

1 SB320
2 197764-2
3 By Senator Figures
4 RFD: Judiciary
5 First Read: 18-APR-19

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8 SYNOPSIS: Under existing law, deviate sexual
9 intercourse is defined as any act of sexual
10 gratification between persons not married to each
11 other involving the sex organs of one person and
12 the mouth or anus of another.

13 Under existing law, sexual contact is
14 defined as any touching of the sexual or other
15 intimate parts of a person not married to the
16 actor, done for the purpose of gratifying the
17 sexual desire of either party.

18 Under existing law, mental defectiveness,
19 mental incapacitation, and physical helplessness
20 are individually defined and separated into various
21 sexual offenses.

22 Under existing law, forcible compulsion
23 requires physical force that overcomes earnest
24 resistance or a threat that places a person in fear
25 of immediate death of serious physical injury.

1 Under existing law, sexual misconduct only
2 involves sexual intercourse and deviate sexual
3 intercourse.

4 Existing law sometimes provides for offenses
5 to be committed only on a member of the
6 perpetrator's opposite sex.

7 Further, existing law defines certain
8 criminal offenses as sex crimes for the purpose of
9 application of the Alabama Sex Offender
10 Registration and Community Notification Act.

11 Existing law provides that directing a child
12 to engage in a sex act is one of the criminal
13 offenses defined as a sex crime.

14 This bill would redefine deviate sexual
15 intercourse as sodomy and include mental
16 defectiveness, mental incapacitation, and physical
17 helplessness in a broad definition of
18 incapacitation, and further redefine sexual contact
19 to include touching that occurs through clothing
20 without regard to marital relationship.

21 This bill would expand the definition of
22 forcible compulsion.

23 This bill would provide that certain sexual
24 contact can be an offense under sexual misconduct.

25 This bill would provide additional offenses
26 to be included as sexual torture.

1 This bill would also make certain technical
2 corrections.

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

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to sexual offenses; to amend Sections
2 13A-5-6, 13A-6-60, 13A-6-61, 13A-6-62, 13A-6-63, 13A-6-64,
3 13A-6-65, 13A-6-65.1, 13A-6-66, 13A-6-67, 13A-6-68, 13A-6-70,
4 13A-6-71, 13A-6-81, 13A-6-82, as corrected by Act 2018-406,
5 the Codification Act, 2018 Regular Session, 13A-6-122,
6 13A-6-241, 13A-6-243, 13A-11-9, 13A-11-32.1, 13A-12-120,
7 13A-12-121, 13A-12-190, 13A-12-192, 15-3-5, 15-20A-5, and
8 15-20A-44, as last amended by Act 2018-528, 2018 Regular
9 Session, 15-23-101, and 15-23-102, Code of Alabama 1975, to
10 revise certain definitions and sexual offenses; to expand the
11 definition of forcible compulsion; to provide that certain
12 sexual contact can be an offense under sexual misconduct; to
13 provide additional offenses for sexual torture; to make
14 technical corrections; and in connection therewith would have
15 as its purpose or effect the requirement of a new or increased
16 expenditure of local funds within the meaning of Amendment 621
17 of the Constitution of Alabama of 1901, now appearing as
18 Section 111.05 of the Official Recompilation of the
19 Constitution of Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 13A-5-6, 13A-6-60, 13A-6-61,
22 13A-6-62, 13A-6-63, 13A-6-64, 13A-6-65, 13A-6-65.1, 13A-6-66,
23 13A-6-67, 13A-6-68, 13A-6-70, 13A-6-71, 13A-6-81, 13A-6-82, as
24 corrected by Act 2018-406, the Codification Act, 2018 Regular
25 Session, 13A-6-122, 13A-6-241, 13A-6-243, 13A-11-9,
26 13A-11-32.1, 13A-12-120, 13A-12-121, 13A-12-190, 13A-12-192,
27 15-3-5, 15-20A-5, and 15-20A-44, as last amended by Act

1 2018-528, 2018 Regular Session, 15-23-101, and 15-23-102, Code
2 of Alabama 1975, are amended to read as follows:

3 "§13A-5-6.

4 "(a) Sentences for felonies shall be for a definite
5 term of imprisonment, which imprisonment includes hard labor,
6 within the following limitations:

7 "(1) For a Class A felony, for life or not more than
8 99 years or less than 10 years.

9 "(2) For a Class B felony, not more than 20 years or
10 less than 2 years.

11 "(3) For a Class C felony, not more than 10 years or
12 less than 1 year and 1 day and must be in accordance with
13 subsection (b) of Section 15-18-8 unless sentencing is
14 pursuant to Section 13A-5-9 or the offense is a sex offense
15 pursuant to Section 15-20A-5.

16 "(4) For a Class D felony, not more than 5 years or
17 less than 1 year and 1 day and must be in accordance with
18 subsection (b) of Section 15-18-8.

19 "(5) For a Class A felony in which a firearm or
20 deadly weapon was used or attempted to be used in the
21 commission of the felony, or a Class A felony sex offense
22 involving a child as defined in Section 15-20A-4~~(26)~~, not less
23 than 20 years.

24 "(6) For a Class B or C felony in which a firearm or
25 deadly weapon was used or attempted to be used in the
26 commission of the felony, or a Class B felony sex offense

1 involving a child as defined in Section 15-20A-4~~(26)~~, not less
2 than 10 years.

3 "(b) The actual time of release within the
4 limitations established by subsection (a) of this section
5 shall be determined under procedures established elsewhere by
6 law.

7 "(c) In addition to any penalties heretofore or
8 hereafter provided by law, in all cases where an offender is
9 designated as a sexually violent predator pursuant to Section
10 15-20A-19, or where an offender is convicted of a Class A
11 felony sex offense involving a child as defined in Section
12 15-20A-4~~(26)~~, and is sentenced to a county jail or the Alabama
13 Department of Corrections, the sentencing judge shall impose
14 an additional penalty of not less than 10 years of
15 post-release supervision to be served upon the defendant's
16 release from incarceration.

