

1 HB21  
2 154694-1  
3 By Representatives Wallace and Beckman  
4 RFD: Public Safety and Homeland Security  
5 First Read: 14-JAN-14  
6 PFD: 10/02/2013

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8 SYNOPSIS: Existing law restricts a sex offender from  
9 living and from being employed within 2,000 feet of  
10 property on which a child care facility or school  
11 is located.

12 Existing law also restricts a sex offender  
13 from residing within 2,000 feet of a former victim.

14 This bill would define residential sex  
15 offender cluster and would prohibit more than one  
16 unrelated sex offender from residing in an  
17 unregulated residential sex offender cluster.

18 This bill would authorize the sheriff of the  
19 county to license a residential sex offender  
20 cluster in which two or more unrelated adult sex  
21 offenders reside.

22 This bill would require monitoring of  
23 residential sex offender clusters.

24 This bill would authorize the Department of  
25 Mental Health to promulgate rules regulating  
26 residential sex offender clusters.

1                   This bill would repeal certain existing laws  
2 relating to the proximity of sex offender  
3 residences to one another in Class 1  
4 municipalities, in Jefferson County, and in other  
5 counties.

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

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

26  
27                   A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 To prohibit more than one unrelated adult sex  
5 offender from residing in an unlicensed residential sex  
6 offender cluster; to provide for licensing of residential sex  
7 offender clusters by the sheriff; to require monitoring of sex  
8 offenders residing in residential sex offender clusters; to  
9 authorize the Department of Mental Health to promulgate rules  
10 regarding the licensing of residential sex offender clusters;  
11 to provide criminal penalties; to repeal Section 13A-11-204,  
12 Code of Alabama 1975, and Act 2010-515 (2010 Regular Session,  
13 p. 865), relating to Jefferson County; and in connection  
14 therewith would have as its purpose or effect the requirement  
15 of a new or increased expenditure of local funds within the  
16 meaning of Amendment 621 of the Constitution of Alabama of  
17 1901, now appearing as Section 111.05 of the Official  
18 Recompilation of the Constitution of Alabama of 1901, as  
19 amended

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. For the purposes of this act, the  
22 following terms shall have the following meanings:

23 (1) LARGE RESIDENTIAL SEX OFFENDER CLUSTER. A  
24 residential sex offender cluster that includes five or more  
25 adult sex offenders.

1                   (2) LOT. A tract of land having specified boundaries  
2 or a generally recognized purpose. For purposes of this act,  
3 the term lot includes a highway or road overpass.

4                   (3) MONITOR. An individual who agrees to reside in a  
5 residential sex offender cluster and supervise adult sex  
6 offenders for the purpose of decreasing their risk of  
7 re-offending, who meets the following requirements:

8                   a. Is at least 21 years old.

9                   b. Has no record of a felony conviction.

10                  c. Is not a sex offender as defined in Section  
11 15-20A-4 of the Code of Alabama 1975.

12                  (4) MONITORING PLAN. A written plan that, at a  
13 minimum, identifies each of the following:

14                  a. The adult sex offenders each monitor will  
15 supervise.

16                  b. The plans that will enable a monitor to locate or  
17 contact, at any time, the adult sex offenders under the  
18 monitor's supervision.

19                  (5) RESIDENTIAL SEX OFFENDER CLUSTER. a. Except as  
20 provided below, any lot at which two or more unrelated adult  
21 sex offenders maintain a residence or other living  
22 accommodation.

23                  b. In the case of a hotel, motel, apartment complex,  
24 or similar multi-unit dwelling structure, the term residential  
25 sex offender cluster means a discrete unit in which two or  
26 more unrelated adult sex offenders maintain a residence or  
27 other living accommodation.

1           c. The term residential sex offender cluster does  
2 not include any facility or other location exempt from sex  
3 offender residency restrictions under subsection (f) of  
4 Section 15-20A-11 of the Code of Alabama 1975.

