

2
3 HOUSE EDUCATION POLICY COMMITTEE SUBSTITUTE FOR HB413
4
5
6
7

8 SYNOPSIS: Under the Alabama Sex Offender Registration
9 and Community Notification Act, juvenile sex
10 offenders are subject to community notification
11 requirements based on the risk of re-offense, and
12 if the juvenile sex offender is a low risk for
13 re-offense, notification that the juvenile sex
14 offender will be establishing or has established a
15 fixed residence shall be provided by local law
16 enforcement to the principal of the school the
17 juvenile sex offender will attend after release.

18 Also, existing law does not prohibit a
19 juvenile sex offender from attending school with
20 the general school population.

21 This bill would create Annalyn's Law.

22 This bill would require local law
23 enforcement to notify the local superintendent of
24 education, in addition to the principal, when a
25 low-risk juvenile sex offender is planning to
26 establish or has established a fixed residence
27 within their jurisdiction, would require juvenile

1 sex offenders to notify local law enforcement of
2 any change in school attendance, and would provide
3 that failure to comply with either constitutes a
4 Class C felony.

5 This bill would require the State Board of
6 Education to develop, and each local board of
7 education to adopt, a comprehensive model policy
8 for the supervision and monitoring of low risk
9 juvenile sex offender students attending school
10 with the general student population and would
11 require alternative educational placement for any
12 juvenile sex offender who is a moderate or high
13 risk for re-offense.

14 This bill would make a technical correction
15 in the list identifying sex offenses and would
16 correct internal citations in the code to reflect
17 that correction.

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

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

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

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 Relating to the Alabama Sex Offender Registration
17 and Community Notification Act; to create Annalyn's Law; to
18 amend Sections 15-20A-27, as last amended by Act 2017-414,
19 2017 Regular Session, and 15-20A-30, Code of Alabama 1975; to
20 require local law enforcement to notify the local
21 superintendent of education when a low-risk juvenile sex
22 offender is planning to establish or has established a fixed
23 residence within the jurisdiction of the board; to require
24 juvenile sex offenders to notify local law enforcement of any
25 change in school attendance; to further provide that failure
26 to comply, unless otherwise provided, constitutes a Class C
27 felony; to require the State Board of Education to develop,

1 and each local board of education to adopt, a comprehensive
2 model policy for the supervision and monitoring of low risk
3 juvenile sex offender students attending school with the
4 general student population; to require alternative educational
5 placement for any juvenile sex offender who is a moderate or
6 high risk for re-offense; to amend Sections 15-20A-5, as last
7 amended by Act 2017-414, 2017 Regular Session, 15-20A-6, and
8 15-20A-44, Code of Alabama 1975, to correct a technical error
9 in the list of offenses constituting sex offenses, and to
10 correct internal citations to the corrected section; and in
11 connection therewith would have as its purpose or effect the
12 requirement of a new or increased expenditure of local funds
13 within the meaning of Amendment 621 of the Constitution of
14 Alabama of 1901, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 1 to 3, inclusive, of this act
19 shall be known and may be cited as Annalyn's Law.

20 Section 2. Sections 15-20A-27, as last amended by
21 Act 2017-414, 2017 Regular Session, and 15-20A-30 of the Code
22 of Alabama 1975, are amended to read as follows:

23 "§15-20A-27.

24 "(a) In determining whether to apply notification
25 requirements to a juvenile sex offender, the sentencing court
26 shall consider any of the following factors relevant to the
27 risk of re-offense:

1 "(1) Conditions of release that minimize the risk of
2 re-offense, including, but not limited to, whether the
3 juvenile sex offender is under supervision of probation,
4 parole, or aftercare; receiving counseling, therapy, or
5 treatment; or residing in a home situation that provides
6 guidance and supervision.

7 "(2) Physical conditions that minimize the risk of
8 re-offense, including, but not limited to, advanced age or
9 debilitating illness.

10 "(3) Criminal history factors indicative of high
11 risk of re-offense, including whether the conduct of the
12 juvenile sex offender was found to be characterized by
13 repetitive and compulsive behavior.

