

1 SB36
2 207613-1
3 By Senator Albritton
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/07/2021

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8 SYNOPSIS: Under existing law, a parole or probation
9 officer may impose brief periods of confinement for
10 parole or probation violations.

11 This bill would revise the limitations for
12 confinement for parole and probation violations.

13 Under existing law, a parolee or probationer
14 may have his or her parole or probation revoked
15 under certain circumstances.

16 This bill would revise the circumstances in
17 which a person's parole or probation may be
18 revoked.

19 This bill would provide that counties are
20 not financially responsible for the health care
21 expenses while housing a parolee or probationer in
22 a county jail.

23 Under existing law, when a defendant is
24 sentenced to the Department of Corrections, the
25 court is required to notify the department.

26 This bill would require that the court or
27 the court clerk send an electronic notification to

1 the Department of Corrections when the defendant is
2 sentenced to the custody of the department.

3 This bill would require the Department of
4 Corrections, in agreement with a county commission
5 and the sheriff, to establish at least three county
6 jails to be used for the housing and care of
7 parolees and probationers charged with or sentenced
8 for a parole or probation violation.

9 This bill would also establish the
10 procedures for selecting the county jails to be
11 used for the housing and care of parole and
12 probation violators.

13 This bill would also make nonsubstantive,
14 technical revisions to update the existing code
15 language to current style.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 Relating to parole and probation violations; to
22 amend Sections 15-22-29, 15-22-32, 15-22-52, and 15-22-54, as
23 last amended by Act 2019-513, 2019 Regular Session, Code of
24 Alabama 1975; to revise the limitations on confinement for
25 parole and probation violations; to provide that the
26 Department of Corrections must reimburse the county commission
27 for health care costs of state parolees and probationers; to

1 require the Department of Corrections to designate county jail
2 facilities for the confinement of parole and probation
3 violators; to amend Section 14-3-30, Code of Alabama 1975, to
4 require the court or the court clerk to provide electronic
5 notification to the Department of Corrections when a defendant
6 is sentenced to the custody of the department; to provide that
7 counties are not responsible for health care costs of inmates
8 who have been sentenced to the custody of the department; to
9 require the Department of Corrections, in agreement with a
10 county commission and the sheriff, to select county jails to
11 provide for the housing and care of parole and probation
12 violators; to provide for the selection process of the county
13 jails; and to make nonsubstantive, technical revisions to
14 update the existing code language to current style.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 15-22-29, 15-22-32, 15-22-52,
17 and 15-22-54, as last amended by Act 2019-513, 2019 Regular
18 Session, Code of Alabama 1975, are amended to read as follows:

19 "§15-22-29.

20 "(a) The Board of Pardons and Paroles, in releasing
21 a prisoner on parole, shall specify in writing the conditions
22 of his or her parole, and a copy of ~~such~~ the conditions shall
23 be given to the parolee. A ~~violation of such~~ parolee who
24 violates the conditions of parole may ~~render the prisoner~~
25 ~~liable~~ be subject to arrest and reimprisonment.

26 "(b) The Board of Pardons and Paroles shall adopt
27 general rules ~~with regard to~~ regarding the conditions of

1 parole and their violation and may make special rules to
2 govern particular cases. ~~Such~~ The rules, both general and
3 special, shall include, ~~among other things, a requirement that~~
4 but are not limited to, all of the following:

5 "(1) The parolee shall not leave the state without
6 the consent of the board~~;~~.

7 "(2) ~~He or she~~ The parolee shall contribute to the
8 support of his or her dependents to the best of his or her
9 ability~~;~~.

10 "(3) ~~He or she~~ The parolee shall make reparation or
11 restitution for his or her crime~~;~~.

12 "(4) ~~He or she~~ The parolee shall ~~abandon evil~~
13 ~~associates and ways;~~ avoid persons or places of disreputable
14 or harmful character.

15 "(5) ~~He or she~~ The parolee shall ~~carry out~~ follow
16 the instructions of his or her parole officer and ~~in general~~
17 ~~so~~ comport himself or herself as ~~such~~ the officer shall
18 determine~~;~~and.

19 "~~(6) He or she shall submit to behavioral treatment,~~
20 ~~substance abuse treatment, GPS monitoring, other treatment as~~
21 ~~deemed necessary by the board or the supervising parole~~
22 ~~officer, and/or a period or periods of confinement in a~~
23 ~~consenting jail facility. Periods of confinement imposed by~~
24 ~~the supervising parole officer shall not exceed six days per~~
25 ~~month during any three separate months during the period of~~
26 ~~parole. The six days per month confinement provided for in~~
27 ~~this subdivision shall only be imposed by the supervising~~

1 ~~parole officer as two-day or three-day consecutive periods at~~
2 ~~any single time. In no event shall the total periods of~~
3 ~~confinement imposed by the supervising parole officer provided~~
4 ~~for in this subdivision exceed 18 total days in a consenting~~
5 ~~jail facility. Confinement provided herein shall be subject to~~
6 ~~the limitations, provisions, and conditions provided in~~
7 ~~Section 15-22-32, and the board's authority to directly impose~~
8 ~~sanctions, periods of confinement, or revoke parole shall not~~
9 ~~otherwise be limited.~~

10 "(6) The parolee may not buy, own, or possess a
11 firearm in violation of federal law or in violation of Section
12 13A-11-72.

