

1 HB349
2 197593-2
3 By Representatives Collins, Wadsworth, Robertson, Hill,
4 McMillan, Simpson and Coleman
5 RFD: Judiciary
6 First Read: 04-APR-19

1 "(2) AFTERCARE. Conditions and supervision as the
2 juvenile court orders after release from the Department of
3 Youth Services.

4 "(3) CHILD. An individual under the age of 18 years,
5 or under 21 years of age and before the juvenile court for a
6 delinquency matter arising before that individual's 18th
7 birthday, or under 19 years of age and before the juvenile
8 court for a child in need of supervision matter or commitment
9 to the State Department of Mental Health. Where a delinquency
10 petition alleges that an individual, prior to the individual's
11 18th birthday, has committed an offense for which there is no
12 statute of limitation pursuant to Section 15-3-5, the term
13 child also shall include the individual subject to the
14 petition, regardless of the age of the individual at the time
15 of filing.

16 "(4) CHILD IN NEED OF SUPERVISION. A child who has
17 been adjudicated by a juvenile court for doing any of the
18 following and who is in need of care, rehabilitation, or
19 supervision:

20 "a. Being subject to the requirement of compulsory
21 school attendance, is habitually truant from school as defined
22 by the State Board of Education in the Alabama Administrative
23 Code. Notwithstanding the foregoing, a child shall not be
24 found in need of supervision pursuant to this subdivision if
25 the juvenile court determines that the parent, legal guardian,
26 or legal custodian of the child was solely responsible for the
27 nonattendance of the child.

1 "b. Disobeys the reasonable and lawful demands of
2 his or her parent, legal guardian, or legal custodian and is
3 beyond the control of the parent, legal guardian, or legal
4 custodian.

5 "c. Leaves, or remains away from, the home without
6 the permission of the parent, legal guardian, legal custodian,
7 or person with whom he or she resides.

8 d. Commits an offense established by law but not
9 classified as criminal.

10 " (5) CHILD'S ATTORNEY. A licensed attorney who
11 provides legal services for a child, or for a minor in a
12 mental commitment proceeding, and who owes the same duties of
13 undivided loyalty, confidentiality, and competent
14 representation to the child or minor as is due an adult
15 client.

16 " (6) DELINQUENT ACT. An act committed by a child
17 that is designated a violation, misdemeanor, or felony offense
18 pursuant to the law of the municipality, county, or state in
19 which the act was committed or pursuant to federal law. This
20 term shall not apply to any of the following:

21 "a. An offense when committed by a child 16 or 17
22 years of age as follows:

23 "1. A nonfelony traffic offense or water safety
24 offense other than one charged pursuant to Section 32-5A-191
25 or 32-5A-191.3 or a municipal ordinance prohibiting the same
26 conduct.

27 "2. A capital offense.

1 "3. A Class A felony.

2 "4. A felony which has as an element the use of a
3 deadly weapon.

4 "5. A felony which has as an element the causing of
5 death or serious physical injury.

6 "6. A felony which has as an element the use of a
7 dangerous instrument against any person who is one of the
8 following:

9 "(i) A law enforcement officer or official.

10 "(ii) A correctional officer or official.

11 "(iii) A parole or probation officer or official.

12 "(iv) A juvenile court probation officer or
13 official.

14 "(v) A district attorney or other prosecuting
15 officer or official.

16 "(vi) A judge or judicial official.

17 "(vii) A court officer or official.

18 "(viii) A person who is a grand juror, juror, or
19 witness in any legal proceeding of whatever nature when the
20 offense stems from, is caused by, or is related to the role of
21 the person as a juror, grand juror, or witness.

22 "(ix) A teacher, principal, or employee of the
23 public education system of Alabama.

24 "7. Trafficking in drugs in violation of Section
25 13A-12-231, or as the same may be amended.

26 "8. Any lesser included offense of the offenses in
27 subparagraphs 1 to 7, inclusive, charged or any lesser felony

1 offense charged arising from the same facts and circumstances
2 and committed at the same time as the offenses listed in
3 subparagraphs 1 to 7, inclusive.

4 "b. Any criminal act, offense, or violation
5 committed by a child under the age of 18 years who has been
6 previously convicted or adjudicated a youthful offender.

7 "(7) DELINQUENT CHILD. A child who has been
8 adjudicated for a delinquent act and is in need of care or
9 rehabilitation.

