

1 HB279  
2 123446-1  
3 By Representatives McMillan, Davis, Shiver and Faust  
4 RFD: Judiciary  
5 First Read: 22-MAR-11

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8 SYNOPSIS: Under existing law, a person commits the  
9 crime of harassing communication if the person with  
10 intent to harass another person telephones the  
11 person with lewd or obscene language. Harassing  
12 communication is a Class C misdemeanor.

13 This bill would provide that a person who  
14 commits the crime of harassing communication as  
15 described above would be guilty of a Class C felony  
16 if the defendant is 25 years of age or older and  
17 the victim is a child 15 years of age or younger.

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

1 affected entity; or the Legislature appropriates  
2 funds, or provides a local source of revenue, to  
3 the entity for the purpose.

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

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
15

16 To amend Section 13A-11-8 of the Code of Alabama  
17 1975, relating to the crime of harassing communication, to  
18 further provide the penalty if the defendant is 25 years of  
19 age or older and makes an harassing telephone call involving  
20 lewd or obscene language to a child 15 years of age or  
21 younger; and in connection therewith would have as its purpose  
22 or effect the requirement of a new or increased expenditure of  
23 local funds within the meaning of Amendment 621 of the  
24 Constitution of Alabama of 1901, now appearing as Section  
25 111.05 of the Official Recompilation of the Constitution of  
26 Alabama of 1901, as amended.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 13A-11-8 of the Code of Alabama  
2 1975, is amended to read as follows:

3           "§13A-11-8.

4           "(a) (1) HARASSMENT. A person commits the crime of  
5 harassment if, with intent to harass, annoy, or alarm another  
6 person, he or she either:

7           "a. Strikes, shoves, kicks, or otherwise touches a  
8 person or subjects him or her to physical contact.

9           "b. Directs abusive or obscene language or makes an  
10 obscene gesture towards another person.

11           "(2) For purposes of this section, harassment shall  
12 include a threat, verbal or nonverbal, made with the intent to  
13 carry out the threat, that would cause a reasonable person who  
14 is the target of the threat to fear for his or her safety.

15           "(3) Harassment is a Class C misdemeanor.

16           "(b) (1) HARASSING COMMUNICATIONS. A person commits  
17 the crime of harassing communications if, with intent to  
18 harass or alarm another person, he or she does any of the  
19 following:

20           "a. Communicates with a person, anonymously or  
21 otherwise, by telephone, telegraph, mail, or any other form of  
22 written or electronic communication, in a manner likely to  
23 harass or cause alarm.

24           "b. Makes a telephone call, whether or not a  
25 conversation ensues, with no purpose of legitimate  
26 communication.

1            "c. Telephones another person and addresses to or  
2 about such other person any lewd or obscene words or language.

3            "Nothing in this section shall apply to legitimate  
4 business telephone communications.

5            "(2) Harassing communications is a Class C  
6 misdemeanor, except a harassing communication which is a  
7 violation of paragraph c. of subdivision (1) is a Class C  
8 felony if the defendant is 25 years of age or older and the  
9 victim is a child age 15 years or younger and the defendant  
10 knows or has reason to know that the victim is age 15 years of  
11 age or younger."

12            Section 2. 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 3. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.