13 "§15-22-32.

14 "(a) (1) Whenever there is reasonable cause to
15 believe that a prisoner who has been paroled has violated his
16 or her parole, the Board of Pardons and Paroles, at its next
17 meeting, may declare the ~~prisoner~~ parolee to be delinquent,
18 and time owed shall date from the delinquency. The Department
19 of Corrections, after receiving notice from the sheriff of the
20 county jail where the ~~state prisoner~~ parolee is being held,
21 shall promptly notify the board of the return of a ~~paroled~~
22 ~~prisoner~~ parolee charged with violation of his or her parole.
23 ~~Thereupon, the~~ The board, a single member of the board, a
24 parole revocation hearing officer, or a designated parole
25 officer shall hold a parole court at the prison or at another
26 place as it may determine within 20 business days and consider
27 the case of the parole violator, ~~who.~~ The parolee shall be

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

9 "(2) Counties shall not be financially responsible
10 for the costs of health care provided to a parolee charged
11 with, or sanctioned or revoked for, a parole violation. The
12 county may submit an invoice to the Department of Corrections
13 for reimbursement of the county's actual cost of health care
14 for a parolee charged with, or sanctioned or revoked for, a
15 violation of his or her parole, which shall be paid within 30
16 days of receipt of the invoice.

17 "(3) If the Legislature does not make a specific
18 appropriation to the Department of Corrections sufficient to
19 reimburse the counties for health care as provided in
20 subdivision (2), individuals who have violated the conditions
21 of parole may not be delivered to the custody of a county
22 facility until the State Finance Director certifies the
23 availability of sufficient funds for the reimbursement.

24 "(b) Upon finding sufficient evidence to support a
25 parole violation, the parole court may recommend to the board
26 revocation or reinstatement of parole, and the board may
27 revoke or reinstate parole. Upon revocation of parole, the

1 board ~~may~~ shall require the prisoner to serve in a state
2 prison facility the balance of the term for which he or she
3 was originally sentenced or any portion ~~thereof~~ of the
4 original sentence, calculated from the date of delinquency.
5 The delinquent parolee shall be deemed to begin serving the
6 balance of the ~~prison time required~~ sentence on the date of
7 his or her rearrest as a delinquent parolee. ~~However,~~ In
8 all cases, excluding violent offenses ~~defined pursuant to as~~
9 provided in Section 12-25-32 and classified as a Class A
10 felony, ~~and sex offenses, defined pursuant to as provided in~~
11 Section 15-20A-5, and aggravated theft by deception offenses
12 as provided in Section 13A-8-2.1, the parole court may only
13 recommend revocation and the board may only revoke parole as
14 provided below:

15 " (1) ~~Unless the underlying offense is a violent~~
16 ~~offense as defined in Section 12-25-32 and classified as a~~
17 ~~Class A felony, when~~ When a parolee under supervision of the
18 Board of Pardons and Paroles has violated a condition of
19 parole, other than being arrested or convicted of a new
20 offense or absconding, the parole court may recommend and the
21 board may impose a period of confinement of no more than 45
22 consecutive days to be served in ~~the custody population of the~~
23 ~~Department of Corrections. By April 29, 2016, the Department~~
24 ~~of Corrections shall develop and implement a streamlined~~
25 ~~process to transport and receive the parolee into its custody~~
26 ~~population and shall identify and, if possible, implement~~
27 ~~policies aimed at reducing the administrative delays, if any,~~

1 ~~in transferring to the Department of Corrections the physical~~
2 ~~custody of the parolee and those whose parole has been~~
3 ~~revoked. Such process shall be developed in cooperation with~~
4 ~~the Alabama Sheriffs' Association and the Association of~~
5 ~~County Commissions of Alabama. Such process shall include the~~
6 ~~most cost-effective method to process sanctioned parole~~
7 ~~violators for the maximum 45 day confinement period and shall~~
8 ~~provide that the~~ a consenting county jail facility designated
9 for this purpose as provided in Section 3 of the act adding
10 this amendatory language. The Department of Corrections shall
11 reimburse the state mileage rate to the county, as determined
12 by the Alabama Comptroller's Office, ~~to the county~~ for any
13 state inmate ~~sanctioned as~~ charged with, or sanctioned or
14 revoked for, a parole ~~violation~~ violation and who is
15 transferred to or from a Department of Corrections facility or
16 to or from a consenting county jail facility by the county.

