

SB119 INTRODUCED



1 SB119
2 J5WHNNN-1
3 By Senator Barfoot
4 RFD: Judiciary
5 First Read: 05-Feb-25

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SYNOPSIS:

Under existing law, a person may not lawfully possess a firearm if the person has been convicted of a crime of violence, a misdemeanor offense of domestic violence, or a violent offense, or if the person is subject to a valid protection order for domestic abuse or is of unsound mind. This bill would further provide for the list of persons prohibited from possessing a firearm to include persons convicted of any felony offense.

This bill would also prohibit possession of a firearm by a person who has been charged with committing a crime of violence, a misdemeanor offense of domestic violence, or a violent offense, and who thereafter was released pending or during trial.

This bill would increase the penalty for discharging a firearm into an occupied dwelling, building, or other designated space. Under current law, this offense is a Class B felony. This bill would make the offense of discharging a firearm into an occupied dwelling a Class A felony.

Under existing law, a parolee or probationer found in possession of firearm is subject to a period of confinement of no more than 45 days in a county jail. This bill would require the Board of Pardons and

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29 Paroles to revoke parole, or a court to revoke
30 probation, when a parolee or probationer has been
31 convicted of possession of a firearm by a person
32 forbidden from firearm possession. This bill would
33 allow the Board of Pardons and Paroles to revoke
34 parole, or a court to revoke probation, when a parolee
35 or probationer has been found in possession of a
36 firearm.

37 Under existing law, a person may be denied bail
38 only if he or she is charged with certain enumerated
39 offenses and detention is necessary to ensure the
40 person's appearance in court or to protect the safety
41 of the community. This bill would add to the list of
42 enumerated offenses certain offenses related to the
43 unlawful use or possession of a firearm. This bill
44 would also add to the list of enumerated offenses any
45 solicitation, attempt, or conspiracy to commit any of
46 the offenses for which bail may be denied.

47 Section 111.05 of the Constitution of Alabama of
48 2022, prohibits a general law whose purpose or effect
49 would be to require a new or increased expenditure of
50 local funds from becoming effective with regard to a
51 local governmental entity without enactment by a 2/3
52 vote unless: it comes within one of a number of
53 specified exceptions; it is approved by the affected
54 entity; or the Legislature appropriates funds, or
55 provides a local source of revenue, to the entity for
56 the purpose.

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57 The purpose or effect of this bill would be to
58 require a new or increased expenditure of local funds
59 within the meaning of the amendment. However, the bill
60 does not require approval of a local governmental
61 entity or enactment by a 2/3 vote to become effective
62 because it comes within one of the specified exceptions
63 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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Relating to firearms; to amend Sections 13A-11-61,
13A-11-72, 15-13-3, 15-22-32, and 15-22-54, Code of Alabama
1975; to add Section 13A-11-72.2, Code of Alabama 1975; to
further provide for the list of persons prohibited from
possessing a firearm; to prohibit firearm possession by a
person charged with certain felony offenses when the person
has been released pending or during trial; to provide
affirmative defenses; to provide criminal penalties for a
violation; to increase the penalty for the offense of
discharging a firearm into an occupied dwelling, building, or
other designated space; to provide grounds for revoking
probation or parole upon possession of a firearm; to provide
for additional offenses that would allow a judge to deny bail
under certain circumstances; and in connection therewith
would have as its purpose or effect the requirement of a

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85 new or increased expenditure of local funds within the
86 meaning of Section 111.05 of the Constitution of Alabama of
87 2022.

88 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

89 Section 1. Section 13A-11-72, Code of Alabama 1975, is
90 amended to read as follows:

91 "§13A-11-72

92 (a) (1) ~~No person who has been convicted in this state~~
93 ~~or elsewhere of committing or attempting to commit a crime of~~
94 ~~violence, misdemeanor offense of domestic violence, violent~~
95 ~~offense as listed in Section 12-25-32(15), anyone who is~~
96 ~~subject to a valid protection order for domestic abuse, or~~
97 ~~anyone of unsound mind shall own a firearm or have one in his~~
98 ~~or her possession or under his or her control. A person may~~
99 not own a firearm or have a firearm in his or her possession
100 or under his or her control if any of the following apply:

101 a. The person has been convicted in this state or
102 elsewhere of committing or attempting to commit a felony
103 offense.

104 b. The person has been convicted in this state or
105 elsewhere of committing or attempting to commit a crime of
106 violence, misdemeanor offense of domestic violence, or a
107 violent offense as defined in Section 12-25-32.

108 c. The person is subject to a valid protection order
109 for domestic abuse.

110 d. The person is of unsound mind.

111 (2) A violation of this subsection is a Class C felony.

