## ACT #2018- 528

- 1 SB26
- 2 192297-4
- 3 By Senator Chambliss
- 4 RFD: Education and Youth Affairs
- 5 First Read: 09-JAN-18
- 6 PFD: 12/05/2017



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4 ENROLLED, An Act,

Relating to the Alabama Sex Offender Registration and Community Notification Act; to create Annalyn's Law; to amend Sections 15-20A-27, as last amended by Act 2017-414, 2017 Regular Session, and 15-20A-30, Code of Alabama 1975; to require local law enforcement to notify the local superintendent of education when a low-risk juvenile sex offender is planning to establish or has established a fixed residence within the jurisdiction of the board; to require juvenile sex offenders to notify local law enforcement of any change in school attendance; to further provide that failure to comply, unless otherwise provided, constitutes a Class C felony; to require the State Board of Education to develop, and each local board of education to adopt, a comprehensive model policy for the supervision and monitoring of low risk juvenile sex offender students attending school with the general student population; to require alternative educational placement for any juvenile sex offender who is a moderate or high risk for re-offense; to amend Sections 15-20A-5, as last amended by Act 2017-414, 2017 Regular Session, 15-20A-6, and 15-20A-44, Code of Alabama 1975, to correct a technical error in the list of offenses constituting sex offenses, and to

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1	correct internal citations to the corrected section; and in
2	connection therewith would have as its purpose or effect the
3	requirement of a new or increased expenditure of local funds
4	within the meaning of Amendment 621 of the Constitution of
5	Alabama of 1901, now appearing as Section 111.05 of the
6	Official Recompilation of the Constitution of Alabama of 1901,
7	as amended.
8	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
9	Section 1. Sections 1 to 3, inclusive, of this act
10	shall be known and may be cited as Annalyn's Law.
11	Section 2. Sections 15-20A-27, as last amended by
12	Act 2017-414, 2017 Regular Session, and 15-20A-30 of the Code
13	of Alabama 1975, are amended to read as follows:
14	"\$15-20A-27.
15	"(a) In determining whether to apply notification
16	requirements to a juvenile sex offender, the sentencing court
17	shall consider any of the following factors relevant to the
18	risk of re-offense:
19	"(1) Conditions of release that minimize the risk of
20	re-offense, including, but not limited to, whether the
21	juvenile sex offender is under supervision of probation,
22	parole, or aftercare; receiving counseling, therapy, or
23	treatment; or residing in a home situation that provides

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guidance and supervision.

Ţ	"(2) Physical conditions that minimize the risk of
2	re-offense, including, but not limited to, advanced age or
3	debilitating illness.
4	"(3) Criminal history factors indicative of high
5	risk of re-offense, including whether the conduct of the
6	juvenile sex offender was found to be characterized by
7	repetitive and compulsive behavior.
8	"(4) Whether psychological or psychiatric profiles
9	indicate a risk of recidivism.
10	"(5) The relationship between the juvenile sex
11	offender and the victim.
12	"(6) The particular facts and circumstances
13	surrounding the offense.
14	"(7) The level of planning and participation in the
15	offense.
16	"(8) Whether the offense involved the use of a
17	weapon, violence, or infliction of serious bodily injury.
18	"(9) The number, date, and nature of prior offenses
19	"(10) The response to treatment of the juvenile sex
20	offender.
21	"(11) Recent behavior, including behavior while
22	confined or while under supervision in the community.
23	"(12) Recent threats against persons or expressions
24	of intent to commit additional crimes.
25	"(13) The protection of society.

1		"(14)	Any	other	factors	deemed	relevant	bу	the
2	court.								

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"(b) If the sentencing court determines that the juvenile sex offender shall be subject to notification, the level of notification shall be applied as follows:

"(1) If the risk of re-offense is low, notification that the juvenile sex offender will be establishing or has established a fixed residence shall be provided by local law enforcement to the principal of the <u>public or nonpublic</u> school where the juvenile sex offender will attend after release and, if a public school, to the local superintendent of education with jurisdiction over that school. This notification shall include the name, actual living address, date of birth of the juvenile sex offender, and a statement of the sex offense for which he or she has been adjudicated delinquent, including the age and gender of the victim. This information shall be considered confidential by the school and the local superintendent of education and be shared only with the teachers and staff with supervision over the juvenile sex offender. Whoever, except as specifically provided herein, directly or indirectly discloses or makes use of or knowingly permits the use of information concerning a juvenile sex offender described in this section, upon conviction thereof, shall be guilty of a Class C felony within the jurisdiction of the juvenile court.

