

1 SB148
2 189292-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 11-JAN-18

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8 SYNOPSIS: This bill would implement the
9 recommendations of the Alabama Juvenile Justice
10 Task Force and would substantially revise
11 provisions relating to the juvenile justice system
12 in this state.

13 This bill would expand early interventions
14 to address the needs of certain youth prior to
15 court involvement.

16 This bill would require development of a
17 statewide detention risk assessment tool for
18 pre-adjudication detention decisions and would
19 establish standards for informal adjustments for
20 certain youth.

21 This bill would modify the list of offenses
22 committed by a child 14 years of age or more that
23 may be transferred to district or circuit court for
24 prosecution and would modify the list of offenses
25 committed by a person 16 years of age or more that
26 are not subject to the jurisdiction of the juvenile
27 court.

1 This bill would further provide for the
2 duration of consent decrees suspending delinquency
3 or child in need of supervision proceedings, and
4 would remove the assessment of fines, fees, or
5 court costs against children under certain
6 conditions while maintaining the ability to assess
7 them against the parents of those children.

8 This bill would specify those offenses that
9 would subject a child to placement with the
10 Department of Youth Services and would establish
11 presumptions for the length of supervision ordered
12 by a juvenile court.

13 This bill would require local boards of
14 education to inform parents of services available
15 relating to absenteeism and other school-related
16 misconduct and would require the Alabama Department
17 of Education to require each local board of
18 education to annually develop, approve, and submit
19 multi-disciplinary agreements in collaboration with
20 community stakeholders relating to appropriate
21 responses to school-based offenses, court
22 referrals, and accountability.

23 This bill would create the Juvenile Justice
24 Reinvestment Fund, administered by the Department
25 of Youth Services, for the reinvestment into
26 evidence-based programs in the community of averted

1 costs from reduction in the department's custody
2 and placement of youth in residential facilities.

3 This bill would create the Juvenile Justice
4 Oversight Committee to oversee implementation of
5 changes to the juvenile justice system.

6 This bill would require the Administrative
7 Office of Courts and the Department of Youth
8 Services to develop, adopt, and validate a risk and
9 needs assessment to identify a child's risk to
10 reoffend and needs that, if addressed, would likely
11 reduce reoffending.

12 This bill would also require an adjudication
13 as a child in need of supervision, rather than as
14 delinquent or a criminal defendant, if the child is
15 charged with voluntary sexual conduct between
16 minors.

17
18 A BILL

19 TO BE ENTITLED

20 AN ACT

21
22 Relating to juvenile justice; to amend Sections
23 12-15-102, 12-15-107, 12-15-110, 12-15-117, 12-15-119,
24 12-15-120, 12-15-121, 12-15-126, 12-15-127, 12-15-128,
25 12-15-132, 12-15-203, 12-15-204, 12-15-207, 12-15-209,
26 12-15-211, 12-15-215, 12-15-221, 12-15-701, 12-25-9,
27 16-28-2.2, 16-28-8, 16-28-12, 16-28-13, 16-28-14, 16-28-16,

1 16-28-17, 16-28-18, 44-1-1, 44-1-24, and 44-1-36, Code of
2 Alabama 1975, to expand early interventions to address the
3 needs of certain youth prior to court involvement; to require
4 development of a statewide detention risk assessment tool for
5 pre-adjudication detention decisions; to establish standards
6 for informal adjustments for certain youth; to modify the list
7 of offenses that may be transferred to district or circuit
8 court under certain circumstances; to modify the list of
9 offenses that are not subject to the jurisdiction of the
10 juvenile court; to further provide for the duration of consent
11 decrees suspending delinquency or child in need of supervision
12 proceedings; to remove the assessment of fines, fees, or court
13 costs against children under certain conditions; to specify
14 those offenses that would subject a child to placement with
15 the Department of Youth Services; to further specify the
16 length of supervision ordered by a juvenile court; to require
17 local boards of education to inform parents of services
18 available relating to absenteeism and other school-related
19 misconduct; to create the Juvenile Justice Reinvestment Fund,
20 administered by the Department of Youth Services; to require
21 the Administrative Office of Courts and the Department of
22 Youth Services to develop and adopt a risk and needs
23 assessment; and to require an adjudication of a child in need
24 of supervision, rather than as delinquent or a criminal
25 defendant, if the child is charged with voluntary sexual
26 conduct between minors.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 12-15-102, 12-15-107, 12-15-110,
2 12-15-117, 12-15-119, 12-15-120, 12-15-121, 12-15-126,
3 12-15-127, 12-15-128, 12-15-132, 12-15-203, 12-15-204,
4 12-15-207, 12-15-209, 12-15-211, 12-15-215, 12-15-221,
5 12-15-701, 12-25-9, 16-28-2.2, 16-28-8, 16-28-12, 16-28-13,
6 16-28-14, 16-28-16, 16-28-17, 16-28-18, 44-1-1, 44-1-24, and
7 44-1-36, Code of Alabama 1975, are amended to read as follows:

