

1 HB38
2 114849-2
3 By Representative Newton (D)
4 RFD: Judiciary
5 First Read: 12-JAN-10
6 PFD: 11/05/2009

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2 ENROLLED, An Act,

3 Relating to crimes and offenses; to provide for the
4 crimes of a school employee engaging in a sex act, deviant
5 sexual intercourse, or having sexual contact with a student;
6 to provide penalties; and in connection therewith would have
7 as its purpose or effect the requirement of a new or increased
8 expenditure of local funds within the meaning of Amendment 621
9 of the Constitution of Alabama of 1901, now appearing as
10 Section 111.05 of the Official Recompilation of the
11 Constitution of Alabama of 1901, as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. (a) A person commits the crime of a
14 school employee engaging in a sex act or deviant sexual
15 intercourse with a student under the age of 19 years if he or
16 she is a school employee and engages in a sex act or deviant
17 sexual intercourse with a student, regardless of whether the
18 student is male or female. Consent is not a defense to a
19 charge under this section.

20 (b) As used in this section, "sex act" means sexual
21 intercourse with any penetration, however slight; emission is
22 not required.

23 (c) As used in this section, "deviant sexual
24 intercourse" means any act of sexual gratification between

1 persons not married to each other involving the sex organs of
2 one person and the mouth or anus of another.

3 (d) The crime of a school employee engaging in a sex
4 act or deviant sexual intercourse with a student is a Class B
5 felony.

6 Section 2. (a) A person commits the crime of a
7 school employee having sexual contact with a student under the
8 age of 19 years if he or she is a school employee and engaging
9 in sexual contact with a student, regardless of whether the
10 student is male or female. Consent is not a defense to a
11 charge under this section.

12 (b) As used in this section, "sexual contact" means
13 any touching of the sexual or other intimate parts of a
14 student, done for the purpose of gratifying the sexual desire
15 of either party. The term includes soliciting or harassing a
16 student to perform a sex act.

17 (c) The crime of a school employee having sexual
18 contact with a student is a Class A misdemeanor.

19 Section 3. A school employee charged with the crime
20 of engaging in a sex act or deviant sexual intercourse with a
21 student or the crime of having sexual contact with a student
22 may be placed on paid administrative leave while the charge is
23 adjudicated. Upon the adjudication of the charge, further
24 disciplinary action may be taken in accordance with the
25 Teacher Tenure Act, Section 16-24-1, et seq., the Teacher

1 Accountability Act, Section 16-24B-1, et seq., or the Fair
2 Dismissal Act, Section 36-26-100, et seq., whichever is
3 applicable.

4 Section 4. For purposes of this act, "school
5 employee" includes a teacher, school administrator, student
6 teacher, safety or resource officer, coach, and other school
7 employee.

8 Section 5. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, now
12 appearing as Section 111.05 of the Official Recompilation of
13 the Constitution of Alabama of 1901, as amended, because the
14 bill defines a new crime or amends the definition of an
15 existing crime.

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 19-JAN-10.

Greg Pappas
Clerk

Senate

14-APR-10

Passed