17 "(d) In addition to any penalties heretofore or
18 hereafter provided by law, in all cases where an offender is
19 convicted of a sex offense pursuant to Section 13A-6-61,
20 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of
21 age or older and the victim was six years of age or less at
22 the time the offense was committed, the defendant shall be
23 sentenced to life imprisonment without the possibility of
24 parole.

25 "§13A-6-60.

26 "The following definitions apply in this article:

1 "~~(1)~~ (4) SEXUAL INTERCOURSE. Such term has its
2 ordinary meaning and occurs upon any penetration, however
3 slight; emission is not required.

4 "(3) SEXUAL CONTACT. Any touching of the sexual or
5 other intimate parts of a person ~~not married to the actor,~~
6 done for the purpose of gratifying the sexual desire of either
7 party. The term does not require skin to skin contact.

8 "~~(2)~~ (5) ~~DEVIATE SEXUAL INTERCOURSE. Any act of~~
9 ~~sexual gratification between persons not married to each other~~
10 ~~involving the sex organs of one person and the mouth or anus~~
11 ~~of another~~ SODOMY. Any sexual act involving the genitals of
12 one person and the mouth or anus of another person.

13 "~~(4)~~ (2) ~~FEMALE. Any female person. INCAPACITATED.~~
14 ~~Such~~ The term includes any of the following:

15 "a. A person who suffers from a mental or
16 developmental disease or disability which renders the person
17 incapable of appraising the nature of his or her conduct.

18 "b. A person is temporarily incapable of appraising
19 or controlling his or her conduct due to the influence of a
20 narcotic, anesthetic, or intoxicating substance and the
21 condition was known or should have been reasonably known to
22 the offender.

23 "c. A person who is unable to give consent or to
24 communicate an unwillingness to an act because the person is
25 unconscious, asleep, or is otherwise physically limited or
26 unable to communicate.

1 "~~(5) MENTALLY DEFECTIVE. Such term means that a~~
2 ~~person suffers from a mental disease or defect which renders~~
3 ~~him incapable of appraising the nature of his conduct.~~

4 "~~(6) MENTALLY INCAPACITATED. Such term means that a~~
5 ~~person is rendered temporarily incapable of appraising or~~
6 ~~controlling his conduct owing to the influence of a narcotic~~
7 ~~or intoxicating substance administered to him without his~~
8 ~~consent, or to any other incapacitating act committed upon him~~
9 ~~without his consent.~~

10 "~~(7) PHYSICALLY HELPLESS. Such term means that a~~
11 ~~person is unconscious or for any other reason is physically~~
12 ~~unable to communicate unwillingness to an act.~~

13 "~~(8) (1) FORCIBLE COMPULSION. Physical force that~~
14 ~~overcomes earnest resistance or a threat, express or implied,~~
15 ~~that places a person in fear of immediate death or serious~~
16 ~~physical injury to himself or another person Use or threatened~~
17 ~~use, whether express or implied, of physical force, violence,~~
18 ~~confinement, restraint, physical injury, or death to the~~
19 ~~threatened person or to another person. Factors to be~~
20 ~~considered in determining an implied threat include, but are~~
21 ~~not limited to, the respective ages and sizes of the victim~~
22 ~~and the accused; the respective mental and physical conditions~~
23 ~~of the victim and the accused; the atmosphere and physical~~
24 ~~setting in which the incident was alleged to have taken place;~~
25 ~~the extent to which the accused may have been in a position of~~
26 ~~authority, domination, or custodial control over the victim;~~

1 or whether the victim was under duress. Forcible compulsion
2 does not require proof of resistance by the victim.

3 "§13A-6-61.

4 "(a) A person commits the crime of rape in the first
5 degree if he or she does any of the following:

6 "(1) ~~He or she engages~~ Engages in sexual intercourse
7 with ~~a member of the opposite sex~~ another person by forcible
8 compulsion; ~~or.~~

9 "(2) ~~He or she engages~~ Engages in sexual intercourse
10 with ~~a member of the opposite sex~~ another person who is
11 incapable of consent by reason of being ~~physically helpless or~~
12 ~~mentally incapacitated;~~ ~~or.~~

13 "(3) ~~He or she, being~~ Being 16 years old or older,
14 engages in sexual intercourse with ~~a member of the opposite~~
15 ~~sex~~ another person who is less than 12 years old.

16 "(b) Rape in the first degree is a Class A felony.

17 "§13A-6-62.

18 "(a) A person commits the crime of rape in the
19 second degree if: ~~1~~

20 "~~(1) Being~~ being 16 years old or older, he or she
21 engages in sexual intercourse with ~~a member of the opposite~~
22 ~~sex~~ another person who is 12 years old or older, but less than
23 16 years old ~~and more than 12 years old;~~ provided, however,
24 the actor is at least two years older than the ~~member of the~~
25 ~~opposite sex~~ other person.

1 ~~"(2) He or she engages in sexual intercourse with a~~
2 ~~member of the opposite sex who is incapable of consent by~~
3 ~~reason of being mentally defective.~~

4 "(b) Rape in the second degree is a Class B felony.

5 "§13A-6-63.

6 "(a) A person commits the crime of sodomy in the
7 first degree if he or she does any of the following:

8 "(1) ~~He engages~~ Engages in ~~deviate sexual~~
9 ~~intercourse~~ sodomy with another person by forcible compulsion;
10 ~~or.~~

11 "(2) ~~He engages~~ Engages in ~~deviate sexual~~
12 ~~intercourse~~ sodomy with ~~a~~ another person who is incapable of
13 consent by reason of being ~~physically helpless or mentally~~
14 ~~incapacitated;~~ or.

