statute of limitations begins at the time of discovery of the photograph or film.

Cite as Ala. Code § 13A-11-41 (1975)

History. Added by Act 2019-481, §2, eff. 9/1/2019.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY

Article 2A. Voyeurism

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-11-42. Voyeurism in the second degree

- (a) A person commits the crime of voyeurism in the second degree if he or she knowingly photographs or films the intimate areas of another person, whether through, under, or around clothing, without that person's knowledge and consent, and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.
- (b) Voyeurism in the second degree is a Class A misdemeanor, except if the defendant is 18 years of age or younger on the date of the offense, voyeurism in the second degree is a Class B misdemeanor.
- (c) The statute of limitations begins at the time of discovery of the photograph or film.

Cite as Ala. Code § 13A-11-42 (1975)

History. Added by Act 2019-481, §3, eff. 9/1/2019.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY

Article 2A. Voyeurism

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-11-43. Exceptions; destruction of photographs, recordings, etc

- (a) Section 13A-11-42 does not apply to viewing, photographing, or filming by personnel of the Department of Corrections or of a local jail or correctional facility for security purposes or during investigation of an alleged misconduct by a person in the custody of the Department of Corrections or the local jail or correctional facility.
- (b) Notwithstanding ordinary rules of court and preservation of evidence, if a person is adjudicated or convicted of a violation of Section 13A-11-41 or Section 13A-11-42, a court may order the destruction of any photograph, motion picture film, digital image, digital video, videotape, or any other recording of an image that was made by the person in violation of this article; provided that the victim, or victim's representative, is provided with written notice 90 days before the destruction is to occur. Except as prohibited by state or federal law, the victim, or victim's representative, shall retain the right to possess any photograph, motion picture film, digital image, videotape, or any other recording of an image.

Cite as Ala. Code § 13A-11-43 (1975)

History. Added by Act 2019-481, §4, eff. 9/1/2019.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 5. PUNISHMENTS AND SENTENCES

Article 2. Death Penalty and Life Imprisonment Without Parole

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-5-40. Capital offenses

(a) The following are capital offenses:

- (1) Murder by the defendant during a kidnapping in the first degree or an attempt thereof committed by the defendant.
- (2) Murder by the defendant during a robbery in the first degree or an attempt thereof committed by the defendant.
- (3) Murder by the defendant during a rape in the first or second degree or an attempt thereof committed by the defendant; or murder by the defendant during sodomy in the first or second degree or an attempt thereof committed by the defendant.
- (4) Murder by the defendant during a burglary in the first or second degree or an attempt thereof committed by the defendant.
- (5) Murder of any police officer, sheriff, deputy, state trooper, federal law enforcement officer, or any other state or federal peace officer of any kind, or prison or jail guard, while the officer or guard is on duty, regardless of whether the defendant knew or should have known the victim was an officer or guard on duty, or because of some official or job-related act or performance of the officer or guard.
- (6) Murder committed while the defendant is under sentence of life imprisonment.
- (7) Murder done for a pecuniary or other valuable consideration or pursuant to a contract or for hire.
- (8) Murder by the defendant during sexual abuse in the first or second degree or an attempt thereof committed by the defendant.
- (9) Murder by the defendant during arson in the first or second degree committed by the defendant; or murder by the defendant by means of explosives or explosion.
- (10) Murder wherein two or more persons are murdered by the defendant by one act or pursuant to one scheme or course of conduct.
- (11) Murder by the defendant when the victim is a state or federal public official or former public official and the murder stems from or is caused by or is related to his official position, act, or capacity.
- (12) Murder by the defendant during the act of unlawfully assuming control of any aircraft by use of threats or force with intent to obtain any valuable consideration for the release of the aircraft or any passenger or crewmen thereon, to direct the

route or movement of the aircraft, or otherwise exert control over the aircraft.

