

HB389 INTRODUCED



1 8MPV2F-1

2 By Representatives Reynolds, Simpson, Holk-Jones, Paramore,

3 Hill, Crawford, Whitt, Stringer, Rigsby, Shaver, Wood (D),

4 Hall, Wilcox, Shedd, Almond, Rafferty, McCampbell, Ensler

5 RFD: Ways and Means General Fund

6 First Read: 25-Apr-23

7

8 2023 Regular Session



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

Existing law does not provide for the use of the 988 Suicide and Crisis Call Lifeline.

This bill would create the 988 Crisis System of Care Act and would require the Department of Mental Health to develop, coordinate, and administer Alabama's Crisis System of Care, which would include 988 Crisis Call Centers and the 988 Suicide and Crisis Call Lifeline.

This bill would require the department to adopt rules related to crisis services, and provide annual reports of its activities and use of funds to certain individuals and entities.

This bill would create the Alabama 988 Crisis Care Fund within the State Treasury to fund 988 related services, and would create the 988 Commission to provide oversight to funds generated for the Crisis System of Care.

This bill would provide for a statewide 988 surcharge to be imposed on certain communication service connections in the state, and would provide for the collection and use of the surcharge.

This bill would also protect certain communication service providers from liability related to the provision of 988 services.



HB389 INTRODUCED

29

30

31

A BILL

32

TO BE ENTITLED

33

AN ACT

34

35 Relating to the 988 Suicide and Crisis Lifeline; to
36 require the Department of Mental Health to develop,
37 administer, and adopt rules relating to Alabama's Crisis
38 System of Care; to create the Alabama 988 Crisis Care Fund; to
39 provide for the collection and use of a statewide surcharge on
40 certain communication service connections; to create the 988
41 Commission to provide oversight to the fund; and to protect
42 certain communication service providers from certain
43 liability.

44 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

45 Section 1. (a) This act shall be known and may be cited
46 as the 988 Crisis System of Care Act.

47 (b) The purpose of building and sustaining the state's
48 Crisis System of Care is to ensure all Alabamians in need of
49 behavioral health services have and receive equitable access
50 to crisis services.

51 Section 2. For the purposes of this act the following
52 terms have the following meanings:

53 (1) 988 STUDY COMMISSION. The Study Commission on the
54 988 Comprehensive Behavioral Health Crisis Communication
55 System created by Section 4 of this act.

56 (2) 988 SUICIDE AND CRISIS LIFELINE. The National



HB389 INTRODUCED

57 Suicide Prevention Lifeline established by the federal
58 government in accordance with 42 U.S.C. § 290bb-36c to provide
59 a national network of crisis centers linked by a toll-free
60 number to route callers in suicidal crisis or emotional
61 distress to the closest crisis center.

62 (3) CMRS. Commercial Mobile Radio Service. This term
63 includes each of the following:

64 a. "Mobile service," as defined in 47 U.S.C. § 153(33).

65 b. "Commercial mobile service," as defined in 47 U.S.C.
66 § 332(d).

67 c. "Commercial mobile service," as defined by Pub. L.
68 103-66, Aug. 10, 1993, 107 Stat. 395 of the Omnibus Budget
69 Reconciliation Act of 1993.

70 d. Any wireless service provided by a wireless
71 real-time, two-way voice communication device, including
72 radio-telephone communications used in cellular telephone
73 service, personal communication service, or the functional or
74 competitive equivalent of a radio-telephone communications
75 line used in cellular telephone service, a personal
76 communication service, or a network radio access line.

77 (4) CMRS CONNECTION. Each mobile telephone number
78 assigned to a CMRS subscriber with a place of primary use in
79 Alabama.

80 (5) CMRS PROVIDER. An individual or entity that
81 provides CMRS.

82 (6) COMMISSION or 988 COMMISSION. The advisory
83 commission of the 988 Crisis Care Fund as established by this
84 act.



HB389 INTRODUCED

85 (7) CRISIS CALL CENTER. A call center that provides
86 crisis intervention when 988 is dialed and meets the National
87 Suicide Prevention Lifeline Standards (NPSL) for risk
88 assessment and engagement and the requirements of the
89 department.

90 (8) CRISIS CENTER or CRISIS DIVERSION CENTER. A crisis
91 intervention and stabilization facility operated by a
92 community mental health center certified by the department.

93 (9) CRISIS SYSTEM OF CARE. The continuum of care
94 established by the department pursuant to this act.

95 (10) DEPARTMENT. The Department of Mental Health.

96 (11) FUND. The 988 Crisis Care Fund established by this
97 act.

