

## HB257 INTRODUCED



1 HB257  
2 MSY6LWH-1  
3 By Representative Givens  
4 RFD: Judiciary  
5 First Read: 15-Jan-26



## 4 SYNOPSIS:

5 Under existing law, a person commits the crime  
6 of indecent exposure if, with a sexual motivation, the  
7 person exposes himself or herself to another in an  
8 unwanted manner. The offense is a Class A misdemeanor,  
9 but is increased to a Class C felony on a third  
10 conviction.

11 This bill would provide that if the victim of  
12 indecent exposure is under 12 years of age, the penalty  
13 is a Class C felony.

14 Under existing law, directing a child under 12  
15 years of age to engage in sexual intercourse or sodomy  
16 is a Class A felony, and directing a child under 12  
17 years of age to engage in sexual contact with another  
18 is a Class B felony.

19 This bill would amend each of these crimes to  
20 increase the age threshold for child victims.

21 Under existing law, transmitting obscene  
22 material to a child by computer is a Class B felony.

23 This bill would provide that the crime of  
24 transmitting obscene material to a child may be  
25 committed using a cellular device or any other  
26 electronic means. This bill would also provide that the  
27 crime is committed if the defendant believed he or she  
28 was transmitting the prohibited material to a child and



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29 that it is not a defense to prosecution that an  
30 undercover operative or law enforcement officer was  
31 posing as a child or involved in the detection and  
32 investigation of an offense.

33 Under existing law, it is unlawful to travel to  
34 meet a child for an unlawful sex act with the child.

35 This bill would provide that the crime is  
36 committed if the defendant travels to commit an  
37 unlawful sex act with a person he or she believes to be  
38 a child.

39 This bill would delete an affirmative defense to  
40 the crime of kidnapping in the first degree.

41 This bill would further define the term "sex  
42 offense" to include voyeurism.

43 This bill would establish the crime of inpatient  
44 custodial sexual misconduct, committed when an employee  
45 of an inpatient or residential drug rehabilitation or  
46 mental health facility solicits or engages in any  
47 sexual conduct with a patient of the facility. This  
48 bill would provide that consent is not a defense to the  
49 crime. This bill would also establish criminal  
50 penalties for a violation.

51 This bill would also make various conforming  
52 revisions and nonsubstantive technical changes to  
53 update code language to current style.



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A BILL

TO BE ENTITLED

AN ACT

Relating to criminal law and procedure; to amend Sections 13A-6-43, 13A-6-44, 13A-6-68, 13A-6-111, 13A-6-124, and 13A-6-243, Code of Alabama 1975, to further provide for the affirmative defenses to offenses of kidnapping in the first and second degrees; to expand the offenses of indecent exposure, directing a child to engage in sexual intercourse or sodomy, traveling to meet a child for an unlawful sex act, and directing a child to engage in sexual contact to include additional child victims; to further provide for the offense of transmitting obscene material to a child by computer to specify that the offense may be consummated if undercover agents are involved; to amend Sections 15-20A-5 and 15-25-31, Code of Alabama 1975, to further define the term "sex offense" to include voyeurism; to further provide for the admissibility of out-of-court statements made by children; to establish the crime of inpatient custodial sexual misconduct and provide criminal penalties for a violation; to amend Section 12-21-148, Code of Alabama 1975, to further provide for the use of a certified facility dog in court proceedings; to amend Sections 15-20A-6 and 15-20A-44, Code of Alabama 1975, to make conforming changes; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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Section 1. Sections 13A-6-43, 13A-6-44, 13A-6-68, 13A-6-111, 13A-6-124, and 13A-6-243, Code of Alabama 1975, are amended to read as follows:

"§13A-6-43

(a) A person commits the crime of kidnapping in the first degree if he or she abducts another person with intent to do any of the following:

(1) Hold him or her for ransom or reward;~~or.~~

(2) Use him or her as a shield or hostage;~~or.~~

(3) Accomplish or aid the commission of any felony or flight therefrom;~~or.~~

(4) Inflict physical injury upon him or her, or to violate or abuse him or her sexually;~~or.~~

(5) Terrorize him or her or a third person;~~or.~~

(6) Interfere with the performance of any governmental or political function.

~~(b) A person does not commit the crime of kidnapping in the first degree if he voluntarily releases the victim alive, and not suffering from serious physical injury, in a safe place prior to apprehension. The burden of injecting the issue of voluntary safe release is on the defendant, but this does not shift the burden of proof. This subsection does not apply to a prosecution for or preclude a conviction of kidnapping in the second degree or any other crime.~~

~~(c)~~ (b) Kidnapping in the first degree is a Class A felony."

