## 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



1 Enrolled, An Act, 2 3 4 5 Relating to crimes and offenses; to amend Section 13A-6-111, Code of Alabama 1975, to provide for the age of a 6 7 child for the crime of transmitting obscene material to a child by computer; to amend Section 13A-6-240, Code of Alabama 8 9 1975, to establish jurisdiction for a violation of distributing a private image; to amend Section 13A-13-3, Code 10 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. BE IT ENACTED BY THE LEGISLATURE OF ALABAMA: 16 Section 1. Sections 13A-6-111, 13A-6-240, and 13A-13-3, 17 18 Code of Alabama 1975, are amended to read as follows: "\$13A-6-111 19 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 the child. 27

(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.
- (c) (d) A person charged under this section shall be
  tried as an adult and the record of the proceeding shall not
  be sealed nor subject to expungement.
  - (d) (e) Transmitting obscene material of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit to a child is a Class B felony."
- 41 "\$13A-6-240

- (a) A person commits the crime of distributing a private image if he or she knowingly posts, emails, texts, transmits, or otherwise distributes a private image with the intent to harass, threaten, coerce, or intimidate the person depicted when the depicted person has not consented to the transmission and the depicted person had a reasonable expectation of privacy against transmission of the private image.
- (b) For purposes of this section, "private image" means a photograph, digital image, video, film, or other recording of a person who is identifiable from the recording itself or from the circumstances of its transmission and who is engaged in any act of sadomasochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, as defined in Section 13A-12-190, genital nudity, or other sexual conduct.



- The term includes a recording that has been edited, altered, or otherwise manipulated from its original form.
- (c) (1) For purposes of this section, a <u>"reasonable</u>

  expectation of privacy<u>"</u> includes, but is not limited to,

  either of the following circumstances:
- a. The person depicted in the private image created it or consented to its creation believing that it would remain confidential.
- b. The sexual conduct depicted in the image wasinvoluntary.

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- (2) There is no reasonable expectation of privacy against the transmission of a private image made voluntarily in a public or commercial setting.
- (d) It is a defense to distributing a private image if the distribution of the private image was made in the public interest, including, but not limited to, the reporting of unlawful conduct; the lawful and common practices of law enforcement, legal proceedings, or medical treatment; or a bona fide attempt to prevent further distribution of the private image.
- (e) For the purposes of determining jurisdiction, the crime of distributing a private image shall be considered to be committed in any county in which any part of the crime took place, in the county of residence of the victim or defendant, 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."



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	<pre>following:</pre>
90	(1) His <u>or her</u> ancestor or descendant by blood or
91	adoption; or.
92	(2) His <u>or her</u> brother or sister of the whole or
93	half-blood or by adoption; or.
94	(3) His <u>or her</u> 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	(c) (b) (1) Incest is a Class C felony,
103	(2) Where the victim is under 17 years of age on the

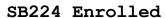
103 (2) Where the victim is under 17 years of age on the
104 date of the offense, incest is a Class A felony."

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 Section 111.05 of the Constitution of Alabama of 2022, 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



113 the Governor, or its otherwise becoming law.





President and Presiding Officer of the Senate 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. House of Representatives Amended and passed: 31-May-23 Senate concurred in House amendment 31-May-23 By: Senator Figures