8 "§12-15-102.

9 "When used in this chapter, the following words and
10 phrases have the following meanings:

11 "(1) ADULT. An individual 19 years of age or older.

12 "(2) AFTERCARE. Conditions and supervision as the
13 juvenile court orders after release from the Department of
14 Youth Services.

15 "(3) CHILD. An individual under the age of 18 years,
16 or under 21 years of age and before the juvenile court for a
17 delinquency matter arising before that individual's 18th
18 birthday. Where a delinquency petition alleges that an
19 individual, prior to the individual's 18th birthday, has
20 committed an offense for which there is no statute of
21 limitation pursuant to Section 15-3-5, the term child also
22 shall include the individual subject to the petition,
23 regardless of the age of the individual at the time of filing.

24 "(4) CHILD IN NEED OF SUPERVISION. A child who has
25 been adjudicated by a juvenile court for doing any of the
26 following and who is in need of care, rehabilitation, or
27 supervision:

1 "a. Being subject to the requirement of compulsory
2 school attendance, is habitually truant from school as defined
3 by the State Board of Education in the Alabama Administrative
4 Code. Notwithstanding the foregoing, a child shall not be
5 found in need of supervision pursuant to this subdivision if
6 ~~the juvenile court determines that the parent, legal guardian,~~
7 ~~or legal custodian of the child was solely responsible for the~~
8 ~~nonattendance of the child.~~ either of the following occur:

9 "1. The juvenile court determines that the parent,
10 legal guardian, or legal custodian of the child was solely
11 responsible for the nonattendance of the child.

12 "2. The school did not make reasonable efforts to
13 engage the child in an early warning truancy prevention
14 program in the school or at home prior to filing a complaint.

15 "b. Disobeys the reasonable and lawful demands of
16 his or her parent, legal guardian, or legal custodian and is
17 beyond the control of the parent, legal guardian, or legal
18 custodian.

19 "c. Leaves, or remains away from, the home without
20 the permission of the parent, legal guardian, legal custodian,
21 or person with whom he or she resides.

22 "d. Commits an offense established by law but not
23 classified as criminal.

24 "e. Commits an offense established by law as
25 criminal and that constitutes voluntary sexual activity when
26 committed by a child, pursuant to Section 11 of the act adding
27 this amendatory language.

1 "(5) CHILD'S ATTORNEY. A licensed attorney who
2 provides legal services for a child, or for a minor in a
3 mental commitment proceeding, and who owes the same duties of
4 undivided loyalty, confidentiality, and competent
5 representation to the child or minor as is due an adult
6 client.

7 "(6) DELINQUENT ACT. An act committed by a child
8 that is designated a violation, misdemeanor, or felony offense
9 pursuant to the law of the municipality, county, or state in
10 which the act was committed or pursuant to federal law. This
11 term shall not apply to any of the following:

12 "a. An offense when committed by a child 16 or 17
13 years of age as follows:

14 "1. A nonfelony traffic offense or water safety
15 offense other than one charged pursuant to Section 32-5A-191
16 or 32-5A-191.3 or a municipal ordinance prohibiting the same
17 conduct.

18 "2. A capital offense.

19 "3. ~~A Class A felony~~ Murder as provided in Section
20 13A-6-2.

21 "4. ~~A felony which has as an element the use of a~~
22 ~~deadly weapon~~ Rape in the first degree as provided in Section
23 13A-6-61 with a deadly weapon.