"§13A-6-44

(a) A person commits the crime of kidnapping in the



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second degree if he or she abducts another person using, or with the intent to use, deception, physical force, or deadly physical force.

~~(b) A person does not commit a crime under this section if:~~

~~(1) The abduction is not coupled with intent to use or to threaten to use deadly force,~~

~~(2) The actor is a relative of the person abducted, and~~

~~(3) The~~ (b) (1) It is an affirmative defense to a violation of this section if the actor's sole purpose is to assume lawful control of that person.

(2) The burden of injecting the issue of defense under this subsection is on the defendant, but this does not shift the burden of proof.

(c) Kidnapping in the second degree is a Class B felony."

"§13A-6-68

(a) A person commits the crime of indecent exposure if, with intent to arouse or gratify sexual desire of himself or herself, ~~or of any person other than his or her spouse,~~ he or she exposes his or her genitals under circumstances in which he or she knows the conduct is likely to cause affront or alarm.

(b) (1) Indecent exposure is a Class A misdemeanor ~~except a third or subsequent conviction shall be.~~

(2) Notwithstanding subdivision (1), indecent exposure is a Class C felony under either of the following circumstances:



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a. If any victim of the offense is under 12 years of age.

b. If the person has two or more prior convictions under this article."

"§13A-6-111

(a) A person is guilty of transmitting obscene material to a child if the person transmits to a child, or another person believed by the defendant to be a child, by means of any cellular device, online application, computer communication system allowing the input, output, examination, or transfer of computer programs from one computer to another, or any other electronic means, material which, in whole or in part, depicts actual or simulated nudity, sexual conduct, or sadomasochistic abuse, for the purpose of initiating or engaging in ~~sexual acts~~ sexual conduct pursuant to Section 13A-12-200.1, sexual performance, or a sex offense pursuant to Section 15-20A-5 with the child.

(b) For the purposes of this section, a "child" includes any person under 17 years of age.

(c) For purposes of determining jurisdiction, the offense is committed in this state if the transmission that constitutes the offense either originates in this state or is received in this state and shall be considered to be committed in any county in which any part of the crime took place or in the county of residence of the victim or defendant.

(d) A person charged under this section shall be tried as an adult and the record of the proceeding shall not be sealed nor subject to expungement.



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(e) It shall not be a defense to prosecution under this section that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense.

(f) ~~(e) Transmitting obscene material of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit to a child~~ A violation of this section is a Class B felony."

"§13A-6-124

(a) Any person who travels either within this state, to this state, or from this state by any means, who attempts to do so, or who knowingly causes another to do so or to attempt to do so for the purpose of engaging in any unlawful sex act with a child, or another person believed by the defendant to be a child, including ~~sexual intercourse, sodomy, a sexual conduct pursuant to Section 13A-12-200.1,~~ sexual performance, ~~obscene sexual performance, or other sexual conduct~~ or a sex offense pursuant to Section 15-20A-5 for his or her benefit or for the benefit of another shall be guilty of traveling to meet a child for an unlawful sex act.

(b) Any person who violates this section commits a Class A felony. ~~Notwithstanding any law to the contrary, a conviction under this section shall be considered a criminal sex offense under Section 15-20-21."~~

"§13A-6-243

(a) (1) A person commits the crime of directing a child to engage in sexual intercourse or sodomy if he or she



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197 knowingly entices, allures, persuades, induces, or directs any  
198 ~~person under the age of 12 years~~ of the following to engage in  
199 sexual intercourse or sodomy with another person:

200 a. A child under 12 years of age.

201 b. A child 12 or more years of age, but less than 16  
202 years of age, provided the child is two or more years younger  
203 than the other person.

204 (2) Directing a child to engage in sexual intercourse  
205 or sodomy is a Class A felony.

206 (b) (1) A person commits the crime of directing a child  
207 to engage in sexual contact if he or she knowingly entices,  
208 allures, persuades, induces, or directs any ~~person under the~~  
209 ~~age of 12 years~~ of the following to engage in sexual contact  
210 with another person:

211 a. A child under 12 years of age.

212 b. A child 12 or more years of age, but less than 16  
213 years of age, provided the child is two or more years younger  
214 than the other person.

