

1 SB342
2 173419-4
3 By Senators Figures, Dunn, Waggoner, Stutts, Albritton,
4 Beasley, Holtzclaw, Smitherman, Singleton, Ward, Reed,
5 Livingston, Scofield, Shelnuttt, Glover, Williams, Holley,
6 Chambliss, Bussman, Allen, Hightower, McClendon, Whatley,
7 Melson, Ross, Dial, Marsh, Sanders, Pittman, Brewbaker, Orr,
8 Sanford and Blackwell
9 RFD: Judiciary
10 First Read: 10-MAR-16

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8 SYNOPSIS: Under existing law, the communication of a
9 harassing communication by means of telephone,
10 mail, or other written or electronic communication
11 is a crime punishable as a Class C misdemeanor.

12 This bill would create the crime of
13 harassment by means of distribution of a private
14 image as defined, to apply when one person
15 distributes a sexually explicit private image of
16 another person without permission and with intent
17 to harass and provide that the penalty would be a
18 Class A misdemeanor.

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

1 specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

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

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To amend Section 13A-11-8 of the Code of Alabama
18 1975, relating to harassing communications; to provide for the
19 crime of harassment by distribution of a private image as
20 defined; and in connection therewith would have as its purpose
21 or effect the requirement of a new or increased expenditure of
22 local funds within the meaning of Amendment 621 of the
23 Constitution of Alabama of 1901, now appearing as Section
24 111.05 of the Official Recompilation of the Constitution of
25 Alabama of 1901, as amended.

26 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.

7 "(c) (1) HARASSMENT BY DISTRIBUTION OF A PRIVATE
8 IMAGE. A person commits the crime of harassment by
9 distribution of a private image, if with intent to harass
10 another person, he or she distributes, posts, emails, texts,
11 or otherwise transmits a private image without the consent of
12 the person depicted in the image.

13 "(2) For purposes of this subsection, a private
14 image is a photograph, digital image, video, film, or digital
15 recording of a person, whether recognizable or not, engaged in
16 any act of sadomasochistic abuse, sexual intercourse, sexual
17 excitement, masturbation, breast nudity, genital nudity, or
18 other sexual conduct. The term includes display of such
19 private images by means of any photograph, digital image,
20 video, film, or digital recording that has been manipulated.

21 "(3) Harassment by distribution of a private image
22 is a Class A misdemeanor."

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.