17 "(2)a. On or before October 1, 2021, the Department
18 of Corrections shall enter into agreements with at least three
19 counties whose county jails will be used for the housing and
20 care of parolees charged with, or sanctioned or revoked for, a
21 parole violation as provided in this section. The agreements
22 shall be implemented and the county jails shall be designated
23 as provided by Section 3 of the act adding this amendatory
24 language.

25 "b. Parolees in custody while awaiting parole court
26 hearings shall be delivered to a consenting county jail
27 facility designated for this purpose, shall be held in the

1 consenting county jail facility while awaiting parole court
2 and board action, and shall serve any ordered confinement in
3 the consenting county jail facility. If, after October 1,
4 2021, there is no agreement in place with at least three
5 county jails for the purpose of providing the housing and care
6 of persons charged with, or sanctioned or revoked for, a
7 parole violation as provided in subsection (a), no confinement
8 for the violation may be enforced until the required
9 agreements are established.

10 "(3) Upon completion of the confinement period and
11 release from confinement, the parolee shall automatically
12 continue on parole for the remaining term of the sentence
13 without further action from the board. The parole court ~~shall~~
14 may not recommend and the board ~~shall~~ may not revoke parole
15 unless the parolee has previously received a total of three
16 periods of confinement under this subsection. A parolee shall
17 receive only three total periods of confinement ~~under~~ pursuant
18 to this subsection. The maximum 45 day term of confinement
19 ordered ~~under~~ pursuant to this subsection shall ~~not~~ be reduced
20 by ~~credit for incarceration time already~~ the time served in
21 ~~the case. Confinement under this subsection in a county jail~~
22 or other place of detention pending the imposition of the
23 period of confinement and shall be credited to the balance of
24 the incarceration term for which the parolee was originally
25 sentenced. In the event the time remaining on parole
26 supervision is 45 days or less, the term of confinement ~~shall~~
27 ~~be for~~ may not exceed the remainder of the parolee's sentence.

1 "~~(2)~~ (4) The total time spent in confinement under
2 this subsection ~~shall~~ may not exceed the term of the parolee's
3 original sentence.

4 "~~(3)~~ (5) Confinement shall be immediate. The board
5 shall ~~be responsible for ensuring~~ ensure that the Department
6 of Corrections, a county jail, or other place of detention
7 receives necessary documentation for imposing a period of
8 confinement within five business days of the board's action.

9 "~~(4)~~ (6) If the parolee is presented to a county
10 jail, excluding a consenting county jail facility designated
11 for this purpose, as provided in Section 3 of the act adding
12 this amendatory language, for any period of confinement ~~as~~
13 ~~contemplated hereinabove~~ with a serious ~~medical~~ health
14 condition, if the admittance of the parolee would create a
15 security risk to the county jail, or if the county jail is
16 near, at, or over capacity, the sheriff may refuse to admit
17 the parolee. If, while in custody of the county jail, the
18 parolee develops a serious ~~medical~~ health condition, if the
19 presence of the parolee creates a security risk to the county
20 jail, or if the county jail reaches near, at, or over
21 capacity, the sheriff may release the parolee upon
22 notification to the parole officer. A sheriff and his or her
23 ~~staff~~ employees shall be immune from liability for exercising
24 discretion pursuant to Section 36-1-12 in refusing to admit a
25 parolee into the jail or releasing a parolee from jail ~~under~~
26 ~~the circumstances described above~~ pursuant to this
27 subdivision.

1 "(c) The position of Parole Revocation Hearing
2 Officer is created and established, subject to ~~provisions of~~
3 the state Merit System.

4 "(d) The board may appoint or employ, ~~as the board~~
5 ~~deems necessary,~~ hearing officers who shall conduct a parole
6 court. ~~Such~~ The hearing officers shall ~~have authority to~~
7 determine the sufficiency of evidence to support parole
8 violation charges and recommend to the board revocation of
9 parole pursuant to subsection (b) or reinstatement of parole.

10 "(e) In lieu of the provisions of subsections (a)
11 and (b), when a parolee violates his or her parole terms and
12 conditions, his or her parole officer after an administrative
13 review and approval by the parole officer's supervisor, may
14 ~~require the parolee to submit to~~ impose any of the following
15 sanctions:

16 "(1) Mandatory behavioral treatment,

17 "(2) Mandatory substance abuse treatment,

18 "(3) GPS monitoring, ~~such.~~

19 "(4) Any other treatment as determined by the board
20 or supervising officer, ~~or a.~~

21 "(5)a. A short period of confinement in a consenting
22 jail facility as specified in subdivision (6) of subsection
23 (b) of Section 15-22-29. The parole officer may exercise such
24 authority after administrative review and approval by the
25 officer's supervisor. Periods of confinement under this
26 subdivision may not exceed six days per month during any three
27 separate months during the period of parole. The six days per

1 month confinement may only be imposed as two-day or three-day
2 consecutive periods at any single time. The total periods of
3 confinement may not exceed nine total days in a consenting
4 jail facility.

5 "b. Confinement pursuant to this subdivision may not
6 limit the board's ability to directly impose sanctions,
7 periods of confinement, or revoke parole.

