

1 SB104
2 164850-1
3 By Senator Orr
4 RFD: Education & Youth Affairs
5 First Read: 03-MAR-15

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8 SYNOPSIS: Existing law provides for the adoption of
9 policies by public school systems pertaining to the
10 prevention of harassment of one student against
11 another student and requires the Department of
12 Education to develop a model policy for local
13 boards of education pertaining to student
14 harassment prevention.

15 This bill would create the crime of
16 cyber-bullying of another student or school
17 employee by a student and provide for penalties and
18 restitution.

19 This bill would allow prosecutors to defer
20 prosecution of cyber-bullying crimes and provide
21 for the expungement of the criminal record of the
22 student under certain conditions.

23 This bill would require school employees to
24 report cyber-bullying incidents and would provide
25 immunity from civil liability for persons reporting
26 cyber-bullying.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

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26 To create the crime of cyber-bullying of another
27 student or school employee by a student; to identify acts

1 considered to be cyber-bullying of another student or school
2 employee; to provide for criminal penalties and restitution;
3 to provide for deferred prosecution under certain conditions;
4 to provide for expungement of records under certain
5 conditions; to require school employees to report
6 cyber-bullying incidents; to provide immunity from civil
7 liability for reporting cyber-bullying; and in connection
8 therewith would have as its purpose or effect the requirement
9 of a new or increased expenditure of local funds within the
10 meaning of Amendment 621 of the Constitution of Alabama of
11 1901, now appearing as Section 111.05 of the Official
12 Recompilation of the Constitution of Alabama of 1901, as
13 amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. The following terms shall have the
16 following meanings:

17 (1) ACCESS. To instruct, communicate with, cause
18 input, cause output, cause data processing, or otherwise make
19 use of any resources of a computer, computer system, or
20 computer network.

21 (2) COMPUTER SYSTEM. At least one computer together
22 with a set of related, connected, or unconnected peripheral
23 devices.

24 (3) DATA. A representation of information, facts,
25 knowledge, concepts, or instructions prepared in a formalized
26 or other manner and intended for use in a computer, computer
27 system, or computer network. Data may be embodied in any form

1 including computer printouts, magnetic storage media, optical
2 storage media, and punch cards, or may be stored internally in
3 the memory of a computer.

4 (4) PROFILE. A configuration of user data required
5 by a computer so that the user may access programs or services
6 and have the desired functionality on that computer or a
7 website user's personal page or section of a page made up of
8 data, in text or graphical form, which displays significant,
9 unique, or identifying information, including, but not limited
10 to, listing acquaintances, interests, associations,
11 activities, or personal statements.

12 (5) SCHOOL EMPLOYEE. Any paid or unpaid employee,
13 including, but not limited to, teachers, counselors, aides,
14 administrators, and support staff, of any public or private
15 school offering any classes for grades K-12.

16 (6) STUDENT. An individual who is enrolled in, or
17 attends classes at, any public or private school for grades
18 K-12.

19 Section 2. (a) Except as otherwise provided, it
20 shall be unlawful for any student to use a computer or
21 computer network to do any of the following:

22 (1) With the intent to intimidate or torment another
23 student or school employee, do any of the following:

24 a. Build a fake profile or Internet website.

25 b. Post or encourage others to post on the Internet
26 private, personal, or sexual information pertaining to another
27 student or school employee.

1 c. Post a real or doctored image of a student or
2 school employee on the Internet.

3 d. Access, alter, or erase any computer network,
4 computer data, computer program, or computer software,
5 including breaking into a password-protected account or
6 stealing or otherwise accessing passwords.

7 e. Use a computer system for repeated, continuing,
8 or sustained electronic communications, including electronic
9 mail or other transmissions, to another student or school
10 employee.

11 (2) Make any statement, whether true or false,
12 intended to immediately provoke, or that is likely to provoke,
13 a third party to stalk or harass another student or school
14 employee.

15 (3) Copy and disseminate, or cause to be made, an
16 unauthorized copy of any form of data pertaining to another
17 student or school employee for the purpose of intimidating or
18 tormenting that student or school employee, including, but not
19 limited to, any printed or electronic form of computer data,
20 computer programs, or computer software residing in,
21 communicated by, or produced by a computer or computer
22 network.

23 (4) Sign up another student or school employee for a
24 pornographic Internet site with the intent to intimidate or
25 torment the student or employee.

26 (5) Without authorization of the student or school
27 employee, sign up the student or school employee for

1 electronic mailing lists or to receive junk electronic
2 messages and instant messages, with the intent to intimidate
3 or torment the student or school employee.

4 (b) (1) A student who violates subsection (a) is
5 guilty of a Class C misdemeanor.

6 (2) In addition to any other court-ordered
7 sanctions, the student may be ordered by the court to pay
8 restitution for any expenses related to the cyber-bullying
9 offense.

10 (c) (1) If a student pleads guilty to, or is guilty
11 of, an offense under this section, the court may, without
12 entering a judgment of guilt and with the consent of the
13 student, defer further proceedings and place the student on
14 probation upon such reasonable terms and conditions as the
15 court may require. Upon fulfillment of the terms and
16 conditions of the probation, the court shall discharge the
17 student and dismiss the proceedings against the student.

18 (2) Discharge and dismissal pursuant to this
19 subsection shall be without court adjudication of guilt and
20 shall not be deemed a conviction for purposes of this section
21 or for purposes of disqualifications or disabilities imposed
22 by law upon conviction of a crime. Upon discharge and
23 dismissal, the student may apply for an order to expunge the
24 complete record of the proceedings resulting in the dismissal
25 and discharge.

26 Section 3. (a) If a school employee has actual
27 notice that another student or a school employee has been, or

1 may have been, the victim of cyber-bullying by a student, the
2 school employee shall immediately report the incident to the
3 principal.

4 (b) Nothing in this act shall be interpreted to
5 interfere with the due process rights of school employees or
6 the privacy rights of students, nor to prohibit any other
7 action provided by law for criminal or civil liability.

8 Section 4. A school employee who in good faith
9 reports suspected cyber-bullying of a student or a school
10 employee to the appropriate law enforcement authorities shall
11 be immune from civil or criminal liability for that report.

12 Section 5. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

20 Section 6. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.