112 (3) It shall be an affirmative defense to a prosecution

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113 under this subsection that the defendant has received a pardon
114 pursuant to Section 15-22-36 which expressly restores the
115 defendant's right to possess a firearm as to each conviction
116 supporting the prosecution.

117 (b) (1) No person who is a minor, except under the
118 circumstances provided in this section, an habitual drunkard,
119 or who has a drug addiction shall own a pistol or have one in
120 his or her possession or under his or her control.

121 (2) A violation of this subsection is a Class A
122 misdemeanor.

123 (c) (1) No person who is an alien and is illegally or
124 unlawfully in the United States or has been admitted to the
125 United States under a nonimmigrant visa as defined in 8 U.S.C
126 § 1101(a) (26), provided no exception to this subsection as
127 listed in 18 U.S.C § 922(y) (2) applies, shall own a pistol or
128 other firearm or have one in his or her possession or under
129 his or her control.

130 (2) A violation of this subsection is a Class C felony.

131 (d) (1) Subject to the exceptions provided by Section
132 13A-11-74, no person shall knowingly with intent to do bodily
133 harm carry or possess a deadly weapon on the premises of a
134 public school.

135 (2) Except as provided in subsection (f), no minor
136 shall knowingly carry or possess a deadly weapon on the
137 premises of a public school.

138 (2) A violation of this subsection is a Class C felony.

139 (e) School security personnel and school resource
140 officers qualified under Section 16-1-44.1(a), employed by a

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141 local board of education, and authorized by the employing
142 local board of education to carry a deadly weapon while on
143 duty are exempt from subsection (d). Law enforcement officers
144 are exempt from this section, and persons with permits issued
145 pursuant to Section 13A-11-75, are exempt from subsection (d).

146 (f) A person shall not be in violation of Section
147 13A-11-57 or 13A-11-76 and a minor shall not be in violation
148 of this section if the minor has permission to possess a
149 pistol from a parent or legal guardian who is not prohibited
150 from possessing a firearm under state or federal law, and any
151 of the following are satisfied:

152 (1) The minor is attending a hunter education course or
153 a firearms safety course under the supervision of an adult who
154 is not prohibited from possessing a firearm under state or
155 federal law.

156 (2) The minor is engaging in practice in the use of a
157 firearm or target shooting at an established range under the
158 supervision of an adult who is not prohibited from possessing
159 a firearm under state or federal law.

160 (3) The minor is engaging in an organized competition
161 involving the use of a firearm or participating in or
162 practicing for a performance by an organized group under 26
163 U.S.C. § 501(c)(3) which uses firearms as part of the
164 performance.

165 (4) The minor is hunting or fishing pursuant to a valid
166 license, if required, and the person has the license in his or
167 her possession; has written permission of the owner or legal
168 possessor of the land on which the activities are being

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169 conducted; and the pistol, when loaded, is carried only in a
170 manner discernible by ordinary observation.

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

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

175 (7) The minor is traveling by motor vehicle to any of
176 the locations or activities listed in subdivisions (1) through
177 (6), has written permission to possess the pistol or firearm
178 by his or her parent or legal guardian, and the pistol or
179 firearm is unloaded, locked in a compartment or container that
180 is in or affixed securely to the motor vehicle, and is out of
181 reach of the driver and any passenger in the motor vehicle.

182 (g) This section does not apply to a minor who uses a
183 pistol or other firearm while acting in self-defense of
184 himself, herself, or other persons against an intruder into
185 the residence of the minor or a residence in which the minor
186 is an invited guest.

187 (h) For the purposes of this section, the following
188 terms have the following meanings:

189 (1) CONVICTED. a. Means a person was represented by
190 counsel in the case, or knowingly and intelligently waived the
191 right to counsel in the case if required by law, and either
192 the case was tried before a judge, tried by a jury, or the
193 person knowingly and intelligently waived the right to have
194 the case tried, by guilty plea or otherwise.

195 b. A person is not considered to have been convicted
196 for the purposes of this section if the person is not

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197 considered to have been convicted in the jurisdiction in which
198 the proceedings were held or the conviction has been expunged,
199 set aside, or is of an offense for which the person has been
200 pardoned or has had his or her civil rights restored, unless
201 the pardon, expungement, or restoration of civil rights
202 expressly provides that the person may not ship, transport,
203 possess, or receive firearms.

204 (2) DEADLY WEAPON. A firearm or anything manifestly
205 designed, made, or adapted for the purposes of inflicting
206 death or serious physical injury, and the term includes, but
207 is not limited to, a bazooka, hand grenade, missile, or
208 explosive or incendiary device; a pistol, rifle, or shotgun;
209 or a switch-blade knife, gravity knife, stiletto, sword, or
210 dagger; or any club, baton, billy, black-jack, bludgeon, or
211 metal knuckles.