24 "5. ~~A felony which has as an element the causing of~~
25 ~~death or serious physical injury~~ Robbery in the first degree
26 with a deadly weapon as defined in subdivision (a) (1) of
27 Section 13A-8-41.

1 ~~"6. A felony which has as an element the use of a~~
2 ~~dangerous instrument against any person who is one of the~~
3 ~~following:~~

4 ~~"(i) A law enforcement officer or official.~~

5 ~~"(ii) A correctional officer or official.~~

6 ~~"(iii) A parole or probation officer or official.~~

7 ~~"(iv) A juvenile court probation officer or~~
8 ~~official.~~

9 ~~"(v) A district attorney or other prosecuting~~
10 ~~officer or official.~~

11 ~~"(vi) A judge or judicial official.~~

12 ~~"(vii) A court officer or official.~~

13 ~~"(viii) A person who is a grand juror, juror, or~~
14 ~~witness in any legal proceeding of whatever nature when the~~
15 ~~offense stems from, is caused by, or is related to the role of~~
16 ~~the person as a juror, grand juror, or witness.~~

17 ~~"(ix) A teacher, principal, or employee of the~~
18 ~~public education system of Alabama.~~

19 ~~"7. Trafficking in drugs in violation of Section~~
20 ~~13A-12-231, or as the same may be amended.~~

21 ~~"8.6.~~ Any lesser included offense of the offenses in
22 subparagraphs 1 to 7 5, inclusive, charged or any lesser
23 felony offense charged arising from the same facts and
24 circumstances and committed at the same time as the offenses
25 listed in subparagraphs 1 to 7 5, inclusive.

1 ~~"b. Any criminal act, offense, or violation~~
2 ~~committed by a child under the age of 18 years who has been~~
3 ~~previously convicted or adjudicated a youthful offender.~~

4 "7. An act established by law as criminal that
5 constitutes voluntary sexual activity when committed by a
6 child, pursuant to Section 11 of the act adding this
7 amendatory language.

8 "(7) DELINQUENT CHILD. A child who has been
9 adjudicated for a delinquent act and is in need of care or
10 rehabilitation.

11 "(8) DEPENDENT CHILD. a. A child who has been
12 adjudicated dependent by a juvenile court and is in need of
13 care or supervision and meets any of the following
14 circumstances:

15 "1. Whose parent, legal guardian, legal custodian,
16 or other custodian subjects the child or any other child in
17 the household to abuse, as defined in subdivision (2) of
18 Section 12-15-301 or neglect as defined in subdivision (4) of
19 Section 12-15-301, or allows the child to be so subjected.

20 "2. Who is without a parent, legal guardian, or
21 legal custodian willing and able to provide for the care,
22 support, or education of the child.

23 "3. Whose parent, legal guardian, legal custodian,
24 or other custodian neglects or refuses, when able to do so or
25 when the service is offered without charge, to provide or
26 allow medical, surgical, or other care necessary for the
27 health or well-being of the child.

1 "4. Whose parent, legal guardian, legal custodian,
2 or other custodian fails, refuses, or neglects to send the
3 child to school in accordance with the terms of the compulsory
4 school attendance laws of this state.

5 "5. Whose parent, legal guardian, legal custodian,
6 or other custodian has abandoned the child, as defined in
7 subdivision (1) of Section 12-15-301.

8 "6. Whose parent, legal guardian, legal custodian,
9 or other custodian is unable or unwilling to discharge his or
10 her responsibilities to and for the child.

11 "7. Who has been placed for care or adoption in
12 violation of the law.

13 "8. Who, for any other cause, is in need of the care
14 and protection of the state.

15 "b. The commission of one or more status offenses as
16 defined in subdivision (4) of Section 12-15-201 is not a
17 sufficient basis for an adjudication of dependency.

18 "(9) DETENTION. The temporary placement of children
19 alleged or adjudicated to be delinquent in secure custody as
20 defined herein pending juvenile court disposition or transfer
21 to a residential facility for further care of a child
22 adjudicated delinquent.

