

1 HB234
2 186803-1
3 By Representative Coleman
4 RFD: Judiciary
5 First Read: 16-JAN-18

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8 SYNOPSIS: Under existing law, when a parolee under the
9 supervision of the Board of Pardons and Paroles has
10 violated a condition of parole, other than being
11 arrested or convicted of a new offense or
12 absconding, the parole court may recommend and the
13 board may impose a term of confinement of no more
14 than 45 days.

15 Also under existing law, a parolee may spend
16 time in holding prior to the board imposing a term
17 of confinement for a violation of a condition of
18 parole.

19 This bill would provide that a parolee shall
20 receive a reduction of the term of confinement
21 imposed by the board for time spent in holding
22 pending the imposition of the period of
23 confinement.

24 This bill also would apply retroactively to
25 any person currently serving a period of
26 confinement for violating a condition of parole.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Relating to parole violations, to amend Section
6 15-22-32, Code of Alabama 1975; to provide that a parolee who
7 violates a condition of parole shall receive a reduction of
8 the term of confinement imposed by the Board of Pardons and
9 Paroles for time spent in holding pending the imposition of
10 the period of confinement.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 15-22-32, Code of Alabama 1975,
13 is amended to read as follows:

14 "§15-22-32.

15 "(a) Whenever there is reasonable cause to believe
16 that a prisoner who has been paroled has violated his or her
17 parole, the Board of Pardons and Paroles, at its next meeting,
18 may declare the prisoner to be delinquent, and time owed shall
19 date from the delinquency. The Department of Corrections,
20 after receiving notice from the sheriff of the county jail
21 where the state prisoner is being held, shall promptly notify
22 the board of the return of a paroled prisoner charged with
23 violation of his or her parole. Thereupon, the board, a single
24 member of the board, a parole revocation hearing officer, or a
25 designated parole officer shall hold a parole court at the
26 prison or at another place as it may determine within 20
27 business days and consider the case of the parole violator,

1 who shall be given an opportunity to appear personally or by
2 counsel before the board or the parole court and produce
3 witnesses and explain the charges made against him or her. The
4 board member, parole revocation hearing officer, or a
5 designated parole officer, acting as a parole court, shall
6 determine whether sufficient evidence supports the violation
7 charges. If a hearing is not held within the specified 20
8 business days, the parolee shall be released back to parole
9 supervision.

10 "(b) Upon finding sufficient evidence to support a
11 parole violation, the parole court may recommend to the board
12 revocation or reinstatement of parole, and the board may
13 revoke or reinstate parole. Upon revocation of parole, the
14 board may require the prisoner to serve in a state prison
15 facility the balance of the term for which he or she was
16 originally sentenced or any portion thereof, calculated from
17 the date of delinquency. The delinquent parolee shall be
18 deemed to begin serving the balance of the prison time
19 required on the date of his or her rearrest as a delinquent
20 parolee. However, in all cases, excluding violent offenses
21 defined pursuant to Section 12-25-32 and classified as a Class
22 A felony, and sex offenses, defined pursuant to Section
23 15-20A-5, the parole court may only recommend revocation and
24 the board may only revoke parole as provided below:

25 "~~(1) Unless the underlying offense is a violent~~
26 ~~offense as defined in Section 12-25-32 and classified as a~~
27 ~~Class A felony, when~~ When a parolee under supervision of the

1 Board of Pardons and Paroles has violated a condition of
2 parole, other than being arrested or convicted of a new
3 offense or absconding, the parole court may recommend and the
4 board may impose a period of confinement of no more than 45
5 consecutive days to be served in the custody population of the
6 Department of Corrections. By April 29, 2016, the Department
7 of Corrections shall develop and implement a streamlined
8 process to transport and receive the parolee into its custody
9 population and shall identify and, if possible, implement
10 policies aimed at reducing the administrative delays, if any,
11 in transferring to the Department of Corrections the physical
12 custody of the parolee and those whose parole has been
13 revoked. Such process shall be developed in cooperation with
14 the Alabama Sheriffs' Association and the Association of
15 County Commissions of Alabama. Such process shall include the
16 most cost-effective method to process sanctioned parole
17 violators for the maximum 45 day confinement period and shall
18 provide that the Department of Corrections shall reimburse the
19 state mileage rate, as determined by the Alabama Comptroller's
20 Office, to the county for any state inmate sanctioned as a
21 parole violator and transferred to or from a Department of
22 Corrections facility by the county. Upon completion of the
23 confinement period and release from confinement, the parolee
24 shall automatically continue on parole for the remaining term
25 of the sentence without further action from the board. The
26 parole court shall not recommend and the board shall not
27 revoke parole unless the parolee has previously received a

