

ACT No. 2001 -1127

1 SB13

2 43411-6

3 By Senators Armistead, Dial, French, Smith, McClain, Denton,
4 Callahan, Clay, Butler, Marsh, Enfinger, Lee, Myers, Waggoner,
5 Means, Dixon, Smitherman, Holley, Escott-Russell, and Little
6 (T)

7 RFD: Judiciary

8 First Read: 04-DEC-2001



Enrolled, An Act,

To amend Sections 15-20-21, 15-20-22, 15-20-26, 15-20-33, and 15-20-34, Code of Alabama 1975, relating to community notification of adult criminal sex offenders, and to add sections 15-20-25.1, 15-20-25.2, 15-20-25.3, and 15-20-38 to the Code of Alabama 1975, to require lifetime registration for all adult criminal sex offenders; to eliminate the general prohibition against offenders residing with grandchildren and stepchildren; to require that all information collected regarding adult criminal sex offenders be submitted to the national sex offender database; to require the Attorney General's Office of Victim Assistance to notify victims who file a written request to be notified of a criminal sex offender's pending release; to require adult criminal sex offender non-resident workers and students to register with law enforcement and be subject to community notification; to require adult criminal sex offenders to notify law enforcement whenever they are employed at or attend a school or an institution of higher learning; to further provide penalties for violations; to require sexually violent predators to submit to registration and address verification on a quarterly basis; to provide that the Department of Public Safety has the authority to promulgate rules necessary to implement and

1 enforce this act; and to define terms; and in connection
2 therewith would have as its purpose or effect the requirement
3 of a new or increased expenditure of local funds within the
4 meaning of Amendment 621 of the Constitution of Alabama of
5 1901.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 15-20-21, 15-20-22, 15-20-26,
8 15-20-33, and 15-20-34, Code of Alabama 1975, are amended to
9 read as follows:

10 "§15-20-21.

11 "For purposes of this article, the following words
12 shall have the following meanings:

13 "(1) ADULT CRIMINAL SEX OFFENDER. A person convicted
14 of a criminal sex offense.

15 "(2) CHILD CARE FACILITY. A licensed daycare center,
16 a licensed child care facility, or any other child care
17 service that is exempt from licensing pursuant to Section
18 38-7-3.

19 "(3) COMMUNITY NOTIFICATION FLYER. This notification
20 shall include the following information on the criminal sex
21 offender: Name; actual living address; sex; date of birth;
22 complete physical description, including distinguishing
23 features such as scars, birth marks, or any identifying
24 physical characteristics; and a current photograph. This
25 notification shall also include a statement of the criminal

sex offense for which he or she has been convicted, including the age and gender of the victim, the geographic area where the offense occurred, and the date upon which the criminal sex offender will be released. This notification shall also include a statement that the same information is on file at the sheriff's office and police headquarters, if a police department has jurisdiction over the criminal sex offender's residence, and that the information will be available to the general public for inspection and identification purposes during regular business hours.

"(4) CRIMINAL SEX OFFENSE. Any of the following offenses:

"a. Rape in the first or second degree, as proscribed by Section 13A-6-61 or 13A-6-62; provided that a sentencing court may exempt from this article a juvenile or youthful offender criminal sex offender for a criminal sex offense as defined in Section 13A-6-62(a)(1).

"b. Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or 13A-6-64.

"c. Sexual torture, as proscribed by Section 13A-6-65.1.

"d. Sexual abuse in the first or second degree as proscribed by Section 13A-6-66 or 13A-6-67.

1 "e. Enticing a child to enter a vehicle, room,
2 house, office, or other place for immoral purposes, as
3 proscribed by Section 13A-6-69.

4 "f. Promoting prostitution in the first or second
5 degree, as proscribed by Section 13A-12-111 or 13A-12-112.

6 "g. Violation of the Alabama Child Pornography Act,
7 as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196,
8 or 13A-12-197.

9 "h. Kidnapping of a minor, except by a parent, in
10 the first or second degree, as proscribed by Section 13A-6-43
11 or 13A-6-44.

12 "i. Incest, as proscribed by Section 13A-13-3, when
13 the offender is an adult and the victim is a minor.