212 (3) MISDEMEANOR OFFENSE OF DOMESTIC VIOLENCE. A
213 misdemeanor offense that has, as its elements, the use or
214 attempted use of physical force or the threatened use of a
215 dangerous instrument or deadly weapon, and the victim is a
216 current or former spouse, parent, child, person with whom the
217 defendant has a child in common, or a present or former
218 household member.

219 (4) PUBLIC SCHOOL. A school composed of grades K-12 and
220 shall include a school bus used for grades K-12.

221 (5) QUALIFIED INDIVIDUAL. A spouse or former spouse of
222 the person, an individual who is a parent of a child of the
223 person, or an individual who cohabitates or has cohabited with
224 the person.

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225 (6) SCHOOL RESOURCE OFFICER. An Alabama Peace Officers'
226 Standards and Training Commissioner-certified law enforcement
227 officer employed by a law enforcement agency who is
228 specifically selected and specially trained for the school
229 setting.

230 (7) UNSOUND MIND. Includes any person who is subject to
231 any of the findings listed below, and who has not had his or
232 her rights to possess a firearm reinstated by operation of law
233 or legal process:

234 a. Found by a court, board, commission, or other lawful
235 authority that, as a result of marked subnormal intelligence,
236 mental illness, incompetency, condition, or disease, is a
237 danger to himself, herself, or others or lacks the mental
238 capacity to contract or manage his or her own affairs.

239 b. Found to be insane, not guilty by reason of mental
240 disease or defect, found mentally incompetent to stand trial,
241 or found not guilty by a reason of lack of mental
242 responsibility by a court in a criminal case, to include
243 state, federal, and military courts.

244 c. Involuntarily committed for a final commitment for
245 inpatient treatment to the Department of Mental Health or a
246 Veterans' Administration hospital by a court after a hearing.

247 (8) VALID PROTECTION ORDER. An order issued after a
248 hearing of which the person received actual notice, and at
249 which the person had an opportunity to participate, that does
250 either of the following:

251 a. Restrains the person from harassing, stalking, or
252 threatening a qualified individual or child of the qualified

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253 individual or person or engaging in other conduct that would
254 place a qualified individual in reasonable fear of bodily
255 injury to the individual or child and that includes a finding
256 that the person represents a credible threat to the physical
257 safety of the qualified individual or child.

258 b. By its terms, explicitly prohibits the use,
259 attempted use, or threatened use of physical force against the
260 qualified individual or child that would reasonably be
261 expected to cause bodily injury.

262 "

263 Section 2. Section 13A-11-72.2 is added to the Code of
264 Alabama 1975, to read as follows:

265 "§13A-11-72.2

266 (a) It shall be unlawful for any person to knowingly
267 have a firearm in his or her possession or under his or her
268 control when the person has been charged with committing or
269 attempting to commit a crime of violence, misdemeanor offense
270 of domestic violence as defined in Section 13A-11-72, or
271 violent offense as listed in Section 12-25-32(15), and
272 thereafter has been released pending or during trial.

273 (b) Unless waived by the defendant, a person may not be
274 convicted of violating this section unless the person is first
275 convicted of the crime of violence, misdemeanor offense of
276 domestic violence as defined in Section 13A-11-72, or violent
277 offense listed in Section 12-25-32(15), or a lesser included
278 offense, which gave rise to the charge and for which the
279 person was released pending or during trial.

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280 (c) A person who violates this section shall be guilty
281 of a Class C felony."

282
283 Section 3. Sections 13A-11-61, 15-22-32, and 15-22-54,
284 Code of Alabama 1975, are amended to read as follows:

285 "§13A-11-61

286 (a) No person shall shoot or discharge a firearm,
287 explosive or other weapon ~~which~~ that discharges a dangerous
288 projectile into any occupied or unoccupied dwelling, ~~or~~
289 building, ~~or~~ railroad locomotive, ~~or~~ railroad car, aircraft,
290 automobile, truck, or watercraft ~~in this state~~.