215 (2) ~~A violation of this section~~ Directing a child to  
216 engage in sexual contact is a Class B felony."

217 Section 2. It shall not be a defense to prosecution  
218 under Article 6 of Chapter 6 of Title 13A, Code of Alabama  
219 1975, that an undercover operative or law enforcement officer  
220 was involved in the detection and investigation of an offense.

221 Section 3. Sections 15-20A-5 and 15-25-31, Code of  
222 Alabama 1975, are amended to read as follows:

223 "§15-20A-5

224 For the purposes of this chapter, a sex offense



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includes any of the following offenses:

(1) Rape in the first degree, as provided by Section 13A-6-61.

(2) Rape in the second degree, as provided by Section 13A-6-62. A juvenile sex offender adjudicated delinquent of a violation of rape in the second degree is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(3) Sodomy in the first degree, as provided by Section 13A-6-63.

(4) Sodomy in the second degree, as provided by Section 13A-6-64. A juvenile sex offender adjudicated delinquent of a violation of sodomy in the second degree is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(5) Sexual misconduct, as provided by Section 13A-6-65, provided that on a first conviction or adjudication the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication of a sex offense, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or



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adjudication of a sex offense, the sex offender shall comply with all requirements of this chapter. A juvenile sex offender adjudicated delinquent of a violation of sexual misconduct is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(6) Sexual torture, as provided by Section 13A-6-65.1.

(7) Sexual abuse in the first degree, as provided by Section 13A-6-66.

(8) Sexual abuse in the second degree, as provided by Section 13A-6-67.

(9) Indecent exposure, as provided by Section 13A-6-68, provided that on a first conviction or adjudication of a sex offense, the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication of a sex offense, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or adjudication, the sex offender shall comply with all requirements of this chapter. A juvenile sex offender adjudicated of a violation of indecent exposure is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.



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(10) Enticing a child to enter a vehicle, room, house, office, or other place for immoral purposes, as provided by Section 13A-6-69.

(11) Sexual abuse of a child less than 12 years old, as provided by Section 13A-6-69.1.

(12) Promoting prostitution in the first degree, as provided by Section 13A-12-111.

(13) Promoting prostitution in the second degree, as provided by Section 13A-12-112.

(14) Violation of the Alabama Child Pornography Act, as provided by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197. A juvenile sex offender adjudicated delinquent of a violation of the Alabama Child Pornography Act is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(15) Unlawful imprisonment in the first degree, as provided by Section 13A-6-41, if the victim of the offense is a minor, and the record of adjudication or conviction reflects the intent of the unlawful imprisonment was to abuse the minor sexually.

(16) Unlawful imprisonment in the second degree, as provided by Section 13A-6-42, if the victim of the offense is a minor, and the record of adjudication or conviction reflects the intent of the unlawful imprisonment was to abuse the minor sexually.



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(17) Kidnapping in the first degree, as provided by subdivision (4) of subsection (a) of Section 13A-6-43, if the intent of the abduction is to violate or abuse the victim sexually.

(18) Kidnapping of a minor, except by a parent, guardian, or custodian, as provided by Section 13A-6-43 or 13A-6-44.

(19) Incest, as provided by Section 13A-13-3.

(20) Transmitting obscene material to a child by computer, as provided by Section 13A-6-111.

(21) School employee engaging in a sex act or deviant sexual intercourse with a student, or having sexual contact or soliciting a sex act or sexual contact with a student, as provided by Sections 13A-6-81 and 13A-6-82.

(22) Foster parent engaging in a sex act, having sexual contact, or soliciting a sex act or sexual contact with a foster child, as provided by Section 13A-6-71.

(23) Facilitating solicitation of unlawful sexual conduct with a child, as provided by Section 13A-6-121.

(24) Electronic solicitation of a child, as provided by Section 13A-6-122.

(25) Facilitating the on-line solicitation of a child, as provided by Section 13A-6-123.

(26) Traveling to meet a child for an unlawful sex act, as provided by Section 13A-6-124.

(27) Facilitating the travel of a child for an unlawful sex act, as provided by Section 13A-6-125.

(28) Human trafficking in the first degree, as provided



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by Section 13A-6-152, provided that the offense involves sexual servitude.

(29) Human trafficking in the second degree, as provided by Section 13A-6-153, provided that the offense involves sexual servitude.

(30) Custodial sexual misconduct, as provided by Section 14-11-31.

(31) Sexual extortion, as provided by Section 13A-6-241.