8 "(f) (1) Prior to imposing a sanction ~~provided under~~
9 pursuant to subsection (e) ~~and pursuant to subdivision (6) of~~
10 subsection (b) of Section 15-22-29, the parolee must first be
11 presented with a violation report ~~, putting~~ setting forth the
12 alleged parole violations and supporting evidence. The parolee
13 may request a hearing before the parole court to be heard in
14 person within 10 days. The parolee shall be given notice of
15 the right to seek such parole court review and advised of the
16 right (i) to a hearing before a neutral and detached shall be
17 advised that he or she has the following rights:

18 "a. The right to have a parole court, in person, on
19 the alleged violation or violations, ~~with the.~~ If requested,
20 the parole court shall take place within 20 business days of
21 the request. Only requesting parolees posing a threat to
22 public safety or a flight risk shall be arrested while
23 awaiting parole court.

24 "b. The right to present relevant witnesses and
25 documentary evidence; ~~(ii).~~

26 "c. The right to retain and have counsel at the
27 hearing if he or she so desires; ~~and (iii).~~

1 "d. The right to confront and cross examine any
2 adverse witnesses.

3 "(2) Upon the signing of a waiver of these rights by
4 the parolee and the supervising parole officer, with approval
5 of a supervisor, the parolee may be treated, monitored, or
6 confined for the period recommended in the violation report
7 and designated on the waiver. ~~However, the~~ The parolee ~~shall~~
8 ~~have no right of~~ may not request a review if he or she has
9 signed a written waiver of rights as provided in this
10 subsection.

11 "(g) The board shall adopt guidelines and procedures
12 to implement the requirements of this section, which shall
13 include the requirement of a supervisor's approval prior to
14 exercise of the delegation of authority authorized by
15 subsection (e).

16 "§15-22-52.

17 "The court shall determine and may at any time
18 modify the conditions of probation ~~and~~. The conditions of
19 probation shall include ~~among them the following or any other~~
20 ~~conditions. Such conditions shall provide that the probationer~~
21 ~~shall,~~ but are not limited to, all of the following:

22 "(1) Avoid injurious or vicious habits7.

23 "(2) Avoid persons or places of disreputable or
24 harmful character7.

25 "(3) Report to the probation officer as directed7.

26 "(4) Permit the probation officer to visit him or
27 her at his or her home or elsewhere7.

1 "(5) Work faithfully at suitable ~~employments~~
2 employment as far as possible~~;~~.

3 "(6) Remain within a specified place~~;~~.

4 "(7) Pay the fine imposed or costs or ~~such~~ any
5 portions ~~thereof~~ of fines or costs, as the court may
6 determine~~,~~ and in such installments as the court may direct~~;~~.

7 "(8) Make reparation or restitution to the aggrieved
8 party for the damage or loss caused by his or her offense in
9 an amount to be determined by the court~~;~~.

10 "(9) Support his or her dependents to the best of
11 his or her ability~~;~~ and.

12 "~~(10) Submit to behavioral treatment, substance~~
13 ~~abuse treatment, GPS monitoring, other treatment as deemed~~
14 ~~necessary by the court or supervising probation officer,~~
15 ~~and/or a period or periods of confinement in a consenting jail~~
16 ~~facility. Periods of confinement imposed by the supervising~~
17 ~~probation officer shall not exceed six days per month during~~
18 ~~any three separate months during the period of probation. The~~
19 ~~six days per month confinement provided for in this subsection~~
20 ~~shall only be imposed by the supervising probation officer as~~
21 ~~two-day or three-day consecutive periods at any single time.~~
22 ~~In no event shall the total periods of confinement imposed by~~
23 ~~the supervising probation officer provided for in this~~
24 ~~subsection exceed 18 total days in a consenting jail facility.~~
25 ~~Confinement provided herein shall be subject to the~~
26 ~~limitations, provisions, and conditions provided in Section~~
27 ~~15-22-54, and the court's authority to directly impose~~

1 ~~sanctions, periods of confinement, or revoke probation shall~~
2 ~~not otherwise be limited.~~

3 "(10) The probationer may not buy, own, or possess a
4 firearm in violation of federal law or in violation of Section
5 13A-11-72.

6 "§15-22-54.

7 "(a) The period of probation or suspension of
8 execution of sentence shall be determined by the court and
9 ~~shall~~ may not be waived by the defendant, ~~and the~~. The period
10 of probation or suspension may be continued, extended, or
11 terminated. ~~However, except~~ as determined by the court. Except
12 as provided in Section 32-5A-191, relating to ignition
13 interlock requirements, ~~in no case shall~~ the maximum probation
14 period of a defendant guilty of a misdemeanor may not exceed
15 two years, nor shall the maximum probation period of a
16 defendant guilty of a felony exceed five years, except as
17 provided in Section 13A-8-2.1. When the conditions of
18 probation or suspension of sentence are fulfilled, the court
19 ~~shall~~, by an order duly entered on its minutes, shall
20 discharge the defendant.