291 (b) Any person who commits an act prohibited by
292 subsection (a) with respect to an occupied dwelling, ~~or~~
293 building, ~~or~~ railroad locomotive, ~~or~~ railroad car, aircraft,
294 automobile, truck, or watercraft shall be ~~deemed~~ guilty of a
295 Class ~~B~~ A felony ~~as defined by the state criminal code, and~~
296 ~~upon conviction, shall be punished as prescribed by law.~~

297 (c) Any person who commits any act prohibited by
298 subsection (a) ~~hereof~~ with respect to an unoccupied dwelling, or
299 ~~or~~ building, ~~or~~ railroad locomotive, ~~or~~ railroad car,
300 aircraft, automobile, truck, or watercraft shall be ~~deemed~~
301 guilty of a Class C felony ~~as defined by the state criminal~~
302 ~~code, and upon conviction, shall be punished as prescribed by~~
303 ~~law.~~"

304 "§15-22-32

305 (a) Whenever there is reasonable cause to believe that
306 a prisoner who has been paroled has violated his or her
307 parole, the Board of Pardons and Paroles, at its next meeting,

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308 may declare the parolee to be delinquent, and time owed shall
309 date from the delinquency. The Department of Corrections,
310 after receiving notice from the sheriff of the county jail
311 where the parolee is being held, shall promptly notify the
312 board of the return of a parolee charged with violation of his
313 or her parole. The board, a single member of the board, a
314 parole revocation hearing officer, or a designated parole
315 officer shall hold a parole court and consider the case of the
316 parole violator. The parolee shall be afforded all rights
317 provided in subdivision (f) (1). The parole court shall
318 determine whether sufficient evidence supports the violation
319 charges. Except as provided in subparagraph (f) (1)a.2., if a
320 hearing is not held within 20 business days, the parolee shall
321 be released back to parole supervision.

322 (b) Upon finding sufficient evidence to support a
323 parole violation, the parole court may recommend to the board
324 revocation or reinstatement of parole, and the board may take
325 any of the following actions:

326 (1)a. If the underlying offense was a violent offense
327 as defined in Section 12-25-32 and classified as a Class A
328 felony, a sex offense pursuant to Section 15-20A-5, possession
329 of a firearm by a person forbidden from firearm possession
330 pursuant to Section 13A-11-72, or aggravated theft by
331 deception pursuant to Section 13A-8-2.1, the board shall
332 revoke parole and require the parolee to serve the balance of
333 the term for which he or she was originally sentenced, or any
334 portion thereof, in a state prison facility, calculated from
335 the date of his or her rearrest as a delinquent parolee.

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336 b. If the parole violation was for absconding,
337 possessing a firearm, or being arrested or convicted of a new
338 offense, ~~or absconding,~~ the board may revoke parole and
339 require the parolee to serve the balance of the term for which
340 he or she was originally sentenced, or any portion thereof, in
341 a state prison facility, calculated from the date of his or
342 her rearrest as a delinquent parolee.

343 c. For all other parolees, the board may impose a
344 period of confinement of no more than 45 consecutive days to
345 be served in a residential transition center established
346 pursuant to Section 15-22-30.1 or a consenting county jail
347 designated for this purpose as provided in Section 14-1-23.
348 The parolee shall be held in the county jail of the county in
349 which the violation occurred while awaiting the revocation
350 hearing. The Department of Corrections shall reimburse the
351 state mileage rate to the county, as determined by the Alabama
352 Comptroller's Office, for any state inmate charged with, or
353 sanctioned or revoked for, a parole violation and who is
354 transferred to or from a Department of Corrections facility or
355 to or from a consenting county jail by the county.

356 (2) Upon completion of the confinement period and
357 release from confinement, the parolee shall automatically
358 continue on parole for the remaining term of the sentence
359 without further action from the board. The parole court may
360 not recommend and the board may not revoke parole unless the
361 parolee has previously received a total of three periods of
362 confinement under this subsection. A parolee shall receive
363 only three total periods of confinement pursuant to this

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364 subsection. The maximum 45-day term of confinement ordered
365 pursuant to this subsection shall be reduced by any time
366 served in custody prior to the imposition of the period of
367 confinement and shall be credited to the balance of the
368 incarceration term for which the parolee was originally
369 sentenced. In the event the time remaining on parole
370 supervision is 45 days or less, the term of confinement may
371 not exceed the remainder of the parolee's sentence.

372 (3) The total time spent in confinement under this
373 subsection may not exceed the term of the parolee's original
374 sentence.

375 (4) Confinement shall be immediate. The board shall
376 ensure that the Department of Corrections, a county jail, a
377 residential transition center, or a consenting county jail
378 receives necessary documentation for imposing a period of
379 confinement within five business days of the board's action.

380 (5) If the parolee is presented to a county jail,
381 excluding a consenting county jail designated for this
382 purpose, as provided in Section 14-1-23, for any period of
383 confinement with a serious health condition, if the admittance
384 of the parolee would create a security risk to the county
385 jail, or if the county jail is near, at, or over capacity, the
386 sheriff may refuse to admit the parolee. If, while in custody
387 of the county jail, the parolee develops a serious health
388 condition, if the presence of the parolee creates a security
389 risk to the county jail, or if the county jail reaches near,
390 at, or over capacity, the sheriff may release the parolee upon
391 notification to the parole officer. A sheriff and employees in

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392 the county jail shall be immune from liability for exercising
393 discretion pursuant to Section 36-1-12 in refusing to admit a
394 parolee into the jail or releasing a parolee from jail
395 pursuant to this subdivision.

