

**SB157 ENGROSSED**



1 5R1B36-2  
2 By Senator Elliott  
3 RFD: Judiciary  
4 First Read: 04-Apr-23  
5 2023 Regular Session



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to parolees and probationers; to amend Sections 15-22-31 and 15-22-54, Code of Alabama 1975, to allow a law enforcement officer to arrest a parolee or probationer without a warrant in certain circumstances; to require the Board of Pardons and Paroles to send the Alabama State Law Enforcement Agency the conditions of parole for an individual released on parole; to require a court to provide to the Alabama State Law Enforcement Agency the conditions of probation for an individual released on probation; and to require the Alabama State Law Enforcement Agency to make the conditions of parole or probation available to law enforcement officers and other authorized persons through the Law Enforcement Tactical System.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 15-22-31 and 15-22-54, Code of Alabama 1975, are amended to read as follows:

"§15-22-31

(a) ~~If~~ When the parole officer ~~having charge of a~~ ~~paroled prisoner~~ supervising a parolee or any member of the Board of Pardons and Paroles ~~shall have~~ has reasonable cause

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29 to believe that ~~such prisoner~~the parolee has ~~lapsed, or is~~  
30 ~~probably about to lapse, into criminal ways or company or has~~  
31 violated the conditions of his or her parole ~~in an important~~  
32 ~~respect, such,~~ the parole officer or board member may report  
33 ~~such fact~~ the violation to the Department of Corrections,  
34 ~~which shall thereupon issue a warrant for the retaking of such~~  
35 ~~prisoner and his return to the prison designated~~ and request  
36 the department to issue a warrant to arrest the parolee. Upon  
37 request, the department shall issue an arrest warrant, and the  
38 parolee shall be returned to the prison designated on the  
39 warrant.

40 (b) Any parole officer, ~~police officer, sheriff,~~ or  
41 ~~other~~ a law enforcement officer with power of arrest, ~~upon the~~  
42 ~~request of the parole officer,~~ may arrest a parolee without a  
43 warrant; ~~but, in case of an arrest without a warrant,~~ if the  
44 ~~arresting officer shall have a written statement by the parole~~  
45 ~~officer setting forth that the parolee has, in his or her~~  
46 ~~judgment, violated~~ parolee violates the conditions of parole  
47 in the presence of the arresting officer, ~~in which case such~~  
48 ~~statement shall be sufficient warrant for the detention of~~  
49 ~~the.~~ The arresting officer, or his or her agency, as soon as  
50 practicable, but no later than 24 hours following the arrest,  
51 shall notify the Board of Pardons and Paroles of the parolee's  
52 arrest. The parolee may be detained in the county jail or  
53 other appropriate place of detention until the warrant issued  
54 by the Department of Corrections has been received at the  
55 place of his or her detention; ~~provided, however, that in no~~  
56 ~~case shall a~~. A parolee shall not be held longer than 20 days



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57 ~~on the order of the parole officer~~ awaiting the arrival of the  
58 warrant ~~as provided for in this section~~ issued by the  
59 department. If a warrant is not issued within ~~the period~~  
60 ~~prescribed herein~~ 20 days, the parolee shall be released from  
61 custody.

62 (c) If the parolee is presented to the county jail with  
63 a serious medical condition, if the admittance of the parolee  
64 would create a security risk to the county jail, or if the  
65 jail is near, at, or over capacity, the sheriff may refuse to  
66 admit the parolee. If while in custody of the county jail the  
67 parolee develops a serious medical condition, if the presence  
68 of the parolee creates a security risk to the county jail, or  
69 if the county jail reaches near, at, or over capacity, the  
70 sheriff may release the parolee upon notification to his or  
71 her the parole officer unless the Department of Corrections  
72 has issued an arrest warrant directing the return of the  
73 parolee to the ~~prison so designated~~ department's custody. A  
74 sheriff and his or her staff shall be immune from liability  
75 for exercising discretion pursuant to Section 36-1-12 in  
76 refusing to admit a parolee into the jail or releasing a  
77 parolee from jail ~~under the circumstances described above~~  
78 pursuant to this subsection.