10 "(8) DEPENDENT CHILD. a. A child who has been
11 adjudicated dependent by a juvenile court and is in need of
12 care or supervision and meets any of the following
13 circumstances:

14 "1. Whose parent, legal guardian, legal custodian,
15 or other custodian subjects the child or any other child in
16 the household to abuse, as defined in subdivision (2) of
17 Section 12-15-301 or neglect as defined in subdivision (4) of
18 Section 12-15-301, or allows the child to be so subjected.

19 "2. Who is without a parent, legal guardian, or
20 legal custodian willing and able to provide for the care,
21 support, or education of the child.

22 "3. Whose parent, legal guardian, legal custodian,
23 or other custodian neglects or refuses, when able to do so or
24 when the service is offered without charge, to provide or
25 allow medical, surgical, or other care necessary for the
26 health or well-being of the child.

1 "4. Whose parent, legal guardian, legal custodian,
2 or other custodian fails, refuses, or neglects to send the
3 child to school in accordance with the terms of the compulsory
4 school attendance laws of this state.

5 "5. Whose parent, legal guardian, legal custodian,
6 or other custodian has abandoned the child, as defined in
7 subdivision (1) of Section 12-15-301.

8 "6. Whose parent, legal guardian, legal custodian,
9 or other custodian is unable or unwilling to discharge his or
10 her responsibilities to and for the child.

11 "7. Who has been placed for care or adoption in
12 violation of the law.

13 "8. Who, for any other cause, is in need of the care
14 and protection of the state.

15 "b. The commission of one or more status offenses as
16 defined in subdivision (4) of Section 12-15-201 is not a
17 sufficient basis for an adjudication of dependency.

18 "(9) DETENTION. The temporary placement of children
19 alleged or adjudicated to be delinquent in secure custody as
20 defined herein pending juvenile court disposition or transfer
21 to a residential facility for further care of a child
22 adjudicated delinquent.

23 "(10) GUARDIAN AD LITEM. A licensed attorney
24 appointed by a juvenile court to protect the best interests of
25 an individual without being bound by the expressed wishes of
26 that individual.

1 "(11) INTAKE OFFICER. A juvenile probation officer
2 or an employee of the judicial branch of government, who is
3 neutral and detached from executive and legislative branch
4 activities, designated by the juvenile court judge to initiate
5 original delinquency, dependency, and child in need of
6 supervision cases, as well as cases designated in Section
7 12-15-132 before the juvenile court. The juvenile court intake
8 officer shall be appointed a magistrate pursuant to Rule 18,
9 Alabama Rules of Judicial Administration, to issue warrants of
10 arrest for individuals 18 years of age or older committing
11 criminal offenses under the jurisdiction of the juvenile
12 court.

13 "(12) JUVENILE COURT. The juvenile or family court
14 division of the circuit or district court having jurisdiction
15 over matters as provided by this chapter.

16 "(13) JUVENILE DETENTION FACILITY. Any facility
17 owned or operated by the state, any county, or other legal
18 entity licensed by and contracted with the Department of Youth
19 Services for the detention of children.

20 "(14) LAW ENFORCEMENT OFFICER. Any person, however
21 denominated, who is authorized by law to exercise the police
22 powers of the state, a county, or local governments.

23 "(15) LEGAL CUSTODIAN. A parent, person, agency, or
24 department to whom legal custody of a child under the
25 jurisdiction of the juvenile court pursuant to this chapter
26 has been awarded by order of the juvenile court or other court
27 of competent jurisdiction.

1 "(16) LEGAL CUSTODY. A legal status created by order
2 of the juvenile court which vests in a legal custodian the
3 right to have physical custody of a child under the
4 jurisdiction of the juvenile court pursuant to this chapter
5 and the right and duty to protect, train, and discipline the
6 child and to provide the child with food, shelter, clothing,
7 education, and medical care, all subject to the powers,
8 rights, duties, and responsibilities of the legal guardian of
9 the person of the child and subject to any residual parental
10 rights and responsibilities. A parent, person, agency, or
11 department granted legal custody shall exercise the rights and
12 responsibilities personally, unless otherwise restricted by
13 the juvenile court.

14 "(17) LEGAL GUARDIAN. A person who has been
15 appointed by a probate court pursuant to the Alabama Uniform
16 Guardianship and Protective Proceedings Act, Chapter 2A
17 (commencing with Section 26-2A-1) of Title 26 to be a guardian
18 of a person under 19 years of age who has not otherwise had
19 the disabilities of minority removed. This term does not
20 include a guardian ad litem as defined in this section.