(32) Directing a child to engage in a sex act, as provided in Section 13A-6-243.

(33) Voyeurism in the first degree, as provided in Section 13A-11-41.

~~(33)~~ (34) Any offense which is the same as or equivalent to any offense set forth above as the same existed and was defined under the laws of this state existing at the time of such conviction, specifically including, but not limited to, crime against nature, as provided by Section 13-1-110; rape, as provided by Sections 13-1-130 and 13-1-131; carnal knowledge of a woman or girl, as provided by Sections 13-1-132 through 13-1-135, or attempting to do so, as provided by Section 13-1-136; indecent molestation of children, as defined and provided by Section 13-1-113; indecent exposure, as provided by Section 13-1-111; incest, as provided by Section 13-8-3; offenses relative to obscene prints and literature, as provided by Sections 13-7-160 through 13-7-175, inclusive; employing, harboring, procuring or using a girl over 10 and under 18 years of age for the purpose of prostitution or



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sexual intercourse, as provided by Section 13-7-1; seduction, as defined and provided by Section 13-1-112; a male person peeping into a room occupied by a female, as provided by Section 13-6-6; assault with intent to ravish, as provided by Section 13-1-46; and soliciting a child by computer, as provided by Section 13A-6-110.

~~(34)~~ (35) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to ~~(33)~~ (34), inclusive.

~~(35)~~ (36) Any crime committed in Alabama or any other state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction which, if it had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to ~~(34)~~ (35), inclusive.

~~(36)~~ (37) Any offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248, the Sex Offender Registration and Notification Act (SORNA)).

~~(37)~~ (38) Any crime committed in another state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction if that jurisdiction also requires that anyone convicted of that crime register as a sex offender in that jurisdiction.

~~(38)~~ (39) Any offender determined in any jurisdiction to be a sex offender shall be considered a sex offender in this state.

~~(39)~~ (40) The foregoing notwithstanding, any crime



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committed in any jurisdiction which, irrespective of the specific description or statutory elements thereof, is in any way characterized or known as rape, carnal knowledge, sodomy, sexual assault, sexual battery, criminal sexual conduct, criminal sexual contact, sexual abuse, continuous sexual abuse, sexual torture, solicitation of a child, enticing or luring a child, child pornography, lewd and lascivious conduct, taking indecent liberties with a child, molestation of a child, criminal sexual misconduct, video voyeurism, or there has been a finding of sexual motivation.

~~(40)~~ (41) Any crime not listed in this section wherein the underlying felony is an element of the offense and listed in subdivisions (1) to ~~(39)~~ (40), inclusive.

~~(41)~~ (42) Any other offense not provided for in this section wherein there is a finding of sexual motivation as provided by Section 15-20A-6."

"§15-25-31

An out-of-court statement made by a witness or a victim who is a child under ~~12~~ 16 years of age at the time the statement is made, or by a protected person as defined in Section 15-25-1, concerning an act that is a material element of any crime involving a physical offense, sexual offense, or violent offense, as defined in Section 15-25-39, which statement is not otherwise admissible in evidence, is admissible in evidence in ~~criminal~~ any court proceedings, if the requirements of Section 15-25-32 are met. "

Section 4. (a) As used in this section, the following terms have the following meanings:



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(1) EMPLOYEE. Any individual who is an employee, contractual employee, or volunteer at an inpatient or residential drug rehabilitation or mental health facility and who has the responsibility for the care, treatment, control, or supervision of patients in the facility.

(2) SEXUAL CONDUCT. The term as defined in Section 14-11-30, Code of Alabama 1975.

(b) A person commits the crime of inpatient custodial sexual misconduct if the person is an employee and solicits or engages in sexual conduct with any other person who is a patient in or committed to an inpatient or residential drug rehabilitation or mental health facility.

(c) A violation of this section is a Class C felony.

(d)(1) It is the public policy of the state to prohibit without exception all inpatient and residential custodial sexual misconduct.

(2) For purposes of prosecution under this section, consent is not a defense and the issue of whether a patient in an inpatient or residential drug rehabilitation or mental health facility consented to any sexual conduct is immaterial.