21 "(b) The court granting probation, upon the
22 recommendation of the officer supervising the probationer, may
23 terminate all authority and supervision over the probationer
24 prior to the declared date of completion of probation upon
25 showing a continued satisfactory compliance with the
26 conditions of probation over a sufficient portion of the
27 period of the probation. At least every two years, and after

1 providing notice to the district attorney, the court shall
2 review the probationer's suitability for discharge from
3 probation supervision if the probationer has satisfied all
4 financial obligations owed to the court, including
5 restitution, and has not had his or her supervision revoked.

6 "(c) (1) At any time during the period of probation
7 or suspension of execution of sentence, the court may issue a
8 warrant and ~~cause~~ have the defendant ~~to be~~ arrested for
9 violating any of the conditions of probation or suspension of
10 sentence, ~~upon which~~ and the court shall hold a violation
11 hearing. No probationer shall be held in jail awaiting ~~such~~
12 the violation hearing for longer than 20 business days, unless
13 new criminal charges are pending. If the hearing is not held
14 within the specified time, the sheriff shall release the
15 probation violator unless there are other pending criminal
16 charges. A judge ~~shall have authority to~~ may issue a bond to a
17 probationer for release from custody.

18 "(2) Counties shall not be financially responsible
19 for the costs of health care provided to a probationer charged
20 with, or sanctioned or revoked for, a state probation
21 violation. The county may submit an invoice to the Department
22 of Corrections for reimbursement of the county's actual cost
23 of health care for a state probationer charged with, or
24 sanctioned or revoked for, a violation of his or her
25 probation, which shall be paid within 30 days of receipt of
26 the invoice.

1 "(3) If the Legislature does not make a specific
2 appropriation to the Department of Corrections sufficient to
3 reimburse the counties for health care as provided in
4 subdivision (2), individuals who have violated the conditions
5 of probation may not be delivered to the custody of a county
6 facility until the State Finance Director certifies the
7 availability of sufficient funds for the reimbursement.

8 "(d) Except as provided in Chapter 15 of Title 12,
9 any probation officer, police officer, or other officer with
10 power of arrest, when requested by the probation officer, may
11 arrest a probationer without a warrant. ~~In case of~~ When an
12 arrest is made without a warrant, the arresting officer shall
13 have a written statement by the probation officer setting
14 forth that the probationer has, in his or her judgment,
15 violated the conditions of probation, and the statement shall
16 be sufficient warrant for the detention of the probationer in
17 the county jail or other appropriate place of detention until
18 the probationer is brought before the court. The probation
19 officer shall ~~forthwith~~ report the arrest and detention to the
20 court and submit in writing a report showing in what manner
21 the probationer has violated probation.

22 "(e) After conducting a violation hearing and
23 finding sufficient evidence to support a probation violation,
24 the court may revoke probation to impose a sentence of
25 imprisonment, and credit shall be given for all time spent in
26 custody prior to revocation. If the probationer was convicted
27 of a Class D felony and his or her probation is revoked, the

1 incarceration portion of any split sentence imposed due to
2 revocation shall be limited to two years or one-third of the
3 original suspended prison sentence, whichever is less.

4 ~~However, in~~ In all cases, excluding violent offenses ~~defined~~
5 ~~pursuant to~~ as provided in Section 12-25-32 and classified as
6 a Class A felony, sex offenses ~~defined pursuant to~~ as provided
7 in Section 15-20A-5, and aggravated theft by deception
8 offenses ~~pursuant to~~ as provided in Section 13A-8-2.1, the
9 court may only revoke probation as provided below:

10 " (1) ~~Unless the underlying offense is a violent~~
11 ~~offense as defined in Section 12-25-32 and classified as a~~
12 ~~Class A felony or an offense of aggravated theft by deception~~
13 ~~as defined in Section 13A-8-2.1, when~~ When a defendant under
14 supervision for a felony conviction has violated a condition
15 of probation, other than arrest or conviction of a new offense
16 or absconding, the court may impose a period of confinement of
17 no more than 45 consecutive days to be served in ~~the custody~~
18 ~~population of the Department of Corrections. By April 29,~~
19 ~~2016, the Department of Corrections shall develop and~~
20 ~~implement a streamlined process to transport and receive the~~
21 ~~probationer into its custody population and shall identify~~
22 ~~and, if possible, implement policies aimed at reducing the~~
23 ~~administrative delays, if any, in transferring to the~~
24 ~~Department of Corrections the physical custody of the~~
25 ~~probationer and those whose probation has been revoked. The~~
26 ~~process shall be developed in cooperation with the Alabama~~
27 ~~Sheriffs' Association and the Association of County~~

1 ~~Commissions of Alabama. The process shall include the most~~
2 ~~cost-effective method to process sanctioned probation~~
3 ~~violators for the maximum 45-day confinement period and shall~~
4 ~~provide that the~~ a consenting county jail designated for this
5 purpose as provided in Section 3 of the act adding this
6 amendatory language. The Department of Corrections shall
7 reimburse the state mileage rate to the county, as determined
8 by the Alabama Comptroller's Office, to the county for any
9 state inmate sanctioned as probationer charged with, or
10 sanctioned or revoked for, a probation violator violation and
11 who is transferred to or from a Department of Corrections
12 facility or to or from a consenting county jail facility by
13 the county.