15 "(3) ~~He, being~~ Being 16 years old or older, engages
16 in ~~deviate sexual intercourse~~ sodomy with a person who is less
17 than 12 years old.

18 "(b) Sodomy in the first degree is a Class A felony.

19 "§13A-6-64.

20 "(a) A person commits the crime of sodomy in the
21 second degree if:
22 1.

22 "~~(1) He, being~~ 16 years old or older, he or she
23 engages in ~~deviate sexual intercourse~~ sodomy with another
24 person 12 years old or older, but less than 16 years old and
25 more than 12 years old.; provided, however, the actor is at
26 least two years older than the other person.

1 ~~"(2) He engages in deviate sexual intercourse with a~~
2 ~~person who is incapable of consent by reason of being mentally~~
3 ~~defective.~~

4 "(b) Sodomy in the second degree is a Class B
5 felony.

6 "§13A-6-65.

7 "(a) A person commits the crime of sexual misconduct
8 if he or she does any of the following:

9 "~~(1) Being a male, he engages~~ Engages in sexual
10 intercourse with ~~a female~~ another person without his or her
11 consent, under circumstances other than those covered by
12 Sections 13A-6-61 and 13A-6-62; or with ~~her~~ consent where
13 consent was obtained by the use of any fraud or artifice; ~~or.~~

14 "~~(2) Being a female, she engages in sexual~~
15 ~~intercourse with a male without his consent; or~~

16 "~~(3) (2) He or she engages~~ Engages in ~~deviate sexual~~
17 ~~intercourse~~ sodomy with another person, without his or her
18 consent, under circumstances other than those covered by
19 Sections 13A-6-63 and 13A-6-64; ~~Consent is no defense to a~~
20 ~~prosecution under this subdivision~~ or with consent where
21 consent was obtained by the use of fraud or artifice.

22 "(3) Engages in sexual contact with another person
23 without his or her consent under circumstances other than
24 those under Sections 13A-6-66, 13A-6-67, and 13A-6-69.1; or
25 with consent where consent was obtained by the use of fraud or
26 artifice.

27 "(b) Sexual misconduct is a Class A misdemeanor.

1 "§13A-6-65.1.

2 "(a) A person commits the crime of sexual torture if
3 he or she does any of the following:

4 "~~By penetrating~~ Penetrates the vagina ~~or,~~ anus,
5 or mouth of another person with an inanimate object, ~~by~~
6 forcible compulsion, ~~with the intent to sexually torture or~~
7 to, sexually abuse, ~~or to gratify the sexual desire of either~~
8 party.

9 "~~By penetrating~~ Penetrates the vagina ~~or,~~ anus,
10 or mouth of a person who is incapable of consent by reason of
11 ~~physical helplessness or mental incapacity being~~
12 incapacitated, with an inanimate object, with the intent to
13 sexually torture ~~or to,~~ sexually abuse, ~~or to gratify the~~
14 sexual desire of either party.

15 "~~By penetrating~~ Penetrates the vagina ~~or,~~ anus,
16 or mouth of a person who is less than 12 years old, ~~with an~~
17 inanimate object, by a person who is 16 years old or older
18 with the intent to sexually torture ~~or to,~~ sexually abuse, ~~or~~
19 to gratify the sexual desire of either party.

20 "By inflicting physical injury, including, but
21 not limited to, burning, crushing, wounding, mutilating, or
22 assaulting the sex organs or intimate parts of another person,
23 with the intent to sexually torture, sexually abuse, or to
24 gratify the sexual desire of either party.

25 "(b) The crime of sexual torture is a Class A
26 felony.

27 "§13A-6-66.

1 "(a) A person commits the crime of sexual abuse in
2 the first degree if he or she does either of the following:

3 "~~He subjects~~ Subjects another person to sexual
4 contact by forcible compulsion; ~~or.~~

5 "(2) ~~He subjects~~ Subjects another person to sexual
6 contact who is incapable of consent by reason of being
7 ~~physically helpless or mentally~~ incapacitated.

8 "(b) Sexual abuse in the first degree is a Class C
9 felony.

10 "§13A-6-67.

11 "(a) A person commits the crime of sexual abuse in
12 the second degree if he or she does either of the following:

13 "~~He subjects~~ Subjects another person to sexual
14 contact who is incapable of consent by reason of some factor
15 other than being less than 16 years old; ~~or.~~

16 "(2) ~~He, being~~ Being 19 years old or older, subjects
17 another person to sexual contact who is 12 years old or older,
18 but less than 16 years old ~~, but more than 12 years old.~~

19 "(b) Sexual abuse in second degree is a Class A
20 misdemeanor, except that if a person commits a second or
21 subsequent offense of sexual abuse in the second degree within
22 one year of another sexual offense, the offense is a Class C
23 felony.

24 "§13A-6-68.

25 (a) A person commits the crime of indecent exposure
26 if, with intent to arouse or gratify sexual desire of himself
27 or herself, or of any person other than his or her spouse, he

1 or she exposes his or her genitals under circumstances in
2 which he or she knows ~~his~~ the conduct is likely to cause
3 affront or alarm ~~in any public place or on the private~~
4 ~~premises of another or so near thereto as to be seen from such~~
5 ~~private premises.~~

6 (b) Indecent exposure is a Class A misdemeanor
7 except a third or subsequent conviction shall be a Class C
8 felony.

9 "§13A-6-70.

10 "(a) ~~Whether or not specifically~~ Unless otherwise
11 stated, ~~it is~~ an element of every offense defined in this
12 article, ~~with the exception of subdivision (a) (3) of Section~~
13 ~~13A-6-65,~~ is that the sexual act was committed without the
14 consent of the victim.

