

1 HB142
2 181495-1
3 By Representative Ford
4 RFD: Public Safety and Homeland Security
5 First Read: 07-FEB-17

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8 SYNOPSIS: Under existing law, law enforcement agencies
9 may use an individual under the age of 21 years as
10 a confidential informant without obtaining the
11 consent of his or her parent or legal guardian.

12 This bill would require law enforcement
13 agencies to obtain the consent of a parent or legal
14 guardian prior to using such an individual as a
15 confidential informant.

16 This bill would allow an individual under
17 the age of 21 years to serve as a confidential
18 informant without obtaining the consent of his or
19 her parent or legal guardian, provided that he or
20 she is over the age of 17 and acts upon the advice
21 of counsel.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to confidential informants; to provide that
2 law enforcement agencies may not use any individual under the
3 age of 21 years as a confidential informant unless the
4 individual's parent or legal guardian grants written consent
5 with certain exceptions.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. For the purposes of this section, the
8 following terms shall have the following meanings:

9 (1) CONFIDENTIAL INFORMANT. A person who
10 confidentially cooperates with a law enforcement agency to
11 protect the person or the agency's intelligence gathering or
12 investigative efforts and also satisfies the following:

13 a. Seeks to avoid arrest or prosecution for a crime
14 or mitigate punishment for a crime in which a sentence will or
15 has been imposed.

16 b. By using personal knowledge, connections, or
17 association with suspected criminals, agrees to do any of the
18 following:

19 1. Make a controlled buy or a controlled sale of
20 contraband, controlled substances, or other items that are
21 material to a criminal investigation.

22 2. Provide regular or constant information about
23 suspected or actual criminal activities to a law enforcement
24 agency.

25 3. Otherwise provide important information for
26 ongoing criminal intelligence gathering or criminal
27 investigative efforts.

1 (2) CONTRABAND. Any item that a person is prohibited
2 from producing, obtaining, or possessing by statute, rule,
3 regulation, or order of a court.

4 (3) CONTROLLED BUY. A purchase of contraband,
5 controlled substances, or other items that are material to a
6 criminal investigation from a target offender which is
7 initiated, managed, overseen, or participated in by law
8 enforcement personnel with the knowledge of a confidential
9 informant.

10 (4) CONTROLLED SALE. A sale of contraband,
11 controlled substances, or other items that are material to a
12 criminal investigation to a target offender which is
13 initiated, managed, overseen, or participated in by law
14 enforcement personnel with the knowledge of a confidential
15 informant.

16 (5) CONTROLLED SUBSTANCE. A drug, substance, or
17 immediate precursor included in Schedules I through V of state
18 or federal law.

19 (6) TARGET OFFENDER. A person suspected by law
20 enforcement to be involved in criminal activities.

21 Section 2. (a) Except as provided in subsection (b),
22 a state or local law enforcement agency may not use any
23 individual under the age of 21 years as a confidential
24 informant unless the individual's parent or legal guardian
25 grants written consent.

26 (b) Any individual under the age of 21 years but
27 over the age of 17 years may be used as a confidential

1 informant without the consent of his or her parent or legal
2 guardian, provided that he or she acts upon the advice of
3 counsel. This subsection does not create a right to publicly
4 funded legal counsel.

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