98 (12) MOBILE CRISIS SERVICES and MOBILE CRISIS TEAMS.
99 Teams of mental health service providers which provide
100 services in the community in accordance with the SAMHSA
101 National Guidelines for Behavioral Health Crisis Care.

102 (13) SAMHSA. The Substance Abuse and Mental Health
103 Services Administration, the federal agency within the U.S.
104 Department of Health and Human Services that leads federal
105 behavioral health, crisis care, and 988 efforts and funding
106 for states to develop and guide these efforts.

107 (14) SUBSCRIBER. An individual who purchases or
108 subscribes to a voice communications or CMRS service and is
109 able to receive it or use it periodically over time; provided,
110 however, that for the purposes of the imposition and
111 collection of the statewide 988 surcharge the term shall not
112 include the State of Alabama, the counties or incorporated



HB389 INTRODUCED

113 municipalities within the state, local boards of education,
114 independent school boards, or any educational institution or
115 agency of the state.

116 (15) VOICE COMMUNICATION SERVICE PROVIDER. An entity
117 that provides voice communications services to a subscriber in
118 the State of Alabama.

119 (16) VOICE COMMUNICATIONS SERVICE. Any of the
120 following:

121 a. The transmission, conveyance, or routing of
122 real-time, two-way voice communications to a point, or between
123 or among points, by or through any electronic, radio,
124 satellite, cable, optical, microwave, wireline, wireless, or
125 other medium or method, regardless of the protocol used.

126 b. The ability to receive and terminate voice calls to
127 and from the public switched telephone network.

128 c. Interconnected VoIP service, as defined by 47 C.F.R.
129 § 9.3.

130 d. Any other services to which the statewide 988 charge
131 is applied pursuant to this act.

132 Section 3. The department shall have each of the
133 following duties and responsibilities related to the provision
134 of Alabama's Crisis System of Care for individuals who are
135 experiencing a crisis related to behavioral health, substance
136 use disorder, suicide prevention, or behavioral support needs:

137 (1) To develop, coordinate, certify, and administer
138 Alabama's Crisis System of Care, in accordance with national
139 best practices, SAMHSA guidelines, and certification criteria.
140 The Crisis System of Care shall include each of the following



HB389 INTRODUCED

141 services:

142 a. 988 crisis call centers.

143 b. Mobile crisis services.

144 c. Crisis centers.

145 d. The operation of 988.

146 (2) To certify each service in the Crisis System of
147 Care. The department shall set all standards and adopt rules
148 for crisis services related to this act, all of which shall be
149 in accordance with national best practices, SAMHSA guidelines,
150 and state and federal law.

151 (3) To provide its certified providers with updated
152 national guidelines, federal regulations, and state rules for
153 crisis services related to this act.

154 (4) To assess and report on the impact, effectiveness,
155 and use of funds by providing a quarterly report to the 988
156 Commission outlining each of the following:

157 a. The number of calls to 988 and the percentage of
158 calls answered by crisis centers.

159 b. The number of mobile crisis responses by catchment
160 area and statewide.

161 c. The number of crisis responses that required law
162 enforcement backup.

163 d. The number of individuals served in crisis centers
164 and through mobile crisis response.

165 e. The number of successful hospital emergency
166 department and jail diversions.

167 f. The year-to-date budget detailing revenue and
168 expenses for the Crisis System of Care and financial trends.



HB389 INTRODUCED

169 (5) The department shall manage the Alabama 988 Crisis
170 Care Fund for the purposes of collecting and distributing
171 funds pursuant to this act. The department shall budget,
172 designate, and disburse monies from the fund to certified
173 services within the Crisis System of Care.

174 (6) The department shall provide an annual report to
175 the Governor, Lieutenant Governor, President Pro Tempore of
176 the Senate, Speaker of the House of Representatives, and
177 Attorney General outlining the data, updates, and
178 recommendations relevant to the Crisis System of Care, as well
179 as its annual expenditures and revenues.

180 Section 4. (a) The Study Commission on the 988
181 Comprehensive Behavioral Health Crisis Communication System is
182 established to regularly study the impact of the Crisis System
183 of Care and provide oversight of funds generated pursuant to
184 this act.

185 (b) The 988 Commission shall be comprised of the
186 following members:

187 (1) The Commissioner of the Alabama Department of
188 Mental Health or his or her designee, who shall serve as chair
189 of the commission.

190 (2) The State Health Officer or his or her designee,
191 who shall serve as cochair of the commission.

192 (3) Two members of the House of Representatives,
193 appointed by the Speaker of the House of Representatives.

194 (4) Two members of the Senate, appointed by the
195 President Pro Tempore of the Senate.

