

1 HB413
2 191629-1
3 By Representative Beckman
4 RFD: Judiciary
5 First Read: 13-FEB-18

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8 SYNOPSIS: Under existing law, juvenile sex offenders
9 are subject to community notification requirements
10 based on the risk of re-offense, and if the
11 juvenile sex offender is a low risk for re-offense,
12 notification that the juvenile sex offender will be
13 establishing or has established a fixed residence
14 shall be provided by local law enforcement to the
15 principal of the school the juvenile sex offender
16 will attend after release.

17 Also, existing law does not prohibit a
18 juvenile sex offender from attending school with
19 the general school population.

20 This bill would require local law
21 enforcement to notify the local superintendent of
22 education and the local board of education, in
23 addition to the principal, when a low-risk juvenile
24 sex offender is planning to establish or has
25 established a fixed residence within their
26 jurisdiction, would require juvenile sex offenders
27 to notify local law enforcement of any change in

1 school attendance, and would provide that failure
2 to comply with either constitutes a Class C felony.

3 This bill would require the State Board of
4 Education to develop, and each local board of
5 education to adopt, a comprehensive model policy
6 for the supervision and monitoring of low risk
7 juvenile sex offender students attending school
8 with the general student population and would
9 require alternative educational placement for any
10 juvenile sex offender who is a moderate or high
11 risk for re-offense.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official ReCompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

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

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

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

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10 Relating to juvenile sex offenders; to amend
11 Sections 15-20A-27, as last amended by Act 2017-414, 2017
12 Regular Session, and 15-20A-30, Code of Alabama 1975; to
13 require local law enforcement to notify the local
14 superintendent of education and the local board of education
15 when a low-risk juvenile sex offender is planning to establish
16 or has established a fixed residence within the jurisdiction
17 of the board; to require juvenile sex offenders to notify
18 local law enforcement of any change in school attendance; to
19 further provide that failure to comply, unless otherwise
20 provided, constitutes a Class C felony; to require the State
21 Board of Education to develop, and each local board of
22 education to adopt, a comprehensive model policy for the
23 supervision and monitoring of low risk juvenile sex offender
24 students attending school with the general student population;
25 to require alternative educational placement for any juvenile
26 sex offender who is a moderate or high risk for re-offense;
27 and in connection therewith would have as its purpose or

1 effect the requirement of a new or increased expenditure of
2 local funds within the meaning of Amendment 621 of the
3 Constitution of Alabama of 1901, now appearing as Section
4 111.05 of the Official ReCompilation of the Constitution of
5 Alabama of 1901, as amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 15-20A-27, as last amended by
8 Act 2017-414, 2017 Regular Session, and 15-20A-30 of the Code
9 of Alabama 1975 are amended to read as follows:

10 "§15-20A-27.

11 "(a) In determining whether to apply notification
12 requirements to a juvenile sex offender, the sentencing court
13 shall consider any of the following factors relevant to the
14 risk of re-offense:

15 "(1) Conditions of release that minimize the risk of
16 re-offense, including, but not limited to, whether the
17 juvenile sex offender is under supervision of probation,
18 parole, or aftercare; receiving counseling, therapy, or
19 treatment; or residing in a home situation that provides
20 guidance and supervision.

21 "(2) Physical conditions that minimize the risk of
22 re-offense, including, but not limited to, advanced age or
23 debilitating illness.

24 "(3) Criminal history factors indicative of high
25 risk of re-offense, including whether the conduct of the
26 juvenile sex offender was found to be characterized by
27 repetitive and compulsive behavior.

1 "(4) Whether psychological or psychiatric profiles
2 indicate a risk of recidivism.

3 "(5) The relationship between the juvenile sex
4 offender and the victim.

5 "(6) The particular facts and circumstances
6 surrounding the offense.

7 "(7) The level of planning and participation in the
8 offense.

9 "(8) Whether the offense involved the use of a
10 weapon, violence, or infliction of serious bodily injury.

11 "(9) The number, date, and nature of prior offenses.

12 "(10) The response to treatment of the juvenile sex
13 offender.

14 "(11) Recent behavior, including behavior while
15 confined or while under supervision in the community.

16 "(12) Recent threats against persons or expressions
17 of intent to commit additional crimes.

18 "(13) The protection of society.

19 "(14) Any other factors deemed relevant by the
20 court.

21 "(b) If the sentencing court determines that the
22 juvenile sex offender shall be subject to notification, the
23 level of notification shall be applied as follows:

24 "(1) If the risk of re-offense is low, notification
25 that the juvenile sex offender will be establishing or has
26 established a fixed residence shall be provided by local law
27 enforcement to the principal of the public or nonpublic school

1 where the juvenile sex offender will attend after release and,
2 if a public school, to the local superintendent of education
3 and local board of education with jurisdiction over that
4 school. This notification shall include the name, actual
5 living address, date of birth of the juvenile sex offender,
6 and a statement of the sex offense for which he or she has
7 been adjudicated delinquent, including the age and gender of
8 the victim. This information shall be considered confidential
9 by the school, the superintendent, and each member of the
10 local board of education and be shared only with the teachers
11 and staff with supervision over the juvenile sex offender.
12 Whoever, except as specifically provided herein, directly or
13 indirectly discloses or makes use of or knowingly permits the
14 use of information concerning a juvenile sex offender
15 described in this section, upon conviction thereof, shall be
16 guilty of a Class C felony within the jurisdiction of the
17 juvenile court.