1	"(2) If the risk of re-offense is moderate,
2	notification that the juvenile sex offender will be
3	establishing, or has established, a fixed residence shall be
4	provided by local law enforcement to all schools and childcare
5	facilities within three miles of the declared fixed residence
6	of the juvenile sex offender. A community notification flyer
7	shall be mailed by regular mail or hand delivered to all
8	schools or childcare facilities as required by this
9	subsection. No other method may be used to disseminate this
10	information.
11	"(3) If the risk of re-offense is high, the public
12	shall receive notification as though the juvenile sex offender
13	were an adult sex offender in accordance with Section
14	15-20A-21.
15	"(c) The sentencing court shall enter an order
16	stating whether the juvenile sex offender shall be subject to
17	notification and the level of notification that shall be
18	applied. The court shall provide a copy of the order to the
19	prosecuting attorney and to the Alabama State Law Enforcement
20	Agency.
21	"(d) The determination of notification by the
22	sentencing court shall not be subject to appeal.
23	"\$15-20A-30.
24	"(a) Immediately upon release or immediately upon

adjudication of delinquency if the juvenile sex offender is

not committed, the juvenile sex offender and the parent,
custodian, or guardian shall register all required
registration information with local law enforcement in each
county in which the juvenile sex offender resides or intends
to reside.

"(b) Whenever a juvenile sex offender establishes a new residence, the juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall immediately appear in person to register all required registration information with local law enforcement in each county of residence.

"(c) If the parent, custodian, or guardian of a juvenile sex offender transfers or terminates the residence of the juvenile sex offender, or the custody of the juvenile sex offender is changed to a different parent, custodian, or guardian resulting in a transfer of residence, the original parent, custodian, or guardian with custody shall immediately notify local law enforcement in each county of residence.

"(d) Whenever a juvenile sex offender changes any required registration information including, but not limited to, his or her school attendance status, the juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall immediately appear in person to update the required registration information with local law

enforcement in each county in which the juvenile sex offender resides.

- "(e) A juvenile sex offender required to register for life pursuant to Section 15-20A-28 shall appear in person with his or her parent, custodian, or guardian to verify all required registration information during the birth month of the juvenile sex offender and every three months thereafter with the local law enforcement in each county of residence unless the juvenile sex offender has been relieved from registration requirements pursuant to Section 15-20A-34.
- "(f) A juvenile sex offender required to register for 10 years pursuant to Section 15-20A-28 shall appear in person with his or her parent, custodian, or guardian to verify all required registration information during the birth month of the juvenile sex offender and every year thereafter with local law enforcement in each county of residence unless the juvenile sex offender has been relieved from registration requirements pursuant to Section 15-20A-24.
- "(g) At the time of registration, the juvenile sex offender shall be provided a form explaining all duties and any restrictions placed on the juvenile sex offender. The juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall read and sign this form stating that he or she understands the duties and restrictions

placed on the juvenile sex offender and his or her parent, custodian, or guardian.

"(h) When a juvenile sex offender becomes the age of majority, the parent, custodian, or guardian of the juvenile sex offender shall no longer be subject to the requirements of this section, and the juvenile sex offender shall instead be solely responsible for the requirements in this section.

"(i) A person who knowingly violates this section shall be quilty of a Class C felony."

Section 3. (a) (1) On or before January 1, 2019, the State Board of Education shall develop a comprehensive model policy for the supervision and monitoring of juvenile sex offender students, who have a low risk of re-offense and are enrolled, attending class, and participating in school activities with the general population of students. The purpose of the model policy is to provide a safe and secure environment for all students and staff. The model policy shall be adopted by each local board of education and implemented beginning with the 2020-2021 school year. The model policy, at a minimum, shall contain all of the following components:

a. Application to all school property and school-sponsored functions including, but not limited to, classroom instructional time, assemblies, athletic events, extracurricular activities, and school bus transportation.