79 ~~(e)~~ (d) Any parole officer, ~~any officer authorized to~~  
80 ~~serve criminal process or any peace officer to whom such~~ or  
81 law enforcement officer with power of arrest to whom the  
82 warrant, issued by the Department of Corrections pursuant to  
83 subsection (a), is delivered shall ~~be delivered is authorized~~  
84 ~~and required to~~ execute such the warrant by ~~taking such~~



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85 ~~prisoner~~ arresting the parolee and returning him or her to the  
86 prison designated by the Department of Corrections, ~~there to~~  
87 ~~be held to await~~. The parolee shall be held by the department  
88 awaiting the action of the Board of Pardons and Paroles.

89 ~~(d) Such~~ (e) An officer, other than an officer of the  
90 prison or parole officer, shall ~~be entitled to~~ receive ~~the~~  
91 ~~same~~ fees ~~therefor as upon~~ for the execution of ~~a~~ an arrest  
92 ~~warrant of arrest at the place where the prisoner shall be~~  
93 ~~retaken and as for transporting a convict~~. An officer who  
94 transports the parolee from the place of arrest to the  
95 designated prison, ~~in case such officer also transports the~~  
96 ~~prisoner~~ shall receive fees for transporting the parolee to  
97 the prison. ~~Such~~ The fees shall be paid out of the funds  
98 standing to the credit of the Department of Corrections."

99 "§15-22-54

100 (a) The period of probation or suspension of execution  
101 of sentence shall be determined by the court and may not be  
102 waived by the defendant. The period of probation or suspension  
103 may be continued, extended, or terminated as determined by the  
104 court. Except as provided in Section 32-5A-191, relating to  
105 ignition interlock requirements, the maximum probation period  
106 of a defendant guilty of a misdemeanor may not exceed two  
107 years, nor shall the maximum probation period of a defendant  
108 guilty of a felony exceed five years, except as provided in  
109 Section 13A-8-2.1. When the conditions of probation or  
110 suspension of sentence are fulfilled, the court, by an order  
111 duly entered on its minutes, shall discharge the defendant.

112 (b) The court granting probation, upon the



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113 recommendation of the officer supervising the probationer, may  
114 terminate all authority and supervision over the probationer  
115 prior to the declared date of completion of probation upon  
116 showing a continued satisfactory compliance with the  
117 conditions of probation over a sufficient portion of the  
118 period of the probation. At least every two years, and after  
119 providing notice to the district attorney, the court shall  
120 review the probationer's suitability for discharge from  
121 probation supervision if the probationer has satisfied all  
122 financial obligations owed to the court, including  
123 restitution, and has not had his or her supervision revoked.

124 (c) At any time during the period of probation or  
125 suspension of execution of sentence, the court may issue a  
126 warrant and have the ~~defendant~~probationer arrested for  
127 violating any of the conditions of probation or suspension of  
128 sentence, and the court shall hold a violation hearing. No  
129 probationer shall be held in jail awaiting the violation  
130 hearing for longer than 20 business days, unless new criminal  
131 charges are pending. If the hearing is not held within the  
132 specified time, the sheriff shall release the probation  
133 violator unless there are other pending criminal charges. A  
134 judge may issue a bond to a probationer for release from  
135 custody.

136 (d) Except as provided in Chapter 15 of Title 12, any  
137 probation officer, ~~police officer,~~ or ~~other~~law enforcement  
138 officer with power of arrest, when requested by the probation  
139 officer, may arrest a probationer without a warrant if the  
140 probationer violates the conditions of probation in the



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141 presence of the arresting officer. ~~When an arrest is made~~  
142 ~~without a warrant, the arresting officer shall have a written~~  
143 ~~statement by the probation officer setting forth that the~~  
144 ~~probationer has, in his or her judgment, violated the~~  
145 ~~conditions of probation, and the statement shall be sufficient~~  
146 ~~warrant for the detention of the~~ The arresting officer, or his  
147 or her agency, as soon as practicable, but no later than 24  
148 hours following the arrest, shall notify the Board of Pardons  
149 and Paroles of the probationer's arrest. The probationer may  
150 be detained in the county jail or other appropriate place of  
151 detention until the probationer is brought before the court.  
152 The probation officer shall report the arrest and detention to  
153 the court and submit in writing a report showing in what  
154 manner the probationer has violated probation.