14 "(4) Whether psychological or psychiatric profiles
15 indicate a risk of recidivism.

16 "(5) The relationship between the juvenile sex
17 offender and the victim.

18 "(6) The particular facts and circumstances
19 surrounding the offense.

20 "(7) The level of planning and participation in the
21 offense.

22 "(8) Whether the offense involved the use of a
23 weapon, violence, or infliction of serious bodily injury.

24 "(9) The number, date, and nature of prior offenses.

25 "(10) The response to treatment of the juvenile sex
26 offender.

1 "(11) Recent behavior, including behavior while
2 confined or while under supervision in the community.

3 "(12) Recent threats against persons or expressions
4 of intent to commit additional crimes.

5 "(13) The protection of society.

6 "(14) Any other factors deemed relevant by the
7 court.

8 "(b) If the sentencing court determines that the
9 juvenile sex offender shall be subject to notification, the
10 level of notification shall be applied as follows:

11 "(1) If the risk of re-offense is low, notification
12 that the juvenile sex offender will be establishing or has
13 established a fixed residence shall be provided by local law
14 enforcement to the principal of the public or nonpublic school
15 where the juvenile sex offender will attend after release and,
16 if a public school, to the local superintendent of education
17 with jurisdiction over that school. This notification shall
18 include the name, actual living address, date of birth of the
19 juvenile sex offender, and a statement of the sex offense for
20 which he or she has been adjudicated delinquent, including the
21 age and gender of the victim. This information shall be
22 considered confidential by the school and the local
23 superintendent of education and be shared only with the
24 teachers and staff with supervision over the juvenile sex
25 offender. Whoever, except as specifically provided herein,
26 directly or indirectly discloses or makes use of or knowingly
27 permits the use of information concerning a juvenile sex

1 offender described in this section, upon conviction thereof,
2 shall be guilty of a Class C felony within the jurisdiction of
3 the juvenile court.

4 "(2) If the risk of re-offense is moderate,
5 notification that the juvenile sex offender will be
6 establishing, or has established, a fixed residence shall be
7 provided by local law enforcement to all schools and childcare
8 facilities within three miles of the declared fixed residence
9 of the juvenile sex offender. A community notification flyer
10 shall be mailed by regular mail or hand delivered to all
11 schools or childcare facilities as required by this
12 subsection. No other method may be used to disseminate this
13 information.

14 "(3) If the risk of re-offense is high, the public
15 shall receive notification as though the juvenile sex offender
16 were an adult sex offender in accordance with Section
17 15-20A-21.

18 "(c) The sentencing court shall enter an order
19 stating whether the juvenile sex offender shall be subject to
20 notification and the level of notification that shall be
21 applied. The court shall provide a copy of the order to the
22 prosecuting attorney and to the Alabama State Law Enforcement
23 Agency.

24 "(d) The determination of notification by the
25 sentencing court shall not be subject to appeal.

26 "§15-20A-30.

1 "(a) Immediately upon release or immediately upon
2 adjudication of delinquency if the juvenile sex offender is
3 not committed, the juvenile sex offender and the parent,
4 custodian, or guardian shall register all required
5 registration information with local law enforcement in each
6 county in which the juvenile sex offender resides or intends
7 to reside.

8 "(b) Whenever a juvenile sex offender establishes a
9 new residence, the juvenile sex offender and the parent,
10 custodian, or guardian of the juvenile sex offender shall
11 immediately appear in person to register all required
12 registration information with local law enforcement in each
13 county of residence.

14 "(c) If the parent, custodian, or guardian of a
15 juvenile sex offender transfers or terminates the residence of
16 the juvenile sex offender, or the custody of the juvenile sex
17 offender is changed to a different parent, custodian, or
18 guardian resulting in a transfer of residence, the original
19 parent, custodian, or guardian with custody shall immediately
20 notify local law enforcement in each county of residence.