23 "(10) GUARDIAN AD LITEM. A licensed attorney
24 appointed by a juvenile court to protect the best interests of
25 an individual without being bound by the expressed wishes of
26 that individual.

1 "(11) INTAKE OFFICER. A juvenile probation officer
2 or an employee of the judicial branch of government, who is
3 neutral and detached from executive and legislative branch
4 activities, designated by the juvenile court judge to initiate
5 original delinquency, dependency, and child in need of
6 supervision cases, as well as cases designated in Section
7 12-15-132 before the juvenile court. The juvenile court intake
8 officer shall be appointed a magistrate pursuant to Rule 18,
9 Alabama Rules of Judicial Administration, to issue warrants of
10 arrest for individuals 18 years of age or older committing
11 criminal offenses under the jurisdiction of the juvenile
12 court.

13 "(12) JUVENILE COURT. The juvenile or family court
14 division of the circuit or district court having jurisdiction
15 over matters as provided by this chapter.

16 "(13) JUVENILE DETENTION FACILITY. Any facility
17 owned or operated by the state, any county, or other legal
18 entity licensed by and contracted with the Department of Youth
19 Services for the detention of children.

20 "(14) LAW ENFORCEMENT OFFICER. Any person, however
21 denominated, who is authorized by law to exercise the police
22 powers of the state, a county, or local governments.

23 "(15) LEGAL CUSTODIAN. A parent, person, agency, or
24 department to whom legal custody of a child under the
25 jurisdiction of the juvenile court pursuant to this chapter
26 has been awarded by order of the juvenile court or other court
27 of competent jurisdiction.

1 "(16) LEGAL CUSTODY. A legal status created by order
2 of the juvenile court which vests in a legal custodian the
3 right to have physical custody of a child under the
4 jurisdiction of the juvenile court pursuant to this chapter
5 and the right and duty to protect, train, and discipline the
6 child and to provide the child with food, shelter, clothing,
7 education, and medical care, all subject to the powers,
8 rights, duties, and responsibilities of the legal guardian of
9 the person of the child and subject to any residual parental
10 rights and responsibilities. A parent, person, agency, or
11 department granted legal custody shall exercise the rights and
12 responsibilities personally, unless otherwise restricted by
13 the juvenile court.

14 "(17) LEGAL GUARDIAN. A person who has been
15 appointed by a probate court pursuant to the Alabama Uniform
16 Guardianship and Protective Proceedings Act, Chapter 2A
17 (commencing with Section 26-2A-1) of Title 26 to be a guardian
18 of a person under 19 years of age who has not otherwise had
19 the disabilities of minority removed. This term does not
20 include a guardian ad litem as defined in this section.

21 "(18) MINOR. An individual who is under the age of
22 19 years and who is not a child within the meaning of this
23 chapter.

24 "(19) PARENT. The legal mother or the legal father
25 of a child under the jurisdiction of the juvenile court
26 pursuant to this chapter.

1 "(20) PICK-UP ORDER. In any case before the juvenile
2 court, an order directing any law enforcement officer or other
3 person authorized by this chapter to take a child into custody
4 and to deliver the child to a place of detention, shelter, or
5 other care designated by the juvenile court.

6 "(21) PROBATION. The legal status created by order
7 of the juvenile court following an adjudication of delinquency
8 or in need of supervision whereby a child is permitted to
9 remain in a community subject to supervision and return to the
10 juvenile court for violation of probation at any time during
11 the period of probation.

12 "(22) RESIDENTIAL FACILITY. A dwelling, other than a
13 detention or shelter care facility, providing living
14 accommodations, care, treatment, and maintenance for children,
15 including, but not limited to, institutions, foster family
16 homes, group homes, half-way houses, and forestry camps
17 operated, accredited, or licensed by a federal or state
18 department or agency.

19 "(23) RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES.
20 Those rights and responsibilities remaining with a parent
21 after a transfer of legal custody of a child under the
22 jurisdiction of the juvenile court pursuant to this chapter,
23 including, but not necessarily limited to, the right of
24 visitation, the right to withhold consent to adoption, the
25 right to determine religious affiliation, and the
26 responsibility for support, unless determined by order of the
27 juvenile court not to be in the best interests of the child.