14 "j. Soliciting a child by computer for the purposes
15 of committing a sexual act and transmitting obscene material
16 to a child by computer, as proscribed by Sections 13A-6-110
17 and 13A-6-111.

18 "k. Any solicitation, attempt, or conspiracy to
19 commit any of the offenses listed in paragraphs a. to j.,
20 inclusive.

21 "l. Any crime committed in any state or a federal,
22 military, Indian, or a foreign country jurisdiction which, if
23 it had been committed in this state under the current
24 provisions of law, would constitute an offense listed in
25 paragraphs a. to k., inclusive.

1 "(5) EMPLOYMENT. Includes employment that is full
2 time or part time for a period of time exceeding 14 days or
3 for an aggregate period of time exceeding 30 days during any
4 calendar year, whether financially compensated, volunteered,
5 or for the purpose of government or educational benefit.

6 "(6) JUVENILE CRIMINAL SEX OFFENDER. An individual
7 adjudicated delinquent of a criminal sex offense.

8 "(7) MENTAL ABNORMALITY. A congenital or acquired
9 condition of a person that affects the emotional or volitional
10 capacity of the person in a manner that predisposes that
11 person to the commission of criminal sex offense to a degree
12 that makes the person a menace to the health and safety of
13 other persons.

14 "(8) PREDATORY. An act directed at a stranger, or a
15 person with whom a relationship has been established or
16 promoted for the purpose of victimization.

17 "(9) RELEASE. Release from a state prison, county
18 jail, or municipal jail, or release or discharge from the
19 custody of the Department of Youth Services or other juvenile
20 detention, or placement on probation or parole or aftercare,
21 or placement into any facility or treatment program that
22 allows the offender to have unsupervised access to the public.

23 "(10) RESPONSIBLE AGENCY. The person or government
24 entity whose duty it is to obtain information from a criminal
25 sex offender before release and to transmit that information

1 to police departments or sheriffs responsible for providing
 2 community notification. For a criminal sex offender being
 3 released from state prison, the responsible agency is the
 4 Department of Corrections. For a criminal sex offender being
 5 released from a county jail, the responsible agency is the
 6 sheriff of that county. For a criminal sex offender being
 7 released from a municipal jail, the responsible agency is the
 8 police department of that municipality. For a criminal sex
 9 offender being placed on probation, including conditional
 10 discharge or unconditional discharge, without any sentence of
 11 incarceration, the responsible agency is the sentencing court.
 12 For a criminal sex offender being released from the Department
 13 of Youth Services, the responsible agency is the Department of
 14 Youth Services. For a criminal sex offender who is being
 15 released from a jurisdiction outside this state and who is to
 16 reside in this state, the responsible agency is the Department
 17 of Public Safety.

18 "(11) RISK ASSESSMENT. A written report on the
 19 assessment of risk for sexually re-offending conducted by a
 20 sexual treatment program approved by the Department of Youth
 21 Services. The report shall include, but not be limited to, the
 22 following regarding the criminal sex offender: Criminal
 23 history, mental status, attitude, previous sexual offender
 24 treatment and response to treatment, social factors,

1 conditions of release expected to minimize risk of sexual
2 re-offending, and characteristics of the criminal sex offense.

3 "(12) SCHOOL. A licensed or accredited public or
4 private school, or church school, that offers instruction in
5 grades K-12. This definition shall not include private
6 residences in which students are taught by parents or tutors.

7 "(13) SENTENCING COURT. The court of conviction or
8 the court that determines sentence as a result of conviction
9 or adjudication.

10 "(14) SEXUALLY VIOLENT PREDATOR. A person who has
11 been convicted of a criminal sex offense and who suffers from
12 a mental abnormality or personality disorder that makes the
13 person likely to engage in predatory criminal sex offenses.

14 "(15) STUDENT. A person who is enrolled on a full
15 time or part time basis, in any public or private educational
16 institution, including any schools as defined in subsection
17 (12).

18 "(16) YOUTHFUL OFFENDER CRIMINAL SEX OFFENDER. An
19 individual adjudicated a youthful offender for a criminal sex
20 offense.

21 "§15-20-22.