5           (6) SEX OFFENDER. A sex offender as defined in  
6 Section 15-20A-4 of the Code of Alabama 1975.

7           (7) SHERIFF. The sheriff of the county, including  
8 any deputy sheriff when acting under the supervision,  
9 direction, or control of the sheriff.

10           (8) UNRELATED. Persons who are not connected through  
11 one of the following relationships:

12           a. Marriage.

13           b. As ancestors or descendants by blood or adoption.

14           c. As brothers or sisters of the whole or half-blood  
15 or by adoption.

16           d. As stepchildren or stepparents while the marriage  
17 creating the relationship exists.

18           e. As aunts, uncles, nephews, or nieces of the whole  
19 or half-blood.

20           Section 2. (a) The Legislature finds and declares  
21 the following:

22           (1) In recent years, numerous residential clusters  
23 of adult sex offenders have emerged in various parts of the  
24 state.

25           (2) Unregulated residential sex offender clusters  
26 are a detriment to the public welfare. They threaten public  
27 safety by creating a heightened risk that the sex offenders

1 who live in them will commit additional sex-related or other  
2 crimes. They can jeopardize public health due to the  
3 unsanitary conditions that are frequently associated with  
4 them. They can also undermine the character and integrity of  
5 the neighborhoods and communities in which they locate.

6 (3) Unregulated residential sex offender clusters  
7 can also be detrimental to sex offenders themselves. They risk  
8 creating targets for acts of vigilantism directed at sex  
9 offenders. Some larger clusters are run by individuals seeking  
10 to financially exploit sex offenders based on sex offenders'  
11 demand for housing that complies with existing sex offender  
12 residency restrictions.

13 (4) Under existing law, local officials lack  
14 sufficient flexibility to manage sex offender residence  
15 patterns in the way that best balances the competing needs of  
16 their communities.

17 (b) It is the intent of the Legislature to create a  
18 civil, non-punitive licensing regime for residential clusters  
19 of adult sex offenders. The purpose of this licensing regime  
20 is to promote public safety, public health, and public  
21 confidence in the monitoring of adult sex offenders through a  
22 model of flexibility and discretion vested in local law  
23 enforcement officials, specifically county sheriffs.

24 Section 3. (a) No adult sex offender shall establish  
25 or maintain a residence in an unlicensed residential sex  
26 offender cluster.

1 (b) No person shall own, operate, or otherwise aid  
2 or abet the establishment or maintenance of an unlicensed  
3 residential sex offender cluster.

4 (c) Any person who knowingly violates this section  
5 shall be guilty of a Class C felony.

6 Section 4. (a) In every county, the sheriff may  
7 issue, renew, suspend, or reinstate a license to operate a  
8 residential sex offender cluster.

9 (b) In exercising the authority and discretion  
10 granted in subsection (a), the sheriff shall consider the  
11 following factors:

12 (1) The location of the residential sex offender  
13 cluster.

14 (2) The criminal histories of the individuals who  
15 propose to reside in the residential sex offender cluster.

16 (3) The risk to public safety posted by the  
17 residential sex offender cluster.

18 (4) Evidence of the sanitation practices at the  
19 residential sex offender cluster.

20 (5) The effect of the residential sex offender  
21 cluster on the character and integrity of the community in  
22 which it proposes to be located.

23 (6) The need for sex offenders to find adequate  
24 housing in compliance with the laws regulating sex offenders.

25 (c) (1) A license issued under this act shall state  
26 the terms upon which the license shall remain valid.

1           (2) At a minimum, a license issued under this act  
2 shall include the following terms:

3           a. A statement that the license is only valid as to  
4 a particular address, which shall be listed on the license.

5           b. A statement that the license is only valid as to  
6 the adult sex offenders whose names appear on the license.

7           c. A statement that the license will cease to be  
8 valid if any sex offender not identified on the license  
9 establishes or maintains a residence at the licensed  
10 residential sex offender cluster prior to the issuance of a  
11 new license that reflects the change in composition of the  
12 residential sex offender cluster.