14 "(2)a. On or before October 1, 2021 the Department
15 of Corrections shall enter into agreements with at least three
16 counties whose county jails will be used for the housing and
17 care of probationers charged with, or sanctioned or revoked
18 for, a probation violation as provided in this section. The
19 agreements shall be implemented and the county jails shall be
20 designated as provided by Section 3 of the act adding this
21 amendatory language.

22 "b. Probationers in custody while awaiting a
23 probation violation hearing shall be delivered to a consenting
24 county jail facility designated for this purpose, shall be
25 held in the consenting county jail facility while awaiting the
26 revocation hearing, and shall serve any ordered confinement in
27 the consenting county jail facility. If, after October 1,

1 2021, there is no agreement in place with at least three
2 county jails for the purpose of providing the housing and care
3 of persons charged with, or sanctioned or revoked for, a
4 probation violation as provided in subsection(e), no
5 confinement for the violation may be enforced until the
6 required agreements are established.

7 "(3) Upon completion of the confinement period, the
8 remaining probation period or suspension of sentence shall
9 automatically continue upon the defendant's release from
10 confinement. The court ~~shall~~ may not revoke probation unless
11 the defendant has previously received a total of three periods
12 of confinement ~~under~~ pursuant to this subsection. For purposes
13 of revocation, the court may take judicial notice of the three
14 total periods of confinement under this subsection. A
15 defendant shall only receive three total periods of
16 confinement under this subsection. The maximum 45-day term of
17 confinement ordered ~~under~~ pursuant to this subsection for a
18 felony shall ~~not~~ be reduced by ~~credit for the time already~~
19 ~~served in the case. Any credit shall instead~~ a county jail or
20 other place of detention pending the imposition of the period
21 of confinement and shall be applied to the suspended sentence.
22 In the event the time remaining on the imposed sentence is 45
23 days or less, the term of confinement ~~shall be for~~ may not
24 exceed the remainder of the defendant's sentence.

25 "~~(2)~~ (4) The total time spent in confinement under
26 this subsection ~~shall~~ may not exceed the term of the
27 defendant's original sentence.

1 "~~(3)~~ (5) Confinement shall be immediate. The court
2 shall ~~be responsible for ensuring~~ ensure that the circuit
3 clerk receives the order revoking probation within five
4 business days. The circuit clerk shall ensure that the
5 Department of Corrections receives necessary transcripts for
6 imposing a period of confinement within five business days of
7 its receipt of the court's order.

8 "~~(4)~~ (6) If a probation violator, ~~as described in~~
9 ~~subdivision (1)~~, is presented to ~~the~~ a county jail, excluding
10 a consenting county jail facility designated for this purpose,
11 as provided in Section 3 of the act adding this amendatory
12 language, for any period of confinement and the probation
13 ~~violator has~~ with a serious ~~medical~~ health condition, if the
14 confinement of the probation violator creates a security risk
15 to the county jail facility, or if the county jail is near,
16 at, or over capacity, the sheriff may refuse to admit the
17 probation violator. If, while in custody of the county jail,
18 the probation violator develops a serious ~~medical~~ health
19 condition, if the confinement of the probation violator
20 creates a security risk to the ~~facility~~ county jail, or if the
21 county jail reaches near, at, or ~~overcapacity~~ over capacity,
22 the sheriff may release the probation violator upon
23 notification to the probation officer and to the court who has
24 jurisdiction over the probation violator. A sheriff and his or
25 her ~~staff~~ employees shall be immune from liability for
26 exercising discretion pursuant to Section 36-1-12 in refusing
27 to admit a probation violator into the jail or releasing a

1 probation violator from jail ~~under the circumstances described~~
2 ~~above~~ pursuant to this subdivision.

3 "(f) In lieu of the provisions of subsections (c)
4 through (e), when a probationer violates his or her probation
5 terms and conditions imposed by the court, his or her
6 probation officer, after an administrative review and approval
7 by the probation officer's supervisor, may ~~require the~~
8 ~~probationer to submit to~~ impose any of the following
9 sanctions:

10 "(1) Mandatory behavioral treatment,

11 "(2) Mandatory substance abuse treatment,

12 "(3) GPS monitoring, ~~such.~~

13 "(4) Any other treatment as determined by the board
14 court or supervising officer, ~~or a.~~

15 "(5) A short period of confinement in a consenting
16 jail facility as specified in subdivision (10) of Section
17 15-22-52. Periods of confinement under this subdivision may
18 not exceed six days per month during any three separate months
19 during the period of probation. The six days per month
20 confinement may only be imposed as two-day or three-day
21 consecutive periods at any single time. The total periods of
22 confinement may not exceed nine total days in a consenting
23 jail facility.