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

158 (1)a. If the underlying offense was a Class D felony  
159 and his or her probation is revoked, the incarceration portion  
160 of any split sentence imposed due to revocation shall be  
161 limited to two years or one-third of the original suspended  
162 prison sentence, whichever is less.

163 b. If the underlying offense was a violent offense as  
164 defined in Section 12-25-32 and classified as a Class A  
165 felony, a sex offense pursuant to Section 15-20A-5, or  
166 aggravated theft by deception pursuant to Section 13A-8-2.1,  
167 the court shall revoke probation and require the probationer  
168 to serve the balance of the term for which he or she was



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169 originally sentenced, or any portion thereof, in a state  
170 prison facility, calculated from the date of his or her  
171 rearrest as a delinquent probationer.

172 c. If the probation violation was for being arrested or  
173 convicted of a new offense or absconding, the court may revoke  
174 probation and require the probationer to serve the balance of  
175 the term for which he or she was originally sentenced, or any  
176 portion thereof, in a state prison facility, calculated from  
177 the date of his or her rearrest as a delinquent probationer.

178 d. For all other probationers, the court may impose a  
179 period of confinement of no more than 45 consecutive days to  
180 be served in a residential transition center established  
181 pursuant to Section 15-22-30.1 or a consenting county jail  
182 designated for this purpose as provided in Section 14-1-23.  
183 The probationer shall be held in the county jail of the county  
184 in which the violation occurred while awaiting the revocation  
185 hearing. The Department of Corrections shall reimburse the  
186 state mileage rate to the county, as determined by the Alabama  
187 Comptroller's Office, for any probationer charged with, or  
188 sanctioned or revoked for, a probation violation and who is  
189 transferred to or from a Department of Corrections facility or  
190 to or from a consenting county jail by the county.

191 (2) Upon completion of the confinement period, the  
192 remaining probation period or suspension of sentence shall  
193 automatically continue upon the defendant's release from  
194 confinement. The court may not revoke probation unless the  
195 defendant has previously received a total of three periods of  
196 confinement pursuant to this subsection. For purposes of





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197 revocation, the court may take judicial notice of the three  
198 total periods of confinement under this subsection. A  
199 defendant shall only receive three total periods of  
200 confinement pursuant to this subsection. The maximum 45 day  
201 term of confinement ordered pursuant to this subsection for a  
202 felony shall be reduced by any time served in custody prior to  
203 the imposition of the period of confinement and shall be  
204 credited to the suspended sentence. If the time remaining on  
205 the imposed sentence is 45 days or less, the term of  
206 confinement may not exceed the remainder of the defendant's  
207 sentence.

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

211 (4) Confinement shall be immediate. The court shall  
212 ensure that the circuit clerk receives the order revoking  
213 probation within five business days. The circuit clerk shall  
214 ensure that the Department of Corrections, a county jail, a  
215 residential transition center, or a consenting county jail  
216 receives necessary transcripts for imposing a period of  
217 confinement within five business days of its receipt of the  
218 court's order.

219 (5) If a probation violator with a serious health  
220 condition is presented to a county jail, excluding a  
221 consenting county jail designated for this purpose, as  
222 provided in Section 14-1-23, for any period of confinement  
223 ~~with a serious health condition~~, if the confinement of the  
224 probation violator would create a security risk to the county



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225 jail, or if the county jail is near, at, or over capacity, the  
226 sheriff may refuse to admit the probation violator. If, while  
227 in custody of the county jail, ~~the~~ a probation violator  
228 develops a serious health condition, if ~~the~~ a confinement of  
229 the probation violator creates a security risk to the county  
230 jail, or if the county jail reaches near, at, or over  
231 capacity, the sheriff may release the probation violator upon  
232 notification to the probation officer and to the court who has  
233 jurisdiction over the probation violator. A sheriff and his or  
234 her employees ~~in the county jail~~ shall be immune from  
235 liability for exercising discretion pursuant to Section  
236 36-1-12 in refusing to admit a probation violator into the  
237 jail or releasing a probation violator from jail pursuant to  
238 this subdivision.

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

244 (1) Mandatory behavioral treatment.

245 (2) Mandatory substance abuse treatment.

246 (3) GPS monitoring.

247 (4) Any other treatment as determined by the court or  
248 supervising officer.

