

1 SB26
2 196936-1
3 By Senator Chambliss
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 02/07/2019

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8 SYNOPSIS: This bill would establish the crime of
9 voyeurism in the first and second degree and would
10 provide penalties.

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

24 The purpose or effect of this bill would be
25 to require a new or increased expenditure of local
26 funds within the meaning of the amendment. However,
27 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to
2 become effective because it comes within one of the
3 specified exceptions contained in the amendment.
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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to voyeurism; to criminalize the act of
10 recording or attempting to record any image or video of the
11 private, intimate body parts of another person, without that
12 person's consent, where that person has or should have a
13 reasonable expectation of privacy; to provide penalties; and
14 in connection therewith would have as its purpose or effect
15 the requirement of a new or increased expenditure of local
16 funds within the meaning of Amendment 621 of the Constitution
17 of Alabama of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of Alabama of 1901,
19 as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. (a) As used in this act, the following
22 words shall have the following meanings:

23 (1) INTIMATE AREAS. Any portion of a person's body,
24 whether or not covered by undergarments, that are
25 traditionally covered by undergarments to protect that portion
26 from public view, including genitals, pubic areas, buttocks,
27 and female breasts.

1 (2) PHOTOGRAPHS or FILMS. The making of a
2 photograph, motion picture film, videotape, digital image,
3 digital video, or any other recording or transmission of the
4 image or recording of a person.

5 (3) UNDERGARMENTS. Articles of clothing worn under
6 clothing that conceal intimate areas from view.

7 Section 2. (a) A person commits the crime of
8 voyeurism in the first degree if, for the purpose of arousing
9 or gratifying the sexual desire of any person, he or she
10 photographs or films the intimate areas of another person,
11 whether through, under, or around clothing, without that
12 person's knowledge and consent and under circumstances where
13 the person has a reasonable expectation of privacy, whether in
14 a public or private place.

15 (b) Voyeurism in the first degree is a Class C
16 felony, except if the defendant is 16 years of age or younger
17 on the date of the offense, voyeurism in the first degree is a
18 Class A misdemeanor.

19 Section 3. (a) A person commits the crime of
20 voyeurism in the second degree if he or she intentionally
21 photographs or films the intimate areas of another person,
22 whether through, under, or around clothing, without that
23 person's knowledge and consent, and under circumstances where
24 the person has a reasonable expectation of privacy, whether in
25 a public or private place.

26 (b) Voyeurism in the second degree is a Class A
27 misdemeanor, except if the defendant is 16 years of age or

1 younger on the date of the offense, voyeurism in the second
2 degree is a Class B misdemeanor.

3 Section 4. (a) This act does not apply to viewing,
4 photographing, or filming by personnel of the Department of
5 Corrections or of a local jail or correctional facility for
6 security purposes or during investigation of an alleged
7 misconduct by a person in the custody of the Department of
8 Corrections or the local jail or correctional facility.

9 (b) If a person is convicted of a violation of
10 Section 2 or Section 3, a court may order the destruction of
11 any photograph, motion picture film, digital image, digital
12 video, videotape, or any other recording of an image that was
13 made by the person in violation of this act; provided that the
14 victim, or victim's representative, is provided with written
15 notice 90 days before the destruction is to occur. The victim,
16 or victim's representative, shall retain the right to possess
17 any photograph, motion picture film, digital image, videotape,
18 or any other recording of an image in lieu of destruction.

19 Section 5. Although this bill would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds, the bill is excluded from further
22 requirements and application under Amendment 621, now
23 appearing as Section 111.05 of the Official Recompilation of
24 the Constitution of Alabama of 1901, as amended, because the
25 bill defines a new crime or amends the definition of an
26 existing crime.

1 Section 6. 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.