21 "(d) Whenever a juvenile sex offender changes any
22 required registration information including, but not limited
23 to, his or her school attendance status, the juvenile sex
24 offender and the parent, custodian, or guardian of the
25 juvenile sex offender shall immediately appear in person to
26 update the required registration information with local law

1 enforcement in each county in which the juvenile sex offender
2 resides.

3 "(e) A juvenile sex offender required to register
4 for life pursuant to Section 15-20A-28 shall appear in person
5 with his or her parent, custodian, or guardian to verify all
6 required registration information during the birth month of
7 the juvenile sex offender and every three months thereafter
8 with the local law enforcement in each county of residence
9 unless the juvenile sex offender has been relieved from
10 registration requirements pursuant to Section 15-20A-34.

11 "(f) A juvenile sex offender required to register
12 for 10 years pursuant to Section 15-20A-28 shall appear in
13 person with his or her parent, custodian, or guardian to
14 verify all required registration information during the birth
15 month of the juvenile sex offender and every year thereafter
16 with local law enforcement in each county of residence unless
17 the juvenile sex offender has been relieved from registration
18 requirements pursuant to Section 15-20A-24.

19 "(g) At the time of registration, the juvenile sex
20 offender shall be provided a form explaining all duties and
21 any restrictions placed on the juvenile sex offender. The
22 juvenile sex offender and the parent, custodian, or guardian
23 of the juvenile sex offender shall read and sign this form
24 stating that he or she understands the duties and restrictions
25 placed on the juvenile sex offender and his or her parent,
26 custodian, or guardian.

1 "(h) When a juvenile sex offender becomes the age of
2 majority, the parent, custodian, or guardian of the juvenile
3 sex offender shall no longer be subject to the requirements of
4 this section, and the juvenile sex offender shall instead be
5 solely responsible for the requirements in this section.

6 "(i) A person who knowingly violates this section
7 shall be guilty of a Class C felony."

8 Section 3. (a) (1) On or before January 1, 2019, the
9 State Board of Education shall develop a comprehensive model
10 policy for the supervision and monitoring of juvenile sex
11 offender students, who have a low risk of re-offense and are
12 enrolled, attending class, and participating in school
13 activities with the general population of students. The
14 purpose of the model policy is to provide a safe and secure
15 environment for all students and staff. The model policy shall
16 be adopted by each local board of education and implemented
17 beginning with the 2020-2021 school year. The model policy, at
18 a minimum, shall contain all of the following components:

19 a. Application to all school property and
20 school-sponsored functions including, but not limited to,
21 classroom instructional time, assemblies, athletic events,
22 extracurricular activities, and school bus transportation.

23 b. An initial meeting of all parties immediately
24 upon the enrollment of the low risk juvenile sex offender, and
25 frequent meetings thereafter as necessary to provide for the
26 continual monitoring of the student and a safe school
27 environment for all. The principal and all appropriate school

1 personnel who have received confidential notification pursuant
2 to subdivision (1) of subsection (b) of Section 15-20A-27,
3 Code of Alabama 1975, in consultation with juvenile probation
4 professionals, shall meet with the student, and the parent or
5 guardian of the student, to create and implement an
6 individualized student safety plan. The principal shall
7 determine other appropriate school personnel to be included in
8 the meetings to assist in defining school expectations.
9 Student safety plans shall outline the responsibilities of all
10 parties in safely managing the behavior of the student and
11 protecting all students. The plan shall be consistent with
12 existing disciplinary policies and procedures, student conduct
13 policies, and mandatory reporting policies. Student safety
14 plans shall include, but not be limited to, all of the
15 following:

16 1. An outline of conditions or limitations, or both,
17 on the low risk juvenile sex offender concerning his or her
18 interactions on school property and when participating in
19 school activities.

20 2. An effective procedure, developed in conjunction
21 with school staff in consultation with the parent or guardian
22 of the student, for communicating concerns relating to the
23 student.

24 3. Guidelines for expected intervention actions for
25 high-risk behaviors and for reinforcing positive behaviors
26 based on the needs of the student and the safety of all
27 students and staff.