1	b. An initial meeting of all parties immediately
2	upon the enrollment of the low risk juvenile sex offender, and
3	frequent meetings thereafter as necessary to provide for the
4	continual monitoring of the student and a safe school
5	environment for all. The principal and all appropriate school
6	personnel who have received confidential notification pursuant
7	to subdivision (1) of subsection (b) of Section 15-20A-27,
8	Code of Alabama 1975, in consultation with juvenile probation
9	professionals, shall meet with the student, and the parent or
10	guardian of the student, to create and implement an
11	individualized student safety plan. The principal shall
12	determine other appropriate school personnel to be included in
13	the meetings to assist in defining school expectations.
14	Student safety plans shall outline the responsibilities of all
15	parties in safely managing the behavior of the student and
16	protecting all students. The plan shall be consistent with
17	existing disciplinary policies and procedures, student conduct
18	policies, and mandatory reporting policies. Student safety
19	plans shall include, but not be limited to, all of the
20	following:

1. An outline of conditions or limitations, or both, on the low risk juvenile sex offender concerning his or her interactions on school property and when participating in school activities.

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1	2. An effective procedure, developed in conjunction
2	with school staff in consultation with the parent or guardian
3	of the student, for communicating concerns relating to the
4	student.
5	3. Guidelines for expected intervention actions for
6	high-risk behaviors and for reinforcing positive behaviors
7	based on the needs of the student and the safety of all
8	students and staff.
9	4. Procedures for the continual review of each plan
10	by staff designated by the principal and for monitoring and
11	changing the plan on an as-needed basis by school staff.
12	5. Safeguards for protecting confidential
13	information.
14	c. Continuity of information and monitoring of
15	low-risk juvenile sex offender students over time as the
16	students change schools and as administrators and school
17	personnel change.
18	d. Comprehensive training for school personnel to
19	take appropriate action upon noticing an increase or
20	escalation of those behaviors in a low risk juvenile sex
21	offender student, both for the short and long-term safety of
22	that student and all other students.

e. In addition to the mandatory reporting

requirements pursuant to Section 26-14-3, Code of Alabama

1975, school personnel shall report violations of plan

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expectations to the principal when they occur. Upon
notification, the principal, as appropriate, shall follow the
procedures and intervention actions detailed in the safety
plan created pursuant to this section.

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(2) When a low risk juvenile sex offender student changes schools, the principal shall notify local law enforcement and local law enforcement shall notify the principal of the new school and, where applicable, the local superintendent of education pursuant to subsection (b) of Section 15-20A-27, Code of Alabama 1975. The principal of the prior school shall ensure that all records and safety plans pertaining to the low risk juvenile sex offender student follow the student to his or her new school. If the sex offender status or probation or parole status of the student changes, the principal shall notify the appropriate school staff as part of the safety planning of the school. The principal and school staff shall maintain confidentiality regarding these students as required by law. Any information received by a principal, school personnel, or local superintendent of education as a result of a notification is confidential and may not be further disseminated except as provided in Section 15-20A-27, Code of Alabama 1975, and other state law and the Family and Educational and Privacy Rights Act of 1994, 20 U.S. Code Section 1232g et. seq. Any school district employee who releases information in compliance with

1	state and federal law is immune from civil liability in
2	accordance with Section 36-1-12, Code of Alabama 1975.
3	(b) (1) The sentencing court shall have the
4	discretion to determine whether a juvenile sex offender
5	classified as having a moderate or high risk or reoffending
6	should return to a public school. Upon making this
7	determination, the court shall consult with a juvenile
8	probation officer and the local superintendent of education to
9	determine appropriate educational placement.
10	(2) Any alternative placement of a student with a
11	disability who receives special education services shall be
12	made in compliance with the Individuals with Disabilities
13	Education Act, 20 U.S.C. §1400 et seq., and its implementing
14	regulations, 34 C.F.R. Part 300.
15	Section 4. Sections 15-20A-5, as last amended by Act
16	2017-414, 2017 Regular Session, 15-20A-6, and 15-20A-44 of the
17	Code of Alabama 1975, are amended to read as follows:
18	"\$15-20A-5.
19	"For the purposes of this chapter, a sex offense
20	includes any of the following offenses:
21	"(1) Rape in the first degree, as provided by
22	Section 13A-6-61.
23	"(2) Rape in the second degree, as provided by

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Section 13A-6-62.