24 "(g) (1) Prior to imposing a sanction provided under
25 pursuant to subsection (f) and pursuant to subdivision (10) of
26 Section 15-22-52, the probationer must first be presented with
27 a violation report, with the alleged probation violations and

1 supporting evidence ~~noted~~. The probationer ~~may file a motion~~
2 ~~with the court to conduct a probation violation hearing within~~
3 ~~10 days. The probationer shall be given notice of the right to~~
4 ~~the hearing and advised of the right: (i) To shall be advised~~
5 that he or she has the following rights:

6 "a. The right to have a hearing before the court on
7 the alleged violation in person, with the. If a hearing is
8 requested, no probationer shall be held beyond 20 business
9 days. Only requesting probationers posing a threat to public
10 safety or a flight risk shall be arrested while awaiting a
11 hearing.

12 "b. The right to present relevant witnesses and
13 documentary evidence; ~~(ii).~~

14 "c. The right to retain and have counsel at the
15 hearing and that counsel will be appointed if the probationer
16 is indigent; ~~and (iii).~~

17 "d. The right to confront and cross examine any
18 adverse witnesses.

19 "(2) Upon the signing of a waiver of these rights by
20 the probationer and the supervising probation officer, with
21 approval of a supervisor, the probationer may be treated,
22 monitored, or confined for the period recommended in the
23 violation report and designated in the waiver. ~~However, the~~
24 The probationer shall have no right of may not request a
25 review if he or she has signed a written waiver of rights as
26 provided in this subsection.

1 "(h) The board shall adopt guidelines and procedures
2 to implement the requirements of this section, which shall
3 include the requirement of a supervisor's approval prior to a
4 supervising probation officer's exercise of the delegation of
5 authority authorized by subsection (f)."

6 Section 2. Section 14-3-30, Code of Alabama 1975, is
7 amended to read as follows:

8 "§14-3-30.

9 "(a) (1) When any ~~convict~~ defendant is sentenced to
10 the ~~penitentiary~~ the custody of the Department of Corrections,
11 the judge of the court in which the sentence is rendered shall
12 order the inmate to be confined in the nearest secure jail.
13 ~~The clerk of the court shall at once notify the Department of~~
14 ~~Corrections as to the jail where the inmate is confined,~~
15 ~~forward to the department a copy of the judgment entry and~~
16 ~~sentence in the case, and inform the department if any special~~
17 ~~care is necessary to guard the inmate. Thereupon, the~~
18 ~~department shall direct where the inmate shall be taken for~~
19 ~~confinement or hard labor. Within five days of the court~~
20 sentencing a defendant, the court or the court clerk shall
21 enter the sentencing order and the transcript of record into
22 the State Judicial Information System, or its successor
23 system, and E-Transcripts, or its successor system. Except as
24 provided in subdivision (2), upon receipt of the transcript,
25 the Department of Corrections shall accept the transcript,
26 accept the inmate for state confinement, and shall schedule
27 the transfer of the physical custody of the inmate. The

1 transfer of the physical custody of the inmate shall occur no
2 later than 30 calendar days following the receipt of the
3 original transcript by the department. If the department fails
4 to accept physical custody of the inmate within 30 calendar
5 days, the sheriff may deliver the inmate to the designated
6 intake facility on the first business day following the
7 expiration of the 30-day period.

8 "(2) If a transcript contains substantial errors,
9 the Department of Corrections may reject the transcript. If
10 the department rejects the transcript, the department shall
11 immediately notify the court clerk of the rejection, along
12 with any deficiencies in the transcript. The court clerk shall
13 immediately correct the transcript. No later than five days
14 after the receipt of the original transcript, the department
15 shall accept the transcript, accept the inmate for state
16 confinement, and shall schedule the transfer of the physical
17 custody of the inmate. The transfer of the physical custody of
18 the inmate shall occur no later than 35 calendar days
19 following the receipt of the original transcript. If the
20 department fails to accept physical custody of the inmate
21 within 35 calendar days, the sheriff may deliver the inmate to
22 the designated intake facility on the first business day
23 following the expiration of the 35-day period.

