

1 HB828
2 121055-2
3 By Representative McCutcheon
4 RFD: Judiciary
5 First Read: 14-APR-10

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8 SYNOPSIS: Under existing law, the age of consent for
9 sexual acts is 16 years of age.

10 This bill would increase the age of consent
11 for sexual acts to 18 years of age.

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

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To amend Sections 13A-6-62, 13A-6-64, 13A-6-67,
11 13A-6-69, 13A-6-70, and 13A-6-120 of the Code of Alabama 1975,
12 relating to sexual offenses; to increase the age of consent
13 for sexual acts to 18 years of age; and in connection
14 therewith to have as its purpose or effect the requirement of
15 a new or increased expenditure of local funds within the
16 meaning of Amendment 621 of the Constitution of Alabama of
17 1901, now appearing as Section 111.05 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 13A-6-62, 13A-6-64, 13A-6-67,
22 13A-6-69, 13A-6-70, and 13A-6-120 of the Code of Alabama 1975,
23 are amended to read as follows:

24 "§13A-6-62.

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

1 "(1) Being ~~16~~ 18 years old or older, he or she
2 engages in sexual intercourse with a member of the opposite
3 sex less than ~~16~~ 18 and more than 12 years old; provided,
4 however, the actor is at least two years older than the member
5 of the opposite sex.

6 "(2) He or she engages in sexual intercourse with a
7 member of the opposite sex who is incapable of consent by
8 reason of being mentally defective.

9 "(b) Rape in the second degree is a Class B felony.

10 "§13A-6-64.

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

13 "(1) He or she, being ~~16~~ 18 years old or older,
14 engages in deviate sexual intercourse with another person less
15 than ~~16~~ 18 and more than 12 years old.

16 "(2) He or she engages in deviate sexual intercourse
17 with a person who is incapable of consent by reason of being
18 mentally defective.

19 "(b) Sodomy in the second degree is a Class B
20 felony.

21 "§13A-6-67.

22 "(a) A person commits the crime of sexual abuse in
23 the second degree if:

24 "(1) He or she subjects another person to sexual
25 contact who is incapable of consent by reason of some factor
26 other than being less than ~~16~~ 18 years old; or

1 "(2) He or she, being 19 years old or older,
2 subjects another person to sexual contact who is less than ~~16~~
3 18 years old, but more than 12 years old.

4 "(b) Sexual abuse in second degree is a Class A
5 misdemeanor, except that if a person commits a second or
6 subsequent offense of sexual abuse in the second degree within
7 one year of another sexual offense, the offense is a Class C
8 felony.

9 "§13A-6-69.

10 "(a) It shall be unlawful for any person with
11 lascivious intent to entice, allure, persuade, or invite, or
12 attempt to entice, allure, persuade, or invite, any child
13 under ~~16~~ 18 years of age to enter any vehicle, room, house,
14 office, or other place for the purpose of proposing to such
15 child the performance of an act of sexual intercourse or an
16 act which constitutes the offense of sodomy or for the purpose
17 of proposing the fondling or feeling of the sexual or genital
18 parts of such child or the breast of such child, or for the
19 purpose of committing an aggravated assault on such child, or
20 for the purpose of proposing that such child fondle or feel
21 the sexual or genital parts of such person.

22 "(b) A violation of this section is a Class C
23 felony.

24 "§13A-6-70.

25 "(a) Whether or not specifically stated, it is an
26 element of every offense defined in this article, with the

1 exception of subdivision (a)(3) of Section 13A-6-65, that the
2 sexual act was committed without consent of the victim.

3 "(b) Lack of consent results from:

4 "(1) Forcible compulsion; or

5 "(2) Incapacity to consent; or

6 "(3) If the offense charged is sexual abuse, any
7 circumstances, in addition to forcible compulsion or
8 incapacity to consent, in which the victim does not expressly
9 or impliedly acquiesce in the actor's conduct.

10 "(c) A person is deemed incapable of consent if he
11 or she is:

12 "(1) Less than ~~16~~ 18 years old; or

13 "(2) Mentally defective; or

14 "(3) Mentally incapacitated; or

15 "(4) Physically helpless.

16 "§13A-6-120.

17 "For the purposes of this article, a child is
18 defined as a person under ~~16~~ 18 years of age."

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

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