

1 HB452
2 192202-1
3 By Representatives Farley and Collins
4 RFD: Education Policy
5 First Read: 22-FEB-18

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8 SYNOPSIS: Under existing law, a juvenile court is
9 required to notify the superintendent of the school
10 district of a child when the child is found
11 delinquent for an act that would be a Class A or
12 Class B felony. The juvenile court may notify the
13 superintendent when a child is found delinquent for
14 committing any other crime.

15 This bill would allow a juvenile probation
16 officer to share certain information and records
17 relating to a child, excluding mental health and
18 medical records, with school personnel for the
19 limited purpose of promoting safety and enhancing
20 education and rehabilitation services provided to
21 the child.

22 This bill would also provide that all shared
23 information and records must remain confidential
24 and provide immunity for the sharing or receipt of
25 information in good faith.

26 Also under existing law, it is a Class C
27 felony for a person to knowingly with intent to

1 cause bodily harm carry or possess a deadly weapon
2 on the premises of a public school.

3 This bill would remove the requirement that
4 the possession of the deadly weapon be with the
5 intent to cause bodily harm.

6 Amendment 621 of the Constitution of Alabama
7 of 1901, now appearing as Section 111.05 of the
8 Official Recompilation of the Constitution of
9 Alabama of 1901, as amended, prohibits a general
10 law whose purpose or effect would be to require a
11 new or increased expenditure of local funds from
12 becoming effective with regard to a local
13 governmental entity without enactment by a 2/3 vote
14 unless: it comes within one of a number of
15 specified exceptions; it is approved by the
16 affected entity; or the Legislature appropriates
17 funds, or provides a local source of revenue, to
18 the entity for the purpose.

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

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to school safety; to amend Sections
5 12-15-217 and 13A-11-72, Code of Alabama 1975, to allow a
6 juvenile probation officer to share certain information and
7 records relating to a child, excluding mental health and
8 medical records, with school personnel for limited purposes;
9 to provide for the confidentiality of shared information and
10 records; to provide limited immunity; to remove the
11 requirement that the possession of a deadly weapon on public
12 school premises be with the intent to cause bodily harm; and
13 in connection therewith would have as its purpose or effect
14 the requirement of a new or increased expenditure of local
15 funds within the meaning of Amendment 621 of the Constitution
16 of Alabama of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of Alabama of 1901,
18 as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 12-15-217 and 13A-11-72, Code of
21 Alabama 1975, are amended to read as follows:

22 "§12-15-217.

23 "(a) Notwithstanding subsection (a) of Section
24 12-15-133, written notice that a child enrolled in a school,
25 kindergarten to grade 12, has been found delinquent of an act
26 which, if committed by an adult, would be a Class A or B
27 felony, or any other crime, at the discretion of the juvenile

1 court, shall be provided within seven days to the
2 superintendent of the school district of attendance, or, if
3 the child attends a private school, to the principal of the
4 school. The juvenile court shall provide the notice using
5 whatever method it deems appropriate or otherwise as decided
6 by the Administrative Office of Courts. The prosecutor may
7 recommend to the juvenile court that notice be given to the
8 school for any delinquent act. Written notice shall include
9 only the offenses, enumerated by the appropriate code section
10 and brief description, found to have been committed by the
11 child and the disposition of the case involving the child.
12 Where applicable, this notice shall be expeditiously
13 transmitted by the district superintendent to the principal at
14 the school of attendance. The principal shall disseminate the
15 information to those counselors directly supervising or
16 reporting on the behavior or progress of the child. In
17 addition, the principal may disseminate the information to any
18 teacher, administrator, or other school employee directly
19 supervising or reporting on the behavior or progress of the
20 child whom the principal believes needs the information to
21 work with the pupil in appropriate fashion or to protect other
22 students and staff.

23 "(b) Any information received by a teacher,
24 counselor, administrator, or other school employee pursuant to
25 this section shall be received in confidence for the limited
26 purpose of rehabilitating the child and protecting students
27 and staff, and shall not be further disseminated by the

1 teacher, counselor, or administrator, except insofar as
2 communication with the child, his or her parent, legal
3 guardian, legal custodian, law enforcement personnel, and the
4 juvenile probation officer of the child is necessary to
5 effectuate the rehabilitation of the child or to protect
6 students and staff.