396 (c) The position of Parole Revocation Hearing Officer
397 is created and established, subject to the state Merit System.

398 (d) The board may appoint or employ hearing officers
399 who shall conduct a parole court. The hearing officers shall
400 determine the sufficiency of evidence to support parole
401 violation charges and recommend to the board revocation of
402 parole pursuant to subsection (b) or reinstatement of parole.

403 (e) In lieu of subsections (a) and (b), when a parolee
404 violates his or her parole terms and conditions, his or her
405 parole officer, after an administrative review and approval by
406 the parole officer's supervisor, may impose any of the
407 following sanctions:

408 (1) Mandatory behavior treatment.

409 (2) Mandatory substance abuse treatment.

410 (3) GPS monitoring.

411 (4) Any other treatment as determined by the board or
412 supervising officer.

413 (5)a. A short period of confinement in the county jail
414 of the county in which the violation occurred. Periods of
415 confinement under this subdivision may not exceed six days per
416 month during any three separate months during the period of
417 parole. The six days per month confinement periods may only be
418 imposed as two-day or three-day consecutive periods at any
419 single time. The total periods of confinement may not exceed

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420 nine total days.

421 b. Confinement pursuant to this subdivision does not
422 limit the board's ability to directly impose sanctions,
423 periods of confinement, or revoke parole.

424 (f) (1) Prior to imposing a sanction pursuant to
425 subsection (e), the parolee must first be presented with a
426 violation report setting forth the alleged parole violations
427 and supporting evidence. The parolee shall be advised that he
428 or she has all of the following rights:

429 a.1. The right to have a parole court, in person or by
430 electronic means, on the alleged violation or violations.
431 Except as provided in subparagraph 2., if a parole court is
432 requested, no parolee may be held beyond 20 business days of
433 the request.

434 2. If a parole court cannot be held within 20 business
435 days due to a state of emergency being proclaimed under
436 Chapter 9 of Title 31: (i) if the parolee is being held in a
437 Department of Corrections facility, the parole court shall be
438 held within 40 business days; or (ii) if the parolee is being
439 held in a county jail, the sheriff may agree to the parole
440 court being held within 40 business days. No parolee may be
441 held beyond 40 business days of the request to have a parole
442 court.

443 b. The right to present relevant witnesses and
444 documentary evidence.

445 c. The right to retain and have counsel at the hearing
446 if he or she so desires.

447 d. The right to confront and cross examine any adverse

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448 witnesses.

449 (2) Upon the signing of a waiver of these rights by the
450 parolee and the supervising parole officer, with approval of a
451 supervisor, the parolee may be treated, monitored, or confined
452 for the period recommended in the violation report and
453 designated on the waiver. The parolee may not request a review
454 if he or she has signed a written waiver of rights as provided
455 in this subsection.

456 (g) The board shall adopt guidelines and procedures to
457 implement the requirements of this section, which shall
458 include the requirement of a supervisor's approval prior to
459 exercise of the delegation of authority authorized by
460 subsection (e)."

461 "§15-22-54

462 (a) The period of probation or suspension of execution
463 of sentence shall be determined by the court and may not be
464 waived by the defendant. The period of probation or suspension
465 may be continued, extended, or terminated as determined by the
466 court. Except as provided in Section 32-5A-191, relating to
467 ignition interlock requirements, the maximum probation period
468 of a defendant guilty of a misdemeanor may not exceed two
469 years, nor shall the maximum probation period of a defendant
470 guilty of a felony exceed five years, except as provided in
471 Section 13A-8-2.1. When the conditions of probation or
472 suspension of sentence are fulfilled, the court, by an order
473 duly entered on its minutes, shall discharge the defendant.

474 (b) The court granting probation, upon the
475 recommendation of the officer supervising the probationer, may

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476 terminate all authority and supervision over the probationer
477 prior to the declared date of completion of probation upon
478 showing a continued satisfactory compliance with the
479 conditions of probation over a sufficient portion of the
480 period of the probation. At least every two years, and after
481 providing notice to the district attorney, the court shall
482 review the probationer's suitability for discharge from
483 probation supervision if the probationer has satisfied all
484 financial obligations owed to the court, including
485 restitution, and has not had his or her supervision revoked.