22 "(a) Thirty days prior to the release of an adult
23 criminal sex offender having been incarcerated or treated as
24 the result of a conviction for a criminal sex offense, the
25 following shall apply:

1 "(1) The responsible agency shall require the adult
2 criminal sex offender to declare in writing the actual living
3 address at which he or she will reside upon release. An
4 intentional failure to provide a timely and accurate written
5 declaration shall constitute a Class A misdemeanor.

6 "(2) If the adult criminal sex offender declares his
7 or her intent to reside outside of the state, the responsible
8 agency shall, within five business days of the written
9 declaration required by this article, notify the Director of
10 the Department of Public Safety, the Attorney General, or the
11 designated state law enforcement agency of the state to which
12 the adult criminal sex offender has declared his or her intent
13 to move, and shall also notify the Alabama Criminal Justice
14 Information Center. The notification shall include all
15 information available to the responsible agency which would be
16 necessary to identify and trace the adult criminal sex
17 offender, including, but not limited to, each sex offense
18 history or pre-sentence investigation of the sex offense,
19 fingerprints, and a current photograph of the adult criminal
20 sex offender.

21 "(3) If the adult criminal sex offender declares his
22 or her intent to reside within this state, the responsible
23 agency shall, within five business days of the written
24 declaration, notify the Attorney General, the Director of the
25 Department of Public Safety, the district attorney and the

1 sheriff of the county in which the adult criminal sex offender
 2 intends to reside, the chief of police of any municipality in
 3 which the adult criminal sex offender intends to reside, and
 4 the Alabama Criminal Justice Information Center. The
 5 notification shall include all information available to the
 6 responsible agency which would be necessary to identify and
 7 trace the adult criminal sex offender, including, but not
 8 limited to, each sex offense history or pre-sentence
 9 investigation of the sex offense, fingerprints, and a current
 10 photograph of the criminal sex offender.

11 "(4) The Alabama Criminal Justice Information Center
 12 shall be responsible for notifying the Federal Bureau of
 13 Investigation with sex offender information upon receiving
 14 this information from the responsible agency. Measures shall
 15 be taken to ensure this information is submitted to and
 16 included in the national database of sex offenders established
 17 pursuant to 42 U.S.C. § 14072.

18 "(b) If a sentencing court does not impose a
 19 sentence of incarceration upon conviction of the adult
 20 criminal sex offender for a criminal sex offense, notification
 21 shall be provided by the responsible agency in accordance with
 22 subsection (a) within 24 hours of release.

23 "(c) Prior to release, every adult criminal sex
 24 offender convicted for a criminal sex offense shall submit to
 25 the probation officer or sheriff a DNA sample that will be

1 sent to the Department of Forensic Sciences. An adult criminal
2 sex offender who intentionally fails to provide a DNA sample
3 shall be guilty of a Class C felony.

4 "§15-20-26.

5 "(a) Unless otherwise exempted by law, no adult
6 criminal sex offender shall establish a residence or accept
7 employment within 2,000 feet of the property on which any
8 school or child care facility is located.

9 "(b) Unless otherwise exempted by law, no adult
10 criminal sex offender shall establish a residence or any other
11 living accommodation within 1,000 feet of the property on
12 which any of his or her former victims, or the victims'
13 immediate family members reside.

14 "(c) No adult criminal sex offender shall establish
15 a residence or any other living accommodation where a minor
16 resides. Notwithstanding the foregoing, an adult criminal sex
17 offender may reside with a minor if the adult criminal sex
18 offender is the parent, grandparent, or stepparent of the
19 minor, unless one of the following conditions applies:

20 "(1) The adult criminal sex offender's parental
21 rights have been or are in the process of being terminated as
22 provided by law.

23 "(2) Any minor or adult child, grandchild, or
24 stepchild of the adult criminal sex offender was a victim of a

1 criminal sex offense committed by the adult criminal sex
2 offender.

3 "(3) Any minor sharing a residence with the adult
4 criminal sex offender at the time of the offense was a victim
5 of a criminal sex offense committed by the adult criminal sex
6 offender.

7 "(d) No adult criminal sex offender shall be
8 permitted to willfully or knowingly come within 100 feet of
9 any of his or her former victims, except as elsewhere provided
10 by law, or make any visual or audible sexually suggestive or
11 obscene gesture, sound, or communication at or to a former
12 victim.

