

1 HB261
2 181917-1
3 By Representatives Greer, Mooney, Hanes, Butler, Patterson,
4 Wood, Ledbetter, Rowe, South, Nordgren, Lee, Crawford
5 and Brown
6 RFD: Judiciary
7 First Read: 16-FEB-17

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8 SYNOPSIS: Under existing law, a victim of a crime has
9 the right to refuse a request by the defendant, by
10 the attorney of the defendant, or by any other
11 person acting on behalf of the defendant for an
12 interview or other communication with the victim.

13 This bill would prohibit an attorney in a
14 criminal proceeding from contacting a victim of the
15 crime or his or her immediate family members for
16 the purpose of investigating or developing issues
17 that are the subject of the criminal proceeding
18 without first providing notice to the prosecutor.

19 This bill would authorize a prosecutor to
20 request the court to prohibit the attorney from
21 contacting the victim or his or her immediate
22 family members.

23 This bill would provide that unauthorized
24 contact constitutes criminal harassment or a
25 harassing communication.

26 This bill would also prohibit the use of
27 funds from the State Treasury for a Defense

1 Initiated Victims Outreach initiative or to fund
2 certain professional providers, such as a counselor
3 or therapist, to provide professional services
4 through the initiative.

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

18 The purpose or effect of this bill would be
19 to require a new or increased expenditure of local
20 funds within the meaning of the amendment. However,
21 the bill does not require approval of a local
22 governmental entity or enactment by a 2/3 vote to
23 become effective because it comes within one of the
24 specified exceptions contained in the amendment.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Section 15-23-73, Code of Alabama 1975, to
4 prohibit an attorney in a criminal proceeding from contacting
5 a victim of the crime or his or her immediate family members
6 for the purpose of investigating or developing issues that are
7 the subject of the criminal proceeding without first providing
8 notice to the prosecutor; to allow a court to prohibit contact
9 with a victim; to provide criminal penalties for violations;
10 to prohibit the use of funds from the State Treasury for a
11 Defense Initiated Victims Outreach initiative; and in
12 connection therewith would have as its purpose or effect the
13 requirement of a new or increased expenditure of local funds
14 within the meaning of Amendment 621 of the Constitution of
15 Alabama of 1901, now appearing as Section 111.05 of the
16 Official Recompilation of the Constitution of Alabama of 1901,
17 as amended.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 15-23-73, Code of Alabama 1975,
20 is amended to read as follows:

21 "§15-23-70.

22 "(a) The victim has the right to refuse a request by
23 the defendant, the attorney of the defendant, or by any other
24 person acting on behalf of the defendant, for an interview or
25 other communication with the victim.

26 "(b) (1) An attorney for a defendant in a criminal
27 proceeding may not contact or interview a victim of the crime

1 or an immediate family member of a victim of the crime for the
2 purpose of investigating or developing issues that are the
3 subject of the criminal proceeding without first providing
4 notice to the prosecutor.

5 "(2) Upon receipt of notice under subdivision (1),
6 the prosecutor may consent to the attorney's contact with the
7 victim or may request the court to prohibit the attorney from
8 contacting the victim or immediate family member.

9 "(3) If an attorney for a defendant does not receive
10 a response from the prosecutor within 48 hours of providing
11 notice under subdivision (1), the attorney may contact the
12 victim or immediate family member of the victim. If the
13 prosecutor requests the court to prohibit the attorney's
14 contact with the victim under subdivision (2), the attorney
15 for the defendant may not contact the victim or immediate
16 family member until the court approves the contact.

17 "(4) A violation of this section is harassment or a
18 harassing communication under Section 13A-11-8."

19 Section 2. Funds from the State Treasury, including
20 funds from the Fair Trial Tax Fund, may not be used for the
21 purpose of a Defense Initiated Victims Outreach initiative or
22 for the funding of any specialist, counselor, therapist,
23 analyst, expert, or any other professional service provider
24 for the purpose of providing services to a victim of a crime
25 or family members of a victim of a crime through the
26 initiative. A request for an expenditure by a member of the

1 judiciary may be considered contempt under Rule 34 of the
2 Alabama Rules of Judicial Administration.

3 Section 3. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

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