1 4. Procedures for the continual review of each plan
2 by staff designated by the principal and for monitoring and
3 changing the plan on an as-needed basis by school staff.

4 5. Safeguards for protecting confidential
5 information.

6 c. Continuity of information and monitoring of
7 low-risk juvenile sex offender students over time as the
8 students change schools and as administrators and school
9 personnel change.

10 d. Comprehensive training for school personnel on
11 recognizing behavior that may be indicative of improper sexual
12 activity and taking appropriate action upon noticing an
13 increase or escalation of those behaviors in a low risk
14 juvenile sex offender student, both for the short and
15 long-term safety of that student and all other students.

16 e. In addition to the mandatory reporting
17 requirements pursuant to Section 26-14-3, Code of Alabama
18 1975, detailed procedures for reporting behavior that may be
19 indicative of improper sexual activity to the principal, or
20 his or her designee, and to appropriate law enforcement or
21 other involved agencies upon a determination that the low risk
22 juvenile sex offender student has not complied with the
23 student safety plan. School personnel shall report violations
24 of plan expectations to the principal when they occur.

25 (2) When a low risk juvenile sex offender student
26 changes schools, the principal shall notify local law
27 enforcement and local law enforcement shall notify the

1 principal of the new school and, where applicable, the local
2 superintendent of education pursuant to subsection (b) of
3 Section 15-20A-27, Code of Alabama 1975. The principal of the
4 prior school shall ensure that all records and safety plans
5 pertaining to the low risk juvenile sex offender student
6 follow the student to his or her new school. If the sex
7 offender status or probation or parole status of the student
8 changes, the principal shall notify the appropriate school
9 staff as part of the safety planning of the school. The
10 principal and school staff shall maintain confidentiality
11 regarding these students as required by law. Any information
12 received by a principal, school personnel, or local
13 superintendent of education as a result of a notification is
14 confidential and may not be further disseminated except as
15 provided in Section 15-20A-27, Code of Alabama 1975, and other
16 state law and the Family and Educational and Privacy Rights
17 Act of 1994, 20 U.S. Code Section 1232g et. seq. Any school
18 district employee who releases information in compliance with
19 state and federal law is immune from civil liability in
20 accordance with Section 36-1-12, Code of Alabama 1975.

21 (b) (1) The Legislature finds that a juvenile sex
22 offender who is classified as having either a moderate or high
23 risk of re-offense poses a potential threat to the safety of
24 other students and teachers that is detrimental to the
25 educational process and not in the best interests of the other
26 students.

1 (2) A juvenile sex offender who is classified as
2 having either a moderate or high risk of re-offense may not
3 attend school with the general population of students. The
4 applicable local superintendent of education, in consultation
5 with local law enforcement, shall assist the parent or
6 guardian of the moderate or high risk juvenile sex offender
7 student in determining the appropriate alternative educational
8 placement of the student. An appropriate alternative
9 educational placement may include, and may not be limited to,
10 an alternative education program, home school, or virtual
11 school pursuant to Chapter 46A of Title 16, Code of Alabama
12 1975.

13 (3) Any alternative placement of a student with a
14 disability who receives special education services shall be
15 made in compliance with the Individuals with Disabilities
16 Education Act, 20 U.S.C. Section 1400 et seq.

17 (c) A student who is enrolled in and attending
18 school through an alternative educational placement under this
19 section shall be included in enrollment and attendance counts
20 of students of the local school system in which the student
21 resides as otherwise provided by law for that alternative
22 educational placement and data shall be reported to the local
23 school system of residence in a timely manner as otherwise
24 provided by law. The State Board of Education, by rule, may
25 provide for payment by the parent or guardian of a juvenile
26 sex offender who is classified as having either a moderate or

1 high risk of re-offense, of any costs associated with
2 alternative placement, as appropriate.

3 Section 4. Sections 15-20A-5, as last amended by Act
4 2017-414, 2017 Regular Session, 15-20A-6, and 15-20A-44 of the
5 Code of Alabama 1975, are amended to read as follows:

6 "§15-20A-5.