	(3) Society in the lifet degree, as provided by
2	Section 13A-6-63.
3	"(4) Sodomy in the second degree, as provided by
4	Section 13A-6-64.
5	"(5) Sexual misconduct, as provided by Section
6	13A-6-65, provided that on a first conviction or adjudication
7	the sex offender is only subject to registration and
8	verification pursuant to this chapter. On a second or
9	subsequent conviction or adjudication of a sex offense, if the
10	second or subsequent conviction or adjudication does not arise
11	out of the same set of facts and circumstances as the first
12	conviction or adjudication of a sex offense, the sex offender
13	shall comply with all requirements of this chapter. The
14	sentencing court may exempt from this chapter a juvenile sex
15	offender adjudicated delinquent of sexual misconduct.
16	"(6) Sexual torture, as provided by Section
17	13A-6-65.1.
18	"(7) Sexual abuse in the first degree, as provided
19	by Section 13A-6-66.
20	"(8) Sexual abuse in the second degree, as provided
21	by Section 13A-6-67.
22	"(9) Indecent exposure, as provided by Section
23	13A-6-68, provided that on a first conviction or adjudication
24	of a sex offense, the sex offender is only subject to
25	registration and verification pursuant to this chapter. On a

1	second or subsequent conviction or adjudication of a sex
2	offense, if the second or subsequent conviction or
3	adjudication does not arise out of the same set of facts and
4	circumstances as the first conviction or adjudication, the sex
5	offender shall comply with all requirements of this chapter.
6	The sentencing court may exempt from this chapter a juvenile
7	sex offender adjudicated delinquent of indecent exposure.
8	"(10) Enticing a child to enter a vehicle, room,
9	house, office, or other place for immoral purposes, as
10	provided by Section 13A-6-69.
11	"(11) Sexual abuse of a child less than 12 years
12	old, as provided by Section 13A-6-69.1.
13	"(12) Promoting prostitution in the first degree, as
14	provided by Section 13A-12-111.
15	"(13) Promoting prostitution in the second degree,
16	as provided by Section 13A-12-112.
17	"(14) Violation of the Alabama Child Pornography
18	Act, as provided by Section 13A-12-191, 13A-12-192,
19	13A-12-196, or 13A-12-197. The sentencing court may exempt
20	from this chapter a juvenile sex offender adjudicated
21	delinquent of a violation of the Alabama Child Pornography Act
22	after the juvenile has been counseled on the dangers of the
23	conduct for which he or she was adjudicated delinquent.
24	"(15) Unlawful imprisonment in the first degree, as

provided by Section 13A-6-41, if the victim of the offense is

1	a minor, and the record of adjudication or conviction reflects
2	the intent of the unlawful imprisonment was to abuse the minor
3	sexually.
4	"(16) Unlawful imprisonment in the second degree, as
5	provided by Section 13A-6-42, if the victim of the offense is
6	a minor, and the record of adjudication or conviction reflects
7	the intent of the unlawful imprisonment was to abuse the minor
8	sexually.
9	"(17) Kidnapping in the first degree, as provided by
10	subdivision (4) of subsection (a) of Section 13A-6-43, if the
11	intent of the abduction is to violate or abuse the victim
12	sexually.
13	"(18) Kidnapping of a minor, except by a parent,
14	guardian, or custodian, as provided by Section 13A-6-43 or
15	13A-6-44.
16	"(19) Incest, as provided by Section 13A-13-3.
17	"(20) Transmitting obscene material to a child by
18	computer, as provided by Section 13A-6-111.
19	"(21) School employee engaging in a sex act or
20	deviant sexual intercourse with a student, or having sexual
21	contact or soliciting a sex act or sexual contact with a
22	student as provided by Section Sections 13A-6-81 and 13A-6-82.
23	"(22) School employee having sexual contact with a
24	student, as provided by Section 13A-6-82 Foster parent
25	engaging in a sex act, having sexual contact, or soliciting a

