

1 HB99
2 134458-1
3 By Representative Wood
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

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8 SYNOPSIS: Existing law does not provide for a specific
9 crime relating to the impersonation of an official
10 or law enforcement officer or the false assertion
11 of authority related to sham legal process, or
12 process that is not lawfully issued by a court or
13 other authority.

14 This bill would make it a crime to
15 impersonate a state or local official or employee
16 or a law enforcement officer in connection with
17 sham legal process.

18 This bill would make it a crime to falsely
19 assert authority of state law in connection with
20 sham legal process.

21 This bill would make it a crime to act,
22 without authority, as a judge, magistrate, hearing
23 officer, juror, clerk of court, or any other
24 official with the authority to adjudicate the
25 rights or interests of another, or to sign a
26 document in this capacity as if authorized by state
27 law.

1 This bill would make it a crime to falsely
2 assert authority of law in an attempt to intimidate
3 or hinder a state or local official or employee or
4 a law enforcement officer in the discharge of
5 official duties by means of threats, harassment,
6 physical abuse, or the use of sham legal process.

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

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

1 A BILL

2 TO BE ENTITLED

3 AN ACT

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5 Relating to crimes and offenses; to add Section
6 13A-10-132 to the Code of Alabama 1975, to make it a crime to
7 impersonate a public servant or a peace officer in connection
8 with sham legal process; to make it a crime to falsely assert
9 the authority of state law in connection with sham legal
10 process; to make it a crime to act, without authority, as a
11 judge, magistrate, hearing officer, or any other authority
12 with the authority to adjudicate the rights or interests of
13 another, or to sign a document in this capacity as if it were
14 authorized by state law; and in connection therewith would
15 have as its purpose or effect the requirement of a new or
16 increased expenditure of local funds within the meaning of
17 Amendment 621 of the Constitution of Alabama of 1901, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 13A-10-132 is added to the Code
22 of Alabama 1975, to read as follows:

23 §13A-10-132.

24 (a) For the purposes of this section, the following
25 terms shall have the following meanings:

26 (1) LAW ENFORCEMENT OFFICER. The same as defined in
27 Section 13A-10-1.

(2) **LAWFULLY ISSUED.** Adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, an agency, or a political subdivision of a state.

(3) SHAM LEGAL PROCESS. The issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to be any one of the following:

a. A summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this state, a peace officer, or a legislative, executive, or administrative agency established by state law.

b. An assertion of jurisdiction or authority over or determination or adjudication of the legal or equitable status, rights, duties, powers, or privileges of a person or property.

c. A requirement or authorization for the search, seizure, indictment, arrest, trial, or sentencing of a person or property.

(4) STATE OR LOCAL OFFICIAL OR EMPLOYEE. An appointed or elected official or an employee of a state agency, board, commission, department, in a branch of state government, institution of higher education, or other unit of government in this state.

(b) It shall be unlawful for a person to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process by acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity by either of the following:

(1) Subjecting another person to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights.

(2) Denying or impeding another person in the exercise or enjoyment of any right, privilege, power, or immunity.

(c) A person violating subsection (b) is guilty of a Class B misdemeanor.

(d) It shall be unlawful for a person falsely to assert authority of state law in connection with a sham legal process. A person violating this subsection is guilty of a Class A misdemeanor.

(e) It shall be unlawful for a person to knowingly act, without authority under state law, as any judge, magistrate, hearing officer, juror, a clerk of court, a commissioned notary public, or any other official authorized to determine a controversy or adjudicate the rights or interests of others, or to sign a document as if authorized by state law. A person violating this subsection is guilty of a Class A misdemeanor.

(f) It shall be unlawful for a person to falsely assert authority of law in an attempt to intimidate or hinder a state or local official or employee or a law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process. A person violating this subsection is guilty of a Class C felony.

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

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