

HB4 INTRODUCED



1 HB4
2 XA8SZ7Z-1
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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



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29 further provide for the definition of "sexual conduct"; to
30 further provide for the applicability of certain criminal
31 provisions; and to make nonsubstantive, technical revisions to
32 update the existing code language to current style.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Sections 13A-12-200.1 and 13A-12-200.10,
35 Code of Alabama 1975, are amended to read as follows:

36 "§13A-12-200.1

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

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

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

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

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

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



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57 (6) DISSEMINATE PUBLICLY. To expose, place, perform,
58 exhibit, show or in any fashion display, in any location,
59 public or private, any material in a manner that the material
60 can either be readily seen and its content or character
61 distinguished by normal unaided vision or be physically
62 examined, by viewing or examining the material from any public
63 place or any place to which members of the general public are
64 invited.

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

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

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

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

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

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

83 (11) HARMFUL TO MINORS. The term means all of the
84 following:



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

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

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

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

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

100 (14) KNOWS THE NATURE OF THE MATERIAL.

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

103 a. The person knows the nature of the material~~.~~.

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

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

110 (15) MATERIAL. Any book, magazine, newspaper, printed
111 or written matter, writing, description, picture, drawing,
112 animation, photograph, motion picture, film, video tape,



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113 pictorial representation, depiction, image, electrical or
114 electronic reproduction, broadcast, transmission, telephone
115 communication, sound recording, article, device, equipment,
116 matter, oral communication, live performance, or dance.

117 (16) MINOR. Any unmarried person under ~~the age of 18~~
118 years of age.

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

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

123 b. The material depicts or describes, in a patently
124 offensive way, sexual conduct, actual or simulated, normal or
125 perverted; ~~and~~.

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

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

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

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

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

139 a. Flagellation or torture, in an act of sexual
140 stimulation, by or upon a person who is nude or clad in



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141 undergarments or in a revealing or bizarre costume; ~~or~~.

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

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

147 a. Any act of sexual intercourse, masturbation,
148 urination, defecation, lewd exhibition of the genitals,
149 ~~sado-masochistic~~ sadomasochistic abuse, bestiality, or the
150 fondling of the sex organs of animals; ~~or~~.

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

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

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

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



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169 "§13A-12-200.10

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

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

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

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

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

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

193 (2)a. Any person who is a resident of the county or
194 municipality where a public library is located who believes
195 that material is present or conduct is occurring at the public
196 library that violates this division may provide written notice



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197 by certified mail, return receipt requested, to the director
198 of the library and at least one member of the library's board
199 which reasonably identifies the specific material or conduct.

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

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

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

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



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225 where the library is located.

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

230 Section 2. This act shall become effective on October
231 1, 2025.