486 (c) At any time during the period of probation or
487 suspension of execution of sentence, the court may issue a
488 warrant and have the probationer arrested for violating any of
489 the conditions of probation or suspension of sentence, and the
490 court shall hold a violation hearing. No probationer shall be
491 held in jail awaiting the violation hearing for longer than 20
492 business days, unless new criminal charges are pending. If the
493 hearing is not held within the specified time, the sheriff
494 shall release the probation violator unless there are other
495 pending criminal charges. A judge may issue a bond to a
496 probationer for release from custody.

497 (d) Except as provided in Chapter 15 of Title 12, any
498 probation officer or law enforcement officer with power of
499 arrest, when requested by the probation officer, may arrest a
500 probationer without a warrant if the probationer violates the
501 conditions of probation in the presence of the arresting
502 officer. The arresting officer, or his or her agency, as soon
503 as practicable, but no later than 24 hours following the

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504 arrest, shall notify the Board of Pardons and Paroles of the
505 probationer's arrest. The probationer may be detained in the
506 county jail or other appropriate place of detention until the
507 probationer is brought before the court. The probation officer
508 shall report the arrest and detention to the court and submit
509 in writing a report showing in what manner the probationer has
510 violated probation.

511 (e) After conducting a violation hearing and finding
512 sufficient evidence to support a probation violation, the
513 court may take any of the following actions:

514 (1)a. If the underlying offense was a violent offense
515 as defined in Section 12-25-32 and a Class A felony, a sex
516 offense pursuant to Section 15-20A-5, possession of a firearm
517 by a person forbidden from firearm possession pursuant to
518 Section 13A-11-72, or aggravated theft by deception pursuant
519 to Section 13A-8-2.1, the court shall revoke probation and
520 require the probationer to serve the balance of the term for
521 which he or she was originally sentenced, or any portion
522 thereof, in a state prison facility, calculated from the date
523 of his or her rearrest as a delinquent probationer.

524 b. If the probation violation was for absconding,
525 possessing a firearm, being arrested or convicted of a new
526 offense, ~~absconding,~~ or failing to successfully complete a
527 court supervised, evidence-based treatment program, as defined
528 in Section 12-25-32, a court ordered faith-based program, or
529 any other court ordered rehabilitative program, the court may
530 revoke probation and require the probationer to serve the
531 balance of the term for which he or she was originally

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532 sentenced, or any portion thereof, in a state prison facility,
533 calculated from the date of his or her rearrest as a
534 delinquent probationer.

535 c. For all other probationers, the court may impose a
536 period of confinement of no more than 45 consecutive days to
537 be served in a residential transition center established
538 pursuant to Section 15-22-30.1 or a consenting county jail
539 designated for this purpose as provided in Section 14-1-23.
540 The probationer shall be held in the county jail of the county
541 in which the violation occurred while awaiting the revocation
542 hearing. The Department of Corrections shall reimburse the
543 state mileage rate to the county, as determined by the Alabama
544 Comptroller's Office, for any probationer charged with, or
545 sanctioned or revoked for, a probation violation and who is
546 transferred to or from a Department of Corrections facility or
547 to or from a consenting county jail by the county.

548 (2) Upon completion of the confinement period, the
549 remaining probation period or suspension of sentence shall
550 automatically continue upon the defendant's release from
551 confinement. The court may not revoke probation unless the
552 defendant has previously received a total of three periods of
553 confinement pursuant to this subsection. For purposes of
554 revocation, the court may take judicial notice of the three
555 total periods of confinement under this subsection. A
556 defendant shall only receive three total periods of
557 confinement pursuant to this subsection. The maximum 45-day
558 term of confinement ordered pursuant to this subsection for a
559 felony shall be reduced by any time served in custody prior to

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560 the imposition of the period of confinement and shall be
561 credited to the suspended sentence. If the time remaining on
562 the imposed sentence is 45 days or less, the term of
563 confinement may not exceed the remainder of the defendant's
564 sentence.

565 (3) The total time spent in confinement under this
566 subsection may not exceed the term of the defendant's original
567 sentence.

568 (4) Confinement shall be immediate. The court shall
569 ensure that the circuit clerk receives the order revoking
570 probation within five business days. The circuit clerk shall
571 ensure that the Department of Corrections, a county jail, a
572 residential transition center, or a consenting county jail
573 receives necessary transcripts for imposing a period of
574 confinement within five business days of its receipt of the
575 court's order.

