

1 HB605
2 135483-1
3 By Representative Fincher
4 RFD: Judiciary
5 First Read: 22-MAR-12

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8 SYNOPSIS: Under existing law, a person commits the
9 crime of sexual misconduct if he or she engages in
10 sexual intercourse or deviate sexual intercourse
11 with another person without his or her consent
12 under circumstances other than those circumstances
13 covered by the rape and sodomy laws or with his or
14 her consent where consent was obtained by use of
15 fraud or artifice.

16 This bill would create the crime of sexual
17 misconduct in the first degree for persons under
18 the age of 16 engaging in sexual intercourse with
19 juveniles less than sixteen years of age if the
20 suspect is more than two years older than the
21 victim.

22 This bill would make sexual misconduct in
23 the first degree a Class C felony but would not
24 require a person convicted of this crime to
25 register as a sex offender. A second or subsequent
26 offense of sexual misconduct in the first degree is

1 a Class B felony and the offender would be required
2 to register as a sex offender.

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 To create the crime of sexual misconduct in the
2 first degree; to provide penalties; and in connection
3 therewith would have as its purpose or effect the requirement
4 of a new or increased expenditure of local funds within the
5 meaning of Amendment 621 of the Constitution of Alabama of
6 1901, now appearing as Section 111.05 of the Official
7 Recompilation of the Constitution of Alabama of 1901, as
8 amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. (a) A person under 16 years of age
11 commits the crime of sexual misconduct in the first degree if
12 he or she engages in sexual intercourse or deviate sexual
13 intercourse with another person less than 16 years of age and
14 the actor is at least two years older than the other person.

15 (b) Except as provided in subsection (c), sexual
16 misconduct in the first degree is a Class C felony. A person
17 convicted under subsection (a) shall not be required to
18 register as a sex offender.

19 (c) A second or subsequent conviction for sexual
20 misconduct in the first degree is a Class B felony, and a
21 person convicted of a second or subsequent violation of
22 subsection (a) shall register as a sex offender.

23 Section 2. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, now
27 appearing as Section 111.05 of the Official Recompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

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