

1 HB51
2 113997-1
3 By Representative Gipson
4 RFD: Judiciary
5 First Read: 12-JAN-10
6 PFD: 12/08/2009

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8 SYNOPSIS: This bill would amend the rape, sodomy, and
9 sexual abuse statutes to prohibit a teacher,
10 counselor, coach, school administrator, or other
11 person in a substantially similar position of
12 authority employed at the school of a child from
13 having sexual contact with the child regardless of
14 whether the child is of age to consent to the
15 contact.

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

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

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

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Sections 13A-6-61, 13A-6-64, and 13A-6-66
16 of the Code of Alabama 1975, relating to certain sexual
17 offenses; to prohibit a teacher, counselor, coach, school
18 administrator, or other person in a substantially similar
19 position of authority employed at the school of a child from
20 engaging in sexual contact with the child regardless of
21 whether the child consents to the contact; to provide
22 penalties; and in connection therewith would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds within the meaning of Amendment 621
25 of the Constitution of Alabama of 1901, now appearing as
26 Section 111.05 of the Official Recompilation of the
27 Constitution of Alabama of 1901, as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 13A-6-61, 13A-6-64, and 13A-6-66
3 of the Code of Alabama 1975, are amended to read as follows:

4 "§13A-6-61.

5 "(a) A person commits the crime of rape in the first
6 degree if:

7 "(1) He or she engages in sexual intercourse with a
8 member of the opposite sex by forcible compulsion; or

9 "(2) He or she engages in sexual intercourse with a
10 member of the opposite sex who is incapable of consent by
11 reason of being physically helpless or mentally incapacitated;
12 or

13 "(3) He or she, being 16 years or older, engages in
14 sexual intercourse with a member of the opposite sex who is
15 less than 12 years old.

16 "(4) He or she, being a teacher, counselor, coach,
17 school administrator, or other person in a substantially
18 similar position of authority employed at the school of a
19 child who is at least 16 years of age, but under the age of
20 18, engages in sexual intercourse with the child. Consent of
21 the child is not a defense under this subsection.

22 "(b) Rape in the first degree is a Class A felony.

23 "§13A-6-64.

24 "(a) A person commits the crime of sodomy in the
25 second degree if:

1 "(1) He, being 16 years old or older, engages in
2 deviate sexual intercourse with another person less than 16
3 and more than 12 years old.

4 "(2) He engages in deviate sexual intercourse with a
5 person who is incapable of consent by reason of being mentally
6 defective.

7 "(3) He or she, being a teacher, counselor, coach,
8 school administrator, or other person in a substantially
9 similar position of authority employed at the school of a
10 child who is at least 16 years of age, but under the age of
11 18, engages in deviate sexual intercourse with the child.
12 Consent of the child is not a defense under this subsection.

13 (b) Sodomy in the second degree is a Class B felony.

14 "§13A-6-66.

15 "(a) A person commits the crime of sexual abuse in
16 the first degree if:

17 "(1) He subjects another person to sexual contact by
18 forcible compulsion;~~or.~~

19 "(2) He subjects another person to sexual contact
20 who is incapable of consent by reason of being physically
21 helpless or mentally incapacitated.

22 "(3) He or she, being a teacher, counselor, coach,
23 school administrator, or other person in a substantially
24 similar position of authority employed at the school of a
25 child who is at least 16 years of age, but under the age of
26 18, subjects the child to sexual contact. Consent of the child
27 is not a defense under this subsection.

1 "(b) Sexual abuse in the first degree is a Class C
2 felony."

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

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