1	sex act or sexual contact with a foster child as provided by
2	<u>Section 13A-6-71</u> .
3	"(23) Facilitating solicitation of unlawful sexual
4	conduct with a child, as provided by Section 13A-6-121.
5	"(24) Electronic solicitation of a child, as
6	provided by Section 13A-6-122.
7	"(25) Facilitating the on-line solicitation of a
8	child, as provided by Section 13A-6-123.
9	"(26) Traveling to meet a child for an unlawful sex
10	act, as provided by Section 13A-6-124.
11	"(27) Facilitating the travel of a child for an
12	unlawful sex act, as provided by Section 13A-6-125.
13	"(28) Human trafficking in the first degree, as
14	provided by Section 13A-6-152, provided that the offense
15	involves sexual servitude.
16	"(29) Human trafficking in the second degree, as
17	provided by Section 13A-6-153, provided that the offense
18	involves sexual servitude.
19	"(30) Custodial sexual misconduct, as provided by
20	Section 14-11-31.
21	"(31) Sexual extortion, as provided by Section
22	13A-6-241.
23	"(32) Directing a child to engage in a sex act, as
24	provided in Section 13A-6-243.

1 "(33) Any offense which is the same as or equivalent 2 to any offense set forth above as the same existed and was 3 defined under the laws of this state existing at the time of 4 such conviction, specifically including, but not limited to, 5 crime against nature, as provided by Section 13-1-110; rape, 6 as provided by Sections 13-1-130 and 13-1-131; carnal 7 knowledge of a woman or girl, as provided by Sections 13-1-132 8 through 13-1-135, or attempting to do so, as provided by 9 Section 13-1-136; indecent molestation of children, as defined 10 and provided by Section 13-1-113; indecent exposure, as 11 provided by Section 13-1-111; incest, as provided by Section 12 13-8-3; offenses relative to obscene prints and literature, as 13 provided by Sections 13-7-160 through 13-7-175, inclusive; employing, harboring, procuring or using a girl over 10 and 14 15 under 18 years of age for the purpose of prostitution or sexual intercourse, as provided by Section 13-7-1; seduction, 16 as defined and provided by Section 13-1-112; a male person 17 peeping into a room occupied by a female, as provided by 18 Section 13-6-6; assault with intent to ravish, as provided by 19 Section 13-1-46; and soliciting a child by computer, as 20 provided by Section 13A-6-110. 21 "(34) Any solicitation, attempt, or conspiracy to 22 commit any of the offenses listed in subdivisions (1) to (31) 23

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(33), inclusive.

1	"(35) Any crime committed in Alabama or any other
2	state, the District of Columbia, any United States territory,
3	or a federal, military, Indian, or foreign country
4	jurisdiction which, if it had been committed in this state
5	under the current provisions of law, would constitute an
6	offense listed in subdivisions (1) to $(32)$ $(34)$ , inclusive.
7	"(36) Any offense specified by Title I of the
8	federal Adam Walsh Child Protection and Safety Act of 2006

"(36) Any offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248, the Sex Offender Registration and Notification Act (SORNA)).

"(37) Any crime committed in another state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction if that jurisdiction also requires that anyone convicted of that crime register as a sex offender in that jurisdiction.

"(38) Any offender determined in any jurisdiction to be a sex offender shall be considered a sex offender in this state.

"(39) The foregoing notwithstanding, any crime committed in any jurisdiction which, irrespective of the specific description or statutory elements thereof, is in any way characterized or known as rape, carnal knowledge, sodomy, sexual assault, sexual battery, criminal sexual conduct, criminal sexual contact, sexual abuse, continuous sexual abuse, sexual torture, solicitation of a child, enticing or

1	luring a child, child pornography, lewd and lascivious
2	conduct, taking indecent liberties with a child, molestation
3	of a child, criminal sexual misconduct, video voyeurism, or
4	there has been a finding of sexual motivation.

