

**SB170 INTRODUCED**



1 O29QMM-1  
2 By Senator Barfoot  
3 RFD: Veterans and Military Affairs  
4 First Read: 05-Apr-23  
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SYNOPSIS:

Under existing law, loitering is a violation.

This bill would prohibit an individual from loitering on a public roadway maintained by the state or in the right-of-way of a public roadway maintained by the state.

Under existing law, a pedestrian soliciting employment, business, or contributions or distributing articles on a highway is a violation.

This bill would remove this prohibition.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes withing one of a number of specified examples; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective



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29 because it comes within one of the specified exceptions  
30 contained in the amendment.

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33 A BILL

34 TO BE ENTITLED

35 AN ACT

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37 Relating to crimes and offenses; to amend Sections  
38 13A-11-9 and 32-5A-216, Code of Alabama 1975, to prohibit an  
39 individual from loitering on a public roadway maintained by  
40 the state or in the right-of-way of a public roadway  
41 maintained by the state; to remove the prohibition on a  
42 pedestrian soliciting employment, business, or contributions  
43 or distributing articles on a highway; to provide criminal  
44 penalties for violations; and in connection therewith would  
45 have as its purpose or effect the requirement of a new or  
46 increased expenditure of local funds within the meaning of  
47 Section 111.05 of the Constitution of Alabama 2022.

48 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

49 Section 1. Sections 13A-11-9 and 32-5A-216, Code of  
50 Alabama 1975, are amended to read as follows:

51 "§13A-11-9

52 (a) A person commits the crime of loitering if he or  
53 she does any of the following:

54 (1) Loiters, or remains, ~~or wanders about in~~ on a  
55 public ~~place for the purpose of begging~~ roadway maintained by  
56 the state or the right-of-way of a public roadway maintained



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57 by the state.

58 (2) Loiters or remains in a public place for the  
59 purpose of gambling.

60 (3) Loiters or remains in a public place for the  
61 purpose of engaging or soliciting another person to engage in  
62 prostitution or sodomy.

63 (4) Being masked, loiters, remains, or congregates in a  
64 public place.

65 (5) Loiters or remains in or about a school, college,  
66 or university building or grounds after having been told to  
67 leave by any authorized official of the school, college, or  
68 university, not having any reason or relationship involving  
69 custody of or responsibility for a pupil or any other  
70 specific, legitimate reason for being there, and not having  
71 written permission from a school, college, or university  
72 administrator.

73 (6) Loiters or remains in any transportation facility,  
74 unless specifically authorized to do so, for the purpose of  
75 soliciting or engaging in any business, trade, or commercial  
76 transactions involving the sale of merchandise or services.

77 (7) Loiters or remains in any place with one or more  
78 persons for the purpose of unlawfully using or possessing a  
79 dangerous drug.

80 (b) A person does not commit a crime under subdivision  
81 (a) (4) if he or she is going to or from or staying at a  
82 masquerade party, or is participating in a public parade or  
83 presentation of an educational, religious, or historical  
84 character or in an event as defined in Section 13A-11-140.



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85 (c) Sodomy in subdivision (a) (3) is defined as in  
86 Section 13A-6-60.

87 (d) Dangerous drug in subdivision (a) (7) means any  
88 narcotic, drug, or controlled substance as defined in Chapter  
89 2 of Title 20 and any schedule incorporated therein.

90 (e) Loitering is a violation. A second or subsequent  
91 violation of this section in the same jurisdiction is a Class  
92 C misdemeanor.

93 (f) (1) Prior to making an arrest for a violation of  
94 subdivision (a) (1), a law enforcement officer may instruct any  
95 person in violation of subdivision (a) (1) to immediately and  
96 peaceably exit the public roadway maintained by the state or  
97 the right-of-way of the public roadway maintained by the  
98 state.

99 (2)a. Prior to making an arrest for an initial  
100 violation of subdivision (a) (1), a law enforcement officer may  
101 offer to transport any person in violation of subdivision  
102 (a) (1) to a location in the jurisdiction that offers emergency  
103 housing, if applicable.

104 b. If a person accepts an offer made pursuant to  
105 subdivision (1), a law enforcement officer may transport the  
106 person accordingly.

107 (g) Any actions undertaken by a law enforcement officer  
108 pursuant to this section shall be subject to Section 36-1-12."

109 "§32-5A-216

110 (a) No person shall stand in a roadway for the purpose  
111 of soliciting a ride.

112 ~~(b) No person shall stand on a highway for the purpose~~



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113 ~~of soliciting employment, business, or contributions from the~~  
114 ~~occupant of any vehicle, nor for the purpose of distributing~~  
115 ~~any article, unless otherwise authorized by official permit of~~  
116 ~~the governing body of the city or county having jurisdiction~~  
117 ~~over the highway.~~

118       ~~(e)~~ (b) No person shall stand on or in proximity to a  
119 street or highway for the purpose of soliciting the watching  
120 or guarding of any vehicle while parked or about to be parked  
121 on a street or highway.

122       ~~(d)~~ (c) No person shall fish from a bridge, viaduct, or  
123 trestle, or the approaches thereto, within the State of  
124 Alabama, unless otherwise authorized by the governing body of  
125 the city or county having jurisdiction over the highway or  
126 from the State of Alabama in the case of state highways. The  
127 authorizing authority shall erect and maintain appropriate  
128 signs giving notice that fishing is allowed."

129       Section 2. Although this bill would have as its purpose  
130 or effect the requirement of a new or increased expenditure of  
131 local funds, the bill is excluded from further requirements  
132 and application under Section 111.05 of the Constitution of  
133 Alabama of 2022, because the bill defines a new crime or  
134 amends the definition of an existing crime.

135       Section 3. This act shall become effective on the first  
136 day of the third month following its passage and approval by  
137 the Governor, or its otherwise becoming law.