

1 HB466
2 117285-1
3 By Representatives McCutcheon, Treadaway, Drake, Ward, White,
4 Collier, Taylor, Williams (P), Faust, Beck and Clouse
5 RFD: Judiciary
6 First Read: 28-JAN-10

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8 SYNOPSIS: Existing law does not specifically prohibit
9 an adult criminal sex offender from establishing
10 residence or any other living accommodation within
11 2,000 feet of the property on which a public park
12 or a playground is located.

13 This bill would prohibit an adult criminal
14 sex offender from establishing a residence or any
15 other living accommodation within 2,000 feet of the
16 property on which a public park or a playground is
17 located and would provide penalties.

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

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

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

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 To amend Section 15-20-26, as amended by Act
17 2009-558, 2009 Regular Session (Acts 2009, p. 1603), of the
18 Code of Alabama 1975, relating to the residence of adult
19 criminal sex offenders; to prohibit an adult criminal sex
20 offender from establishing a residence or other living
21 accommodation within 2,000 feet of the property on which any
22 public park or playground is located; to provide for
23 penalties; and in connection therewith would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds within the meaning of Amendment 621
26 of the Constitution of Alabama of 1901, now appearing as

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 15-20-26, as amended by Act
5 2009-558, 2009 Regular Session (Acts 2009, p. 1603), Code of
6 Alabama 1975, is amended to read as follows:

7 "§15-20-26.

8 "(a) Unless otherwise exempted by law, no adult
9 criminal sex offender shall establish a residence or any other
10 living accommodation or accept employment within 2,000 feet of
11 the property on which any school, including, but not limited
12 to, an elementary or secondary school and a college or
13 university, or child care facility is located.

14 "(b) Unless otherwise exempted by law, no adult
15 criminal sex offender shall establish a residence or any other
16 living accommodation within 1,000 feet of the property on
17 which any of his or her former victims, or the victims'
18 immediate family members reside.

19 "(c) No adult criminal sex offender shall establish
20 a residence or any other living accommodation where a minor
21 resides. Notwithstanding the foregoing, an adult criminal sex
22 offender may reside with a minor if the adult criminal sex
23 offender is the parent, grandparent, or stepparent of the
24 minor, unless one of the following conditions applies:

25 "(1) The adult criminal sex offender's parental
26 rights have been or are in the process of being terminated as
27 provided by law.

1 "(2) The adult criminal sex offender has been
2 convicted of any criminal sex offense in which any of the
3 offender's minor children, grandchildren, or stepchildren were
4 the victim.

5 "(3) The adult criminal sex offender has been
6 convicted of any criminal sex offense in which a minor was the
7 victim and the minor resided or lived with the offender at the
8 time of the offense.

9 "(4) The adult criminal sex offender has ever been
10 convicted of any criminal sex offense involving a child,
11 regardless of whether the offender was related to or shared a
12 residence with the child victim.

13 "(d) No adult criminal sex offender shall be
14 permitted to willfully or knowingly come within 100 feet of
15 any of his or her former victims, except as elsewhere provided
16 by law, or make any visual or audible sexually suggestive or
17 obscene gesture, sound, or communication at or to a former
18 victim or a member of the victim's immediate family.

19 "(e) Changes to property within 2,000 feet of an
20 adult criminal sex offender's registered address which occur
21 after an adult criminal sex offender establishes residency or
22 accepts employment shall not form the basis for finding that a
23 criminal sex offender is in violation of subsections (a), ~~or~~
24 (b), or (h).

25 "(f) No adult criminal sex offender, after having
26 been convicted of a criminal sex offense involving a child,
27 shall loiter on or within 500 feet of any property on which

1 there is a school, child care facility, playground, park,
2 athletic field or facility, school bus stop, or any other
3 business or facility having a principal purpose of caring for,
4 educating, or entertaining minors. Under this subsection,
5 loiter means to enter or remain on property while having no
6 legitimate purpose therefor or, if a legitimate purpose
7 exists, remaining on that property beyond the time necessary
8 to fulfill that purpose. An offender does not violate this
9 subsection unless he or she has first been asked to leave a
10 prohibited location by a person authorized to exclude the
11 offender from the premises. An authorized person includes, but
12 is not limited to, any law enforcement officer, any owner or
13 manager of the premises, a principal or teacher if the
14 premises is a school or child care facility, or a coach if the
15 premises is an athletic field or facility.

16 "For purposes of this subsection, the term school
17 includes all property owned by a college or university and
18 used for educational purposes or for official school
19 functions.

20 "For purposes of this subsection, a school bus stop
21 is any location where a motor vehicle owned or operated by or
22 on behalf of a public or private secondary school stops on a
23 regular basis for the purpose of transporting children to and
24 from school.

25 "(g) No adult criminal sex offender, after having
26 been convicted of a criminal sex offense involving a child,
27 shall accept, maintain, or carry on any employment or vocation

1 at or within 500 feet of a school, child care facility,
2 playground, park, athletic field or facility, or any other
3 business or facility having a principal purpose of caring for,
4 educating, or entertaining minors.

5 "(h) Unless otherwise exempted by law, no adult
6 criminal sex offender shall establish a residence or any other
7 living accommodation within 2,000 feet of property on which
8 any playground or park is located.

9 ~~"(h)(i)~~ An adult criminal sex offender who knowingly
10 violates the provisions of this section shall be guilty of a
11 Class C felony."

12 Section 2. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

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