15 "(b) Lack of consent results from either of the
16 following:

17 "(1) Forcible compulsion; ~~or.~~

18 "(2) ~~Incapacity to~~ Being incapable of consent; ~~or.~~

19 "~~(3) If the offense charged is sexual abuse, any~~
20 ~~circumstances, in addition to forcible compulsion or~~
21 ~~incapacity to consent, in which the victim does not expressly~~
22 ~~or impliedly acquiesce in the actor's conduct.~~

23 "(c) A person is deemed incapable of consent if he
24 or she is either:

25 "(1) Less than 16 years old; ~~or.~~

26 "(2) ~~Mentally defective;~~ or Incapacitated.

27 "~~(3) Mentally incapacitated;~~ or

1 "~~(4) Physically helpless.~~

2 "(d) Consent to engage in sexual intercourse,
3 sodomy, sexual acts, or sexual contact may be communicated by
4 words or actions. The existence of a current or previous
5 marital, dating, social, or sexual relationship with the
6 defendant is not sufficient to constitute consent. Evidence
7 that the victim suggested, requested, or otherwise
8 communicated to the defendant that the defendant use a condom
9 or other birth control device or sexually transmitted disease
10 protection, without additional evidence of consent, is not
11 sufficient to constitute consent.

12 "§13A-6-71.

13 "(a) A person commits the crime of engaging in a sex
14 act with a foster child if he or she is a foster parent and
15 engages in sexual intercourse, ~~as defined by Section~~
16 ~~13A-6-60(1),~~ or ~~deviant sexual intercourse~~ sodomy, as defined
17 by Section 13A-6-60~~(2)~~, with a foster child under the age of
18 19 years who is under his or her care or supervision. Engaging
19 in a sex act with a foster child is a Class B felony.

20 "(b) A person commits the crime of engaging in a
21 sexual contact with a foster child if he or she is a foster
22 parent and engages in a sexual contact, pursuant to Section
23 13A-6-60~~(3)~~, with a foster child under the age of 19 years who
24 is under his or her care or supervision. Engaging in sexual
25 contact with a foster child is a Class C felony.

26 "(c) A person commits the crime of soliciting a sex
27 act or sexual contact with a foster child if he or she is a

1 foster parent and solicits, persuades, encourages, harasses,
2 or entices a foster child under the age of 19 years to engage
3 in a sex act including, but not limited to, sexual
4 intercourse, ~~as defined by Section 13A-6-30(1), deviate sexual~~
5 ~~intercourse~~ sodomy, ~~as defined by Section 13A-6-30(2),~~ or
6 sexual contact, as defined by Section ~~13A-6-60(3)~~ 13A-6-60.
7 The crime of soliciting a sex act or sexual contact with a
8 foster child is a Class A misdemeanor.

9 "(d) Consent is not a defense to a charge under
10 subsections (a), (b), or (c).

11 "(e) For the purposes of this section a foster
12 parent is an individual approved or licensed by the Department
13 of Human Resources or other child placing agencies who
14 provides care and supervision to a foster child under the
15 temporary or permanent custody of the department.

16 "§13A-6-81.

17 "(a) A person commits the crime of a school employee
18 engaging in a sex act with a student under the age of 19 years
19 if he or she is a school employee and engages in sexual
20 intercourse ~~as defined by Section 13A-6-60(1) or deviant~~
21 ~~sexual intercourse as defined by 13A-6-60(2)~~ or sodomy, as
22 defined in Section 13A-6-60, with a student, regardless of
23 whether the student is male or female. Consent is not a
24 defense to a charge under this section.

25 "(b) The crime of a school employee engaging in a
26 sex act with a student is a Class B felony.

27 "§13A-6-82.

1 "(a) A person commits the crime of a school employee
2 having sexual contact with a student under the age of 19 years
3 if he or she is a school employee and engages in sexual
4 contact, as defined by Section ~~13A-6-60(13)~~ 13A-6-60, with a
5 student, regardless of whether the student is male or female.
6 Consent is not a defense to a charge under this section. The
7 crime of a school employee having sexual contact with a
8 student is a Class C felony.

9 "(b) A person commits the crime of a school employee
10 soliciting a sex act with a student under the age of 19 years
11 if he or she is a school employee and solicits, persuades,
12 encourages, harasses, or entices a student to engage in a sex
13 act including, but not limited to, sexual intercourse, ~~as~~
14 ~~defined by Section 13A-6-60(1), deviate sexual intercourse~~
15 sodomy, ~~as defined by Section 13A-6-60(2),~~ or sexual contact,
16 as defined by Section ~~13A-6-60(3)~~ 13A-6-60. The crime of
17 soliciting a student to perform a sex act is a Class A
18 misdemeanor.

19 "§13A-6-122.

20 "~~In addition to the provisions of Section 13A-6-69,~~
21 A person who, knowingly entices, induces, persuades,
22 seduces, prevails, advises, coerces, lures, or orders, or
23 attempts to entice, induce, persuade, seduce, prevail, advise,
24 coerce, lure, or order, by means of a computer, on-line
25 service, Internet service, Internet bulletin board service,
26 weblog, cellular phone, video game system, personal data
27 assistant, telephone, facsimile machine, camera, universal

1 serial bus drive, writable compact disc, magnetic storage
2 device, floppy disk, or any other electronic communication or
3 storage device, a child who is at least three years younger
4 than the defendant, or another person believed by the
5 defendant to be a child at least three years younger than the
6 defendant to meet with the defendant or any other person for
7 the purpose of engaging in sexual intercourse, ~~deviate sexual~~
8 ~~intercourse~~ sodomy, sexual contact, sexual performance,
9 obscene sexual performance, sexual conduct, or genital
10 mutilation, or directs a child to engage in sexual
11 intercourse, ~~deviate sexual intercourse~~ sodomy, sexual
12 contact, sexual performance, obscene sexual performance,
13 sexual conduct, or genital mutilation is guilty of electronic
14 solicitation of a child. Any person who violates this section
15 commits a Class B felony.