7 "For the purposes of this chapter, a sex offense
8 includes any of the following offenses:

9 "(1) Rape in the first degree, as provided by
10 Section 13A-6-61.

11 "(2) Rape in the second degree, as provided by
12 Section 13A-6-62.

13 "(3) Sodomy in the first degree, as provided by
14 Section 13A-6-63.

15 "(4) Sodomy in the second degree, as provided by
16 Section 13A-6-64.

17 "(5) Sexual misconduct, as provided by Section
18 13A-6-65, provided that on a first conviction or adjudication
19 the sex offender is only subject to registration and
20 verification pursuant to this chapter. On a second or
21 subsequent conviction or adjudication of a sex offense, if the
22 second or subsequent conviction or adjudication does not arise
23 out of the same set of facts and circumstances as the first
24 conviction or adjudication of a sex offense, the sex offender
25 shall comply with all requirements of this chapter. The
26 sentencing court may exempt from this chapter a juvenile sex
27 offender adjudicated delinquent of sexual misconduct.

1 "(6) Sexual torture, as provided by Section
2 13A-6-65.1.

3 "(7) Sexual abuse in the first degree, as provided
4 by Section 13A-6-66.

5 "(8) Sexual abuse in the second degree, as provided
6 by Section 13A-6-67.

7 "(9) Indecent exposure, as provided by Section
8 13A-6-68, provided that on a first conviction or adjudication
9 of a sex offense, the sex offender is only subject to
10 registration and verification pursuant to this chapter. On a
11 second or subsequent conviction or adjudication of a sex
12 offense, if the second or subsequent conviction or
13 adjudication does not arise out of the same set of facts and
14 circumstances as the first conviction or adjudication, the sex
15 offender shall comply with all requirements of this chapter.
16 The sentencing court may exempt from this chapter a juvenile
17 sex offender adjudicated delinquent of indecent exposure.

18 "(10) Enticing a child to enter a vehicle, room,
19 house, office, or other place for immoral purposes, as
20 provided by Section 13A-6-69.

21 "(11) Sexual abuse of a child less than 12 years
22 old, as provided by Section 13A-6-69.1.

23 "(12) Promoting prostitution in the first degree, as
24 provided by Section 13A-12-111.

25 "(13) Promoting prostitution in the second degree,
26 as provided by Section 13A-12-112.

1 "(14) Violation of the Alabama Child Pornography
2 Act, as provided by Section 13A-12-191, 13A-12-192,
3 13A-12-196, or 13A-12-197. The sentencing court may exempt
4 from this chapter a juvenile sex offender adjudicated
5 delinquent of a violation of the Alabama Child Pornography Act
6 after the juvenile has been counseled on the dangers of the
7 conduct for which he or she was adjudicated delinquent.

8 "(15) Unlawful imprisonment in the first degree, as
9 provided by Section 13A-6-41, if the victim of the offense is
10 a minor, and the record of adjudication or conviction reflects
11 the intent of the unlawful imprisonment was to abuse the minor
12 sexually.

13 "(16) Unlawful imprisonment in the second degree, as
14 provided by Section 13A-6-42, if the victim of the offense is
15 a minor, and the record of adjudication or conviction reflects
16 the intent of the unlawful imprisonment was to abuse the minor
17 sexually.

18 "(17) Kidnapping in the first degree, as provided by
19 subdivision (4) of subsection (a) of Section 13A-6-43, if the
20 intent of the abduction is to violate or abuse the victim
21 sexually.

22 "(18) Kidnapping of a minor, except by a parent,
23 guardian, or custodian, as provided by Section 13A-6-43 or
24 13A-6-44.

25 "(19) Incest, as provided by Section 13A-13-3.

26 "(20) Transmitting obscene material to a child by
27 computer, as provided by Section 13A-6-111.

1 "(21) School employee engaging in a sex act or
2 deviant sexual intercourse with a student, or having sexual
3 contact or soliciting a sex act or sexual contact with a
4 student as provided by ~~Section~~ Sections 13A-6-81 and 13A-6-82.