13 "(e) Changes to property within 2,000 feet of an
14 adult criminal sex offender's registered address which occur
15 after an adult criminal sex offender establishes residency or
16 accepts employment shall not form the basis for finding that a
17 criminal sex offender is in violation of the residence or
18 employment restrictions of this article.

19 "(f) An adult criminal sex offender who knowingly
20 violates the provisions of this section shall be guilty of a
21 Class C felony.

22 "§15-20-33.

23 "(a) Any adult criminal sex offender shall be
24 subject to this article forlife .

1 "(b) A juvenile criminal sex offender, whether
2 having been incarcerated or not, who resides within this
3 state, shall be subject to this article for a period of ten
4 years from the last date of release. A juvenile criminal sex
5 offender who is subsequently convicted as an adult criminal
6 sex offender within the ten-year period shall be considered
7 solely an adult criminal sex offender.

8 "(c) Nothing in this article shall preclude any
9 criminal sex offender from registering in accordance with
10 Section 13A-11-200; however, such registration unless
11 otherwise proscribed by this article does not trigger public
12 notification.

13 "§15-20-34.

14 "(a) Any notice provided to the community pursuant
15 to this article shall not contain the name or any other
16 information identifying the victim.

17 "(b) If the last known address of a victim is in the
18 State of Alabama, the responsible agency shall notify the
19 Attorney General's Office of Victim Assistance and they shall
20 send a notice to the victim that the criminal sex offender
21 will be released and the location at which the criminal sex
22 offender intends to reside.

23 "The Board of Pardons and Paroles shall furnish the
24 Attorney General's Office of Victim Assistance with any victim
25 information for victims whose offenders are subject to this

1 article. The Attorney General's Office of Victim Assistance
 2 shall notify the victims who file a written request to be
 3 notified of a criminal sex offender's pending release. This
 4 request may be made on a form provided by the Attorney
 5 General's Office of Victim Assistance. The Attorney General's
 6 Office of Victim Assistance shall send a notice to the address
 7 provided on the form notifying the victim that the criminal
 8 sex offender will be released and the location at which the
 9 criminal sex offender will reside. It shall be the
 10 responsibility of the victim to inform the Attorney General's
 11 Office of Victim Assistance if the victim's address or any
 12 other pertinent information on the notice request changes. If
 13 the notice sent by the Attorney General's Office of Victim
 14 Assistance is returned as undeliverable, no further action
 15 shall be required of the Attorney General's Office of Victim
 16 Assistance."

17 Section 2. Sections 15-20-25.1, 15-20-25.2,
 18 15-20-25.3, and 15-20-38 are added to the Code of Alabama
 19 1975, as follows:

20 §15-20-25.1.

21 (a) Any adult criminal sex offender not a resident
 22 of this state shall register with law enforcement whenever the
 23 offender comes into this state to accept employment, to carry
 24 on a vocation, or to become a student. The offender shall also

1 register any subsequent changes in his or her place of
2 lodging, employment, or school being attended.

3 (b) Any adult criminal sex offender required to
4 register under this section shall, within five days after
5 entering this state or changing his or her place of lodging,
6 employment or school being attended, provide a written
7 declaration to the sheriff of the county and chief of police
8 of the municipality in which the offender intends to work or
9 become a student. This written declaration shall contain all
10 of the following:

11 (1) Information concerning the registrant's place of
12 employment or the school being attended.

13 (2) The registrant's address in his or her state of
14 residence.

15 (3) The address of any place of lodging the
16 registrant may have in this state for purposes of employment
17 or attendance as a student.

18 (4) Other information as would be necessary to
19 complete a community notification flyer as defined in Section
20 15-20-21(3).

21 (c) Whenever an adult criminal sex offender
22 registers pursuant to this section, he or she shall be subject
23 to the community notification procedures set forth in Section
24 15-20-25. The adult criminal sex offender shall be treated as
25 though he or she had transferred his or her place of residence

1 to the place of lodging declared under subsection (b)(3). If
2 no place of lodging is declared or exists, the adult criminal
3 sex offender shall be treated as though he or she had
4 transferred his or her place of residence to the place of
5 employment or the school being attended declared under
6 subsection (b)(1) of this section.

