

1 HB384
2 79931-1
3 By Representative Spicer
4 RFD: Judiciary
5 First Read: 17-JAN-06

SYNOPSIS: Under existing law, there is no specific crime committed when a child day care provider makes a misrepresentation that puts the safety and welfare of a child or another child day care provider at risk. Also under existing law, there is no specific crime for reckless assault by a child day care provider.

This bill would create the crime of misrepresentation by a child day care provider for acts or omissions by the child day care provider that substantially affect the safety or welfare of a child or another child day care provider. This bill would also create the crime of reckless assault by a child day care provider. This bill would provide for penalties.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a

1 new or increased expenditure of local funds from
2 becoming effective with regard to a local
3 governmental entity without enactment by a 2/3 vote
4 unless: it comes within one of a number of
5 specified exceptions; it is approved by the
6 affected entity; or the Legislature appropriates
7 funds, or provides a local source of revenue, to
8 the entity for the purpose.

9 The purpose or effect of this bill would be
10 to require a new or increased expenditure of local
11 funds within the meaning of the amendment. However,
12 the bill does not require approval of a local
13 governmental entity or enactment by a 2/3 vote to
14 become effective because it comes within one of the
15 specified exceptions contained in the amendment.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To create the crimes of misrepresentation by a child
22 day care provider and reckless assault by a child day care
23 provider; to provide penalties; and in connection therewith
24 would have as its purpose or effect the requirement of a new
25 or increased expenditure of local funds within the meaning of
26 Amendment 621 of the Constitution of Alabama of 1901, now

1 appearing as Section 111.05 of the Official Recompilation of
2 the Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known as the Safe Child
5 Day Care Act.

6 Section 2. For purposes of this act, the following
7 terms shall have the following meanings:

8 (1) CHILD DAY CARE PROVIDER. Any provider,
9 assistant, employee, or volunteer at a licensed child day care
10 home or facility.

11 (2) WILLFUL AND INTENTIONAL MISREPRESENTATION. Any
12 willful and intentional misrepresentation as to any of the
13 following facts:

14 a. The number of children in the facility.

15 b. The area of the home or facility that is used for
16 child day care.

17 c. The credentials or qualifications of any child
18 day care provider in the home or facility.

19 d. Any other matter relevant to licensing
20 qualifications of the child day care center.

21 Section 3. (a) A person commits the crime of
22 misrepresentation by a child day care provider if he or she is
23 a child day care provider or holds himself or herself out to
24 be a child day care provider and he or she makes a willful and
25 intentional misrepresentation, by either act or omission, to
26 any of the following:

1 (1) A parent or guardian of a child in the care of
2 the child day care provider.

3 (2) A prospective parent or guardian of a child who
4 may be in the care of the child day care provider.

5 (3) A police officer or a state or local official
6 having jurisdiction over child day care providers.

7 (b) A willful and intentional misrepresentation does
8 not occur unless the act or omission in question substantially
9 places at risk the health and safety of a child or of a child
10 day care provider.

11 (c) Misrepresentation by a child day care provider
12 is a Class A misdemeanor.

13 Section 4. (a) A person commits the crime of
14 reckless assault of a child by a child day care provider when
15 the child day care provider recklessly causes serious physical
16 injury to a child of the age of 11 years or less under his or
17 her care.

18 (b) Reckless assault of a child by a child day care
19 provider is a Class C felony.

20 Section 5. All laws or parts of laws which conflict
21 with this act are repealed.

22 Section 6. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now
26 appearing as Section 111.05 of the Official Recompilation of
27 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 7. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.