16 "§13A-6-241.

17 "(a) A person commits the crime of sexual extortion
18 if he or she knowingly causes or attempts to cause another
19 person to engage in sexual intercourse, ~~deviate sexual~~
20 ~~intercourse~~ sodomy, sexual contact, or in a sexual act or to
21 produce any photograph, digital image, video, film, or other
22 recording of any person, whether recognizable or not, engaged
23 in any act of sadomasochistic abuse, sexual intercourse,
24 ~~deviate sexual intercourse~~ sodomy, sexual excitement,
25 masturbation, breast nudity, genital nudity, or other sexual
26 conduct by ~~transmitting any communication containing~~

1 communicating any threat to injure the body, property, or
2 reputation of any person.

3 "(b) Sexual extortion is a Class B felony.

4 "§13A-6-243.

5 "(a) (1) A person commits the crime of directing a
6 child to engage in sexual intercourse or ~~deviate sexual~~
7 ~~intercourse~~ sodomy if he or she knowingly entices, allures,
8 persuades, induces, or directs any person under the age of 12
9 years to engage in sexual intercourse or ~~deviate sexual~~
10 ~~intercourse~~ sodomy with another person ~~under the age of 12~~.

11 "(2) Directing a child to engage in sexual
12 intercourse or ~~deviate sexual intercourse~~ sodomy is a Class A
13 felony.

14 "(b) (1) A person commits the crime of directing a
15 child to engage in sexual contact if he or she knowingly
16 entices, allures, persuades, induces, or directs any person
17 under the age of 12 years to engage in sexual contact with
18 another person ~~under the age of 12~~.

19 "(2) A violation of this section is a Class ~~C~~ B
20 felony.

21 "§13A-11-9.

22 "(a) A person commits the crime of loitering if he
23 or she does any of the following:

24 "(1) Loiters, remains or wanders about in a public
25 place for the purpose of begging; ~~or.~~

26 "(2) Loiters or remains in a public place for the
27 purpose of gambling; ~~or.~~

1 "(3) Loiters or remains in a public place for the
2 purpose of engaging or soliciting another person to engage in
3 prostitution or ~~deviate sexual intercourse,~~ or sodomy.

4 "(4) Being masked, loiters, remains, or congregates
5 in a public place, ~~or~~.

6 "(5) Loiters or remains in or about a school,
7 college, or university building or grounds after having been
8 told to leave by any authorized official of ~~such~~ the school,
9 college, or university, ~~and~~ not having any reason or
10 relationship involving custody of or responsibility for a
11 pupil or any other specific, legitimate reason for being
12 there, and not having written permission from a school,
13 college or university administrator, ~~or~~.

14 "(6) Loiters or remains in any transportation
15 facility, unless specifically authorized to do so, for the
16 purpose of soliciting or engaging in any business, trade, or
17 commercial transactions involving the sale of merchandise or
18 services, ~~or~~.

19 "(7) Loiters or remains in any place with one or
20 more persons for the purpose of unlawfully using or possessing
21 a dangerous drug.

22 "(b) A person does not commit a crime under
23 subdivision (a) (4) ~~of this section~~ if he or she is going to or
24 from or staying at a masquerade party, or is participating in
25 a public parade or presentation of an educational, religious,
26 or historical character or in an event as defined in
27 ~~subdivision (1) of~~ Section 13A-11-140.

1 "~~Deviate sexual intercourse~~ Sodomy" in
2 subdivision (a) (3) ~~of this section~~ is defined as in
3 ~~subdivision (2) of~~ Section 13A-6-60.

4 "(d) "Dangerous drug" in subdivision (a) (7) ~~of this~~
5 ~~section~~ means any narcotic, drug, or controlled substance as
6 defined in Chapter 2 of Title 20 of this Code and any schedule
7 incorporated therein.

8 "(e) Loitering is a violation.

9 "§13A-11-32.1.

10 "(a) A person commits the crime of aggravated
11 criminal surveillance if he or she intentionally engages in
12 surveillance of an individual in any place where the
13 individual being observed has a reasonable expectation of
14 privacy, without the prior express or implied consent of the
15 individual being observed, for the purpose of sexual
16 gratification.

17 "(b) Aggravated criminal surveillance is a Class A
18 ~~misdemeanor, except if a person has a prior conviction or~~
19 ~~adjudication under this section the offense is a Class C~~
20 felony.

21 "~~For purposes of determining prior conviction or~~
22 ~~adjudication under this section, convictions in municipal~~
23 ~~court shall be included~~ The statute of limitations begins at
24 the time of discovery of the surveillance.

25 "§13A-12-120.

26 "For the purpose of this division, the term
27 "prostitution" shall mean the commission by a person of any

1 natural or unnatural sexual act, ~~deviate sexual intercourse~~
2 sodomy, or sexual contact for monetary consideration or other
3 thing of value.

4 "§13A-12-121.

5 "(a) No person shall commit an act of prostitution
6 as defined in Section 13A-12-120.

7 "(b) No person shall solicit, compel, or coerce any
8 person to have sexual intercourse or participate in any
9 natural or unnatural sexual act, ~~deviate sexual intercourse~~
10 sodomy, or sexual contact for monetary consideration or other
11 thing of marketable value.

12 "(c) No person shall agree to engage in sexual
13 intercourse, ~~deviate sexual intercourse~~ sodomy, or sexual
14 contact with another or participate in the act for monetary
15 consideration or other thing of marketable value and give or
16 accept monetary consideration or other thing of value in
17 furtherance of the agreement.

