HB252
173419-3
By Representatives Pettus, Rich, Ledbetter, Whorton (R), Hanes and Whorton (I)
RFD: Judiciary
First Read: 17-FEB-16
SYNOPSIS: Under existing law, the communication of a harassing communication by means of telephone, mail, or other written or electronic communication is a crime punishable as a Class C misdemeanor.

This bill would create the crime of harassment by means of distribution of a private image as defined, to apply when one person distributes a sexually explicit private image of another person without permission and with intent to harass and provide that the penalty would be a Class A misdemeanor.

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

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

A BILL
TO BE ENTITLED
AN ACT

To amend Section 13A-11-8 of the Code of Alabama 1975, relating to harassing communications; to provide for the crime of harassment by distribution of a private image as defined; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of 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.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Section 13A-11-8 of the Code of Alabama 1975, is amended to read as follows:

"§13A-11-8.

"(a)(1) HARASSMENT. A person commits the crime of harassment if, with intent to harass, annoy, or alarm another person, he or she either:

"a. Strikes, shoves, kicks, or otherwise touches a person or subjects him or her to physical contact.

"b. Directs abusive or obscene language or makes an obscene gesture towards another person.

"(2) For purposes of this section, harassment shall include a threat, verbal or nonverbal, made with the intent to carry out the threat, that would cause a reasonable person who is the target of the threat to fear for his or her safety.

"(3) Harassment is a Class C misdemeanor.

"(b)(1) HARASSING COMMUNICATIONS. A person commits the crime of harassing communications if, with intent to harass or alarm another person, he or she does any of the following:

"a. Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written or electronic communication, in a manner likely to harass or cause alarm.

"b. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.
"c. Telephones another person and addresses to or about such other person any lewd or obscene words or language.

"Nothing in this section shall apply to legitimate business telephone communications.

"(2) Harassing communications is a Class C misdemeanor.

"(c)(1) HARASSMENT BY DISTRIBUTION OF A PRIVATE IMAGE. A person commits the crime of harassment by distribution of a private image, if with intent to degrade, harass, annoy, or alarm another person, he or she distributes, posts, emails, texts, or otherwise transmits a private image without the consent of the person depicted in the image.

"(2) For purposes of this subsection, a private image is a photograph, digital image, video, film, or digital recording of a person, whether recognizable or not, engaged in any act of sadomasochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct. The term includes display of such private images by means of any photograph, digital image, video, film, or digital recording that has been manipulated.

"(3) Harassment by distribution of a private image is a Class A misdemeanor."

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.