196 (5) The Commissioner of the Alabama Department of



HB389 INTRODUCED

197 Veterans Affairs, or his or her designee.

198 (6) The Director of the Alabama Department of Emergency
199 Management, or his or her designee.

200 (7) The Secretary of the Alabama State Law Enforcement
201 Agency, or his or her designee.

202 (8) The Governor, or his or her designee.

203 (9) The Executive Director of the Alabama Council for
204 Behavioral Healthcare.

205 (10) The Executive Director of the Behavioral
206 Healthcare Alliance of Alabama.

207 (11) One representative from the National Alliance on
208 Mental Illness - Alabama.

209 (12) One representative from Mental Health America.

210 (c) (1) All appointing authorities shall coordinate
211 their appointments to assure the commission membership is
212 inclusive and reflects the racial, gender, geographic, urban,
213 rural, and economic diversity of the state.

214 (2) Each member shall serve at the pleasure of his or
215 her appointing authority. A vacancy in the membership shall be
216 filled in the same manner as the original appointment.

217 (d) Members of the 988 Commission shall serve without
218 compensation but may be reimbursed for expenses as follows:

219 (1) The legislative members of the commission shall be
220 entitled to their legislative compensation, per diem, and
221 travel expenses for each day they attend a meeting of the
222 commission, in accordance with Section 49 of the Constitution
223 of Alabama of 2022.

224 (2) Other members of the commission may be reimbursed



HB389 INTRODUCED

225 for necessary expenses associated with attending meetings of
226 the commission according to policies and procedures of their
227 respective appointing authority.

228 (e) (1) Each appointment made shall be indicated to the
229 commissioner of the department no later than July 1, 2023. The
230 commission shall hold its initial meeting no later than August
231 1, 2023, after which the commission shall meet quarterly.

232 (2) A majority of the members of the commission shall
233 constitute a quorum for the transaction of all business at a
234 regular or special meeting.

235 (3) The commission chair or cochair may ask the
236 commissioner of the department for research or policy
237 assistance from department staff.

238 (f) The 988 Commission shall automatically terminate on
239 October 1, 2027, unless a bill is passed that it be continued,
240 modified, or reestablished.

241 Section 5. (a) (1) Pursuant to Pub. L. 116-172, there is
242 created the Alabama 988 Crisis Care Fund within the State
243 Treasury for the specific purpose of funding 988 related
244 services and the enhancement of the services within the Crisis
245 System of Care, including, but not limited to, each of the
246 following:

247 a. Ensuring the efficient and effective routing of
248 calls made to 988 to an appropriate crisis center.

249 b. The hiring of personnel.

250 c. The provision of behavioral and mental health,
251 crisis outreach, and stabilization services.

252 d. Collaboration with law enforcement agencies to



HB389 INTRODUCED

253 provide the agency with resources and training related to
254 behavioral and mental health, crisis outreach, and
255 stabilization services, including the coordination of
256 behavioral and mental health professionals and the development
257 and implementation of the agency's policies and procedures
258 related to mobile crisis services and 988 call responses.

259 (2) The fund shall be non-reverting, and it shall be
260 managed and administered by the department.

261 (b) Beginning on the effective date of this act, and
262 thereafter, all revenues accruing to the fund pursuant to this
263 act, all monies appropriated to the fund, and any gifts,
264 donations, grants, bequests, and other funds received on the
265 fund's behalf shall be paid into the State Treasury and
266 credited to the fund. Interest earned on monies in the fund
267 shall remain in the fund and be credited to it. Any monies
268 remaining in the fund, including interest thereon, at the end
269 of each fiscal year shall not revert to the State General Fund
270 but shall remain in the fund.

271 (c) Amounts in the 988 Fund shall be budgeted and
272 allotted pursuant to the Budget Management Act in accordance
273 with Article 4, commencing with Section 41-4-80 of Chapter 4
274 of Title 41, Code of Alabama 1975, and only in the amounts
275 provided by the Legislature in the general appropriations act
276 or other appropriations act.

277 Section 6. (a)(1) A single, monthly statewide 988
278 surcharge shall be imposed on each active voice communications
279 service connection and CMRS connection in the State of Alabama
280 that is technically capable of accessing the 988 system.



