

**SB224 ENROLLED**



1 XFH9Z7-3

2 By Senators Figures, Weaver, Coleman-Madison, Singleton,

3 Givhan, Stutts, Stewart, Coleman, Smitherman, Hatcher

4 RFD: Judiciary

5 First Read: 19-Apr-23

6 2023 Regular Session



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1 Enrolled, An Act,

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5 Relating to crimes and offenses; to amend Section

6 13A-6-111, Code of Alabama 1975, to provide for the age of a

7 child for the crime of transmitting obscene material to a

8 child by computer; to amend Section 13A-6-240, Code of Alabama

9 1975, to establish jurisdiction for a violation of

10 distributing a private image; to amend Section 13A-13-3, Code

11 of Alabama 1975, to further provide for the crime of incest;

12 and in connection therewith would have as its purpose or

13 effect the requirement of a new or increased expenditure of

14 local funds within the meaning of Section 111.05 of the

15 Constitution of Alabama of 2022.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 13A-6-111, 13A-6-240, and 13A-13-3,

18 Code of Alabama 1975, are amended to read as follows:

19 "§13A-6-111

20 (a) A person is guilty of transmitting obscene material

21 to a child if the person transmits, by means of any computer

22 communication system allowing the input, output, examination,

23 or transfer of computer programs from one computer to another,

24 material which, in whole or in part, depicts actual or

25 simulated nudity, sexual conduct, or sadomasochistic abuse,

26 for the purpose of initiating or engaging in sexual acts with

27 the child.

28 (b) For the purposes of this section, a "child"



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29 includes any person under 17 years of age.

30 ~~(b)~~ (c) For purposes of determining jurisdiction, the  
31 offense is committed in this state if the transmission that  
32 constitutes the offense either originates in this state or is  
33 received in this state.

34 ~~(e)~~ (d) A person charged under this section shall be  
35 tried as an adult and the record of the proceeding shall not  
36 be sealed nor subject to expungement.

37 ~~(d)~~ (e) Transmitting obscene material of engaging in  
38 sexual intercourse, sodomy, or to engage in a sexual  
39 performance, obscene sexual performance, or sexual conduct for  
40 his or her benefit to a child is a Class B felony."

41 "§13A-6-240

42 (a) A person commits the crime of distributing a  
43 private image if he or she knowingly posts, emails, texts,  
44 transmits, or otherwise distributes a private image ~~with the~~  
45 ~~intent to harass, threaten, coerce, or intimidate the person~~  
46 ~~depicted~~ when the depicted person has not consented to the  
47 transmission and the depicted person had a reasonable  
48 expectation of privacy against transmission of the private  
49 image.

50 (b) For purposes of this section, "private image" means  
51 a photograph, digital image, video, film, or other recording  
52 of a person who is identifiable from the recording itself or  
53 from the circumstances of its transmission and who is engaged  
54 in any act of sadomasochistic abuse, sexual intercourse,  
55 sexual excitement, masturbation, breast nudity, as defined in  
56 Section 13A-12-190, genital nudity, or other sexual conduct.



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57 The term includes a recording that has been edited, altered,  
58 or otherwise manipulated from its original form.

59 (c) (1) For purposes of this section, a "reasonable  
60 expectation of privacy" includes, but is not limited to,  
61 either of the following circumstances:

62 a. The person depicted in the private image created it  
63 or consented to its creation believing that it would remain  
64 confidential.

65 b. The sexual conduct depicted in the image was  
66 involuntary.

67 (2) There is no reasonable expectation of privacy  
68 against the transmission of a private image made voluntarily  
69 in a public or commercial setting.

70 (d) It is a defense to distributing a private image if  
71 the distribution of the private image was made in the public  
72 interest, including, but not limited to, the reporting of  
73 unlawful conduct; the lawful and common practices of law  
74 enforcement, legal proceedings, or medical treatment; or a  
75 bona fide attempt to prevent further distribution of the  
76 private image.

77 (e) For the purposes of determining jurisdiction, the  
78 crime of distributing a private image shall be considered to  
79 be committed in any county in which any part of the crime took  
80 place, in the county of residence of the victim or defendant,  
81 or any county where the image is received.

82 ~~(e)~~ (f) A violation of this section is a Class A  
83 misdemeanor. A subsequent adjudication or conviction under  
84 this section is a Class C felony."



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85 "§13A-13-3

86 (a) A person commits incest if he or she marries or  
87 engages in sexual intercourse with a person he or she knows to  
88 be, either legitimately or illegitimately, any of the  
89 following:

90 (1) His or her ancestor or descendant by blood or  
91 adoption; ~~or.~~

92 (2) His or her brother or sister of the whole or  
93 half-blood or by adoption; ~~or.~~

94 (3) His or her stepchild or stepparent, while the  
95 marriage creating the relationship exists; ~~or.~~

96 (4) His or her aunt, uncle, nephew or niece of the  
97 whole or half-blood.

98 ~~(b) A person shall not be convicted of incest or of an~~  
99 ~~attempt to commit incest upon the uncorroborated testimony of~~  
100 ~~the person with whom the offense is alleged to have been~~  
101 ~~committed.~~

102 ~~(e)~~ (b) (1) Incest is a Class C felony,

103 (2) Where the victim is under 17 years of age on the  
104 date of the offense, incest is a Class A felony."

105 Section 2. Although this bill would have as its purpose  
106 or effect the requirement of a new or increased expenditure of  
107 local funds, the bill is excluded from further requirements  
108 and application under Section 111.05 of the Constitution of  
109 Alabama of 2022, because the bill defines a new crime or  
110 amends the definition of an existing crime.

111 Section 3. This act shall become effective on the first  
112 day of the third month following its passage and approval by



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113 the Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB224  
Senate 16-May-23  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Amended and passed: 31-May-23

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Senate concurred in House amendment 31-May-23

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By: Senator Figures