"(40) Any crime not listed in this section wherein the underlying felony is an element of the offense and listed in subdivisions (1) to (39), inclusive.

"(41) Any other offense not provided for in this section wherein there is a finding of sexual motivation as provided by Section 15-20A-6.

"§15-20A-6.

"(a)(1) The indictment, count in the indictment, information, complaint or warrant charging the offense may include a specification of sexual motivation or the prosecuting attorney may file an allegation of sexual motivation in any criminal case classified as a felony or Class A misdemeanor if sufficient admissible evidence exists that would justify a finding of sexual motivation by a reasonable and objective finder of fact.

"(2) If a specification is included in the indictment, count in the indictment, information, complaint, or warrant charging the offense the specification shall be stated at the end of the body of the indictment, count in the indictment, information, complaint, or warrant and shall be in substantially the following form: "SPECIFICATION or

SPECIFICATION	OT NO	THE	FIRST	COUN	JT.	The	Grand	Juro	ors	(or	insert
appropriate	name	) fu	rther	find	and	l spe	ecify	that	the	ofi	ender
committed t	ne of	fance	a with	2 66	V112	1 mc	\t i \tag{7.5}	ion 1	1		

- "(3) If the prosecuting attorney files an allegation of sexual motivation, it shall be filed within a reasonable time after indictment to give sufficient notice to the defendant.
- "(b) If the indictment, count of the indictment, information, complaint, or warrant charging the offense includes a specification of sexual motivation or if the prosecuting attorney files an allegation of sexual motivation, the state shall prove beyond a reasonable doubt that the defendant committed the offense with a sexual motivation.
- "(c) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication as a youthful offender, of whether or not a sexual motivation was present at the time of the commission of the offense unless the defendant has a trial by jury.
- "(d) If a defendant has a trial by jury, the jury, if it finds the defendant guilty, shall also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation.
- "(e) If there is a finding of sexual motivation, the finding shall be made part of the record of conviction or adjudication.

1	"(f) For purposes of this section, sexual motivation
2	means that one of the purposes for which the defendant
3	committed the crime was for the purpose of the sexual
4	gratification of the defendant.

- "(g) This section shall not apply to sex offenses as defined in subdivisions (1) to  $\frac{(38)}{(40)}$ , inclusive, of Section 15-20A-5.
- "\$15-20A-44.

- "(a) The Secretary of the Alabama State Law
  Enforcement Agency shall promulgate rules establishing an
  administrative hearing for persons who are only made subject
  to this chapter pursuant to subdivision (33) (37) of Section
  15-20A-5.
  - "(b) The Secretary of the Alabama State Law
    Enforcement Agency shall promulgate rules setting forth a
    listing of offenses from other jurisdictions that are to be
    considered criminal sex offenses under subdivision (33) (37)
    of Section 15-20A-5. Thereafter, any individual convicted of
    any offense set forth in the listing shall immediately be
    subject to this chapter and shall not be entitled to an
    administrative hearing as provided in subsection (a).
  - "(c) The Secretary of the Alabama State Law

    Enforcement Agency shall have the authority to promulgate any
    rules as are necessary to implement and enforce this chapter."

Section 5. 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 6. This act shall become effective on the

Section 6. 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.

	Del Mal
Pr	esident and Presiding Officer of the Senate
	Mac Mcatchen
	, , , , , , , , , , , , , , , , , , , ,
	Speaker of the House of Representatives
SB26	
Senate 15-FER	3-18 tify that the within Act originated in and passed
	Patrick Harris, Secretary.
House of Rep	
Amended and p	passed 22-MAR-18
Senate concu	rred in House amendment 27-MAR-18
	APPROVED 4/6/18
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By: Senator (	Chamblis TIME /0:/6am

Act Num...: 2018-528 Bill Num...: 5-26

HOUSE ACTION (Continued)

HOUSE OF REPRESENTATIVES

R. 3 at length and passed
Yeas 12 Abs, 3
Date 2 22-18

JEFF WOODARD, Clerk

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