5 "~~(22) School employee having sexual contact with a~~
6 ~~student, as provided by Section 13A-6-82~~ Foster parent
7 engaging in a sex act, having sexual contact, or soliciting a
8 sex act or sexual contact with a foster child as provided by
9 Section 13A-6-71.

10 "(23) Facilitating solicitation of unlawful sexual
11 conduct with a child, as provided by Section 13A-6-121.

12 "(24) Electronic solicitation of a child, as
13 provided by Section 13A-6-122.

14 "(25) Facilitating the on-line solicitation of a
15 child, as provided by Section 13A-6-123.

16 "(26) Traveling to meet a child for an unlawful sex
17 act, as provided by Section 13A-6-124.

18 "(27) Facilitating the travel of a child for an
19 unlawful sex act, as provided by Section 13A-6-125.

20 "(28) Human trafficking in the first degree, as
21 provided by Section 13A-6-152, provided that the offense
22 involves sexual servitude.

23 "(29) Human trafficking in the second degree, as
24 provided by Section 13A-6-153, provided that the offense
25 involves sexual servitude.

26 "(30) Custodial sexual misconduct, as provided by
27 Section 14-11-31.

1 "(31) Sexual extortion, as provided by Section
2 13A-6-241.

3 "(32) Directing a child to engage in a sex act, as
4 provided in Section 13A-6-243.

5 "(33) Any offense which is the same as or equivalent
6 to any offense set forth above as the same existed and was
7 defined under the laws of this state existing at the time of
8 such conviction, specifically including, but not limited to,
9 crime against nature, as provided by Section 13-1-110; rape,
10 as provided by Sections 13-1-130 and 13-1-131; carnal
11 knowledge of a woman or girl, as provided by Sections 13-1-132
12 through 13-1-135, or attempting to do so, as provided by
13 Section 13-1-136; indecent molestation of children, as defined
14 and provided by Section 13-1-113; indecent exposure, as
15 provided by Section 13-1-111; incest, as provided by Section
16 13-8-3; offenses relative to obscene prints and literature, as
17 provided by Sections 13-7-160 through 13-7-175, inclusive;
18 employing, harboring, procuring or using a girl over 10 and
19 under 18 years of age for the purpose of prostitution or
20 sexual intercourse, as provided by Section 13-7-1; seduction,
21 as defined and provided by Section 13-1-112; a male person
22 peeping into a room occupied by a female, as provided by
23 Section 13-6-6; assault with intent to ravish, as provided by
24 Section 13-1-46; and soliciting a child by computer, as
25 provided by Section 13A-6-110.

1 "(34) Any solicitation, attempt, or conspiracy to
2 commit any of the offenses listed in subdivisions (1) to ~~(31)~~
3 (33), inclusive.

4 "(35) Any crime committed in Alabama or any other
5 state, the District of Columbia, any United States territory,
6 or a federal, military, Indian, or foreign country
7 jurisdiction which, if it had been committed in this state
8 under the current provisions of law, would constitute an
9 offense listed in subdivisions (1) to ~~(32)~~ (34), inclusive.

10 "(36) Any offense specified by Title I of the
11 federal Adam Walsh Child Protection and Safety Act of 2006
12 (Pub. L. 109-248, the Sex Offender Registration and
13 Notification Act (SORNA)).

14 "(37) Any crime committed in another state, the
15 District of Columbia, any United States territory, or a
16 federal, military, Indian, or foreign country jurisdiction if
17 that jurisdiction also requires that anyone convicted of that
18 crime register as a sex offender in that jurisdiction.

19 "(38) Any offender determined in any jurisdiction to
20 be a sex offender shall be considered a sex offender in this
21 state.

