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SYNOPSIS:

Under existing law, the use of any premises to distribute obscene material to minors is a public nuisance.

This bill would further provide that the use of any premises to distribute to minors material that is harmful to minors is a public nuisance.

Under existing law, the term "sexual conduct" is defined.

This bill would further provide for the definition of "sexual conduct."

Under existing law, certain obscenity laws do not apply to public libraries, public school libraries, college libraries, or university libraries, or the employees or agents of any such libraries.

This bill would provide that these criminal obscenity laws do not apply to college or university libraries or their employees or agents, but do apply to public libraries, public school libraries, and their employees or agents in certain circumstances.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.



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A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Sections 6-5-160, 6-5-160.1, 13A-12-200.1, and 13A-12-200.10, Code of Alabama 1975, to provide that the use of any premises to distribute material that is harmful to minors is a public nuisance; to further provide for the definition of "sexual conduct"; to further provide for the applicability of certain criminal provisions; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 6-5-160, 6-5-160.1, 13A-12-200.1, and 13A-12-200.10, Code of Alabama 1975, are amended to read as follows:

"§6-5-160

The Legislature of Alabama finds and declares:

(1) That in order to protect children from exposure to obscenity and material harmful to minors, prevent assaults on the sensibilities of unwilling adults by ~~the purveyor~~ purveyors of obscene material, and suppress the proliferation of "adult-only video stores," "adult bookstores," "adult movie houses," and "adult-only entertainment," the sale and dissemination of obscene material and material harmful to minors should be regulated without impinging on the First



57 Amendment rights of free speech by erecting barriers to the
58 open display of erotic and lascivious material.

59 (2) That the premises ~~in which~~ where a violation of
60 Division 5, ~~of~~ Article 4, ~~of~~ Chapter 12, ~~of~~ Title 13A
61 occurs should be declared a public nuisance."

62 "§6-5-160.1

63 It is hereby declared that the use of any ~~premise~~
64 premises to distribute material that is obscene ~~material or~~
65 harmful to minors in violation of Division 5 ~~(commencing with~~
66 ~~Section 13A-12-200.1)~~, of Article 4, ~~of~~ Chapter 12, ~~of~~ Title
67 13A is a public nuisance and the Attorney General, district
68 attorney, or, when authorized by the local governing body, the
69 attorney for the county or municipality may file an action in
70 the circuit courts of this state to abate, enjoin, and prevent
71 the nuisance. A county, ~~by~~ resolution, or a municipality, ~~by~~
72 ordinance, may authorize the filing of an action in the
73 circuit court within their jurisdiction to abate, enjoin, ~~and~~
74 or prevent the nuisance. The actions shall be commenced by the
75 filing of a complaint alleging the facts constituting the
76 nuisance in circuit court of the county in which the nuisance
77 is situated."

78 "§13A-12-200.1

79 As used in this division, the following terms ~~shall~~
80 have the following meanings ~~respectively ascribed to them by~~
81 ~~this section:~~

82 (1) ADULT BOOKSTORES and ADULT VIDEO STORES. A
83 commercial establishment in which is offered for sale or rent
84 any book, video, film, or other medium which in the aggregate



85 ~~constitute~~constitutes substantially all of its stock or
86 inventory which depicts sexual conduct ~~as defined herein~~.

87 (2) ADULT MOVIE HOUSE. A place where obscene "adult
88 films" depicting sexual conduct are shown.

89 (3) ADULT-ONLY ENTERTAINMENT. Any commercial
90 establishment or private club where entertainers, employees,
91 dancers, or waiters appear nude or semi-nude.

92 (4) BREAST NUDITY. The showing of the post-pubertal
93 human female breasts below a point immediately above the top
94 of the areola.

95 (5) DISPLAY FOR SALE. To expose, place, exhibit, show,
96 or in any fashion display any material for the purpose of the
97 sale of such material to any person in a manner that a minor
98 can physically examine or see the material.

99 (6) DISSEMINATE PUBLICLY. To expose, place, perform,
100 exhibit, show or in any fashion display, in any location,
101 public or private, any material in a manner that the material
102 can either be readily seen and its content or character
103 distinguished by normal unaided vision or be physically
104 examined, by viewing or examining the material from any public
105 place or any place to which members of the general public are
106 invited.

107 (7) DISTRIBUTE. To import, export, sell, rent, lend,
108 transfer possession of or title to, display, exhibit, show,
109 present, provide, broadcast, transmit, retransmit, communicate
110 by telephone, play, orally communicate, or perform.

111 (8) EXPORT. To send or cause to be sent outside of the
112 ~~State of Alabama~~state from inside the state.



113 (9) FOR ANY THING OF PECUNIARY VALUE. In exchange for,
114 in return for, or for any consideration consisting of, whether
115 wholly or partly, either of the following:

116 a. Any money, negotiable instrument, debt, credit,
117 chose in action, interest in wealth, or any other property
118 whether real or personal, tangible or intangible; ~~or.~~

119 b. Any offer or agreement to pay, furnish, or provide
120 any money, negotiable instrument, debt, credit, chose in
121 action, interest in wealth, or any other property whether real
122 or personal, tangible or intangible.

123 (10) GENITAL NUDITY. The showing of the human male or
124 female genitals or pubic area.

125 (11) HARMFUL TO MINORS. The term means all of the
126 following:

127 a. The average person, applying contemporary community
128 standards, would find that the material, taken as a whole,
129 appeals to the prurient interest of minors; ~~and.~~

130 b. The material depicts or describes sexual conduct,
131 breast nudity, or genital nudity, ~~in~~ in a way which is patently
132 offensive to prevailing standards in the adult community with
133 respect to what is suitable for minors; ~~and.~~

134 c. A reasonable person would find that the material,
135 taken as a whole, lacks serious literary, artistic, political, or
136 or scientific value for minors.

