

# HB301 INTRODUCED



1 QH9051-1  
2 By Representative Ingram  
3 RFD: Public Safety and Homeland Security  
4 First Read: 12-Apr-23  
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SYNOPSIS:

This bill would establish a list of criminal offenses which are deemed to be felonies dangerous to human life.

This bill would provide enhanced criminal penalties for the possession, brandishing, or discharge of a firearm during the commission of a felony dangerous to human life.

This bill would provide prohibitions on the possession of a firearm by certain individuals released on bond or personal recognizance when the underlying criminal offense for which the person was arrested is a felony dangerous to human life.

This bill would prohibit the possession of a firearm by certain individuals previously convicted of a felony dangerous to human life within a 25-year period.

This bill would also provide criminal penalties for a violation.

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 within one of a number of



## HB301 INTRODUCED

29 specified exceptions; it is approved by the affected  
30 entity; or the Legislature appropriates funds, or  
31 provides a local source of revenue, to the entity for  
32 the purpose.

33 The purpose or effect of this bill would be to  
34 require a new or increased expenditure of local funds  
35 within the meaning of the amendment. However, the bill  
36 does not require approval of a local governmental  
37 entity or enactment by a 2/3 vote to become effective  
38 because it comes within one of the specified exceptions  
39 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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46 Relating to firearms; to amend Section 13A-11-84, Code  
47 of Alabama 1975; to establish a list of criminal offenses  
48 deemed felonies dangerous to human life; to provide enhanced  
49 criminal penalties for the possession, brandishing, or  
50 discharge of a firearm during the commission of a felony  
51 dangerous to human life; to provide prohibitions on the  
52 possession of a firearm by certain individuals released on  
53 bond or personal recognizance for certain underlying criminal  
54 offenses; to prohibit the possession of a firearm by certain  
55 individuals convicted of a felony dangerous to human life  
56 under certain conditions; to provide criminal penalties for a



## HB301 INTRODUCED

57 violation; to make; and in connection therewith would have as  
58 its purpose or effect the requirement of a new or increased  
59 expenditure of local funds within the meaning of Section  
60 111.05 of the Constitution of Alabama of 2022.

61 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

62 Section 1. As used in this act, the term "felony  
63 dangerous to human life" shall include any of the following  
64 offenses

65 (1) Capital murder pursuant to Sections 13A-6-2 and  
66 13A-5-40, Code of Alabama 1975.

67 (2) Murder pursuant to Section 13A-6-2, Code of Alabama  
68 1975.

69 (3) Manslaughter pursuant to Section 13A-6-3, Code of  
70 Alabama 1975, except the term does not include manslaughter  
71 arising out of the operation of a vehicle.

72 (4) A sex offense that is enumerated under Section  
73 15-20A-5, Code of Alabama 1975, which involves any of the  
74 following:

75 a. Force.

76 b. Incapacitation.

77 c. A child under 12 years of age.

78 (5) Assault I pursuant to Section 13A-6-20, Code of  
79 Alabama 1975.

80 (6) Assault II pursuant to Section 13A-6-21, Code of  
81 Alabama 1975.

82 (7) Kidnapping I pursuant to Section 13A-6-43, Code of  
83 Alabama 1975.

84 (8) Kidnapping II pursuant to Section 13A-6-44, Code of



## HB301 INTRODUCED

85 Alabama 1975.

86 (9) Enticing a child to enter a vehicle for immoral  
87 purposes pursuant to Section 13A-6-69, Code of Alabama 1975.

88 (10) Aggravated stalking pursuant to Section 13A-6-91,  
89 Code of Alabama 1975.

90 (11) Domestic violence I pursuant to Section 13A-6-130,  
91 Code of Alabama 1975.

92 (12) Domestic violence II pursuant to Section  
93 13A-6-131, Code of Alabama 1975.

94 (13) Burglary I pursuant to Section 13A-7-5, Code of  
95 Alabama 1975.