18 "(2) If the risk of re-offense is moderate,
19 notification that the juvenile sex offender will be
20 establishing, or has established, a fixed residence shall be
21 provided by local law enforcement to all schools and childcare
22 facilities within three miles of the declared fixed residence
23 of the juvenile sex offender. A community notification flyer
24 shall be mailed by regular mail or hand delivered to all
25 schools or childcare facilities as required by this
26 subsection. No other method may be used to disseminate this
27 information.

1 "(3) If the risk of re-offense is high, the public
2 shall receive notification as though the juvenile sex offender
3 were an adult sex offender in accordance with Section
4 15-20A-21.

5 "(c) The sentencing court shall enter an order
6 stating whether the juvenile sex offender shall be subject to
7 notification and the level of notification that shall be
8 applied. The court shall provide a copy of the order to the
9 prosecuting attorney and to the Alabama State Law Enforcement
10 Agency.

11 "(d) The determination of notification by the
12 sentencing court shall not be subject to appeal.

13 "(e) Except as otherwise provided by law, any
14 violation of this section is a Class C felony.

15 "§15-20A-30.

16 "(a) Immediately upon release or immediately upon
17 adjudication of delinquency if the juvenile sex offender is
18 not committed, the juvenile sex offender and the parent,
19 custodian, or guardian shall register all required
20 registration information with local law enforcement in each
21 county in which the juvenile sex offender resides or intends
22 to reside.

23 "(b) Whenever a juvenile sex offender establishes a
24 new residence, the juvenile sex offender and the parent,
25 custodian, or guardian of the juvenile sex offender shall
26 immediately appear in person to register all required

1 registration information with local law enforcement in each
2 county of residence.

3 "(c) If the parent, custodian, or guardian of a
4 juvenile sex offender transfers or terminates the residence of
5 the juvenile sex offender, or the custody of the juvenile sex
6 offender is changed to a different parent, custodian, or
7 guardian resulting in a transfer of residence, the original
8 parent, custodian, or guardian with custody shall immediately
9 notify local law enforcement in each county of residence.

10 "(d) Whenever a juvenile sex offender changes any
11 required registration information including, but not limited
12 to, his or her school attendance status, the juvenile sex
13 offender and the parent, custodian, or guardian of the
14 juvenile sex offender shall immediately appear in person to
15 update the required registration information with local law
16 enforcement in each county in which the juvenile sex offender
17 resides.

18 "(e) A juvenile sex offender required to register
19 for life pursuant to Section 15-20A-28 shall appear in person
20 with his or her parent, custodian, or guardian to verify all
21 required registration information during the birth month of
22 the juvenile sex offender and every three months thereafter
23 with the local law enforcement in each county of residence
24 unless the juvenile sex offender has been relieved from
25 registration requirements pursuant to Section 15-20A-34.

26 "(f) A juvenile sex offender required to register
27 for 10 years pursuant to Section 15-20A-28 shall appear in

1 person with his or her parent, custodian, or guardian to
2 verify all required registration information during the birth
3 month of the juvenile sex offender and every year thereafter
4 with local law enforcement in each county of residence unless
5 the juvenile sex offender has been relieved from registration
6 requirements pursuant to Section 15-20A-24.

7 "(g) At the time of registration, the juvenile sex
8 offender shall be provided a form explaining all duties and
9 any restrictions placed on the juvenile sex offender. The
10 juvenile sex offender and the parent, custodian, or guardian
11 of the juvenile sex offender shall read and sign this form
12 stating that he or she understands the duties and restrictions
13 placed on the juvenile sex offender and his or her parent,
14 custodian, or guardian.

15 "(h) When a juvenile sex offender becomes the age of
16 majority, the parent, custodian, or guardian of the juvenile
17 sex offender shall no longer be subject to the requirements of
18 this section, and the juvenile sex offender shall instead be
19 solely responsible for the requirements in this section.

20 "(i) A person who knowingly violates this section
21 shall be guilty of a Class C felony."

22 Section 2. (a) (1) On or before January 1, 2019, the
23 State Board of Education shall develop a comprehensive model
24 policy for the supervision and monitoring of juvenile sex
25 offender students, who have a low risk of re-offense and are
26 enrolled, attending class, and participating in school
27 activities with the general population of students. The

1 purpose of the model policy is to provide a safe and secure
2 environment for all students and staff. The model policy shall
3 be adopted by each local board of education and implemented
4 beginning with the 2020-2021 school year. The model policy, at
5 a minimum, shall contain all of the following components:

6 a. Application to all school property and
7 school-sponsored functions including, but not limited to,
8 classroom instructional time, assemblies, athletic events,
9 extracurricular activities, and school bus transportation.