137 (12) IMPORT. To bring or cause to be brought into the
138 ~~State of Alabama~~ state from outside of the state.

139 (13) KNOWINGLY. The term means knowingly, as defined by
140 ~~Section 13A-2-2(2)~~ Section 13A-2-2, doing an act involving a



141 material when the person knows the nature of the material.

142 (14) KNOWS THE NATURE OF THE MATERIAL.

143 A person knows the nature of the material when any one
144 of the following exists:

145 a. The person knows the nature of the material~~;~~.

146 b. The person has reason to know the nature of the
147 material~~;~~.

148 c. The person has a belief or reasonable ground for
149 belief as to the nature of the material which warrants further
150 inspection or inquiry of the character and content of the
151 material.

152 (15) MATERIAL. Any book, magazine, newspaper, printed
153 or written matter, writing, description, picture, drawing,
154 animation, photograph, motion picture, film, video tape,
155 pictorial representation, depiction, image, electrical or
156 electronic reproduction, broadcast, transmission, telephone
157 communication, sound recording, article, device, equipment,
158 matter, oral communication, live performance, or dance.

159 (16) MINOR. Any unmarried person under ~~the age of 18~~
160 years of age.

161 (17) OBSCENE. The term means ~~that~~all of the following:

162 a. The average person, applying contemporary community
163 standards, would find that the material, taken as a whole,
164 appeals to the prurient interest;~~and~~.

165 b. The material depicts or describes, in a patently
166 offensive way, sexual conduct, actual or simulated, normal or
167 perverted;~~and~~.

168 c. A reasonable person would find that the material,



169 taken as a whole, lacks serious literary, artistic, political,
170 or scientific value.

171 (18) PERSON. Any individual and, except where
172 inappropriate, any partnership, firm, association,
173 corporation, or other legal entity.

174 (19) PRODUCE. Create, make, write, film, produce,
175 reproduce, direct, or stage.

176 (20) RECKLESSLY. The term means recklessly, as defined
177 by ~~Section 13A-2-2(3)~~ Section 13A-2-2, doing an act involving a
178 material when the person knows the nature of the material.

179 (21) ~~SADO-MASOCHISTIC~~ SADOMASOCHISTIC ABUSE. The term
180 means either of the following:

181 a. Flagellation or torture, in an act of sexual
182 stimulation, by or upon a person who is nude or clad in
183 undergarments or in a revealing or bizarre costume; ~~or~~.

184 b. The binding or physical restraining of a person who
185 is nude or clad in undergarments or in a revealing or bizarre
186 costume in an act of sexual stimulation.

187 (22) SEXUAL CONDUCT. The term means any of the
188 following:

189 a. Any act of sexual intercourse, masturbation,
190 urination, defecation, lewd exhibition of the genitals,
191 ~~sado-masochistic~~ sadomasochistic abuse, bestiality, or the
192 fondling of the sex organs of animals; ~~or~~.

193 b. Any other physical contact with a person's unclothed
194 genitals, pubic area, buttocks, or the breast or breasts of a
195 female, whether alone or between members of the same or
196 opposite sex or between a human and an animal, in an act of



197 sexual stimulation, gratification, or perversion.

198 c. Any sexual or gender oriented conduct that knowingly
199 exposes minors to persons who are dressed in sexually
200 revealing, exaggerated, or provocative clothing or costumes,
201 or are stripping, or engaged in lewd or lascivious dancing,
202 presentations, or activities in K-12 public schools or public
203 libraries where minors are expected and known to be present
204 without parental presence or consent.

205 (23) SEXUAL INTERCOURSE. Intercourse, whether
206 genital-genital, oral-genital, anal-genital, or oral-anal, and
207 whether between persons of the same or opposite sex or between
208 a human and an animal.

209 (24) WHOLESALER. A person who distributes material for
210 the purpose of resale or commercial distribution at retail."

211 "§13A-12-200.10

212 (a) The criminal provisions of this division shall not
213 apply to ~~bona fide public libraries, or public school or~~
214 ~~college or university libraries,~~ or their employees or agents
215 acting on behalf of the legitimate educational purposes of
216 ~~such public libraries, or public school or~~ college or
217 university libraries.

218 (b) (1) The criminal provisions of this division shall
219 not apply to K-12 public schools or public libraries, or their
220 employees or agents acting on behalf of the legitimate
221 educational purposes of K-12 public schools or public
222 libraries, unless the K-12 public school or public library
223 fails to remove material or cease conduct that violates this
224 division within seven business days of receiving a valid



225 notice pursuant to this subsection. A violation of this
226 subdivision is a Class C misdemeanor. A second violation of
227 this subdivision is a Class B misdemeanor. A third or
228 subsequent violation of this subdivision is a Class A
229 misdemeanor.

230 (2) Any person who believes that material is present or
231 conduct is occurring at a K-12 public school or public library
232 that violates this division may provide written notice to the
233 principal of the K-12 public school, the superintendent of the
234 K-12 public school's school district, or the director or head
235 librarian of the public library which reasonably identifies
236 the specific material or conduct. A notice submitted pursuant
237 to this subdivision is only valid if a copy of the notice is
238 also provided to the office of the district attorney in the
239 county there the K-12 public school or public library is
240 located."

241 Section 2. This act shall become effective on October
242 1, 2024.