Section 5. Sections 12-21-148, 15-20A-6, and 15-20A-44, Code of Alabama 1975, are amended to make conforming changes as follows:

"§12-21-148

(a) For the purposes of this section, the following terms ~~shall~~ have the following meanings:

(1) CERTIFIED FACILITY DOG. A trained working dog that is a graduate of an assistance dog organization, a nonprofit



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organization that sets standards of training for the health, welfare, task work, and oversight for assistance dogs and their handlers, and shall have at a minimum all of the following:

a. Two years of training and must have passed the same public-access test as a service dog.

b. Documentation showing that the certified facility dog has graduated from an assistance dog organization.

c. A current annual certificate of health from an Alabama veterinarian.

d. Proof of liability insurance in the minimum amount of five hundred thousand dollars (\$500,000).

(2) CERTIFIED HANDLER. A certified handler who has received training from an assistance dog organization and has received training on the protocols and policies of legal proceedings and the role of the certified facility dog and certified handler to assure there is no interference with the collection of evidence and testimony, or the administration of justice.

(b) In a legal proceeding, to reduce the stress of a witness and to enhance the ability of the court to obtain full and accurate testimony, the court may allow a certified facility dog to accompany a victim or witness while testifying, or in other court proceedings, if a certified facility dog is available.

(c) If the court, in its sole discretion, grants the use of a certified facility dog, and a jury has been empaneled in the legal proceeding, the certified facility dog shall be



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accompanied by the certified handler to the witness stand with the witness outside of the presence of the jury, and the certified handler shall return to his or her position in the courtroom within view of the witness stand. Subsequently, the jury shall be seated and the court shall instruct the jury on the presence of the certified facility dog and that the presence of a certified facility dog should not create any prejudice to any party.

(d) During trial proceedings, all precautions should be taken to obscure the presence of the dog from the jury.

(e) Markings identifying the dog as a certified facility dog while working must be visible.

(f) Subject to the Alabama Rules of Criminal Procedure, if requested by either party in a legal proceeding, the court may examine and confirm the credentials of the certified facility dog and certified handler.

(g) Prior to the use of a certified facility dog in a court proceeding, the state or moving party must file a notice of intent to use the ~~registered therapy~~ certified facility dog."

"§15-20A-6

(a)(1) The indictment, count in the indictment, information, complaint, or warrant charging the offense may include a specification of sexual motivation or the prosecuting attorney may file an allegation of sexual motivation in any criminal case classified as a felony or Class A misdemeanor if sufficient admissible evidence exists that would justify a finding of sexual motivation by a



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reasonable and objective finder of fact.

(2) If a specification is included in the indictment, count in the indictment, information, complaint, or warrant charging the offense, the specification shall be stated at the end of the body of the indictment, count in the indictment, information, complaint, or warrant and shall be in substantially the following form: "SPECIFICATION or SPECIFICATION TO THE FIRST COUNT. The Grand Jurors (or insert appropriate name) further find and specify that the offender committed the offense with a sexual motivation."

(3) If the prosecuting attorney files an allegation of sexual motivation, it shall be filed within a reasonable time after indictment to give sufficient notice to the defendant.

(b) If the indictment, count of the indictment, information, complaint, or warrant charging the offense includes a specification of sexual motivation or if the prosecuting attorney files an allegation of sexual motivation, the state shall prove beyond a reasonable doubt that the defendant committed the offense with a sexual motivation.

(c) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication as a youthful offender, of whether or not a sexual motivation was present at the time of the commission of the offense unless the defendant has a trial by jury.

(d) If a defendant has a trial by jury, the jury, if it finds the defendant guilty, shall also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation.



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(e) If there is a finding of sexual motivation, the finding shall be made part of the record of conviction or adjudication.

(f) For purposes of this section, sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of the sexual gratification of the defendant.

(g) This section shall not apply to sex offenses as defined in subdivisions (1) to ~~(40)~~ (41), inclusive, of Section 15-20A-5."

"§15-20A-44

(a) The Secretary of the Alabama State Law Enforcement Agency shall adopt rules establishing an administrative hearing for persons who are only made subject to this chapter pursuant to subdivision ~~(35)~~ (36) of Section 15-20A-5.

(b) The Secretary of the Alabama State Law Enforcement Agency shall adopt rules setting forth a listing of offenses from other jurisdictions that are to be considered criminal sex offenses under subdivision ~~(35)~~ (36) of Section 15-20A-5. Thereafter, any individual convicted of any offense set forth in the listing shall immediately be subject to this chapter and shall not be entitled to an administrative hearing as provided in subsection (a).

(c) The Secretary of the Alabama State Law Enforcement Agency may adopt any rules as are necessary to implement and enforce this chapter."

Section 6. This act shall become effective on October 1, 2026.