

1 SB431
2 129833-2
3 By Senators Williams, Scofield, Marsh, Brooks, Brewbaker and
4 Reed
5 RFD: Judiciary
6 First Read: 21-APR-11

SYNOPSIS: This bill would further define the crime of rape in the second degree to include any sexual activity by a person 17 years of age or over with a person less than 17 or more than 12. Sexual activity would be defined as any single act of sexual intercourse of any type, oral sex, or touching or exposing the genitals of either the actor or the victim.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Section 13A-6-62 of the Code of Alabama
16 1975, to further define the crime of rape in the second
17 degree; and in connection therewith would have as its purpose
18 or effect the requirement of a new or increased expenditure of
19 local funds within the meaning of Amendment 621 of the
20 Constitution of Alabama of 1901, now appearing as Section
21 111.05 of the Official Recompilation of the Constitution of
22 Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 13A-6-62 of the Code of Alabama
25 1975, is amended to read as follows:

26 "§13A-6-62.

1 "(a) A person commits the crime of rape in the
2 second degree if:

3 "(1) Being ~~16~~ 17 years old or older, he or she
4 engages in sexual ~~intercourse~~ activity with a ~~member of the~~
5 ~~opposite sex~~ person less than ~~16~~ 17 and more than 12 years
6 old; ~~provided, however, the actor is at least two years older~~
7 ~~than the member of the opposite sex.~~

8 "(2) He or she engages in sexual ~~intercourse~~
9 activity with a ~~member of the opposite sex~~ person who is
10 incapable of consent by reason of being mentally defective.

11 "(3) For the purposes of this section, sexual
12 activity shall be defined as any single act of sexual
13 intercourse of any type, oral sex, or touching the genitalia
14 of either the actor or the person under the age of 17.

15 "(b) Rape in the second degree is a Class B felony."

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

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