

1 HB525  
2 137822-1  
3 By Representative Mitchell  
4 RFD: Health  
5 First Read: 14-MAR-12

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8 SYNOPSIS: Under existing law, an employee or contract  
9 employee of the state may not disclose in advance  
10 the date or time of an inspection of a hospital or  
11 other health care facility to a person with a  
12 financial interest in a licensed health care  
13 facility, to an employee or agent of a licensed  
14 health care facility, to a consultant or contractor  
15 who performs services for or on behalf of licensed  
16 health care facilities, or to a person related by  
17 blood or marriage to an owner, employee, agent,  
18 consultant, or contractor of a licensed health care  
19 facility.

20 This bill would prohibit an employee or  
21 contract employee of a county health department or  
22 any other agent of the state or county from  
23 disclosing in advance the date or time of an  
24 inspection of a hospital or other health care  
25 facility and would provide for criminal penalties  
26 for violations.

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

14                  The purpose or effect of this bill would be  
15                  to require a new or increased expenditure of local  
16                  funds within the meaning of Amendment 621. However,  
17                  the bill does not require approval of a local  
18                  governmental entity or enactment by a 2/3 vote to  
19                  become effective because it comes within one of the  
20                  specified exceptions contained in Amendment 621.

21  
22                                   A BILL

23                                   TO BE ENTITLED

24                                   AN ACT

25  
26                   To amend Section 22-21-29, Code of Alabama 1975,  
27                   relating to hospitals and other health care facilities; to

1 prohibit an employee of a county health department or any  
2 agent of the state or a county from disclosing in advance the  
3 date or time of an inspection of a hospital or other health  
4 care facility; provide penalties for a violation; and in  
5 connection therewith would have as its purpose or effect the  
6 requirement of a new or increased expenditure of local funds  
7 within the meaning of Amendment 621 of the Constitution of  
8 Alabama of 1901, now appearing as Section 111.05 of the  
9 Official Recompilation of the Constitution of Alabama of 1901,  
10 as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 22-21-29, Code of Alabama 1975,  
13 is amended to read as follows:

14 "§22-21-29.

15 "(a) Every hospital licensed under this article  
16 shall be open to inspection to the extent authorized in this  
17 section by employees and agents of the State Board of Health,  
18 under rules as shall be promulgated by the board with the  
19 advice and consent of the advisory board. Employees and agents  
20 of the board shall also inspect unlicensed and suspected  
21 unlicensed facilities. Nothing in this section shall authorize  
22 the board to inspect quarters therein occupied by members of  
23 any religious group or nurses engaged in work in any hospital  
24 or places of refuge for members of religious orders for whom  
25 care is provided, but any inspection shall be limited and  
26 confined to the parts and portions of the hospital as are used  
27 for the care and treatment of the patients and the general

1 facilities for their care and treatment. No hospital shall, by  
2 reason of this section, be relieved from any other types of  
3 inspections authorized by law.

4 "(b) All inspections undertaken by the State Board  
5 of Health shall be conducted without prior notice to the  
6 facility and its staff. Notwithstanding the foregoing, an  
7 inspection of a hospital or other health care facility, prior  
8 to its licensure, may be scheduled in advance. An employee or  
9 contract employee of the state or a county health department,  
10 or any agent of the state or a county, shall not disclose in  
11 advance the date or the time of an inspection of a hospital or  
12 other health care facility to any person with a financial  
13 interest in any licensed health care facility, to any employee  
14 or agent of a licensed health care facility, to any consultant  
15 or contractor who performs services for or on behalf of  
16 licensed health care facilities, or to any person related by  
17 blood or marriage to an owner, employee, agent, consultant, or  
18 contractor of a licensed health care facility. For purposes of  
19 this section, the term inspection shall include periodic and  
20 follow-up compliance inspections and surveys on behalf of the  
21 State Board of Health, complaint investigations and follow-up  
22 investigations conducted by the State Board of Health, and  
23 compliance inspections and surveys, complaint investigations,  
24 and follow-up visits conducted on behalf of the United States  
25 Department of Health and Human Services, Health Care Financing  
26 Administration, or its successors. The board may prescribe by  
27 rule exceptions to the prohibition where considerations of

1 public health or safety make advance disclosure of inspection  
2 dates or times reasonable. Disclosure in advance of inspection  
3 dates when such disclosure is required or authorized pursuant  
4 to federal law or regulation shall not be a violation of this  
5 section. Scheduling inspections of hospitals or other health  
6 care facilities by the board at regular, periodic intervals  
7 which may be predictable shall not be a violation of this  
8 section.

9 "(c) Any employee or contract employee of the state  
10 or a county health department, or any other agent of the state  
11 or a county, who discloses in advance the date or time of an  
12 inspection in violation of subsection (b) shall be guilty of a  
13 Class A misdemeanor. Any person who solicits an employee or  
14 contract employee of the state or a county or other agent of  
15 the state or a county to disclose in advance the date or time  
16 of an inspection in violation of subsection (b) for the  
17 purpose of disclosing the information to others shall be  
18 guilty of a Class A misdemeanor."

19 Section 2. Although this bill would have as its  
20 purpose or effect the requirement of a new or increased  
21 expenditure of local funds, the bill is excluded from further  
22 requirements and application under Amendment 621, now  
23 appearing as Section 111.05 of the Official Recompilation of  
24 the Constitution of Alabama of 1901, as amended, because the  
25 bill defines a new crime or amends the definition of an  
26 existing crime.

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