96 (14) Burglary II pursuant to Section 13A-7-6, Code of  
97 Alabama 1975.

98 (15) Arson I pursuant to Section 13A-7-41, Code of  
99 Alabama 1975.

100 (16) Arson II pursuant to Section 13A-7-42, Code of  
101 Alabama 1975.

102 (17) Robbery I pursuant to Section 13A-8-41, Code of  
103 Alabama 1975.

104 (18) Pharmacy robbery pursuant to Section 13A-8-51,  
105 Code of Alabama 1975.

106 (19) Escape I pursuant to Section 13A-10-31, Code of  
107 Alabama 1975.

108 (20) Production of obscene matter involving a minor  
109 pursuant to Section 13A-12-197, Code of Alabama 1975.

110 (21) Torture, willful abuse, etc., of a child pursuant  
111 to Section 26-15-3, Code of Alabama 1975.

112 (22) Aggravated child abuse pursuant to 26-15-3.1, Code



## HB301 INTRODUCED

113 of Alabama 1975.

114 (23) Elder abuse pursuant to Section 38-9-7, Code of  
115 Alabama 1975.

116 (24) Human trafficking I pursuant to Section 13A-6-152,  
117 Code of Alabama 1975.

118 (25) Human trafficking II pursuant to Section  
119 13A-6-153, Code of Alabama 1975.

120 (26) An offense involving the use of a deadly weapon  
121 fired or otherwise used from outside a dwelling while the  
122 victim is inside a dwelling.

123 (27) An offense involving the use of a deadly weapon  
124 fired or otherwise used within or from a vehicle.

125 (28) Any substantially similar offense for which an  
126 Alabama offender has been convicted under prior Alabama law or  
127 the law of any other state, the District of Columbia, the  
128 United States, or any of the territories of the United States.

129 Section 2. (a) (1) Any person who knowingly possesses or  
130 brandishes, as provided in Section 13A-11-7(c), a firearm  
131 during the commission or attempted commission of a felony  
132 dangerous to human life, in addition to any other term of  
133 imprisonment, shall be sentenced to a term of imprisonment of  
134 not less than 10 years.

135 (2) Any person who knowingly discharges a firearm  
136 during the commission or attempted commission of a felony  
137 dangerous to human life, in addition to any other term of  
138 imprisonment, shall be sentenced to a term of imprisonment of  
139 not less than 15 years.

140 (b) A person who commits a second or subsequent



## HB301 INTRODUCED

141 violation of subdivision (1) or (2) of subsection (a) shall be  
142 sentenced to an additional term of imprisonment of not less  
143 than 20 years.

144 (c) Notwithstanding any other provision of law, any  
145 term of imprisonment imposed pursuant to this section shall  
146 run consecutive with any other term of imprisonment for any  
147 other offense and shall not be eligible for any of the  
148 following:

149 (1) Probation.

150 (2) Community corrections.

151 (3) Any split or suspended sentence provision pursuant  
152 to Section 15-18-8, Code of Alabama 1975.

153 (4) Any type of early release program, work release  
154 program, good time, or any other program which would change  
155 the overall time or location of incarceration.

156 (5) Any sentencing schedule or worksheet adopted,  
157 created, or otherwise released by the Alabama Sentencing  
158 Commission.

159 Section 3. (a) It shall be unlawful for any person  
160 charged with the commission or attempted commission of any  
161 felony dangerous to human life, and thereafter released on  
162 bond or personal recognizance, to knowingly have a firearm in  
163 his or her possession or under his or her control.

164 (b) Unless waived by the defendant, a person may not be  
165 convicted for violating this section unless the person is  
166 first convicted of having committed a felony dangerous to  
167 human life, or a lesser included offense, which gave rise to  
168 the charge and for which the person was released on bail or



## HB301 INTRODUCED

169 personal recognizance.

170 (c) (1) Any person who violates subsection (a) shall be  
171 guilty of a Class B felony and imprisoned for not less than 5  
172 years.

