

1 SB220  
2 217204-1  
3 By Senators Coleman-Madison, Singleton and Whatley  
4 RFD: Judiciary  
5 First Read: 16-FEB-22

8 SYNOPSIS: Under existing law, when a parolee under the  
9 supervision of the Board of Pardons and Paroles has  
10 violated a condition of parole, other than being  
11 arrested or convicted of a new offense or  
12 absconding, the parole court may recommend and the  
13 board may impose a term of confinement of no more  
14 than 45 days.

15 Also under existing law, a parolee shall  
16 receive a reduction of the term of confinement  
17 imposed by the board for time spent in holding,  
18 pending the imposition of the period of  
19 confinement.

20 This bill would apply retroactively to any  
21 person currently serving a period of confinement  
22 for violating a condition of parole.

24 A BILL  
25 TO BE ENTITLED  
26 AN ACT

1                   Relating to parole violations, to amend Section  
2                   15-22-32, Code of Alabama 1975, as amended by Act 2021-249,  
3                   2021 Regular Session; to provide that any time spent in  
4                   holding by a parolee pending the imposition of the period of  
5                   confinement shall be applied retroactively.

6                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7                   Section 1. Section 15-22-32, Code of Alabama 1975,  
8                   as amended by Act 2021-249, 2021 Regular Session, is amended  
9                   to read as follows:

10                   "§15-22-32.

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

1 sufficient evidence ~~to supports~~ support the violation charges.  
2 If a hearing is not held within 20 business days, the parolee  
3 shall be released back to parole supervision.

4 "(b) Upon finding sufficient evidence to support a  
5 parole violation, the parole court may recommend to the board  
6 revocation or reinstatement of parole, and the board may take  
7 any of the following actions:

8 "(1)a. If the underlying offense was a violent  
9 offense as defined in Section 12-25-32 and classified as a  
10 Class A felony, a sex offense pursuant to Section 15-20A-5, or  
11 aggravated theft by deception pursuant to Section 13A-8-2.1,  
12 the board shall revoke parole and require the parolee to serve  
13 the ~~balance~~ remainder of the term for which he or she was  
14 originally sentenced, or any portion thereof, in a state  
15 prison facility, calculated from the date of his or her  
16 rearrest as a delinquent parolee.

17 "b. If the parole violation was for being arrested  
18 or convicted of a new offense or absconding, the board may  
19 revoke parole and require the parolee to serve the ~~balance~~  
20 remainder of the term for which he or she was originally  
21 sentenced, or any portion thereof, in a state prison facility,  
22 calculated from the date of his or her rearrest as a  
23 delinquent parolee.

24 "c. For all other parolees, the board may impose a  
25 period of confinement of no more than 45 consecutive days to  
26 be served in a residential transition center established  
27 pursuant to Section 15-22-30.1 or a consenting county jail

1 designated for this purpose as provided in Section 14-1-23.  
2 The parolee shall be held in the county jail of the county in  
3 which the revocation occurred while awaiting the revocation  
4 hearing. The Department of Corrections shall reimburse the  
5 state mileage rate to the county, as determined by the Alabama  
6 Comptroller's Office, for any state inmate charged with, or  
7 sanctioned or revoked for, a parole violation and who is  
8 transferred to or from a Department of Corrections facility or  
9 to or from a consenting county jail by the county.

10 "(2) 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 may  
14 not recommend and the board may not revoke parole unless the  
15 parolee has previously received a total of three periods of  
16 confinement under this subsection. A parolee shall receive  
17 only three total periods of confinement pursuant to this  
18 subsection. The maximum 45-day term of confinement ordered  
19 pursuant to this subsection shall be reduced by any time  
20 served in custody prior to the imposition of the period of  
21 confinement and shall be credited to the balance of the  
22 incarceration term for which the parolee was originally  
23 sentenced. The reduction of time of confinement for time spent  
24 in holding shall apply retroactively to any person serving a  
25 period of confinement under this subdivision. In the event the  
26 time remaining on parole supervision is 45 days or less, the

1 term of confinement may not exceed the remainder of the  
2 parolee's sentence.

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

6 "(4) Confinement shall be immediate. The board shall  
7 ensure that the Department of Corrections, a county jail, a  
8 residential transition center, or a consenting county jail  
9 receives necessary documentation for imposing a period of  
10 confinement within five business days of the board's action.

11 "(5) If the parolee is presented to a county jail,  
12 excluding a consenting county jail designated for this  
13 purpose, as provided in Section 14-1-23, for any period of  
14 confinement with a serious health condition, if the admittance  
15 of the parolee would create a security risk to the county  
16 jail, or if the county jail is near, at, or over capacity, the  
17 sheriff may refuse to admit the parolee. If, while in custody  
18 of the county jail, the parolee develops a serious health  
19 condition, if the presence of the parolee creates a security  
20 risk to the county jail, or if the county jail reaches near,  
21 at, or over capacity, the sheriff may release the parolee upon  
22 notification to the parole officer. A sheriff and employees in  
23 the county jail 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  
26 pursuant to this subdivision.

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

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

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

15           "(1) Mandatory behavior treatment.

16           "(2) Mandatory substance abuse treatment.

17           "(3) GPS monitoring.

18           "(4) Any other treatment as determined by the board  
19 or supervising officer.

20           "(5)a. A short period of confinement in the county  
21 jail of the county in which the revocation occurred. Periods  
22 of confinement under this subdivision may not exceed six days  
23 per month during any three separate months during the period  
24 of parole. The six days per month confinement periods may only  
25 be imposed as two-day or three-day consecutive periods at any  
26 single time. The total periods of confinement may not exceed  
27 nine total days.

1            "b. Confinement pursuant to this subdivision does  
2 not limit the board's ability to directly impose sanctions,  
3 periods of confinement, or revoke parole.

4            "(f) (1) Prior to imposing a sanction pursuant to  
5 subsection (e), the parolee must first be presented with a  
6 violation report setting forth the alleged parole violations  
7 and supporting evidence. The parolee shall be advised that he  
8 or she has all of the following rights:

9            "a. The right to have a parole court, in person or  
10 by electronic means, on the alleged violation or violations.  
11 If a parole court is requested, no parolee shall be held  
12 beyond 20 business days of the request. Only requesting  
13 parolees posing a threat to public safety or a flight risk  
14 shall be arrested while awaiting parole court.

15            "b. The right to present relevant witnesses and  
16 documentary evidence.

17            "c. The right to retain and have counsel at the  
18 hearing if he or she so desires.

19            "d. The right to confront and cross examine any  
20 adverse witnesses.

21            "(2) Upon the signing of a waiver of these rights by  
22 the parolee and the supervising parole officer, with approval  
23 of a supervisor, the parolee may be treated, monitored, or  
24 confined for the period recommended in the violation report  
25 and designated on the waiver. The parolee may not request a  
26 review if he or she has signed a written waiver of rights as  
27 provided in this subsection.

1                   "(g) 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  
4 exercise of the delegation of authority authorized by  
5 subsection (e)."

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