

1 HB208
2 148248-1
3 By Representatives Poole and England
4 RFD: Judiciary
5 First Read: 07-FEB-13

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8 SYNOPSIS: Under existing law, a law enforcement
9 officer may arrest a person without a warrant in
10 various specified instances.

11 This bill would authorize a law enforcement
12 officer to arrest a person without a warrant under
13 certain conditions for trespassing on the property
14 of an educational institution.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 To amend Sections 13A-7-1 and 15-10-3, Code of
21 Alabama 1975, relating to warrantless arrests, to authorize a
22 law enforcement officer to arrest a person without a warrant
23 under certain conditions for trespassing on the property of an
24 educational institution and to further provide for the
25 definition of "building".

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 13A-7-1 and 15-10-3, Code of
2 Alabama 1975, are amended to read as follows:

3 "§13A-7-1.

4 "The following definitions are applicable to this
5 article:

6 "(1) PREMISES. Such term includes any "building," as
7 herein defined, and any real property.

8 "(2) BUILDING. Any structure which may be entered
9 and utilized by persons for business, public use, lodging or
10 the storage of goods, and such term includes any vehicle,
11 aircraft or watercraft used for the lodging of persons or
12 carrying on business therein, and such term includes any
13 railroad box car or other rail equipment or trailer or tractor
14 trailer or combination thereof. The term also includes any
15 structure used for any purpose by an educational institution,
16 as defined in Section 15-10-3. Where a building consists of
17 two or more units separately occupied or secure, each shall be
18 deemed both a separate building and a part of the main
19 building.

20 "(3) DWELLING. A building which is used or normally
21 used by a person for sleeping, living or lodging therein.

22 "(4) ENTER OR REMAIN UNLAWFULLY. A person "enters or
23 remains unlawfully" in or upon premises when he is not
24 licensed, invited or privileged to do so. A person who,
25 regardless of his intent, enters or remains in or upon
26 premises which are at the time open to the public does so with
27 license and privilege unless he defies a lawful order not to

1 enter or remain, personally communicated to him by the owner
2 of such premises or other authorized person. A license or
3 privilege to enter or remain in a building which is partly
4 open to the public is not a license or privilege to enter or
5 remain in that part of the building which is not open to the
6 public. A person who enters or remains upon unimproved and
7 apparently unused land, which is neither fenced nor otherwise
8 enclosed in a manner designed to exclude intruders, does so
9 with license and privileges unless notice against trespass is
10 personally communicated to him by the owner of such land or
11 other authorized person, or unless such notice is given by
12 posting in a conspicuous manner.

13 "§15-10-3.

14 "(a) An officer may arrest a person without a
15 warrant, on any day and at any time in any of the following
16 instances:

17 "(1) If a public offense has been committed or a
18 breach of the peace threatened in the presence of the officer.

19 "(2) When a felony has been committed, though not in
20 the presence of the officer, by the person arrested.

21 "(3) When a felony has been committed and the
22 officer has reasonable cause to believe that the person
23 arrested committed the felony.

24 "(4) When the officer has reasonable cause to
25 believe that the person arrested has committed a felony,
26 although it may afterwards appear that a felony had not in
27 fact been committed.

1 "(5) When a charge has been made, upon reasonable
2 cause, that the person arrested has committed a felony.

3 "(6) When the officer has actual knowledge that a
4 warrant for the person's arrest for the commission of a felony
5 or misdemeanor has been issued, provided the warrant was
6 issued in accordance with this chapter. However, upon request
7 the officer shall show the warrant to the arrested person as
8 soon as possible. If the officer does not have the warrant in
9 his or her possession at the time of arrest the officer shall
10 inform the defendant of the offense charged and of the fact
11 that a warrant has been issued.

12 "(7) When the officer has reasonable cause to
13 believe that a felony or misdemeanor has been committed by the
14 person arrested in violation of a protection order issued by a
15 court of competent jurisdiction.

16 "(8) When an offense involves domestic violence as
17 defined by this section, and the arrest is based on probable
18 cause, regardless of whether the offense is a felony or
19 misdemeanor.

20 "(9) When the officer has reasonable cause to
21 believe that a person has committed a trespass on the premises
22 of an educational institution.

23 "(b) For the purpose of this section, the following
24 terms have the following meanings:

25 "(1) ABUSE. Any offense under Sections 13A-6-60 to
26 13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4,
27 inclusive.

1 "(2) ASSAULT. Any offense under Sections 13A-6-20 to
2 13A-6-25, inclusive.

3 "(3) FAMILY, HOUSEHOLD, OR DATING OR ENGAGEMENT
4 RELATIONSHIP MEMBERS. Includes a spouse, former spouse,
5 parent, child, or any other person related by marriage or
6 common law marriage, a person with whom the victim has a child
7 in common, a present or former household member, or a person
8 who has or had a dating or engagement relationship.

9 "(4) DOMESTIC VIOLENCE. Any incident resulting in
10 the abuse, assault, harassment, or the attempt or threats
11 thereof, between family, household, or dating or engagement
12 relationship members.

13 "(5) EDUCATIONAL INSTITUTION. A public or private
14 college, university, graduate school, professional school,
15 junior college, trade school, elementary school, secondary
16 school, and every institution for education and training of
17 the deaf, blind, or individuals with developmental
18 disabilities.

19 "~~(5)~~ (6) HARASSMENT. Any offense under Section
20 13A-11-8.

21 "(7) PREMISES. As defined in Section 13A-7-1.

22 "(c) When a law enforcement officer investigates an
23 allegation of domestic violence, whether or not an arrest is
24 made, the officer shall make a written report of the alleged
25 incident, including a statement of the complaint, and the
26 disposition of the case."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.