1 "(24) SECURE CUSTODY. As used with regard to
2 juvenile detention facilities and the Department of Youth
3 Services, this term means residential facilities with
4 construction features designed to physically restrict the
5 movements and activities of persons in custody such as locked
6 rooms and buildings, including rooms and buildings that
7 contain alarm devices that prevent departure; fences; or other
8 physical structures. This term does not include facilities
9 where physical restriction of movement or activity is provided
10 solely through facility staff.

11 "(25) SHELTER CARE. The temporary care of children
12 in group homes, foster care, relative placement, or other
13 nonpenal facilities.

14 "§12-15-107.

15 "(a) For the purpose of carrying out the objectives
16 and purposes of this chapter and subject to the limitations of
17 this chapter or imposed by the juvenile court, a juvenile
18 probation officer shall perform the following duties:

19 "(1) Make investigations, reports, and
20 recommendations to the juvenile court.

21 "(2) Serve as a juvenile court intake officer when
22 designated by the juvenile court judge.

23 "(3) Supervise and assist a child placed on
24 probation or aftercare by order of the juvenile court or other
25 authority of law until the terms of probation or aftercare
26 expire pursuant to subsection (k) of Section 12-15-215, or are

1 otherwise terminated, including pursuant to subsection (k) of
2 Section 12-15-215.

3 "(4) Make appropriate referrals to other private or
4 public departments or agencies of the community if their
5 assistance appears to be needed or desirable consistent with
6 this chapter.

7 "(5) Make predisposition studies and submit reports
8 and recommendations to the juvenile court as required by this
9 chapter.

10 "(6) Collect and compile statistical data and file
11 reports as may be required by the Administrative Director of
12 Courts pursuant to subdivision (1) of Section 12-5-10. The
13 reports may include, but shall not be limited to, statistical
14 data, case studies, and research materials.

15 "(7) Notify the state and either the parent, legal
16 guardian, or legal custodian of a juvenile sex offender, or
17 the child's attorney for the juvenile sex offender, of the
18 pending release of the juvenile sex offender and provide them
19 with a copy of the risk assessment pursuant to subsection (c)
20 of Section 15-20A-26.

21 "(8) Perform other functions as are designated by
22 this chapter or directed by the juvenile court.

23 "(b) For the purposes of this chapter, a juvenile
24 probation officer ~~with the approval of the juvenile court,~~
25 shall have the power to take into custody and place in shelter
26 or detention, subject to Section 12-15-208, a child who is on
27 probation or aftercare under his or her supervision ~~when the~~

1 ~~juvenile probation officer has~~ only upon order of the court,
2 pursuant to Section 12-15-215. A juvenile probation officer
3 may request an order to take a child into custody and place
4 the child in the shelter or detention when the juvenile
5 probation officer has reasonable cause to believe that the
6 child has violated the conditions of his or her probation or
7 aftercare, or that he or she may flee from the jurisdiction of
8 the juvenile court. A juvenile probation officer does not have
9 the powers of a law enforcement officer.

10 "§12-15-110.

11 "(a) Subject to the laws relating to the procedures
12 therefor and the limitations thereon, the juvenile court may
13 punish a person for contempt of court for disobeying an order
14 of the juvenile court or for obstructing or interfering with
15 the proceedings of the juvenile court or the enforcement of
16 its orders.

17 "(b) Notwithstanding the provisions of subsection
18 (a), the juvenile court shall be limited in the actions it may
19 take with respect to a child violating the terms and
20 conditions of probation or aftercare as it is defined in
21 Section 12-15-132, to those actions which the juvenile court
22 is permitted to take pursuant to subsection (k) of Section
23 12-15-215. The juvenile court may not order placement in a
24 residential facility except in accordance with subsection (k)
25 of Section 12-15-215, and shall only make modifications to an
26 order of probation or aftercare consistent with the results of

1 a validated risk and needs assessment pursuant to Section 12-15-221.

2 ~~"(b)(c)~~ Notwithstanding the provisions of subsection
3 (a), the juvenile court shall be limited in the actions it may
4 take with respect to a child violating the terms and
5 conditions of the order of protective supervision as this term
6 is defined in subdivision (5) of Section 12-15-301, to those
7 which the juvenile court could have taken at the time of the
8 original disposition of the juvenile court pursuant to
9 subsection (a) of Section 12-15-314.

