

1 HB421
2 175423-1
3 By Representatives Ainsworth, Whorton (I), Nordgren, Butler,
4 Ball, Williams (JW), Hanes, Harbison, Ledbetter and Fridy
5 RFD: Judiciary
6 First Read: 15-MAR-16

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8 SYNOPSIS: Existing law provides for certain crimes
9 relating to sexual offenses by school employees
10 involving a student.

11 This bill would create the crime of
12 prohibited contact between a school employee and
13 student and make the crime a Class A misdemeanor or
14 Class C felony.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.
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9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to schools; to add Section 13A-6-84 to the
14 Code of Alabama 1975, to create the crime of prohibited
15 contact between a school employee and student; to make the
16 crime a Class A misdemeanor or Class C felony; and in
17 connection therewith would have as its purpose or effect the
18 requirement of a new or increased expenditure of local funds
19 within the meaning of Amendment 621 of the Constitution of
20 Alabama of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of Alabama of 1901,
22 as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 13A-6-84 is added to the Code of
25 Alabama 1975, to read as follows:

26 §13A-6-84.

1 (a) A person commits the crime of prohibited contact
2 between a school employee and student if he or she does any of
3 the following:

4 (1) Being a school employee, has communication with
5 a student who is under the age of 19 years or enrolled in
6 school pursuant to the Individuals with Disabilities Education
7 Act, anonymously or otherwise, by telephone, mail, social
8 media, or any other form of written or electronic
9 communication, with the intent to arouse or gratify the sexual
10 desire of himself or herself or of the student.

11 (2) Being a student who is under the age of 19 years
12 or enrolled in school pursuant to the Individuals with
13 Disabilities Education Act, has unsolicited communication with
14 a school employee, anonymously or otherwise, by telephone,
15 mail, social media, or any other form of written or electronic
16 communication, with the intent to arouse or gratify the sexual
17 desire of himself or herself or of the school employee.

18 (3) Being a school employee, intentionally surveils
19 the sexual or genital parts of a student who is under the age
20 of 19 years or enrolled in school pursuant to the Individuals
21 with Disabilities Education Act, with or without the aid of an
22 electronic device, in a manner that invades the reasonable
23 expectation of privacy of the student.

24 (4) Being a student who is under the age of 19 years
25 or enrolled in school pursuant to the Individuals with
26 Disabilities Education Act, intentionally surveils the sexual
27 or genital parts of a school employee, with or without the aid

1 of an electronic device, in a manner that invades the
2 reasonable expectation of privacy of the school employee.

3 (b) As used in this section, the following words
4 shall have the following meanings:

5 (1) REASONABLE EXPECTATION OF PRIVACY. Includes, but
6 is not limited to, an expectation by a person of having his or
7 her sexual or genital parts covered with clothing, and of
8 being in a gender segregated area or room designed or utilized
9 for partial or full undress.

10 (2) SURVEIL. The secret observation of the
11 activities of another person for the purpose of invading the
12 privacy of the person observed.

13 (c) Consent is not a defense to a charge under this
14 section.

15 (d) The crime of prohibited contact between a school
16 employee and student is a Class A misdemeanor, except that a
17 second or subsequent conviction is a Class C felony.

18 Section 2. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.