18 "(d) No person shall knowingly do any of the
19 following:

20 "(1) Cause or aid a person to commit or engage in
21 prostitution.

22 "(2) Procure or solicit patrons for prostitution.

23 "(3) Provide persons or premises for prostitution
24 purposes.

25 "(4) Receive or accept money or other thing of value
26 pursuant to a prior agreement with any person whereby he or

1 she participates or is to participate in the proceeds of any
2 prostitution activity.

3 "(5) Operate or assist in the operation of a house
4 of prostitution or a prostitution enterprise.

5 "§13A-12-190.

6 "For the purposes of this division, the following
7 terms shall have the meanings respectively ascribed to them by
8 this section:

9 "(1) DISSEMINATE. To transmit, distribute, sell,
10 lend, provide, transfer, or show ~~for monetary consideration or~~
11 ~~to offer or agree to do the same,~~ including through electronic
12 means.

13 "(2) DISPLAY PUBLICLY. The exposing, placing,
14 posting, exhibiting, or in any fashion displaying in any
15 location, whether public or private, an item in such a manner
16 that it may be readily seen and its content or character
17 distinguished by normal unaided vision viewing it from a
18 public thoroughfare, depot or vehicle.

19 "(3) PUBLIC THOROUGHFARE, DEPOT, or VEHICLE. Any
20 street, highway, park, depot, or transportation platform or
21 other place, whether indoors or out, or any vehicle for public
22 transportation, owned or operated by government, either
23 directly or through a public corporation or authority, or
24 owned or operated by any agency of public transportation that
25 is designed for the use, enjoyment, or transportation of the
26 general public.

1 "(4) KNOWINGLY. A person knowingly disseminates or
2 publicly displays obscene matter when the person knows the
3 nature of the matter. A person knows the nature of the matter
4 when either of the following circumstances exist:

5 "a. The person is aware of the character and content
6 of the matter;~~or.~~

7 "b. The person recklessly disregards circumstances
8 suggesting the character and content of the matter.

9 "(5) SADO-MASOCHISTIC ABUSE. Such term means either
10 of the following:

11 "a. Flagellation or torture, for the purpose of
12 sexual stimulation, by or upon a person who is nude or clad in
13 undergarments or in a revealing or bizarre costume;~~or.~~

14 "b. The condition of a person who is nude or clad in
15 undergarments or in a revealing or bizarre costume being
16 fettered, bound, or otherwise physically restrained for the
17 purpose of sexual stimulation.

18 "(6) SEXUAL EXCITEMENT. The condition of human male
19 or female genitals when in a state of sexual stimulation.

20 "(7) SEXUAL INTERCOURSE. Intercourse, real or
21 simulated, whether genital-genital, oral-genital, anal-genital
22 or oral-anal, whether between persons of the same or opposite
23 sex or between a human and an animal.

24 "(8) MASTURBATION. Manipulation, by hand or
25 instrument, of the human genitals, whether one's own or
26 another's for the purpose of sexual stimulation.

1 "(9) OTHER SEXUAL CONDUCT. Any touching of the
2 genitals, pubic areas, or buttocks of the human male or
3 female, or the breasts of the female, whether alone or between
4 members of the same or opposite sex or between humans and
5 animals in an act of apparent sexual stimulation or
6 gratification.

7 "(10) BREAST NUDITY. The lewd showing of the
8 post-pubertal human female breasts below a point immediately
9 above the top of the areola.

10 "(11) GENITAL NUDITY. The lewd showing of the
11 genitals or pubic area.

12 "(12) MATTER. Any book, magazine, newspaper, or
13 other printed material, or any picture, photograph, motion
14 picture, video cassette, tape, record, digital video disc
15 (DVD), video compilation, or electronic depiction in a
16 comparable format, or an image, file, download, or other
17 content stored, or reproduced by using a computer or
18 electronic device or other digital storage, or any other
19 thing, articles, or materials that either are or contain a
20 photographic or other visual depiction of a live act,
21 performance, or event.

22 "(13) OBSCENE. a. When used to describe any matter
23 that contains a visual reproduction of breast nudity, ~~such~~
24 ~~term means matter that~~ the term shall include all of the
25 following:

26 "1. Applying contemporary local community standards,
27 on the whole, appeals to the prurient interest; ~~and.~~

1 "2. Is patently offensive, ~~and.~~

2 "3. On the whole, lacks serious literary, artistic,
3 political, or scientific value.

4 "b. When used to describe matter that is a depiction
5 of an act of sado-masochistic abuse, sexual intercourse,
6 sexual excitement, masturbation, genital nudity, or other
7 sexual conduct, ~~such~~ the term means matter containing ~~such~~ a
8 visual reproduction that itself lacks serious literary,
9 artistic, political, or scientific value.

10 "(14) LOCAL COMMUNITY. The judicial circuit in which
11 the indictment is brought.

12 "(15) VISUAL DEPICTION. A portrayal, representation,
13 illustration, image, likeness, or other thing that creates a
14 sensory impression, whether an original, duplicate, or
15 reproduction.

16 "(16) SEPARATE OFFENSE. The depiction of an
17 individual less than 17 years of age that violates this
18 division shall constitute a separate offense for each single
19 visual depiction.

20 "§13A-12-192.

21 "(a) Any person who knowingly possesses with intent
22 to disseminate any obscene matter that contains a visual
23 depiction of a person under the age of 17 years engaged in any
24 act of sado-masochistic abuse, sexual intercourse, sexual
25 excitement, masturbation, breast nudity, genital nudity, or
26 other sexual conduct shall be guilty of a Class B felony.