10 ~~"(c)(d)~~ A finding of indirect contempt not based on
11 a delinquency petition does not constitute an adjudication of
12 delinquency.

13 "§12-15-117.

14 "(a) Once a child has been adjudicated dependent,
15 delinquent, or in need of supervision, jurisdiction of the
16 juvenile court shall terminate when the child becomes 21 years
17 of age unless, prior thereto, the judge of the juvenile court
18 terminates its jurisdiction by explicitly stating in a written
19 order that it is terminating jurisdiction over the case
20 involving the child. Nothing in this section is intended to
21 affect the initial and continuing jurisdiction of juvenile
22 courts over cases other than delinquency, dependency, or in
23 need of supervision cases as provided in Sections 12-15-114,
24 12-15-115, 12-15-116, or any other statute by which
25 jurisdiction was initially lawfully invoked.

26 ~~"(b) The jurisdiction of the juvenile court shall~~
27 ~~terminate when the child is convicted or adjudicated a~~

1 ~~youthful offender as provided in Section 12-15-203(i) and~~
2 ~~Section 12-15-204(b). If a person already under the~~
3 ~~jurisdiction of the juvenile court is convicted or adjudicated~~
4 ~~a youthful offender in a criminal court of a crime committed~~
5 ~~at the age of 18 or older, the conviction or adjudication~~
6 ~~shall terminate the jurisdiction of the juvenile court.~~

7 ~~"(c)(b)~~ In any case over which the juvenile court
8 has jurisdiction, the juvenile court shall retain jurisdiction
9 over an individual of any age to enforce or modify any prior
10 orders of the juvenile court unless otherwise provided by law
11 and also shall retain jurisdiction for the enforcement or
12 modification of any prior orders of the juvenile court
13 requiring the payment of fines, court costs, restitution, or
14 other money ordered by the juvenile court until paid in full.

15 ~~"(d)(c)~~ For purposes of enforcing any order of the
16 juvenile court requiring the payment of fines, court costs,
17 restitution, or other money ordered by the juvenile court, the
18 remedies with regard to punishment for contempt, including
19 incarceration in jail of individuals 18 years of age or older,
20 shall be available to the juvenile court.

21 "§12-15-119.

22 "(a) After a verified complaint has been filed ~~and~~
23 ~~before a petition~~ alleging delinquency or in need of
24 supervision ~~is filed~~, the juvenile court intake officer,
25 ~~subject to the direction of the juvenile court, may~~ shall
26 offer give counsel and advice to the parties child for the
27 ~~purpose of an informal adjustment pursuant to rules of~~

1 ~~procedure adopted by the Supreme Court of Alabama.~~ if both of
2 the following are satisfied:

3 "(1) The complaint alleges that the child has either
4 committed a misdemeanor not involving a deadly weapon as
5 defined in Section 13A-1-2 or is a child in need of
6 supervision.

7 "(2) The child has fewer than two prior
8 adjudications of delinquency or as a child in need of
9 supervision.

10 "(b) In addition to informal adjustment offers made
11 under subsection (a), the juvenile court intake officer may
12 offer an informal adjustment to any other child.

13 "(c) The juvenile court intake officer shall not
14 assess or collect a fine, fee, or other financial obligation
15 as part of an informal adjustment.

16 "§12-15-120.

17 "(a) Delinquency, child in need of supervision, and
18 dependency cases and proceedings pursuant to Section 12-15-132
19 before the juvenile court shall be initiated by the filing of
20 a petition by the juvenile court intake officer who shall
21 receive verified complaints and proceed thereon pursuant to
22 rules of procedure adopted by the Supreme Court of Alabama.

23 "(b) A petition alleging that a child is a
24 delinquent child, dependent child, or a child in need of
25 supervision shall not be filed by a juvenile court intake
26 officer unless the juvenile court intake officer has
27 determined and endorsed upon the petition that ~~the juvenile~~

1 ~~court has subject matter jurisdiction and venue over the case~~
2 ~~and that the filing of the petition is in the best interests~~
3 ~~of the public and the child. all of the following are~~
4 satisfied:

5 "(1) The juvenile court has subject matter
6 jurisdiction and venue over the case.