576 (5) If a probation violator with a serious health
577 condition is presented to a county jail, excluding a
578 consenting county jail designated for this purpose as provided
579 in Section 14-1-23, for any period of confinement, if the
580 confinement of the probation violator would create a security
581 risk to the county jail, or if the county jail is near, at, or
582 over capacity, the sheriff may refuse to admit the probation
583 violator. If, while in custody of the county jail, a probation
584 violator develops a serious health condition, if a confinement
585 of the probation violator creates a security risk to the
586 county jail, or if the county jail reaches near, at, or over
587 capacity, the sheriff may release the probation violator upon

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588 notification to the probation officer and to the court who has
589 jurisdiction over the probation violator. A sheriff and his or
590 her employees shall be immune from liability for exercising
591 discretion pursuant to Section 36-1-12 in refusing to admit a
592 probation violator into the jail or releasing a probation
593 violator from jail pursuant to this subdivision.

594 (f) In lieu of subsections (c) through (e), when a
595 probationer violates his or her probation terms and conditions
596 imposed by the court, his or her probation officer, after an
597 administrative review and approval by the probation officer's
598 supervisor, may impose any of the following sanctions:

599 (1) Mandatory behavioral treatment.

600 (2) Mandatory substance abuse treatment.

601 (3) GPS monitoring.

602 (4) Any other treatment as determined by the court or
603 supervising officer.

604 (5) A short period of confinement in the county jail of
605 the county in which the violation occurred. Periods of
606 confinement under this subdivision may not exceed six days per
607 month during any three separate months during the period of
608 probation. The six days per month confinement period may only
609 be imposed as two-day or three-day consecutive periods at any
610 single time. The total periods of confinement may not exceed
611 nine total days.

612 (g) (1) Prior to imposing a sanction pursuant to
613 subsection (f), the probationer must first be presented with a
614 written violation report setting forth the alleged probation
615 violations and supporting evidence. The probationer shall be

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616 provided a written notice that he or she has the right to all
617 of the following:

618 a. Have a hearing before the court on the alleged
619 violation or violations in person or by electronic means. If a
620 hearing is requested, no probationer shall be held beyond 20
621 business days of the request. Only requesting probationers
622 posing a threat to public safety or a flight risk shall be
623 arrested while awaiting a hearing.

624 b. Present relevant witnesses and documentary evidence.

625 c. Retain and have counsel at the hearing and that
626 counsel shall be appointed if the probationer is indigent.

627 d. Confront and cross examine any adverse witnesses.

628 (2) The probationer may waive the right to have a
629 hearing. Upon the signing of a waiver of these rights by the
630 probationer and the supervising probation officer, with
631 approval of the probation officer's supervisor, the
632 probationer may be treated, monitored, or confined for the
633 period recommended in the violation report and designated on
634 the waiver. The probationer may not request a review if he or
635 she has signed a written waiver of rights as provided in this
636 subsection.

637 (h) The board shall adopt guidelines and procedures to
638 implement the requirements of this section, which shall
639 include the requirement of a supervisor's approval prior to a
640 supervising probation officer's exercise of the delegation of
641 authority authorized by subsection (f)."

642 Section 4. Section 15-13-3, Code of Alabama 1975, is
643 amended to read as follows:

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644 "§15-13-3

645 (a) A defendant is not eligible for bail when he or she
646 is charged with capital murder pursuant to Section 13A-5-40,
647 if the court is of the opinion, on the evidence adduced, that
648 he or she is guilty of the offense.

649 (b) ~~(1) The court, after~~ After a pretrial detention
650 hearing as provided in ~~this~~ subsection (d) for an offense
651 enumerated in this subsection and, ~~after~~ the presentment of an
652 indictment or a showing of probable cause in the charged
653 offense, ~~and if~~ the court may deny a defendant bail if both of
654 the following apply:

655 (1) The prosecuting attorney proves by clear and
656 convincing evidence that no condition or combination of
657 conditions of release will reasonably ensure the defendant's
658 appearance in court or protect the safety of the community or
659 any person, ~~may deny a defendant's bail, if he or she.~~

660 (2) The defendant is charged with any of the following
661 offenses:

662 a. Murder, as provided in Section 13A-6-2.

663 b. Kidnapping in the first degree, as provided in
664 Section 13A-6-43.

665 c. Rape in the first degree, as provided in Section
666 13A-6-61.

667 d. Sodomy in the first degree, as provided in Section
668 13A-6-63.

669 e. Sexual torture, as provided in Section 13A-6-65.1.

670 f. Domestic violence in the first degree, as provided
671 in Section 13A-6-130.

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672 g. Human trafficking in the first degree, as provided
673 in Section 13A-6-152.

674 h. Burglary in the first degree, as provided in Section
675 13A-7-5.

676 i. Arson in the first degree, as provided in Section
677 13A-7-41.

678 j. Robbery in the first degree, as provided in Section
679 13A-8-41.