27 ~~Possession of three or more copies of the same visual~~

1 ~~depiction contained in obscene matter is prima facie evidence~~
2 ~~of possession with intent to disseminate the same~~ Any transfer
3 of the visual depiction from any electronic device to any
4 other device, program, application, or any other place with
5 storage capability which can be made available or is
6 accessible by other users, is prima facie evidence of
7 possession with intent to disseminate.

8 "(b) Any person who knowingly possesses any obscene
9 matter that contains a visual depiction of a person under the
10 age of 17 years engaged in any act of sado-masochistic abuse,
11 sexual intercourse, sexual excitement, masturbation, breast
12 nudity, genital nudity, or other sexual conduct shall be
13 guilty of a Class C felony.

14 "§15-3-5.

15 "(a) There is no limitation of time within which a
16 prosecution must be commenced for any of the following
17 offenses:

18 "(1) Any capital offense~~7.~~

19 "(2) Any felony involving the use, attempted use, or
20 threat of, violence to a person~~7.~~

21 "(3) Any felony involving serious physical injury or
22 death of a person~~7.~~

23 "(4) Any sex offense pursuant to Section 15-20A-5
24 involving a victim under 16 years of age, regardless of
25 whether it involves force ~~or,~~ serious physical injury~~,~~ or
26 death~~7.~~

27 "(5) Any felony involving arson of any type~~7.~~

1 "(6) Any felony involving forgery of any type~~7.~~

2 "(7) Any felony involving counterfeiting~~7~~and.

3 "(8) Any felony involving drug trafficking.

4 "(b) The amendments made by this act shall apply to
5 both of the following:

6 "(1) To all crimes committed after January 7, 1985~~7~~
7 and.

8 "(2) To all crimes committed before January 7, 1985,
9 for which no statute of limitations provided under
10 pre-existing law has run as of January 7, 1985.

11 "(c) Nothing herein shall be construed to mean that
12 the adoption of this act indicates that any former statute of
13 limitations applying to capital offenses is invalid as the
14 result of any decision of any court invalidating the capital
15 punishment statutes of the State of Alabama.

16 "§15-20A-5.

17 "For the purposes of this chapter, a sex offense
18 includes any of the following offenses:

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

21 "(2) Rape in the second degree, as provided by
22 Section 13A-6-62. The sentencing court may exempt a juvenile
23 sex offender adjudicated delinquent of a violation of rape in
24 the second degree from registration and notification after the
25 juvenile has received treatment and obtained a risk assessment
26 pursuant to Section 15-20A-26.

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

3 "(4) Sodomy in the second degree, as provided by
4 Section 13A-6-64. The sentencing court may exempt a juvenile
5 sex offender adjudicated delinquent of a violation of sodomy
6 in the second degree from registration and notification after
7 the juvenile has received treatment and obtained a risk
8 assessment pursuant to Section 15-20A-26.

9 "(5) Sexual misconduct, as provided by Section
10 13A-6-65, provided that on a first conviction or adjudication
11 the sex offender is only subject to registration and
12 verification pursuant to this chapter. On a second or
13 subsequent conviction or adjudication of a sex offense, if the
14 second or subsequent conviction or adjudication does not arise
15 out of the same set of facts and circumstances as the first
16 conviction or adjudication of a sex offense, the sex offender
17 shall comply with all requirements of this chapter. The
18 sentencing court may exempt ~~from this chapter~~ a juvenile sex
19 offender adjudicated delinquent of a violation of sexual
20 misconduct from registration and notification after the
21 juvenile has received treatment and obtained a risk assessment
22 pursuant to Section 15-20A-26.

23 "(6) Sexual torture, as provided by Section
24 13A-6-65.1.

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

1 "(8) Sexual abuse in the second degree, as provided
2 by Section 13A-6-67. The sentencing court may exempt a
3 juvenile sex offender adjudicated delinquent of a violation of
4 sexual abuse in the second degree from registration and
5 notification after the juvenile has received treatment and
6 obtained a risk assessment pursuant to Section 15-20A-26.

7 "(9) Indecent exposure, as provided by Section
8 13A-6-68, provided that on a first conviction or adjudication
9 of a sex offense, the sex offender is only subject to
10 registration and verification pursuant to this chapter. On a
11 second or subsequent conviction or adjudication of a sex
12 offense, if the second or subsequent conviction or
13 adjudication does not arise out of the same set of facts and
14 circumstances as the first conviction or adjudication, the sex
15 offender shall comply with all requirements of this chapter.
16 The sentencing court may exempt ~~from this chapter~~ a juvenile
17 sex offender adjudicated delinquent of a violation of indecent
18 exposure from registration and notification after the juvenile
19 has received treatment and obtained a risk assessment pursuant
20 to Section 15-20A-26.

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

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

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

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

3 "(14) Violation of the Alabama Child Pornography
4 Act, as provided by Section 13A-12-191, 13A-12-192,
5 13A-12-196, or 13A-12-197. The sentencing court may exempt
6 ~~from this chapter~~ a juvenile sex offender adjudicated
7 delinquent of a violation of the Alabama Child Pornography Act
8 from registration and notification after the juvenile has ~~been~~
9 ~~counseled on the dangers of the conduct for which he or she~~
10 ~~was adjudicated delinquent~~ received treatment and obtained a
11 risk assessment pursuant to Section 15-20A-26.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 "(28) Human trafficking in the first degree, as
24 provided by Section 13A-6-152, provided that the offense
25 involves sexual servitude.

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

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

6 "(31) Sexual extortion, as provided by Section
7 13A-6-241.