173 (2) Upon a second or subsequent violation of subsection  
174 (a), the person shall be guilty of a Class A felony and  
175 sentenced to a term of imprisonment of not less than 10 years.

176 (d) The penalties provided in subsection (c) shall be  
177 in addition to any penalty provided for the underlying felony  
178 dangerous to human life which gave rise to the charge under  
179 this section.

180 (e) Notwithstanding any other provision of law, the  
181 term of imprisonment provided in subsection (c) shall run  
182 consecutive with any other term of imprisonment for any other  
183 offense and the person shall not be eligible for any of the  
184 following:

185 (1) Probation.

186 (2) Community corrections.

187 (3) Any split or suspended sentence provision pursuant  
188 to Section 15-18-8, Code of Alabama 1975.

189 (4) Any type of early release program, work release  
190 program, good time, or any other program which would change  
191 the overall time or location of incarceration.

192 (5) Any sentencing schedule or worksheet adopted,  
193 created, or otherwise released by the Alabama Sentencing  
194 Commission.

195 Section 4. (a) It shall be unlawful for any person to  
196 knowingly have a firearm in his or her possession or under his





## HB301 INTRODUCED

197 or her control when the person, within the preceding 25 year  
198 period, has been convicted of committing or attempting to  
199 commit a felony dangerous to human life.

200 (b) (1) Any person who knowingly violates subsection (a)  
201 shall be guilty of a Class B felony and imprisoned for not  
202 less than 5 years.

203 (2) Upon a second or subsequent violation of subsection  
204 (a), the person shall be guilty of a Class A felony and  
205 sentenced to a term of imprisonment of not less than 10 years.

206 (c) Notwithstanding any other provision of law, the  
207 term of imprisonment provided in subsection (b) shall run  
208 consecutive with any other term of imprisonment for any other  
209 offense and the person shall not be eligible for any of the  
210 following:

211 (1) Probation.

212 (2) Community corrections.

213 (3) Any split or suspended sentence provision pursuant  
214 to Section 15-18-8, Code of Alabama 1975.

215 (4) Any type of early release program, work release  
216 program, good time, or any other program which would change  
217 the overall time or location of incarceration.

218 (5) Any sentencing schedule or worksheet adopted,  
219 created, or otherwise released by the Alabama Sentencing  
220 Commission.

221 Section 5. Section 13A-11-84, Code of Alabama 1975, is  
222 amended to read as follows:

223 "§13A-11-84

224 (a) ~~Every~~ Except as otherwise provided in Section 4 of



## HB301 INTRODUCED

225 the act amending this section, a violation of ~~subsection (a)~~  
226 ~~of~~ Section 13A-11-72 (a) or Section 13A-11-81 shall be a Class  
227 C felony.

228 (b) Every violation of ~~subsection (b) of Section~~  
229 ~~13A-11-72 or~~ Sections 13A-11-73, 13A-11-74, 13A-11-76, and  
230 13A-11-77 through 13A-11-80 shall be a Class A misdemeanor.  
231 The punishment for violating Section 13A-11-78 or 13A-11-79  
232 may include revocation of license.

233 ~~(b)~~ (c) (1) It shall be the duty of any ~~sheriff,~~  
234 ~~policeman, or other peace officer of the State of Alabama,~~ law  
235 enforcement officer in this state arresting any person charged  
236 with violating Sections 13A-11-71 through 13A-11-73, or any  
237 one or more of those sections, to seize the pistol or pistols  
238 in the possession or under the control of the person or  
239 persons charged with violating the section or sections, and to  
240 deliver the pistol or pistols to one of the following named  
241 persons:

242 a. ~~if~~If a municipal officer makes the arrest, to the  
243 city clerk or custodian of stolen property of the municipality  
244 employing the arresting officer; ~~if.~~

245 b. If a county, state, or other peace officer makes the  
246 arrest, to the sheriff of the county in which the arrest is  
247 made.