10 b. An initial meeting of all parties immediately
11 upon the enrollment of the low risk juvenile sex offender, and
12 frequent meetings thereafter as necessary to provide for the
13 continual monitoring of the student and a safe school
14 environment for all. The principal and all appropriate school
15 personnel who have received confidential notification pursuant
16 to subdivision (1) of subsection (b) of Section 15-20A-27,
17 Code of Alabama 1975, in consultation with juvenile probation
18 professionals, shall meet with the student, and the parent or
19 guardian of the student, to create and implement an
20 individualized student safety plan. The principal shall
21 determine other appropriate school personnel to be included in
22 the meetings to assist in defining school expectations.
23 Student safety plans shall outline the responsibilities of all
24 parties in safely managing the behavior of the student and
25 protecting all students. The plan shall be consistent with
26 existing disciplinary policies and procedures, student conduct
27 policies, and mandatory reporting policies. Student safety

1 plans shall include, but not be limited to, all of the
2 following:

3 1. An outline of conditions or limitations, or both,
4 on the low risk juvenile sex offender concerning his or her
5 interactions on school property and when participating in
6 school activities.

7 2. An effective procedure, developed in conjunction
8 with school staff in consultation with the parent or guardian
9 of the student, for communicating concerns relating to the
10 student.

11 3. Guidelines for expected intervention actions for
12 high-risk behaviors and for reinforcing positive behaviors
13 based on the needs of the student and the safety of all
14 students and staff.

15 4. Procedures for the continual review of each plan
16 by staff designated by the principal and for monitoring and
17 changing the plan on an as-needed basis by school staff.

18 5. Safeguards for protecting confidential
19 information.

20 c. Continuity of information and monitoring of
21 low-risk juvenile sex offender students over time as the
22 students change schools and as administrators and school
23 personnel change.

24 d. Comprehensive training for school personnel on
25 recognizing behavior that may be indicative of improper sexual
26 activity and taking appropriate action upon noticing an
27 increase or escalation of those behaviors in a low risk

1 juvenile sex offender student, both for the short and
2 long-term safety of that student and all other students.

3 e. Detailed procedures for reporting behavior that
4 may be indicative of improper sexual activity to the
5 principal, or his or her designee, and to appropriate law
6 enforcement or other involved agencies upon a determination
7 that the low risk juvenile sex offender student has not
8 complied with the student safety plan. School personnel shall
9 report violations of plan expectations to the principal when
10 they occur.

11 (2) When a low risk juvenile sex offender student
12 changes schools, the principal shall notify local law
13 enforcement and local law enforcement shall notify the
14 principal of the new school and, where applicable, the local
15 superintendent of education and local board of education
16 pursuant to subsection (b) of Section 15-20A-27, Code of
17 Alabama 1975. The principal of the prior school shall ensure
18 that all records and safety plans pertaining to the low risk
19 juvenile sex offender student follow the student to his or her
20 new school. If the sex offender status or probation or parole
21 status of the student changes, the principal shall notify the
22 appropriate school staff as part of the safety planning of the
23 school. The principal and school staff shall maintain
24 confidentiality regarding these students as required by law.
25 Any information received by a principal, school personnel,
26 local superintendent of education, or local board of education
27 member as a result of a notification is confidential and may

1 not be further disseminated except as provided in Section
2 15-20A-27, Code of Alabama 1975, and other state law and the
3 Family and Educational and Privacy Rights Act of 1994, 20 U.S.
4 Code Section 1232g et. seq. Any school district employee who
5 releases information in compliance with state and federal law
6 is immune from civil liability in accordance with Section
7 36-1-12, Code of Alabama 1975.

8 (b) (1) The Legislature finds that a juvenile sex
9 offender who is classified as having either a moderate or high
10 risk of re-offense poses a potential threat to the safety of
11 other students and teachers that is detrimental to the
12 educational process and not in the best interests of the other
13 students.

14 (2) A juvenile sex offender who is classified as
15 having either a moderate or high risk of re-offense may not
16 attend school with the general population of students. The
17 applicable local board of education, in consultation with
18 local law enforcement, shall assist the parent or guardian of
19 the moderate or high risk juvenile sex offender student in
20 determining the appropriate alternative educational placement
21 of the student. An appropriate alternative educational
22 placement may include, and may not be limited to, an
23 alternative education program, home school, or virtual school
24 pursuant to Chapter 46A of Title 16, Code of Alabama 1975.

25 (3) Any alternative placement of a student with a
26 disability who receives special education services shall be

1 made in compliance with the Individuals with Disabilities
2 Education Act, 20 U.S.C. Section 1400 et seq.

3 (c) A student who is enrolled in and attending
4 school through an alternative educational placement under this
5 section shall be included in enrollment and attendance counts
6 of students of the local school system in which the student
7 resides as otherwise provided by law for that alternative
8 educational placement and data shall be reported to the local
9 school system of residence in a timely manner as otherwise
10 provided by law. The State Board of Education, by rule, may
11 provide for payment by the parent or guardian of a juvenile
12 sex offender who is classified as having either a moderate or
13 high risk of re-offense, of any costs associated with
14 alternative placement, as appropriate.

15 Section 3. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

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