- (13) Murder by a defendant who has been convicted of any other murder in the 20 years preceding the crime; provided that the murder which constitutes the capital crime shall be murder as defined in subsection (b); and provided further that the prior murder conviction referred to shall include murder in any degree as defined at the time and place of the prior conviction.
- (14) Murder when the victim is subpoenaed, or has been subpoenaed, to testify, or the victim had testified, in any preliminary hearing, grand jury proceeding, criminal trial or criminal proceeding of whatever nature, or civil trial or civil proceeding of whatever nature, in any municipal, state, or federal court, when the murder stems from, is caused by, or is related to the capacity or role of the victim as a witness.
- (15) Murder when the victim is less than fourteen years of age.
- (16) Murder committed by or through the use of a deadly weapon fired or otherwise used from outside a dwelling while the victim is in a dwelling.
- (17) Murder committed by or through the use of a deadly weapon while the victim is in a vehicle.
- (18) Murder committed by or through the use of a deadly weapon fired or otherwise used within or from a vehicle.
- (19) Murder by the defendant where a court had issued a protective order for the victim, against the defendant, pursuant to Section 30-5-1 et seq., or the protective order was issued as a condition of the defendant's pretrial release.
- (20) Murder by the defendant in the presence of a child under the age of 14 years at the time of the offense, if the victim was the parent or legal guardian of the child. For purposes of this subsection, "in the presence of a child" means in the physical presence of a child or having knowledge that a child is present and may see or hear the act.
- (21) Murder when the victim is a first responder who is operating in an official capacity. For the purposes of this subdivision, first responder includes emergency medical services personnel licensed by the Alabama Department of Public Health and firefighters and volunteer firefighters as defined by Section 36-32-1.

(b) Except as specifically provided to the contrary in the last part of subdivision (a)(13), the terms "murder" and "murder by the defendant" as used in this section to define capital offenses mean murder as defined in Section 13A-6-2(a)(1), but not as defined in Section 13A-6-2(a)(2) and (3). Subject to the provisions of Section 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3), as well as murder as defined in Section 13A-6-2(a)(1), may be a lesser included offense of the capital offenses defined in subsection (a).

(c) A defendant who does not personally commit the act of killing which constitutes the murder is not guilty of a capital offense defined in subsection (a) unless that defendant is legally accountable for the murder because of complicity in the murder itself under the

provisions of Section 13A-2-23, in addition to being guilty of the other elements of the capital offense as defined in subsection (a).

(d) To the extent that a crime other than murder is an element of a capital offense defined in subsection (a), a defendant's guilt of that other crime may also be established under Section 13A-2-23. When the defendant's guilt of that other crime is established under Section 13A-2-23, that crime shall be deemed to have been "committed by the defendant" within the meaning of that phrase as it is used in subsection (a).

Cite as Ala. Code § 13A-5-40 (1975)

History. Amended by Act 2019-514, §2, eff. 9/1/2019.

Amended by Act 2018-537, §2, eff. 7/1/2018.

Amended by Act 2014-436, §2, eff. 7/1/2014.

Acts 1981, No. 81-178, p. 203, §2; Acts 1982, No. 82-567, p. 945, §1; Acts 1987, No. 87-709, p. 1252, §3; Acts 1992, No. 92-601, p. 1247, §1; Acts 1994, No. 94-649, §1.

Alabama Statutes

Title 13A. CRIMINAL CODE

Chapter 8. OFFENSES INVOLVING THEFT

Article 1. Theft and Related Offenses

Current through the 2020 Regular Session Acts 1 through 206

§ 13A-8-18. Receiving stolen property in the second degree

- (a) Any of the following constitutes receiving stolen property in the second degree:

 - (1) Receiving stolen property that is between one thousand five hundred dollars (\$1,500) in value and two thousand five hundred dollars (\$2,500) in value.
 - (2) Receiving stolen property of any value under the circumstances described in subdivision (b)(3) of Section 13A-8-16.
 - (3) Receiving stolen property that is a firearm, rifle, or shotgun, regardless of its value.
- (b) Receiving stolen property in the second degree is a Class C felony.

Cite as Ala. Code § 13A-8-18 (1975)

History. Amended by Act 2019-521, §1, eff. 9/1/2019.

Amended by Act 2015-185, §2, eff. 1/30/2016 if the Director of Finance certifies that specific funding to implement the provisions of this act has been appropriated to the Board of Pardons and Paroles and the Department of Corrections.

Acts 1977, No. 607, p. 812, §3242; Acts 1979, No. 79-471, p. 812, §1; Act 2003-355, §1.