21 "(18) MINOR. An individual who is under the age of
22 19 years and who is not a child within the meaning of this
23 chapter.

24 "(19) PARENT. The legal mother or the legal father
25 of a child under the jurisdiction of the juvenile court
26 pursuant to this chapter.

1 "(20) PICK-UP ORDER. In any case before the juvenile
2 court, an order directing any law enforcement officer or other
3 person authorized by this chapter to take a child into custody
4 and to deliver the child to a place of detention, shelter, or
5 other care designated by the juvenile court.

6 "(21) PROBATION. The legal status created by order
7 of the juvenile court following an adjudication of delinquency
8 or in need of supervision whereby a child is permitted to
9 remain in a community subject to supervision and return to the
10 juvenile court for violation of probation at any time during
11 the period of probation.

12 "(22) RESIDENTIAL FACILITY. A dwelling, other than a
13 detention or shelter care facility, providing living
14 accommodations, care, treatment, and maintenance for children,
15 including, but not limited to, institutions, foster family
16 homes, group homes, half-way houses, and forestry camps
17 operated, accredited, or licensed by a federal or state
18 department or agency.

19 "(23) RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES.
20 Those rights and responsibilities remaining with a parent
21 after a transfer of legal custody of a child under the
22 jurisdiction of the juvenile court pursuant to this chapter,
23 including, but not necessarily limited to, the right of
24 visitation, the right to withhold consent to adoption, the
25 right to determine religious affiliation, and the
26 responsibility for support, unless determined by order of the
27 juvenile court not to be in the best interests of the child.

1 "(24) SECURE CUSTODY. As used with regard to
2 juvenile detention facilities and the Department of Youth
3 Services, this term means residential facilities with
4 construction features designed to physically restrict the
5 movements and activities of persons in custody such as locked
6 rooms and buildings, including rooms and buildings that
7 contain alarm devices that prevent departure; fences; or other
8 physical structures. This term does not include facilities
9 where physical restriction of movement or activity is provided
10 solely through facility staff.

11 "(25) SHELTER CARE. The temporary care of children
12 in group homes, foster care, relative placement, or other
13 nonpenal facilities.

14 "§16-28-3.

15 "(a) Except as otherwise provided in subsection (b),
16 every child between the ages of six and 17 years shall be
17 required to attend a public school, private school, church
18 school, or be instructed by a competent private tutor for the
19 entire length of the school term in every scholastic year
20 except that, prior to attaining his or her 16th birthday every
21 child attending a church school as defined in Section 16-28-1
22 is exempt from the requirements of this section, provided such
23 child complies with enrollment and reporting procedure
24 specified in Section 16-28-7. Admission to public school shall
25 be on an individual basis on the application of the parents,
26 legal custodian, or guardian of the child to the local board
27 of education at the beginning of each school year, under such

1 rules ~~and regulations~~ as the board may prescribe; provided, a
2 person who is 18 years of age and otherwise qualified to
3 attend under 19 years of age and on track to graduate from
4 public school may not be denied admission to public school
5 solely on account of his or her age. The parent, legal
6 custodian, or guardian of a child who is six years of age, may
7 opt out of enrolling ~~their~~ his or her child in school at the
8 age of six years by notifying the local school board of
9 education, in writing, that the child will not be enrolled in
10 school until he or she is seven years of age.

11 "(b) (1) If a child withdraws from a public school,
12 upon verification of enrollment in a Southern Association of
13 Colleges and Schools or any entity with accreditation status
14 as determined by one of the agencies identified on the United
15 States Department of Education's list of Recognized National
16 and Regional Accrediting Agencies or their affiliates
17 accredited and recognized online school which has been
18 authorized by the Alabama State Department of Education to
19 provide instruction in lieu of in-person instruction, the
20 child shall be counted as a transfer student.

21 "(2) If a child returns to a public school, semester
22 exams shall be given to the child to determine grade
23 placement.

24 "(3) This subsection does not and should not be
25 interpreted to create ~~on-line~~ online schools. However, if a
26 student chooses to attend an accredited, state authorized

1 ~~on-line~~ online school, that student's former school should not
2 be penalized by the student being classified as a dropout.

3 "§22-52-16.