249 (5) A short period of confinement in the county jail of  
250 the county in which the violation occurred. Periods of  
251 confinement under this subdivision may not exceed six days per  
252 month during any three separate months during the period of



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253 probation. The six days per month confinement period may only  
254 be imposed as two-day or three-day consecutive periods at any  
255 single time. The total periods of confinement may not exceed  
256 nine total days.

257 (g) (1) Prior to imposing a sanction pursuant to  
258 subsection (f), the probationer must first be presented with a  
259 written violation report, ~~with~~ setting forth the alleged  
260 probation violations and supporting evidence. The probationer  
261 shall be ~~advised~~ provided a written notice that he or she has  
262 the right to all of the following:

263 a. ~~The right to have~~ Have a hearing before the court on  
264 the alleged violation or violations in person or by electronic  
265 means. If a hearing is requested, no probationer shall be held  
266 beyond 20 business days of the request. Only requesting  
267 probationers posing a threat to public safety or a flight risk  
268 shall be arrested while awaiting a hearing.

269 b. ~~The right to present~~ Present relevant witnesses and  
270 documentary evidence.

271 c. ~~The right to retain~~ Retain and have counsel at the  
272 hearing and that counsel ~~will~~ shall be appointed if the  
273 probationer is indigent.

274 d. ~~The right to confront~~ Confront and cross examine any  
275 adverse witnesses.

276 (2) The probationer may waive the right to have a  
277 hearing. Upon the signing of a waiver of these rights by the  
278 probationer and the supervising probation officer, with  
279 approval of ~~a~~ the probation officer's supervisor, the  
280 probationer may be treated, monitored, or confined for the



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281 period recommended in the violation report and designated ~~in~~  
282 on the waiver. The probationer may not request a review if he  
283 or she has signed a written waiver of rights as provided in  
284 this subsection.

285 (h) The board shall adopt guidelines and procedures to  
286 implement the requirements of this section, which shall  
287 include the requirement of a supervisor's approval prior to a  
288 supervising probation officer's exercise of the delegation of  
289 authority authorized by subsection (f)."

290 Section 2. (a) The Board of Pardons and Paroles shall  
291 report to the Alabama State Law Enforcement Agency, in a  
292 manner prescribed by the Alabama State Law Enforcement Agency,  
293 a parolee's conditions of parole ordered pursuant to Section  
294 15-22-31, Code of Alabama 1975.

295 (b) The Alabama State Law Enforcement Agency shall  
296 ensure that the conditions of parole received from the Board  
297 of Pardons and Paroles may be viewed by law enforcement  
298 officers and other authorized persons through the Law  
299 Enforcement Tactical System.

300 Section 3. (a) A sentencing court who places an  
301 individual on probation, pursuant to Section 15-22-50, Code of  
302 Alabama 1975, shall report to the Alabama State Law  
303 Enforcement Agency, in a manner prescribed by the Alabama  
304 State Law Enforcement Agency, a probationer's conditions of  
305 probation ordered pursuant to Section 15-22-52, Code of  
306 Alabama 1975.

307 (b) The Alabama State Law Enforcement Agency shall  
308 ensure that the conditions of probation received by a court



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309 may be viewed by law enforcement officers and other authorized  
310 persons through the Law Enforcement Tactical System.

311           Section 4. If a parolee is arrested for a new offense,  
312 before he or she may bond out on the new offense, the Board of  
313 Pardons and Paroles shall be notified of the parolee's arrest.  
314 The parolee may be held as long as necessary, but no longer  
315 than four hours after arrest, to give the board the  
316 opportunity to subject the parolee to the electronic  
317 monitoring required pursuant to Section 15-22-29, Code of  
318 Alabama 1975.

319           Section 5. This act shall become effective on the first  
320 day of the third month following its passage and approval by  
321 the Governor, or its otherwise becoming law.

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322  
323  
324 Senate

325 Read for the first time and referred .....04-Apr-23  
326 to the Senate committee on Judiciary  
327  
328 Read for the second time and placed .....27-Apr-23  
329 on the calendar:  
330 0 amendments  
331  
332 Read for the third time and passed .....18-May-23  
333 as amended  
334 Yeas 33  
335 Nays 0  
336 Abstains 0  
337  
338

339 Patrick Harris,  
340 Secretary.  
341