

SB224 INTRODUCED



1 XFH9Z7-1

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

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

4 RFD: Judiciary

5 First Read: 19-Apr-23

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SYNOPSIS:

Under existing law, the crime of transmitting obscene material to a child by computer is a Class B felony.

This bill would clarify that for the purpose of this crime, a child is a person who is under 16 years of age.

Under existing law, a person commits the crime of distributing a private image if he or she knowingly posts, emails, texts, transmits, or otherwise distributes a private image with the intent to harass, threaten, coerce, or intimidate the person depicted in certain circumstances.

This bill would clarify that a criminal proceeding for a violation of distributing a private image could be brought in any county in which any part of the crime took place, in the county of residence of the victim, or any county where the image was received.

Under existing law, a violation of incest is a Class C felony.

This bill would provide that a violation of incest when the victim is under 16 years of age is a Class A felony.

Also under existing law, a person may not be convicted of the crime of incest or of an attempt to



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29 commit incest unless there is corroborated testimony.

30 This bill would remove the requirement of
31 corroborated testimony.

32 Section 111.05 of the Constitution of Alabama of
33 2022, prohibits a general law whose purpose or effect
34 would be to require a new or increased expenditure of
35 local funds from becoming effective with regard to a
36 local governmental entity without enactment by a 2/3
37 vote unless: it comes within one of a number of
38 specified exceptions; it is approved by the affected
39 entity; or the Legislature appropriates funds, or
40 provides a local source of revenue, to the entity for
41 the purpose.

42 The purpose or effect of this bill would be to
43 require a new or increased expenditure of local funds
44 within the meaning of the amendment. However, the bill
45 does not require approval of a local governmental
46 entity or enactment by a 2/3 vote to become effective
47 because it comes within one of the specified exceptions
48 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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56 Relating to crimes and offenses; to amend Section
13A-6-111, Code of Alabama 1975, to provide for the age of a



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57 child for the crime of transmitting obscene material to a
58 child by computer; to amend Section 13A-6-240, Code of Alabama
59 1975, to establish jurisdiction for a violation of
60 distributing a private image; to amend Section 13A-13-3, Code
61 of Alabama 1975, to further provide for the crime of incest;
62 and in connection therewith would have as its purpose or
63 effect the requirement of a new or increased expenditure of
64 local funds within the meaning of Section 111.05 of the
65 Constitution of Alabama of 2022.

66 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

69 "§13A-6-111

70 (a) A person is guilty of transmitting obscene material
71 to a child if the person transmits, by means of any computer
72 communication system allowing the input, output, examination,
73 or transfer of computer programs from one computer to another,
74 material which, in whole or in part, depicts actual or
75 simulated nudity, sexual conduct, or sadomasochistic abuse,
76 for the purpose of initiating or engaging in sexual acts with
77 the child.

78 (b) For the purposes of this section, a "child"
79 includes any person under 16 years of age.

80 ~~(b)~~ (c) For purposes of determining jurisdiction, the
81 offense is committed in this state if the transmission that
82 constitutes the offense either originates in this state or is
83 received in this state.

84 ~~(c)~~ (d) A person charged under this section shall be



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85 tried as an adult and the record of the proceeding shall not
86 be sealed nor subject to expungement.

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

91 "§13A-6-240

92 (a) A person commits the crime of distributing a
93 private image if he or she knowingly posts, emails, texts,
94 transmits, or otherwise distributes a private image with the
95 intent to harass, threaten, coerce, or intimidate the person
96 depicted when the depicted person has not consented to the
97 transmission and the depicted person had a reasonable
98 expectation of privacy against transmission of the private
99 image.

100 (b) For purposes of this section, "private image" means
101 a photograph, digital image, video, film, or other recording
102 of a person who is identifiable from the recording itself or
103 from the circumstances of its transmission and who is engaged
104 in any act of sadomasochistic abuse, sexual intercourse,
105 sexual excitement, masturbation, breast nudity, as defined in
106 Section 13A-12-190, genital nudity, or other sexual conduct.
107 The term includes a recording that has been edited, altered,
108 or otherwise manipulated from its original form.

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

112 a. The person depicted in the private image created it



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113 or consented to its creation believing that it would remain
114 confidential.

115 b. The sexual conduct depicted in the image was
116 involuntary.

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

120 (d) It is a defense to distributing a private image if
121 the distribution of the private image was made in the public
122 interest, including, but not limited to, the reporting of
123 unlawful conduct; the lawful and common practices of law
124 enforcement, legal proceedings, or medical treatment; or a
125 bona fide attempt to prevent further distribution of the
126 private image.

127 (e) For the purposes of determining jurisdiction, the
128 crime of distributing a private image shall be considered to
129 be committed in any county in which any part of the crime took
130 place, in the county of residence of the victim, or any county
131 where the image is received.

132 ~~(e)~~ (f) A violation of this section is a Class A
133 misdemeanor. A subsequent adjudication or conviction under
134 this section is a Class C felony."

135 "§13A-13-3

136 (a) A person commits incest if he or she marries or
137 engages in sexual intercourse with a person he or she knows to
138 be, either legitimately or illegitimately, any of the
139 following:

140 (1) His or her ancestor or descendant by blood or



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141 adoption;~~or~~.

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

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

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

148 ~~(b) A person shall not be convicted of incest or of an~~
149 ~~attempt to commit incest upon the uncorroborated testimony of~~
150 ~~the person with whom the offense is alleged to have been~~
151 ~~committed.~~

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

153 (2) Where the victim is under 16 years of age on the
154 date of the offense, incest is a Class A felony."

155 Section 2. Although this bill would have as its purpose
156 or effect the requirement of a new or increased expenditure of
157 local funds, the bill is excluded from further requirements
158 and application under Section 111.05 of the Constitution of
159 Alabama of 2022, because the bill defines a new crime or
160 amends the definition of an existing crime.

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