1 total of three periods of confinement under this subsection. A
2 parolee shall receive only three total periods of confinement
3 under this subsection. The maximum 45 day term of confinement
4 ordered under this subsection shall ~~not be reduced by credit~~
5 ~~for incarceration time already served in the case~~ for time
6 spent in holding pending the imposition of the period of
7 confinement. The reduction for time spent in holding shall
8 apply retroactively to any person serving a period of
9 confinement under this subsection. Confinement under this
10 subsection shall be credited to the balance of the
11 incarceration term for which the parolee was originally
12 sentenced. In the event the time remaining on parole
13 supervision is 45 days or less, the term of confinement shall
14 be for the remainder of the parolee's sentence.

15 "(2) The total time spent in confinement under this
16 subsection shall not exceed the term of the parolee's original
17 sentence.

18 "(3) Confinement shall be immediate. The board shall
19 be responsible for ensuring that the Department of Corrections
20 receives necessary documentation for imposing a period of
21 confinement within five business days of the board's action.

22 "(4) If the parolee is presented to a county jail
23 for any period of confinement as contemplated hereinabove with
24 a serious medical condition, the admittance of the parolee
25 would create a security risk to the county jail, or if the
26 jail is near, at, or over capacity, the sheriff may refuse to
27 admit the parolee. If while in custody of the county jail the

1 parolee develops a serious medical condition, the presence of
2 the parolee creates a security risk to the county jail, or the
3 county jail reaches near, at, or over capacity, the sheriff
4 may release the parolee upon notification to the parole
5 officer. A sheriff and his or her staff shall be immune from
6 liability for exercising discretion pursuant to Section
7 36-1-12 in refusing to admit a parolee into the jail or
8 releasing a parolee from jail under the circumstances
9 described above.

10 "(c) The position of Parole Revocation Hearing
11 Officer is created and established, subject to provisions of
12 the state Merit System.

13 "(d) The board may appoint or employ, as the board
14 deems necessary, hearing officers who shall conduct a parole
15 court. Such hearing officers shall have authority to determine
16 the sufficiency of evidence to support parole violation
17 charges and recommend to the board revocation of parole
18 pursuant to subsection (b) or reinstatement of parole.

19 "(e) In lieu of the provisions of subsections (a)
20 and (b), when a parolee violates his or her parole terms and
21 conditions, his or her parole officer may require the parolee
22 to submit to behavioral treatment, substance abuse treatment,
23 GPS monitoring, such other treatment as determined by the
24 board or supervising officer, or a period of confinement in a
25 consenting jail facility as specified in subdivision (6) of
26 subsection (b) of Section 15-22-29. The parole officer may

1 exercise such authority after administrative review and
2 approval by the officer's supervisor.

3 "(f) Prior to imposing a sanction provided under
4 subsection (e) and pursuant to subdivision (6) of subsection
5 (b) of Section 15-22-29, the parolee must first be presented
6 with a violation report, putting forth the alleged parole
7 violations and supporting evidence. The parolee may request a
8 hearing before the parole court to be heard in person within
9 10 days. The parolee shall be given notice of the right to
10 seek such parole court review and advised of the right (i) to
11 a hearing before a neutral and detached parole court on the
12 alleged violation or violations, with the right to present
13 relevant witnesses and documentary evidence; (ii) to retain
14 and have counsel at the hearing if he or she so desires; and
15 (iii) to confront and cross examine any adverse witnesses.
16 Upon the signing of a waiver of these rights by the parolee
17 and the supervising parole officer, with approval of a
18 supervisor, the parolee may be treated, monitored, or confined
19 for the period recommended in the violation report and
20 designated on the waiver. However, the parolee shall have no
21 right of review if he or she has signed a written waiver of
22 rights as provided in this subsection.

23 "(g) The board shall adopt guidelines and procedures
24 to implement the requirements of this section, which shall
25 include the requirement of a supervisor's approval prior to
26 exercise of the delegation of authority authorized by
27 subsection (e)."

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