

# HB104 INTRODUCED



1 HB104  
2 DM75TH-1  
3 By Representatives Moore (P), Harrison  
4 RFD: Judiciary  
5 First Read: 06-Feb-24



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SYNOPSIS:

Under existing law, "sexual conduct" is defined as any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party.

This bill would define "sexual conduct" as any touching of the body parts of a person done for the purpose of gratifying the sexual desire of either party.

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

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

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



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29 does not require approval of a local governmental  
30 entity or enactment by a 2/3 vote to become effective  
31 because it comes within one of the specified exceptions  
32 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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39 Relating to crimes and offenses; to amend Section  
40 13A-6-60, Code of Alabama 1975; to further provide for the  
41 definition of "sexual conduct"; to make nonsubstantive,  
42 technical revisions to update the existing code language to  
43 current style; and in connection therewith would have as its  
44 purpose or effect the requirement of a new or increased  
45 expenditure of local funds within the meaning of Section  
46 111.05 of the Constitution of Alabama of 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Section 13A-6-60, Code of Alabama 1975, is  
49 amended to read as follows:

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"§13A-6-60

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The following definitions apply in this article:

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(1) FORCIBLE COMPULSION. Use or threatened use, whether  
53 ~~express~~ expressed or implied, of physical force, violence,  
54 confinement, restraint, physical injury, or death to the  
55 threatened person or to another person. Factors to be  
56 considered in determining an implied threat include, but are



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57 not limited to, the respective ages and sizes of the victim  
58 and the accused; the respective mental and physical conditions  
59 of the victim and the accused; the atmosphere and physical  
60 setting in which the incident was alleged to have taken place;  
61 the extent to which the accused may have been in a position of  
62 authority, domination, or custodial control over the victim;  
63 or whether the victim was under duress. Forcible compulsion  
64 does not require proof of resistance by the victim.

65 (2) INCAPACITATED. The term includes any of the  
66 following:

67 a. A person who suffers from a mental or developmental  
68 disease or disability ~~which~~ that renders the person incapable  
69 of appraising the nature of his or her conduct.

70 b. A person who is temporarily incapable of appraising  
71 or controlling his or her conduct due to the influence of a  
72 narcotic, anesthetic, or intoxicating substance and the  
73 condition was known or should have been reasonably known to  
74 the offender.

75 c. A person who is unable to give consent or who is  
76 unable to communicate an unwillingness to an act because the  
77 person is unconscious, asleep, or is otherwise physically  
78 limited or unable to communicate.

79 (3) SEXUAL CONTACT. Any touching of the ~~sexual or other~~  
80 ~~intimate~~ body parts of a person done for the purpose of  
81 gratifying the sexual desire of either party. The term does  
82 not require skin to skin contact.

83 (4) SEXUAL INTERCOURSE. Such term has its ordinary  
84 meaning and occurs upon any penetration, however slight;



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85 emission is not required.

86 (5) SODOMY. Any sexual act involving the genitals of  
87 one person and the mouth or anus of another person."

88 Section 2. Although this bill would have as its purpose  
89 or effect the requirement of a new or increased expenditure of  
90 local funds, the bill is excluded from further requirements  
91 and application under Section 111.05 of the Constitution of  
92 Alabama of 2022, because the bill defines a new crime or  
93 amends the definition of an existing crime.

94 Section 3. This act shall become effective on October  
95 1, 2024.