248 (2) The person receiving the pistol or pistols from the  
249 arresting officer shall keep it in a safe place in as good  
250 condition as received until disposed of as ~~hereinafter~~  
251 provided in this subsection.

252 (3) Within five days after the final conviction of any



## HB301 INTRODUCED

253 person arrested for violating any of the ~~above-numbered~~  
254 sections enumerated in subsection (a), the person receiving  
255 possession of the pistol or pistols, seized as provided in  
256 this section, shall report the seizure and detention of the  
257 pistol or pistols to the district attorney ~~within the county~~  
258 ~~where the pistol or pistols are seized~~, giving a full  
259 description thereof, including the number, make, and model  
260 thereof, the name of the person in whose possession it was  
261 found when seized, the person making claim to same or any  
262 interest therein, if the name can be ascertained or is known,  
263 and the date of the seizure.

264 (4) Upon receipt of the report from the person  
265 receiving possession of the pistol or pistols, ~~it shall be the~~  
266 ~~duty of the district attorney within the county wherein the~~  
267 ~~pistol or pistols were seized to forthwith~~ the district  
268 attorney shall file a complaint in the circuit court of the  
269 proper county, ~~praying requesting~~ that the seized pistol or  
270 pistols be declared contraband, ~~be~~ forfeited to the state, and  
271 ~~be~~ destroyed or used for law enforcement purposes.

272 (5) Any person, firm or corporation, or association of  
273 persons ~~in whose possession claiming to own or have an~~  
274 interest in the pistol or pistols ~~may be seized or who claim~~  
275 ~~to own the same or any interest therein~~ shall be made a party  
276 defendant to the complaint, and ~~thereupon~~ the matter shall  
277 proceed and be determined in the circuit court of the proper  
278 county in the same form and manner, ~~as near as may be~~, as in  
279 the forfeiture and destruction of gaming devices, except as  
280 otherwise provided.



## HB301 INTRODUCED

281           (6) When any judgment of condemnation and forfeiture is  
282 made in any case filed under this section, the ~~judge making~~  
283 ~~the judgment~~ court shall direct the destruction of the pistol  
284 or pistols by the person receiving possession of the pistol or  
285 pistols from the arresting officer in the presence of the  
286 clerk or register of the court, ~~unless the judge.~~

287           (7) Notwithstanding subdivision (6), if the court is of  
288 the opinion that the nondestruction ~~thereof~~ of the pistol or  
289 pistols is necessary or proper in the ends of justice, ~~in~~  
290 ~~which event and~~ upon recommendation of the district attorney,  
291 the ~~judge~~ court shall award the pistol or pistols to the  
292 sheriff of the county or to the chief of police of the  
293 municipality to be used exclusively by the sheriff or the  
294 chief of police ~~in the enforcement of law, and the~~ for law  
295 enforcement purposes. The sheriff of the county and the chiefs  
296 of police of the municipalities shall keep a permanent record  
297 of all pistols awarded to them, as provided for in this  
298 section, to be accounted for as other public property, ~~and the~~  
299 ~~order, in.~~

300           (8) In the event that no appeal is taken within 15 days  
301 ~~from the rendition thereof,~~ the court's order shall be carried  
302 out and executed before the expiration of 20 days from the  
303 date of the judgment. The court may direct in the judgment  
304 that the costs of the proceedings be paid by the person in  
305 whose possession the pistol or pistols were found when seized,  
306 or by any party or parties who claim to own the pistol or  
307 pistols, or any interest therein, and who contested the  
308 condemnation and forfeiture ~~thereof.~~"



## HB301 INTRODUCED

309           Section 6. Although this bill would have as its purpose  
310 or effect the requirement of a new or increased expenditure of  
311 local funds, the bill is excluded from further requirements  
312 and application under Section 111.05 of the Constitution of  
313 Alabama of 2022, because the bill defines a new crime or  
314 amends the definition of an existing crime.

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