

**SB141 INTRODUCED**



1 80SWH2-1  
2 By Senators Coleman-Madison, Singleton, Beasley, Stewart,  
3 Coleman  
4 RFD: Judiciary  
5 First Read: 23-Mar-23  
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SYNOPSIS:

Under existing law, a person commits the crime of chemical endangerment of a child if the child is exposed to a controlled substance, chemical substance, or drug paraphernalia. A violation is a Class C felony.

This bill would provide that chemical endangerment of a child where the child is exposed to marijuana or drug paraphernalia is a Class A misdemeanor.

This bill would also provide that a confirmatory positive drug test must be obtained before an agency or law enforcement initiates any action for a violation.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill



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29 does not require approval of a local governmental  
30 entity or enactment by a 2/3 vote to become effective  
31 because it comes within one of the specified exceptions  
32 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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39 Relating to crimes and offenses; to amend Section  
40 26-15-3.2 of the Code of Alabama 1975, to further provide for  
41 chemical endangerment of a child; to require a confirmatory  
42 positive drug test before an agency or law enforcement  
43 initiates any action for a violation; and in connection  
44 therewith would have as its purpose or effect the requirement  
45 of a new or increased expenditure of local funds within the  
46 meaning of Section 111.05 of the Constitution of Alabama of  
47 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Section 26-15-3.2 of the Code of Alabama  
50 1975, is amended to read as follows:

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"§26-15-3.2

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(a) A responsible person commits the crime of chemical  
53 endangerment of exposing a child to an environment in which he  
54 or she does any of the following:

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(1) Knowingly, recklessly, or intentionally causes or  
56 permits a child to be exposed to, to ingest or inhale, or to



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57 have contact with a controlled substance, excluding marijuana,  
58 or a chemical substance, ~~or drug paraphernalia as defined in~~  
59 ~~Section 13A-12-260~~. A violation under this subdivision is a  
60 Class C felony.

61 (2) Knowingly, recklessly, or intentionally causes or  
62 permits a child to be exposed to, to ingest or inhale, or to  
63 have contact with marijuana or drug paraphernalia as defined  
64 in Section 13A-12-260. A violation under this subdivision is a  
65 Class A misdemeanor.

66 ~~(2)~~ (3) Violates subdivision (1) or (2) and a child  
67 suffers serious physical injury ~~by exposure to, ingestion of,~~  
68 ~~inhalation of, or contact with a controlled substance,~~  
69 ~~chemical substance, or drug paraphernalia~~. A violation under  
70 this subdivision is a Class B felony.

71 ~~(3)~~ (4) Violates subdivision (1) or (2) ~~and the~~  
72 ~~exposure, ingestion, inhalation, or contact that~~ and the  
73 violation results in the death of the child. A violation under  
74 this subdivision is a Class A felony.

75 (b) The court shall impose punishment pursuant to this  
76 section rather than imposing punishment authorized under any  
77 other provision of law, unless another provision of law  
78 provides for a greater penalty or a longer term of  
79 imprisonment.

80 (c) It is an affirmative defense to a violation of this  
81 section that the controlled substance was provided by lawful  
82 prescription for the child, and that it was administered to  
83 the child in accordance with the prescription instructions  
84 provided with the controlled substance.



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85 (d) A confirmatory positive drug test must be obtained  
86 before any of the following occurs:

87 (1) Law enforcement or the Department of Human  
88 Resources is contacted to report a violation of this section.

89 (2) An arrest is made for a violation of this section.

90 (3) A person is convicted for a violation of this  
91 section.

92 (4) The Department of Human Resources initiates an  
93 assessment or investigation for a violation of this section."

94 Section 2. Although this bill would have as its purpose  
95 or effect the requirement of a new or increased expenditure of  
96 local funds, the bill is excluded from further requirements  
97 and application under Section 111.05 of the Constitution of  
98 Alabama of 2022, because the bill defines a new crime or  
99 amends the definition of an existing crime.

100 Section 2. This act shall become effective on the first  
101 day of the third month following its passage and approval by  
102 the Governor, or its otherwise becoming law.