HB389 INTRODUCED

281 (2) For CMRS providers and voice communications service
282 providers, the statewide 988 surcharge shall be levied on each
283 connection with a primary place of use in the State of
284 Alabama. The statewide 988 surcharge is payable by the
285 subscriber to the CMRS or voice communications service
286 provider. Except as otherwise provided in this act, the CMRS
287 or voice communications service provider shall list the
288 statewide 988 surcharge separately from other charges on the
289 bill, and the charge shall be collected according to the
290 regular billing practice of the voice communications service
291 provider. The statewide 988 charge collected under this
292 section shall not be subject to taxes or charges levied on or
293 by the voice communications service provider, nor shall the
294 charges and fees be considered revenue of the voice
295 communications service provider for any purposes. Partial
296 payments made by a subscriber are applied first to the amount
297 owed for the voice communications service. The Department of
298 Revenue shall collect from each voice communications service
299 provider the monthly statewide 988 surcharges prescribed
300 herein each month.

301 (b) Beginning on October 1, 2024, the initial and
302 baseline statewide 988 surcharge for each CMRS or voice
303 communication service connection shall be ninety-eight cents
304 (\$0.98). The surcharge may not be lower than ninety-eight
305 cents (\$0.98) and may not exceed three dollars (\$3), as
306 established by the annual recommendation of the 988
307 Commission.

308 (c) The Department of Revenue shall transfer all



HB389 INTRODUCED

309 collected 988 surcharges to the Alabama 988 Crisis Care Fund,
310 as provided in Section 5, within 60 days of receipt for use in
311 accordance with the purposes permitted by this act.

312 (d) The Department of Revenue may deduct an amount, not
313 to exceed two percent of collected 988 surcharges, including
314 collected 988 prepaid wireless surcharges as provided by
315 Section 7, to be used to reimburse the Department of Revenue
316 for the direct costs of administering the collection and
317 remittance of surcharges outlined in this act. The amount of
318 reimbursement shall be agreed upon by the Commissioners of the
319 Department of Mental Health and Department of Revenue.

320 (e) (1) Each month, an amount not to exceed two percent
321 of collected 988 surcharges, including collected 988 prepaid
322 wireless surcharges as provided by Section 7, shall be
323 disbursed by the Department of Mental Health from the fund to
324 reimburse CMRS providers for the direct costs of administering
325 the collection and remittance of surcharges outlined in this
326 act. To obtain reimbursement, a CMRS provider shall comply
327 with all of the following:

328 a. Invoices shall be sworn.

329 b. All costs and expenses must be commercially
330 reasonable.

331 c. All invoices for reimbursement shall be directly
332 related to compliance with the requirements of this act.

333 d. Any expenditures for which the CMRS provider intends
334 to seek reimbursement in excess of a threshold amount must be
335 approved in advance, pursuant to rules adopted by the
336 Department of Mental Health.



HB389 INTRODUCED

337 e. All invoices shall be supported by reasonable
338 supporting documents as required by the Department of Mental
339 Health and shall be subject to audit.

340 (2) If the total amount of invoices submitted to the
341 Department of Mental Health and approved for payment in a
342 month exceeds the amount available from the 988 Fund for
343 reimbursements to CMRS providers, the amount payable to each
344 CMRS provider shall be reduced proportionately so that the
345 amount paid does not exceed the amount available for payment.
346 The balance of the payment is deferred to the following month.
347 A deferred payment accrues interest at a rate equal to the
348 rate earned by the 988 Fund until the deferred payment is
349 paid.

350 Section 7. (a) As used in this section, the following
351 terms have the following meanings unless the context clearly
352 indicates otherwise:

353 (1) DEPARTMENT. The Department of Revenue.

354 (2) PREPAID RETAIL TRANSACTION. The purchase of prepaid
355 wireless telecommunications service from a seller for any
356 purpose other than resale.

357 (3) PREPAID WIRELESS 988 SURCHARGE. The charge that is
358 required to be collected by a dealer from an end user in the
359 amount established in this act.

360 (4) PREPAID WIRELESS CONSUMER or CONSUMER. An
361 individual who purchases prepaid wireless telecommunications
362 service in a retail transaction.

363 (5) PREPAID WIRELESS TELEPHONE SERVICE. A service that
364 meets all of the following requirements:



HB389 INTRODUCED

365 a. Authorizes the purchase of CMRS either exclusively
366 or in conjunction with other services.

367 b. Is paid for in advance.

368 c. Is sold in units or dollars, provided that the
369 number or dollar value declines with use and is known on a
370 continuous basis.

371 (6) SELLER. The seller of prepaid wireless
372 telecommunications services for any purposes other than resale
373 to a consumer.