4 "~~The provisions of this~~ This article ~~shall~~ does not
5 apply to commitment to the custody of the State Department of
6 Mental Health of individuals under the age of 18 19 years who
7 are mentally ill ~~minors or children~~.

8 "§26-1-1.

9 "(a) Any person in this state, at the arrival at the
10 age of 19 years, shall be relieved of his or her disabilities
11 of minority and thereafter shall have the same legal rights
12 and abilities as persons over 21 years of age. No law of this
13 state shall discriminate for or against any person between and
14 including the ages of 19 and 21 years solely on the basis of
15 age.

16 "(b) This section shall also apply to any person who
17 arrived at the age of 19 and 20 years before July 22, 1975,
18 but shall not abrogate any defense or abridge any remedy
19 available to him or her prior to such date.

20 "(c) All laws or parts of laws which read "under the
21 age of 21 years" hereafter shall read "under the age of 19
22 years." Wherever the words "under the age of 21 years" appear
23 in any law limiting the legal rights and abilities of persons
24 under such age, such words shall be construed to mean under
25 the age of 19 years.

1 "(d) Notwithstanding subsection (c), nothing in this
2 section shall be deemed to repeal any provision of Chapter 19
3 of Title 15.

4 "~~(e) Notwithstanding subsection (a), an honorably
5 discharged veteran who is under the age of 19 shall be
6 permitted to enter into a contract for the purchase of a motor
7 vehicle.~~

8 "~~(f)~~ (e) Notwithstanding subsection (a), or any
9 other provision of law to the contrary, a person who is 18
10 years of age or older may consent to participate in research
11 conducted by a college or university that is accredited by a
12 federally recognized accrediting agency if the research has
13 been approved by the Institutional Review Board of the
14 institution.

15 "(f) Notwithstanding subsection (a), an
16 unemancipated minor who is 18 years old and of sound mind,
17 notwithstanding his or her minority, may enter into a binding
18 contract as may be exercised by an individual of full legal
19 age. The minor, by reason of his or her minority, may not
20 rescind, avoid, or repudiate the contract or rescind, avoid,
21 or repudiate any exercise of a right or privilege under the
22 contract.

23 "§26-14-1.

24 "For the purposes of this chapter, the following
25 terms shall have the meanings respectively ascribed to them by
26 this section:

1 "(1) ABUSE. Harm or threatened harm to a child's
2 health or welfare. Harm or threatened harm to a child's health
3 or welfare can occur through nonaccidental physical or mental
4 injury, sexual abuse or attempted sexual abuse, or sexual
5 exploitation or attempted sexual exploitation. "Sexual abuse"
6 includes the employment, use, persuasion, inducement,
7 enticement, or coercion of any child to engage in, or having a
8 child assist any other person to engage in, any sexually
9 explicit conduct or any simulation of the conduct for the
10 purpose of producing any visual depiction of the conduct; or
11 the rape, molestation, prostitution, or other form of sexual
12 exploitation of children, or incest with children as those
13 acts are defined by Alabama law. "Sexual exploitation"
14 includes allowing, permitting, or encouraging a child to
15 engage in prostitution and allowing, permitting, encouraging,
16 or engaging in the obscene or pornographic photographing,
17 filming, or depicting of a child for commercial purposes.

18 "(2) NEGLECT. Negligent treatment or maltreatment of
19 a child, including the failure to provide adequate food,
20 medical treatment, supervision, clothing, or shelter.

21 "(3) CHILD. Either of the following:

22 "a. A person under the age of 18 years.

23 "b. A person under the age of 19 years who is in
24 need of protective services and does not qualify for adult
25 protective services under Chapter 9 of Title 38.

26 "(4) DULY CONSTITUTED AUTHORITY. The chief of police
27 of a municipality or municipality and county; or the sheriff,

1 if the observation of child abuse or neglect is made in an
2 unincorporated territory; or the Department of Human
3 Resources; or any person, organization, corporation, group, or
4 agency authorized and designated by the Department of Human
5 Resources to receive reports of child abuse and neglect;
6 provided, that a "duly constituted authority" shall not
7 include an agency involved in the acts or omissions of the
8 reported child abuse or neglect."

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 04-APR-19

Read for the second time and placed
on the calendar 1 amendment 18-APR-19

Read for the third time and passed
as amended..... 02-MAY-19

Yeas 96, Nays 1, Abstains 0

Jeff Woodard
Clerk