13           (3) The sheriff may add any additional terms that  
14 are reasonably necessary to accomplish the purposes of this  
15 act.

16           (d) The sheriff shall not require the payment of any  
17 fee as a prerequisite for issuing a license to a residential  
18 sex offender cluster of four or less adult sex offenders.

19           (e) A license issued under this act shall expire one  
20 year from the date of issuance.

21           Section 5. (a) The sheriff shall not issue a license  
22 under this act to a large residential sex offender cluster  
23 unless it meets all of the following requirements:

24           (1) It includes no more than 30 adult sex offenders.

25           (2) It has not less than one monitor for every 10  
26 adult sex offenders who reside in it.

27           (3) It submits a monitoring plan to the sheriff.

1           (4) It provides assurances that it will comply with  
2 any rules promulgated by the Department of Mental Health.

3           (5) It is open to inspection, without notice, by the  
4 sheriff.

5           (6) Prior to issuance or subsequent renewal or  
6 reinstatement of a license, its owner or operator pays to the  
7 sheriff a fee equal to one hundred dollars (\$100) plus twenty  
8 dollars (\$20) per sex offender, which shall be deposited into  
9 the county general fund earmarked for use as requested by the  
10 sheriff for any law enforcement purpose related to sex  
11 offender registration, notification, tracking, or  
12 apprehension. The sheriff may wholly or partly waive this fee  
13 if reasonably necessary to accomplish the purposes of this  
14 act.

15           (b) Any license issued to a large residential sex  
16 offender cluster under this act shall include the following  
17 terms in addition to the terms required in subdivision (2) of  
18 subsection (c) of Section 4:

19           (1) A statement that the license will cease to be  
20 valid as to any adult sex offender who fails to comply with  
21 the monitoring plan.

22           (2) A statement that the license will cease to be  
23 valid whenever there ceases to be less than one monitor for  
24 every 10 adult sex offenders who reside in it.

25           (3) A statement that the license will cease to be  
26 valid upon a violation of any applicable rule promulgated by  
27 the Department of Mental Health.

1           Section 6. (a) A sheriff may suspend a license  
2 issued under this act upon any violation of the terms of the  
3 license.

4           (b) A sheriff shall suspend a license issued under  
5 this section for at least 30 days upon any violation of the  
6 license terms required under subdivision (2) of subsection (c)  
7 of Section 4.

8           (c) In the case of a large residential sex offender  
9 cluster whose license becomes invalid solely because a monitor  
10 has ceased to reside in it, the sheriff shall not suspend the  
11 license before 30 days after the departure of the monitor.

12           (d) The Department of Mental Health is authorized to  
13 promulgate any rules reasonably necessary to effectuate the  
14 intent of this act as it concerns large residential sex  
15 offender clusters.

16           Section 7. (a) A decision of the sheriff not to  
17 issue an initial license shall not be reviewable in any court  
18 in this state.

19           (b) A decision of the sheriff to suspend or revoke a  
20 license shall be reviewable in the circuit court in the  
21 circuit where the residential sex offender cluster is located.

22           (c) A sheriff shall incur no monetary liability  
23 under state law for any decision suspending or refusing to  
24 issue, renew, or reinstate a license under this act.

25           (d) A monitor shall incur no monetary liability for  
26 any action taken in furtherance of this act unless the  
27 monitor's conduct amounts to gross negligence.

1                   Section 8. Section 13A-11-204, Code of Alabama 1975,  
2 Act 2010-515 (2010 Regular Session, p. 865), relating to  
3 Jefferson County, and any other legislative act or provision  
4 of law regarding the proximity to which an adult sex offender  
5 may live to any other adult sex offender, is repealed.

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

14                   Section 10. This act shall become effective January  
15 1, 2014, following its passage and approval by the Governor,  
16 or its otherwise becoming law.