7 "(c) (1) Notwithstanding any other law, a juvenile
8 probation officer may share any information or records,
9 excluding mental health or medical records, concerning a
10 specific child who is or will be enrolled as a student at a
11 school with the superintendent of the school district, or his
12 or her designee, or the school's principal, or his or her
13 designee, if disclosure of the information or records promotes
14 public safety or the safety of the child, or enhances the
15 school's or the probation officer's ability to provide
16 education and other rehabilitation services to the child. The
17 superintendent, principal, or respective designee may
18 disseminate this information to only those school employees
19 directly supervising the child or reporting on the behavior or
20 progress of the child.

21 "(2) Information or records received by a
22 superintendent, principal, or respective designee under
23 subdivision (1) may only be used for the limited purposes
24 provided therein and shall remain confidential.

25 "(3) A juvenile probation officer, superintendent,
26 principal, or designee of a superintendent or principal
27 sharing or receiving information under subdivision (1) is

1 immune from all civil and criminal liability if the individual
2 acted in good faith and in compliance with this subsection.

3 ~~"(c)~~ (d) An intentional violation of the
4 confidentiality provisions of this section is a Class A
5 misdemeanor under the jurisdiction of the juvenile court."

6 "§13A-11-72.

7 "(a) No person who has been convicted in this state
8 or elsewhere of committing or attempting to commit a crime of
9 violence, misdemeanor offense of domestic violence, violent
10 offense as listed in Section 12-25-32(15), anyone who is
11 subject to a valid protection order for domestic abuse, or
12 anyone of unsound mind shall own a firearm or have one in his
13 or her possession or under his or her control.

14 "(b) No person who is a minor, except under the
15 circumstances provided in this section, a drug addict, or an
16 habitual drunkard shall own a pistol or have one in his or her
17 possession or under his or her control.

18 "(c) Subject to the exceptions provided by Section
19 13A-11-74, no person shall knowingly ~~with intent to do bodily~~
20 ~~harm~~ carry or possess a deadly weapon on the premises of a
21 public school.

22 "(d) Possession of a deadly weapon ~~with the intent~~
23 ~~to do bodily harm~~ on the premises of a public school in
24 violation of subsection (c) of this section is a Class C
25 felony.

26 "(e) School security personnel and school resource
27 officers qualified under subsection (a) of Section 16-1-44.1,

1 employed by a local board of education, and authorized by the
2 employing local board of education to carry a deadly weapon
3 while on duty are exempt from subsection (c) of this section.
4 Law enforcement officers are exempt from this section, and
5 persons with pistol permits issued pursuant to Section
6 13A-11-75, are exempt from subsection (c) of this section.

7 "(f) A person shall not be in violation of Section
8 13A-11-57 or 13A-11-76 and a minor shall not be in violation
9 of this section if the minor has permission to possess a
10 pistol from a parent or legal guardian who is not prohibited
11 from possessing a firearm under state or federal law, and any
12 of the following are satisfied:

13 "(1) The minor is attending a hunter education
14 course or a firearms safety course under the supervision of an
15 adult who is not prohibited from possessing a firearm under
16 state or federal law.

17 "(2) The minor is engaging in practice in the use of
18 a firearm or target shooting at an established range under the
19 supervision of an adult who is not prohibited from possessing
20 a firearm under state or federal law.

21 "(3) The minor is engaging in an organized
22 competition involving the use of a firearm or participating in
23 or practicing for a performance by an organized group under 26
24 U.S.C. § 501(c) (3) which uses firearms as part of the
25 performance.

26 "(4) The minor is hunting or fishing pursuant to a
27 valid license, if required, and the person has the license in

1 his or her possession; has written permission of the owner or
2 legal possessor of the land on which the activities are being
3 conducted; and the pistol, when loaded, is carried only in a
4 manner discernible by ordinary observation.

5 "(5) The minor is on real property under the control
6 of the minor's parent, legal guardian, or grandparent.

7 "(6) The minor is a member of the armed services or
8 National Guard and the minor is acting in the line of duty.

