HB4 INTRODUCED

1 HB4

2 XA8SZ7Z-1


11 RFD: Judiciary

12 First Read: 04-Feb-25

13 PFD: 08-Jul-24
SYNOPSIS:

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

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

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

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.

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Sections 13A-12-200.1 and 13A-12-200.10, Code of Alabama 1975; 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 13A-12-200.1 and 13A-12-200.10, Code of Alabama 1975, are amended to read as follows:

13A-12-200.1

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

(1) ADULT BOOKSTORES and ADULT VIDEO STORES. A commercial establishment in which is offered for sale or rent any book, video, film, or other medium which in the aggregate constitute substantially all of its stock or inventory which depicts sexual conduct as defined herein.

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

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

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

(5) DISPLAY FOR SALE. To expose, place, exhibit, show, or in any fashion display any material for the purpose of the sale of such material to any person in a manner that a minor can physically examine or see the material.
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(6) DISSEMINATE PUBLICLY. To expose, place, perform, exhibit, show or in any fashion display, in any location, public or private, any material in a manner that the material can either be readily seen and its content or character distinguished by normal unaided vision or be physically examined, by viewing or examining the material from any public place or any place to which members of the general public are invited.

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

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

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

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

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

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

(11) HARMFUL TO MINORS. The term means all of the following:
a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors and.

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

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

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

(13) KNOWINGLY. The term means knowingly, as defined by Section 13A-2-2, doing an act involving a material when the person knows the nature of the material.

(14) KNOWS THE NATURE OF THE MATERIAL.

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

a. The person knows the nature of the material.

b. The person has reason to know the nature of the material.

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

(15) MATERIAL. Any book, magazine, newspaper, printed or written matter, writing, description, picture, drawing, animation, photograph, motion picture, film, video tape,
(16) MINOR. Any unmarried person under the age of 18 years of age.

(17) OBSCENE. The term means that all of the following:
   a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest; and
   b. The material depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and
   c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

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

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

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

(21) SADO-MASOCHISTIC ABUSE. The term means either of the following:
   a. Flagellation or torture, in an act of sexual stimulation, by or upon a person who is nude or clad in
undergarments or in a revealing or bizarre costume—
or—.

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

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

a. Any act of sexual intercourse, masturbation,
urination, defecation, lewd exhibition of the genitals,
sado-masochistic abuse, bestiality, or the
fondling of the sex organs of animals—
or—.

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

c. In K-12 public schools or public libraries where
minors are expected and known to be present without parental
presence or consent, any sexual or gender-oriented conduct,
presentation, or activity that knowingly exposes a minor to a
person who is dressed in sexually revealing, exaggerated, or
provocative clothing or costumes, who is stripping, or who is
engaged in lewd or lascivious dancing.

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

(24) WHOLESALER. A person who distributes material for
the purpose of resale or commercial distribution at retail."
"§13A-12-200.10

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

(b)(1) The criminal provisions of this division shall not apply to K-12 public school libraries or public libraries or their employees or agents acting on behalf of the legitimate educational purposes of the K-12 public school libraries or public libraries unless the K-12 public school library or public library fails to do one of the following within 15 business days of receiving a valid notice pursuant subdivision (2):

a. Move material identified in the notice that violates this division to an age-restricted area of the library.

b. Remove material in the notice that violates this division from the library.

c. Cease conduct in the notice that violates this division.

d. Make an official determination that the material or conduct does not violate this division and take no further action.

(2)a. Any person who is a resident of the county or municipality where a public library is located who believes that material is present or conduct is occurring at the public library that violates this division may provide written notice
by certified mail, return receipt requested, to the director
of the library and at least one member of the library's board
which reasonably identifies the specific material or conduct.

b. The parent or guardian of a child enrolled in a K-12
public school who believes that material is present or conduct
is occurring in the K-12 public school's library that violates
this division may provide written notice by certified mail,
return receipt requested, to the principal of the K-12 public
school and the superintendent of the K-12 public school's
district which reasonably identifies the specific material or
conduct.

(3)a. Upon receipt of a valid notice pursuant to
subdivision (2), a principal, superintendent, director, or
board member shall have 15 business days to take action
pursuant to subdivision (1).

b. Within five business days of taking action pursuant
to subdivision (1), the principal, superintendent, director,
or board member shall send written notice of any action taken
to the resident, parent, or guardian who submitted the initial
notice.

c. If a resident, parent, or guardian does not receive
notice from the principal, superintendent, director, or board
member within 25 business days of the initial notice, or
receives notice that no further action will be taken, the
resident, parent, or guardian may provide copies of the
initial written notice, the return receipt of the initial
written notice, and the notice of action taken, if applicable,
to a law enforcement agency in the county or municipality
where the library is located.

(c) A court or grand jury may not issue a warrant or indictment for a violation of this section before a law enforcement agency has received the documentation required by subparagraph (b)(3)c."

Section 2. This act shall become effective on October 1, 2025.