374 (b) The prepaid wireless 988 surcharge shall be
375 collected on each prepaid retail transaction by the seller
376 from the consumer occurring in the State of Alabama. The
377 amount of the prepaid wireless 988 charge shall be either
378 separately stated on an invoice, receipt, or other similar
379 document that is provided to the consumer by the seller. If a
380 minimal amount of prepaid wireless telephone service is sold
381 for a single, non-itemized price as part of the purchase of a
382 wireless communications device, the seller may elect not to
383 apply the prepaid communications charge to the initial
384 transaction. For these purposes, a service allotment
385 denominated as 10 minutes or less, or five dollars (\$5) or
386 less, is a minimal amount. If the seller elects to collect
387 such a charge, it shall be treated as all other prepaid
388 communications charges under this act.

389 (c) For purposes of subsection (b), a retail
390 transaction that is effected in person by a prepaid wireless
391 consumer at a business location of the seller shall be treated
392 as occurring in this state if that business location is in



HB389 INTRODUCED

393 this state, and any other retail transaction shall be treated
394 as occurring in this state if the retail transaction is
395 treated as occurring in this state for purposes of Chapter 23
396 of Title 40, Code of Alabama 1975.

397 (d) The prepaid wireless 988 charge is the liability of
398 the prepaid wireless consumer and not of the seller or of any
399 provider, except that the seller shall be liable to remit all
400 prepaid wireless 988 charges that the seller collects from
401 prepaid wireless consumers as provided in this section,
402 including all charges that the seller is required to collect
403 where the amount of the charge has not been separately stated
404 on an invoice, receipt, or other similar document provided to
405 the prepaid wireless consumer by the seller.

406 (e) The amount of the prepaid wireless 988 charge that
407 is collected by a seller from a prepaid wireless consumer, if
408 the amount is separately stated on an invoice, receipt, or
409 other similar document provided to the prepaid wireless
410 consumer by the seller, shall not be included in the base for
411 measuring any tax, fee, surcharge, or other charge that is
412 imposed by this state, any political subdivision of this
413 state, or any intergovernmental agency.

414 (f) A subscriber who receives Lifeline services, as
415 defined by Section 37-2A-2, Code of Alabama 1975, shall be
416 exempt from the surcharges required by this act.

417 (g) The prepaid wireless 988 charge shall be increased
418 or decreased, as applicable, upon any change to the rate
419 specified in Section 6 of this act, upon its implementation,
420 in the statewide 988 charge. The increase or decrease shall be



HB389 INTRODUCED

421 effective on the effective date of the change to the postpaid
422 charge or, if later, the first day of the first calendar month
423 to occur at least 60 days after the enactment of the change to
424 the rate, or, upon its implementation, in the statewide 988
425 charge. The department shall provide not less than 30 days of
426 advance notice of the increase or decrease on its website.

427 (h) Prepaid wireless 988 charges collected by sellers
428 shall be remitted to the department at the times and in the
429 manner provided by Chapter 23 of Title 40, Code of Alabama
430 1975. The department shall establish registration and payment
431 procedures that substantially coincide with the registration
432 and payment procedures that apply to Chapter 23, Title 40,
433 Code of Alabama 1975.

434 (i) The department shall pay all remitted prepaid
435 wireless charges to the Alabama 988 Crisis Care Fund, as
436 defined in Section 5, within 60 days of receipt for use in
437 accordance with the purposes permitted by this act and after
438 deductions made pursuant to subsection (d) of Section 6.

439 Section 8. (a) Any provider of CMRS, voice
440 communications services, or prepaid wireless services and its
441 employees and agents shall not be liable to any individual for
442 damages incurred as a result of any act or omission by it,
443 except gross negligence or intentional, willful, or wanton
444 misconduct, in connection with a call to 988.

445 (b) Any provider of CMRS, voice communications
446 services, or prepaid wireless services and its employees and
447 agents shall not be liable to any individual for damages
448 incurred as a result of any release of information not in the



HB389 INTRODUCED

449 public record to the 988 Suicide and Crisis Lifeline, to the
450 crisis call center, to any employee or agent of the 988 crisis
451 call center, or to emergency responders, if such release of
452 information occurred in connection with a 988 or emergency
453 call to the 988 Suicide and Crisis Lifeline or a crisis call
454 center.

455 (c) Any certified provider of Alabama's Crisis System
456 of Care, including call centers, mobile crisis teams, or
457 crisis centers, and its employees and agents, shall not be
458 liable to any individual for the provision of behavioral
459 health crisis services initiated by a call to 988, except
460 situations involving abuse, gross negligence, or intentional,
461 willful, or wanton misconduct.

462 Section 9. This act shall become effective on October
463 1, 2023, following its passage and approval by the Governor,
464 or its otherwise becoming law, except that Section 4 shall
465 become effective immediately and Sections 6 and 7 shall become
466 effective on October 1, 2024, following its passage and
467 approval by the Governor, or its otherwise becoming law.