22 "(39) The foregoing notwithstanding, any crime
23 committed in any jurisdiction which, irrespective of the
24 specific description or statutory elements thereof, is in any
25 way characterized or known as rape, carnal knowledge, sodomy,
26 sexual assault, sexual battery, criminal sexual conduct,
27 criminal sexual contact, sexual abuse, continuous sexual

1 abuse, sexual torture, solicitation of a child, enticing or
2 luring a child, child pornography, lewd and lascivious
3 conduct, taking indecent liberties with a child, molestation
4 of a child, criminal sexual misconduct, video voyeurism, or
5 there has been a finding of sexual motivation.

6 "(40) Any crime not listed in this section wherein
7 the underlying felony is an element of the offense and listed
8 in subdivisions (1) to (39), inclusive.

9 "(41) Any other offense not provided for in this
10 section wherein there is a finding of sexual motivation as
11 provided by Section 15-20A-6.

12 "§15-20A-6.

13 "(a) (1) The indictment, count in the indictment,
14 information, complaint or warrant charging the offense may
15 include a specification of sexual motivation or the
16 prosecuting attorney may file an allegation of sexual
17 motivation in any criminal case classified as a felony or
18 Class A misdemeanor if sufficient admissible evidence exists
19 that would justify a finding of sexual motivation by a
20 reasonable and objective finder of fact.

21 "(2) If a specification is included in the
22 indictment, count in the indictment, information, complaint,
23 or warrant charging the offense the specification shall be
24 stated at the end of the body of the indictment, count in the
25 indictment, information, complaint, or warrant and shall be in
26 substantially the following form: "SPECIFICATION or
27 SPECIFICATION TO THE FIRST COUNT. The Grand Jurors (or insert

1 appropriate name) further find and specify that the offender
2 committed the offense with a sexual motivation."

3 "(3) If the prosecuting attorney files an allegation
4 of sexual motivation, it shall be filed within a reasonable
5 time after indictment to give sufficient notice to the
6 defendant.

7 "(b) If the indictment, count of the indictment,
8 information, complaint, or warrant charging the offense
9 includes a specification of sexual motivation or if the
10 prosecuting attorney files an allegation of sexual motivation,
11 the state shall prove beyond a reasonable doubt that the
12 defendant committed the offense with a sexual motivation.

13 "(c) The court shall make a written finding of fact,
14 to be made part of the record upon conviction or adjudication
15 as a youthful offender, of whether or not a sexual motivation
16 was present at the time of the commission of the offense
17 unless the defendant has a trial by jury.

18 "(d) If a defendant has a trial by jury, the jury,
19 if it finds the defendant guilty, shall also find a special
20 verdict as to whether or not the defendant committed the crime
21 with a sexual motivation.

22 "(e) If there is a finding of sexual motivation, the
23 finding shall be made part of the record of conviction or
24 adjudication.

25 "(f) For purposes of this section, sexual motivation
26 means that one of the purposes for which the defendant

1 committed the crime was for the purpose of the sexual
2 gratification of the defendant.

3 "(g) This section shall not apply to sex offenses as
4 defined in subdivisions (1) to ~~(38)~~ (40), inclusive, of
5 Section 15-20A-5.

6 "§15-20A-44.

7 "(a) The Secretary of the Alabama State Law
8 Enforcement Agency shall promulgate rules establishing an
9 administrative hearing for persons who are only made subject
10 to this chapter pursuant to subdivision ~~(33)~~ (37) of Section
11 15-20A-5.

12 "(b) The Secretary of the Alabama State Law
13 Enforcement Agency shall promulgate rules setting forth a
14 listing of offenses from other jurisdictions that are to be
15 considered criminal sex offenses under subdivision ~~(33)~~ (37)
16 of Section 15-20A-5. Thereafter, any individual convicted of
17 any offense set forth in the listing shall immediately be
18 subject to this chapter and shall not be entitled to an
19 administrative hearing as provided in subsection (a).

20 "(c) The Secretary of the Alabama State Law
21 Enforcement Agency shall have the authority to promulgate any
22 rules as are necessary to implement and enforce this chapter."

23 Section 5. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, now
27 appearing as Section 111.05 of the Official ReCompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

4 Section 6. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.