

1 SB518  
2 135585-3  
3 By Senator McGill  
4 RFD: Judiciary  
5 First Read: 12-APR-12

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Existing law does not provide for the  
9 chemical castration of convicted sex offenders.

10 This bill would authorize the chemical  
11 castration or physical castration of certain  
12 criminal sex offenders under certain conditions  
13 contingent upon a determination by a  
14 court-appointed medical expert that the defendant  
15 is an appropriate candidate for the drug injections  
16 or physical castration.

17 This bill also would provide that once an  
18 offender begins receiving court-ordered injections  
19 for chemical castration, the failure to continue to  
20 use the drug, without authorization by the court,  
21 is a Class B felony.

22 Amendment 621 of the Constitution of Alabama  
23 of 1901, now appearing as Section 111.05 of the  
24 Official Recompilation of the Constitution of  
25 Alabama of 1901, as amended, prohibits a general  
26 law whose purpose or effect would be to require a  
27 new or increased expenditure of local funds from

1 becoming effective with regard to a local  
2 governmental entity without enactment by a 2/3 vote  
3 unless: it comes within one of a number of  
4 specified exceptions; it is approved by the  
5 affected entity; or the Legislature appropriates  
6 funds, or provides a local source of revenue, to  
7 the entity for the purpose.

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

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 Relating to the punishment of sex offenders; to  
21 provide for the use of chemical castration or physical  
22 castration for certain criminal sex offenders under certain  
23 conditions; to provide criminal penalties for failure to  
24 comply with the chemical castration process; and in connection  
25 therewith would have as its purpose or effect the requirement  
26 of a new or increased expenditure of local funds within the  
27 meaning of Amendment 621 of the Constitution of Alabama of

1 1901, now appearing as Section 111.05 of the Official  
2 Recompilation of the Constitution of Alabama of 1901, as  
3 amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. (a) Notwithstanding any other law, the  
6 court may sentence a defendant to be treated with  
7 medroxyprogesterone acetate (MPA), according to a schedule of  
8 administration monitored by the Department of Corrections,  
9 upon the defendant's first conviction of any of the following  
10 offenses:

11 (1) Rape in the first degree, Section 13A-6-61, Code  
12 of Alabama 1975.

13 (2) Rape in the second degree, Section 13A-6-62,  
14 Code of Alabama 1975.

15 (3) Sodomy in the first degree, Section 13A-6-63,  
16 Code of Alabama 1975.

17 (4) Sexual torture, Section 13A-6-65.1, Code of  
18 Alabama 1975.

19 (5) Sexual abuse in the first degree, Section  
20 13A-6-66, Code of Alabama 1975.

21 (6) Sexual abuse of a child less than 12 years old,  
22 Section 13A-6-69.1, Code of Alabama 1975.

23 (b) (1) Notwithstanding any other law, the court  
24 shall sentence a defendant to be treated with  
25 medroxyprogesterone acetate (MPA), according to a schedule of  
26 administration monitored by the Department of Corrections,  
27 upon the defendant's second or subsequent conviction of a

1 violation of any offense specified in subsection (a), or may,  
2 in its discretion, order the physical castration of the  
3 defendant.

4 (2) Notwithstanding any other law, the court shall  
5 sentence a defendant to be physically castrated upon the  
6 defendant's third conviction of a violation of any offense  
7 specified in subsection (a).

8 (c) If the court sentences a defendant to be treated  
9 with medroxyprogesterone acetate (MPA), the penalty may not be  
10 imposed in lieu of, or reduce, any other penalty prescribed  
11 under law. However, in lieu of treatment with  
12 medroxyprogesterone acetate (MPA), the court may order the  
13 defendant to undergo physical castration upon written motion  
14 by the defendant providing the defendant's intelligent,  
15 knowing, and voluntary consent to physical castration as an  
16 alternative penalty.

17 (d) (1) An order of the court sentencing a defendant  
18 to medroxyprogesterone acetate (MPA) treatment or physical  
19 castration under this section shall be contingent upon a  
20 determination by a court-appointed medical expert that the  
21 defendant is an appropriate candidate for treatment or  
22 physical castration. Such determination is to be made not  
23 later than 60 days from the imposition of sentence. An order  
24 of the court sentencing a defendant to medroxyprogesterone  
25 acetate (MPA) treatment shall specify the duration of  
26 treatment for a specific term of years, or in the discretion  
27 of the court, up to the life of the defendant.

1           (2) In all cases involving defendants sentenced to a  
2 period of incarceration, the administration of treatment with  
3 medroxyprogesterone acetate (MPA) shall commence not later  
4 than one week prior to the defendant's release from prison or  
5 other institution.

6           (e) The Department of Corrections shall provide the  
7 services necessary to administer medroxyprogesterone acetate  
8 (MPA) treatment. Nothing contained in this section shall be  
9 construed to require the continued administration of  
10 medroxyprogesterone acetate (MPA) treatment when it is not  
11 medically appropriate.

12           (f) A defendant whom the court has sentenced to be  
13 treated with medroxyprogesterone acetate (MPA) who fails or  
14 refuses to do any of the following shall be guilty of a Class  
15 B felony:

16           (1) Appear as required by the Department of  
17 Corrections for purposes of administering the  
18 medroxyprogesterone acetate (MPA).

19           (2) Allow the administration of medroxyprogesterone  
20 acetate (MPA).

21           Section 2. Although this bill would have as its  
22 purpose or effect the requirement of a new or increased  
23 expenditure of local funds, the bill is excluded from further  
24 requirements and application under Amendment 621, now  
25 appearing as Section 111.05 of the Official Recompilation of  
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an  
2 existing crime.

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