680 k. Terrorism, as provided in ~~subdivision (b) (2) of~~
681 Section 13A-10-152 (b) (2).

682 l. Aggravated child abuse, as provided in ~~subsection~~
683 ~~(b) of~~ Section 26-15-3.1 (b).

684 m. Certain persons forbidden to possess a firearm, as
685 provided in Section 13A-11-72.

686 n. Shooting or discharging a firearm, explosive, or
687 other weapon into an occupied dwelling, building, railroad
688 locomotive, railroad car, aircraft, automobile, truck, or
689 watercraft, as provided in Section 13A-11-61(b).

690 o. Any solicitation, attempt, or conspiracy to commit
691 any of the offenses listed in paragraphs a. through n.,
692 inclusive.

693 ~~(2)~~ (c) A court shall order that a defendant charged
694 with an offense listed in ~~this~~ subsection (b) be held without
695 bail prior to a pretrial detention hearing.

696 ~~(3)~~ (d) The court shall hold a pretrial detention
697 hearing immediately upon the defendant's first appearance
698 before the court, unless the prosecuting attorney or the
699 defendant requests a continuance. Except for good cause, a

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700 continuance on a motion of the defendant may not exceed five
701 days, excluding Saturdays, Sundays, and state holidays, and a
702 continuance on motion by the prosecuting attorney may not
703 exceed three days, excluding Saturdays, Sundays, and state
704 holidays. The defendant shall be detained during any
705 continuance.

706 ~~(4)~~a.(e) (1) A defendant shall have all of the following
707 rights at a pretrial detention hearing:

708 ~~1.~~a. To be represented by counsel. If the defendant is
709 financially unable to obtain counsel, he or she shall have
710 counsel appointed.

711 ~~2.~~b. To testify.

712 ~~3.~~c. To present witnesses.

713 ~~4.~~d. To present evidence.

714 ~~5.~~e. To cross-examine witnesses.

715 ~~b.~~(2) The judge shall have discretion as to who the
716 defendant may call as a witness ~~as provided in this~~
717 ~~subdivision~~ at the pretrial detention hearing.

718 ~~(5)~~(f) In considering whether there are any conditions
719 or combination of conditions that would reasonably ensure the
720 defendant's appearance in court or protect the safety of the
721 community and of any person, the court shall consider all of
722 the following factors:

723 ~~a.~~(1) The nature and circumstances of the offenses
724 charged.

725 ~~b.~~(2) The weight of the evidence against the defendant.

726 ~~e.~~(3) The history and characteristics of the defendant,
727 including, but not limited to the defendant's character,

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728 physical and mental condition, family ties, employment,
729 financial resources, length of residence in the community,
730 community ties, past conduct, history relating to drug or
731 alcohol abuse, criminal history, and record concerning
732 appearance at court proceedings, and whether, at the time of
733 the current offense, the defendant was on probation, parole,
734 or on other release pending trial, sentencing, appeal, or
735 completion of sentence for an offense.

736 ~~d.~~ (4) The nature and seriousness of the danger to any
737 person or the community if the defendant is released.

738 ~~(6)~~ (g) At any pretrial detention hearing, the rules
739 governing admissibility of evidence in criminal trials shall
740 not apply, and the court shall receive all relevant evidence.
741 All evidence shall be recorded. The testimony of a defendant
742 may not be admissible in any other criminal proceeding against
743 the defendant, except if being used for perjury based on the
744 testimony or for the purpose of impeachment in any subsequent
745 proceeding.

746 ~~(7)a.~~ (h) (1) A prosecuting attorney may file a motion
747 for a pretrial detention hearing at any time.

748 ~~b.~~ (2) A pretrial detention hearing may be reopened,
749 before or after a determination by the court, at any time
750 prior to trial if the court finds that information exists that
751 was not known by the movant at the time of the pretrial
752 detention hearing.

753 ~~(8)~~ (i) In an order denying bail, the judge shall make
754 written findings or state for the record findings of fact and
755 a statement of the reasons for denying bail. The judge shall

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756 enter an order denying bail within 48 hours of the pretrial
757 detention hearing."

758 Section 5. Although this bill would have as its purpose
759 or effect the requirement of a new or increased expenditure of
760 local funds, the bill is excluded from further requirements
761 and application under Section 111.05 of the Constitution of
762 Alabama of 2022, because the bill defines a new crime or
763 amends the definition of an existing crime.

764 Section 6. Sections 1 and 2 of this act shall become
765 effective on October 1, 2025. Section 4 of this act shall
766 become effective immediately upon the ratification of the
767 amendment to the Constitution of Alabama of 2022 proposed by
768 SB ___ of the 2025 Regular Session.