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

10 "(33) Any offense which is the same as or equivalent
11 to any offense set forth above as the same existed and was
12 defined under the laws of this state existing at the time of
13 such conviction, specifically including, but not limited to,
14 crime against nature, as provided by Section 13-1-110; rape,
15 as provided by Sections 13-1-130 and 13-1-131; carnal
16 knowledge of a woman or girl, as provided by Sections 13-1-132
17 through 13-1-135, or attempting to do so, as provided by
18 Section 13-1-136; indecent molestation of children, as defined
19 and provided by Section 13-1-113; indecent exposure, as
20 provided by Section 13-1-111; incest, as provided by Section
21 13-8-3; offenses relative to obscene prints and literature, as
22 provided by Sections 13-7-160 through 13-7-175, inclusive;
23 employing, harboring, procuring or using a girl over 10 and
24 under 18 years of age for the purpose of prostitution or
25 sexual intercourse, as provided by Section 13-7-1; seduction,
26 as defined and provided by Section 13-1-112; a male person
27 peeping into a room occupied by a female, as provided by

1 Section 13-6-6; assault with intent to ravish, as provided by
2 Section 13-1-46; and soliciting a child by computer, as
3 provided by Section 13A-6-110.

4 "(34) Any solicitation, attempt, or conspiracy to
5 commit any of the offenses listed in subdivisions (1) to (33),
6 inclusive.

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

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

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

22 "(38) Any offender determined in any jurisdiction to
23 be a sex offender shall be considered a sex offender in this
24 state.

25 "(39) The foregoing notwithstanding, any crime
26 committed in any jurisdiction which, irrespective of the
27 specific description or statutory elements thereof, is in any

1 way characterized or known as rape, carnal knowledge, sodomy,
2 sexual assault, sexual battery, criminal sexual conduct,
3 criminal sexual contact, sexual abuse, continuous sexual
4 abuse, sexual torture, solicitation of a child, enticing or
5 luring a child, child pornography, lewd and lascivious
6 conduct, taking indecent liberties with a child, molestation
7 of a child, criminal sexual misconduct, video voyeurism, or
8 there has been a finding of sexual motivation.

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

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

15 "§15-20A-44.

16 "(a) The Secretary of the Alabama State Law
17 Enforcement Agency shall ~~promulgate~~ adopt rules establishing
18 an administrative hearing for persons who are only made
19 subject to this chapter pursuant to subdivision ~~(37)~~ (35) of
20 Section 15-20A-5.

21 "(b) The Secretary of the Alabama State Law
22 Enforcement Agency shall ~~promulgate~~ adopt rules setting forth
23 a listing of offenses from other jurisdictions that are to be
24 considered criminal sex offenses under subdivision ~~(37)~~ (35)
25 of Section 15-20A-5. Thereafter, any individual convicted of
26 any offense set forth in the listing shall immediately be

1 subject to this chapter and shall not be entitled to an
2 administrative hearing as provided in subsection (a).

3 "(c) The Secretary of the Alabama State Law
4 Enforcement Agency shall have the authority to promulgate any
5 rules as are necessary to implement and enforce this chapter.

6 "§15-23-101.

7 "When a person has been charged with the crime of
8 rape, sodomy, ~~or,~~ sexual misconduct, sexual torture, sexual
9 abuse, assault by bodily fluids, or any other crime in which
10 the victim was compelled to engage in sexual activity by force
11 or threat of force, and it appears from the nature of the
12 charge that the transmission of body fluids from one person to
13 another may have been involved, upon the request of the
14 ~~alleged~~ victim or the parent or guardian of ~~an alleged~~ a minor
15 victim, the district attorney shall file a motion with the
16 court for an order requiring the person charged to submit to a
17 test for any sexually transmitted disease.

18 "§15-23-102.

19 "(a) (1) If the district attorney files a motion
20 under Section 15-23-101, the court shall order the person
21 charged to submit to testing if the court determines there is
22 probable cause to believe that the person charged committed
23 the crime of rape, sodomy, ~~or,~~ sexual misconduct, sexual
24 torture, sexual abuse, assault by bodily fluids, or any other
25 crime where the victim was compelled to engage in sexual
26 activity by force or threat of force and the transmission of
27 body fluids was involved.

1 "(2) If a warrant, information, or indictment has
2 been issued and the defendant is in custody or has been served
3 with the warrant, information, or indictment, the test shall
4 be performed within 48 hours of service of the court order
5 requiring the defendant to submit to testing.

6 "(b) When a test is ordered under Section 15-23-101,
7 the ~~alleged~~ victim of the crime or a parent or guardian of the
8 ~~alleged~~ minor victim shall designate an attending physician
9 who has agreed in advance to accept the victim as a patient to
10 receive information on behalf of the ~~alleged~~ victim.

11 "(c) If any sexually transmitted disease test
12 results in a negative reaction, the court shall order the
13 person to submit to any follow-up tests at the intervals and
14 in the manner as shall be determined by the State Board of
15 Health.

16 "(d) The result of any test ordered under this
17 section is not a public record and shall be available only to
18 the following:

19 "(1) The ~~alleged~~ victim.

20 "(2) The parent or guardian of the ~~alleged~~ minor
21 victim.

22 "(3) The attending physician of the ~~alleged~~ victim.

23 "(4) The person tested.

24 "(e) If any sexually transmitted disease test
25 ordered under this section results in a positive reaction, the
26 individual subject to the test shall receive post-test
27 counseling. Counseling and referral for appropriate health

1 care, testing, and support services as directed by the State
2 Health Officer shall be provided to the ~~alleged~~ victim at the
3 request of the ~~alleged~~ victim or the parent or guardian of the
4 ~~alleged~~ minor victim."

5 Section 2. Although this bill would have as its
6 purpose or effect the requirement of a new or increased
7 expenditure of local funds, the bill is excluded from further
8 requirements and application under Amendment 621, now
9 appearing as Section 111.05 of the Official Recompilation of
10 the Constitution of Alabama of 1901, as amended, because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

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