7 (d) An intentional failure to provide a timely and
8 accurate written declaration as required by this section shall
9 constitute a Class A misdemeanor.

10 §15-20-25.2.

11 (a) In addition to any other requirements of this
12 article, an adult criminal sex offender shall provide written
13 notice to the sheriff of the county and chief of police of the
14 municipality in which the offender resides, of the following:

15 (1) Each school or institution of higher education
16 at which the offender is employed, carries on a vocation, or
17 is a student.

18 (2) Each change in enrollment or employment status
19 of the offender at a school or an institution of higher
20 education.

21 (b) An adult criminal sex offender shall provide
22 written notice as required under subsection (a)(1) within five
23 days of becoming employed, carrying on a vocation, or becoming
24 a student at a school or an institution of higher education.
25 Any adult criminal sex offender who is already employed,

1 carries on a vocation, or is a student at a school or an
2 institution of higher education when this section becomes
3 effective shall have 30 days in which to come into compliance
4 with the requirements of this section.

5 (c) A change in status noticed under subsection
6 (a)(2) shall be reported by the adult criminal sex offender
7 within five days after the change becomes effective.

8 (d) Any written notice provided to law enforcement
9 under this section shall be forwarded to the Department of
10 Public Safety and the Alabama Criminal Justice Information
11 Center, both of which shall enter the information contained in
12 the written notice in the appropriate state records or data
13 system.

14 (e) Any written notice provided to law enforcement
15 under this section shall also be forwarded to campus police
16 and any other security personnel of the school or institution
17 of higher learning where the adult criminal sex offender is
18 employed, carries on a vocation, or is a student.

19 (f) An intentional failure to provide timely and
20 accurate written notice as required by this section shall
21 constitute a Class A misdemeanor.

22 §15-20-25.3.

23 (a) Whenever an individual is convicted of a
24 criminal sex offense in this state, the state, at the time of
25 sentencing, may petition the sentencing court to enter an

1 order adjudging the offender to be a sexually violent
2 predator.

3 (b) If the state so petitions, it shall present
4 clear and convincing evidence that the offender suffers from a
5 mental abnormality or personality disorder that makes the
6 person likely to engage in predatory criminal sex offenses.

7 (c) Any offender determined in any other state to be
8 a sexually violent predator shall be considered a sexually
9 violent predator in this state.

10 (d) Sexually violent predators shall be required,
11 upon release, to provide to the responsible agency, in
12 addition to the information required to complete a community
13 notification flyer as provided in Section 15-20-21(3):

14 (1) A full history of criminal offenses committed by
15 the offender.

16 (2) Documentation of any treatment received for the
17 mental abnormality or personality disorder of the offender.

18 (e) A sexually violent predator shall be required to
19 verify his or her place of residence on a quarterly basis,
20 rather than an annual basis as is generally provided in
21 Section 15-20-24.

22 (f) An intentional failure to comply with any
23 provision of this section shall constitute a Class C felony.

24 §15-20-38.

1 (a) The Director of the Department of Public Safety
2 shall promulgate rules establishing an administrative hearing
3 procedure for individuals who are made subject to this article
4 pursuant to Section 15-20-21(4)1.

5 (b) The Director of the Department of Public Safety
6 shall promulgate rules setting forth a listing of offenses
7 from other jurisdictions that are to be considered criminal
8 sex offenses under Section 15-20-21(4)1. Thereafter, any
9 individual convicted of any offense set forth in the listing
10 shall immediately be subject to this article and shall not be
11 entitled to an administrative hearing as provided in
12 subsection (a).

13 (c) The Director of the Department of Public Safety
14 shall have authority to promulgate any rules as are necessary
15 to implement and enforce the provisions of this article.

16 Section 3. 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 because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 4. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.

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Gene Hinson

President and Presiding Officer of the Senate

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Art. Huff

Speaker of the House of Representatives

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SB13

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Senate 13-DEC-2001

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I hereby certify that the within Act originated in and passed
the Senate, as amended.

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McDowell Lee
Secretary

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17

House of Representatives

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Passed: 21-DEC-2001

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By: Senator Armistead

APPROVED 12/28/01

TIME 10:43 AM

[Signature]
GOVERNOR

Alabama Secretary of State