

SB224 ENGROSSED



1 XFH9Z7-2

2 By Senators Figures, Weaver, Coleman-Madison, Singleton,

3 Givhan, Stutts, Stewart, Coleman, Smitherman, Hatcher

4 RFD: Judiciary

5 First Read: 19-Apr-23

6 2023 Regular Session



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A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Section 13A-6-111, Code of Alabama 1975, to provide for the age of a child for the crime of transmitting obscene material to a child by computer; to amend Section 13A-6-240, Code of Alabama 1975, to establish jurisdiction for a violation of distributing a private image; to amend Section 13A-13-3, Code of Alabama 1975, to further provide for the crime of incest; 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 Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 13A-6-111, 13A-6-240, and 13A-13-3, Code of Alabama 1975, are amended to read as follows:

"§13A-6-111

(a) A person is guilty of transmitting obscene material to a child if the person transmits, by means of any computer communication system allowing the input, output, examination, or transfer of computer programs from one computer to another,



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29 material which, in whole or in part, depicts actual or
30 simulated nudity, sexual conduct, or sadomasochistic abuse,
31 for the purpose of initiating or engaging in sexual acts with
32 the child.

33 (b) For the purposes of this section, a "child"
34 includes any person under 17 years of age.

35 ~~(b)~~ (c) For purposes of determining jurisdiction, the
36 offense is committed in this state if the transmission that
37 constitutes the offense either originates in this state or is
38 received in this state.

39 ~~(e)~~ (d) A person charged under this section shall be
40 tried as an adult and the record of the proceeding shall not
41 be sealed nor subject to expungement.

42 ~~(d)~~ (e) Transmitting obscene material of engaging in
43 sexual intercourse, sodomy, or to engage in a sexual
44 performance, obscene sexual performance, or sexual conduct for
45 his or her benefit to a child is a Class B felony."

46 "§13A-6-240

47 (a) A person commits the crime of distributing a
48 private image if he or she knowingly posts, emails, texts,
49 transmits, or otherwise distributes a private image with the
50 intent to harass, threaten, coerce, or intimidate the person
51 depicted when the depicted person has not consented to the
52 transmission and the depicted person had a reasonable
53 expectation of privacy against transmission of the private
54 image.

55 (b) For purposes of this section, "private image" means
56 a photograph, digital image, video, film, or other recording



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57 of a person who is identifiable from the recording itself or
58 from the circumstances of its transmission and who is engaged
59 in any act of sadomasochistic abuse, sexual intercourse,
60 sexual excitement, masturbation, breast nudity, as defined in
61 Section 13A-12-190, genital nudity, or other sexual conduct.
62 The term includes a recording that has been edited, altered,
63 or otherwise manipulated from its original form.

64 (c) (1) For purposes of this section, a "reasonable
65 expectation of privacy" includes, but is not limited to,
66 either of the following circumstances:

67 a. The person depicted in the private image created it
68 or consented to its creation believing that it would remain
69 confidential.

70 b. The sexual conduct depicted in the image was
71 involuntary.

72 (2) There is no reasonable expectation of privacy
73 against the transmission of a private image made voluntarily
74 in a public or commercial setting.

75 (d) It is a defense to distributing a private image if
76 the distribution of the private image was made in the public
77 interest, including, but not limited to, the reporting of
78 unlawful conduct; the lawful and common practices of law
79 enforcement, legal proceedings, or medical treatment; or a
80 bona fide attempt to prevent further distribution of the
81 private image.

82 (e) For the purposes of determining jurisdiction, the
83 crime of distributing a private image shall be considered to
84 be committed in any county in which any part of the crime took



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85 place, in the county of residence of the victim or defendant,
86 or any county where the image is received.

87 ~~(e)~~ (f) A violation of this section is a Class A
88 misdemeanor. A subsequent adjudication or conviction under
89 this section is a Class C felony."

90 "§13A-13-3

91 (a) A person commits incest if he or she marries or
92 engages in sexual intercourse with a person he or she knows to
93 be, either legitimately or illegitimately, any of the
94 following:

95 (1) His or her ancestor or descendant by blood or
96 adoption; ~~or.~~

97 (2) His or her brother or sister of the whole or
98 half-blood or by adoption; ~~or.~~

99 (3) His or her stepchild or stepparent, while the
100 marriage creating the relationship exists; ~~or.~~

101 (4) His or her aunt, uncle, nephew or niece of the
102 whole or half-blood.

103 ~~(b) A person shall not be convicted of incest or of an~~
104 ~~attempt to commit incest upon the uncorroborated testimony of~~
105 ~~the person with whom the offense is alleged to have been~~
106 ~~committed.~~

107 ~~(e)~~ (b) (1) Incest is a Class C felony,

108 (2) Where the victim is under 17 years of age on the
109 date of the offense, incest is a Class A felony."

110 Section 2. Although this bill would have as its purpose
111 or effect the requirement of a new or increased expenditure of
112 local funds, the bill is excluded from further requirements



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113 and application under Section 111.05 of the Constitution of
114 Alabama of 2022, because the bill defines a new crime or
115 amends the definition of an existing crime.

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



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121 Senate

122 Read for the first time and referred19-Apr-23
123 to the Senate committee on Judiciary

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125 Read for the second time and placed11-May-23
126 on the calendar:
127 0 amendments

128
129 Read for the third time and passed16-May-23
130 as amended

131 Yeas 33
132 Nays 0
133 Abstains 0

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136 Patrick Harris,
137 Secretary.
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