9 "(7) The minor is traveling by motor vehicle to any
10 of the locations or activities listed in subdivisions (1)
11 through (6), has written permission to possess the pistol by
12 his or her parent or legal guardian, and the pistol is
13 unloaded, locked in a compartment or container that is in or
14 affixed securely to the motor vehicle and is out of reach of
15 the driver and any passenger in the motor vehicle.

16 "(g) This section does not apply to a minor who uses
17 a pistol while acting in self-defense of himself or herself or
18 other persons against an intruder into the residence of the
19 minor or a residence in which the minor is an invited guest.

20 "(h) The term "school resource officer" as used in
21 this section means an Alabama Peace Officers' Standards and
22 Training Commissioner-certified law enforcement officer
23 employed by a law enforcement agency who is specifically
24 selected and specially trained for the school setting.

25 "(i) The term "public school" as used in this
26 section applies only to a public K-12 school ~~composed of~~

1 ~~grades K-12~~ and shall include a school bus used for grades K-12.

2 "(j) The term "deadly weapon" as used in this
3 section means a firearm or anything manifestly designed, made,
4 or adapted for the purposes of inflicting death or serious
5 physical injury, and such term includes, but is not limited
6 to, a bazooka, hand grenade, missile, or explosive or
7 incendiary device; a pistol, rifle, or shotgun; or a
8 switch-blade knife, gravity knife, stiletto, sword, or dagger;
9 or any club, baton, billy, black-jack, bludgeon, or metal
10 knuckles.

11 "(k) (1) The term "convicted" as used in this section
12 requires that the person was represented by counsel in the
13 case, or knowingly and intelligently waived the right to
14 counsel in the case if required by law, and either the case
15 was tried before a judge, tried by a jury, or the person
16 knowingly and intelligently waived the right to have the case
17 tried, by guilty plea or otherwise.

18 "(2) A person may not be considered to have been
19 convicted for the purposes of this section if the person is
20 not considered to have been convicted in the jurisdiction in
21 which the proceedings were held or the conviction has been
22 expunged, set aside, or is of an offense for which the person
23 has been pardoned or has had civil rights restored, unless the
24 pardon, expungement, or restoration of civil rights expressly
25 provides that the person may not ship, transport, possess, or
26 receive firearms.

1 "(l) The term "misdemeanor offense of domestic
2 violence" as used in this section means a misdemeanor offense
3 that has, as its elements, the use or attempted use of
4 physical force or the threatened use of a dangerous instrument
5 or deadly weapon, and the victim is a current or former
6 spouse, parent, child, person with whom the defendant has a
7 child in common, or a present or former household member.

8 "(m) The term "valid protection order" as used in
9 this section means an order issued after a hearing of which
10 the person received actual notice, and at which the person had
11 an opportunity to participate, that does any of the following:

12 "(1) Restrains the person from harassing, stalking,
13 or threatening a qualified individual or child of the
14 qualified individual or person or engaging in other conduct
15 that would place a qualified individual in reasonable fear of
16 bodily injury to the individual or child and that includes a
17 finding that the person represents a credible threat to the
18 physical safety of the qualified individual or child.

19 "(2) By its terms, explicitly prohibits the use,
20 attempted use, or threatened use of physical force against the
21 qualified individual or child that would reasonably be
22 expected to cause bodily injury.

23 "(n) The term "qualified individual" as used in
24 subsection (m), means a spouse or former spouse of the person,
25 an individual who is a parent of a child of the person, or an
26 individual who cohabitates or has cohabited with the person.

1 "(o) The term "unsound mind" as used in this section
2 includes any person who is subject to any of the findings
3 listed below, and who has not had his or her rights to possess
4 a firearm reinstated by operation of law or legal process:

5 "(1) Found by a court, board, commission, or other
6 lawful authority that, as a result of marked subnormal
7 intelligence, mental illness, incompetency, condition, or
8 disease, is a danger to himself or herself or others or lacks
9 the mental capacity to contract or manage his or her own
10 affairs.

11 "(2) Found to be insane, not guilty by reason of
12 mental disease or defect, found mentally incompetent to stand
13 trial, or found not guilty by a reason of lack of mental
14 responsibility by a court in a criminal case, to include
15 state, federal and military courts.

16 "(3) Involuntarily committed for a final commitment
17 for inpatient treatment to the Department of Mental Health or
18 a Veterans' Administration hospital by a court after a
19 hearing."

20 Section 2. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.