24 "(b) (1) When the Department of Corrections has
25 received the original transcript of an inmate sentenced to the
26 custody of the department and the department is in receipt of
27 a transcript of such sentence, its custody, and the inmate is

1 being housed in a county jail, ~~and if~~ the inmate has a health
2 condition or develops a ~~medical~~ health condition which that
3 requires immediate treatment at a ~~medical-care~~ health care
4 facility outside the county jail, the department shall be
5 financially responsible for the actual cost of the treatment
6 of the inmate. ~~The department shall receive any contractual~~
7 ~~discounts the medical-care facility has agreed to grant for~~
8 ~~the treatment of inmates housed in state correctional~~
9 ~~facilities.~~

10 "2) When the Department of Corrections has received
11 the original transcript of an inmate sentenced to the custody
12 ~~of the department and the department is in receipt of a~~
13 ~~transcript of such sentence,~~ its custody, and the inmate is
14 being housed in a county jail, and if the inmate has a health
15 condition, develops a ~~medical~~ health condition, ~~or has been is~~
16 diagnosed as having a ~~medical~~ health condition ~~which that,~~ in
17 the opinion of a physician licensed in Alabama, ~~would require~~
18 requires treatment ~~or,~~ a medical procedure, ~~or both,~~ involving
19 a cost of more than two thousand dollars (\$2,000), the
20 department shall transport the inmate shall be transferred
21 within three calendar days of the notification of the
22 condition, to a state owned or operated correctional facility
23 or to the physical custody of the department as determined by
24 the Commissioner of the Department of Corrections. The inmate
25 shall receive treatment in the same manner as other state
26 inmates. If the department fails to take custody of the
27 inmate, the county may transport the inmate to receive the

1 recommended treatment, medical procedure, or both. The
2 transportation of the inmate to the treatment or procedure
3 shall not relieve the department from the financial
4 responsibility of the costs of the treatment or procedure.

5 "(3) Nothing in this ~~subsection shall~~ section may be
6 interpreted to relieve the department of its responsibility
7 for the maintenance and upkeep, including the payment of
8 ~~medical~~ health care costs, of an inmate sentenced to the
9 custody of the department, nor shall this ~~subsection~~ section
10 be interpreted as conferring any additional responsibility
11 upon a county for the maintenance and upkeep, or the payment
12 of ~~medical~~ health care costs, of any inmate sentenced to the
13 custody of the department."

14 Section 3. (a) For the purpose of designating
15 consenting county jails for the housing and care of parolees
16 and probationers pursuant to Sections 15-22-29, 15-22-32,
17 15-22-52, and 15-22-54, Code of Alabama 1975, the Department
18 of Corrections, in consultation with the Alabama Sheriffs
19 Association and the Association of County Commissions of
20 Alabama, shall develop an application and a standard
21 memorandum of agreement to be used by county commissions and
22 sheriffs who agree to provide housing and care to parolees and
23 probationers who have been charged with, or sanctioned or
24 revoked for a parole or probation violation.

25 (b) The application shall include, but is not
26 limited to, both of the following:

1 (1) A determination of the number of excess beds
2 available in the county jail, based on the evaluation of the
3 inmate census and the available occupied beds in the jail
4 during the previous 12-month period.

5 (2) A determination of the actual daily cost of
6 housing and caring for prisoners in the county jail during the
7 previous 12-month period. This amount shall be in addition to
8 the cost of providing health care services.

9 (c) (1) A county commission, with the consent of the
10 sheriff, that elects to provide for the housing and care of
11 parole and probation violators, pursuant to Sections 15-22-29,
12 15-22-32, 15-22-52, and 15-22-54, Code of Alabama 1975, shall
13 submit an application to the Department of Corrections, submit
14 to an inspection of the county jail by the department to
15 determine its ability to house inmates and to provide for
16 their housing and care, and provide any other required
17 documentation and information required by the department.

18 (2) The department shall review all applications
19 annually and shall select the county jails for participation
20 in the program. Any county jail selected for participation
21 shall enter into a memorandum of agreement with the department
22 for the services.

23 (3) To the extent possible, the department shall
24 select county jails that are located in all regions of the
25 state.

26 (d) (1) Memoranda of agreement shall be for 12 months
27 and may be renewed for up to two additional 12-month periods

1 following an inspection and application as required in
2 subsections (b) and (c).

3 (2) The memorandum of agreement shall require the
4 Department of Corrections to provide for the cost of health
5 care for parolees and probationers in the same manner as is
6 provided for in Sections 15-22-29, 15-22-32, 15-22-52, and
7 15-22-54, Code of Alabama 1975.

8 (3) The daily rate paid to the counties for the
9 housing and care of parolees and probationers shall be the
10 actual daily cost as provided in the application plus 20
11 percent.

12 (4) The memorandum of agreement shall provide for
13 the reimbursement to the county for any increased costs of
14 liability insurance premiums that are required by its
15 insurance carrier for coverage attributed to the housing of
16 inmates pursuant to this section.

17 (5) The memorandum of agreement shall establish a
18 process for the submittal of monthly payments to the
19 participating counties upon receipt of required documentation.

20 (e) Procedures for the transfer or release of
21 parolees and probationers at the end of confinement for
22 violations and other rules necessary to efficiently implement
23 this section shall be established by the Department of
24 Corrections, in consultation with the Alabama Sheriffs
25 Association and the Association of County Commissions of
26 Alabama.

1 Section 4. Sections 1 and 3 of this act shall become
2 effective on October 1, 2021, and Section 3 of this act shall
3 become effective immediately following its passage and
4 approval by the Governor, or its otherwise becoming law.