7 "(2) The child does not meet the informal adjustment
8 criteria defined in subsection (a) of Section 12-15-119 or the
9 child has rejected an offer of informal adjustment.

10 "(3) The filing of the petition is in the best
11 interests of the public and the child.

12 "(c) A petition alleging that a child is in need of
13 supervision for habitual truancy shall not be filed unless a
14 juvenile court intake officer has determined, and endorsed
15 upon the petition, that the school made reasonable efforts to
16 engage the child in an early warning truancy prevention
17 program.

18 "(d) Absent serious threats to school safety, when a
19 petition is filed based upon acts committed on school grounds
20 during the school day, information shall be included in the
21 petition which shows all of the following:

22 "(1) The steps the school has taken to resolve the
23 expressed problem through available educational approaches.

24 "(2) That the school has sought to engage the
25 parents or guardian in solving the problem but they have been
26 unwilling or unable to do so.

1 "(3) That the child has not responded to such
2 approaches and continues to engage in offending behavior.

3 "(4) That court intervention is needed.

4 "§12-15-121.

5 "(a) ~~A~~ Subject to the provisions of Section
6 12-15-120, a juvenile petition alleging delinquency, in need
7 of supervision, or dependency may be signed by any person 18
8 years of age or older, other than a juvenile court intake
9 officer, who has knowledge of the facts alleged or is informed
10 of them and believes that they are true. However, the person
11 signing a dependency petition, in the petition or in an
12 attached affidavit, shall give information, if reasonably
13 ascertainable, as required in Section 30-3B-209.

14 "(b) A petition shall be entitled "In the matter of
15 _____, a child" and shall be made under oath.

16 "(c) The petition shall set forth with specificity
17 all of the following:

18 "(1) The facts which bring the child under the
19 jurisdiction of the juvenile court, the facts constituting the
20 alleged dependency, delinquency, or need of supervision and
21 the facts showing that the child is in need of supervision,
22 treatment, rehabilitation, care, or the protection of the
23 state, as the case may be.

24 "(2) The name, age, and residence address, if known,
25 of the child on whose behalf the petition is brought.

26 "(3) The names and residence addresses, if known to
27 the petitioner, of the parent, legal guardian, or legal

1 custodian of the child. If no parent, legal guardian, or legal
2 custodian resides or can be found within the state or if their
3 respective places of residence are unknown, the name of any
4 known adult relative residing within the county or, if there
5 be none, the known adult relative residing nearest to the
6 location of the juvenile court.

7 "(4) The place of detention of the child and the
8 time he or she was taken into custody, if the child in custody
9 is alleged to be delinquent or in need of supervision.

10 "(5) The facts showing that a child who is alleged
11 to be in need of supervision for habitual truancy has been
12 given the opportunity by the school to engage in an early
13 warning truancy prevention program in either the school or
14 home setting prior to the filing of the petition, and, as
15 appropriate, the facts establish that the criteria provided in
16 subsection (d) of Section 12-15-120 have been met.

17 "(d) When any of the facts required by subsection
18 (c) are not known, except the facts required by subdivision
19 (4) of subsection (c), the petition shall so state.

20 "§12-15-126.

21 "If it appears from a sworn statement, written or
22 verbal, presented to the juvenile court that a child needs to
23 be placed in detention pursuant to the criteria provided in
24 Section 12-15-128, or shelter or other care, the juvenile
25 court may issue a pick-up order that a law enforcement officer
26 or other person authorized by this chapter shall at once take
27 the child into custody and take him or her to the place of

1 detention or shelter or other care designated by the juvenile
2 court.

3 "§12-15-127.

4 "(a) A person taking a child into custody without an
5 order of the juvenile court shall, with all possible speed,
6 and in accordance with this chapter and the rules of court
7 pursuant thereto:

8 "(1) Release the child to the parents, legal
9 guardian, or legal custodian of the child or other suitable
10 person able to provide supervision and care for the child and
11 issue verbal counsel and warning as may be appropriate.

12 "(2) Release the child to the parents, legal
13 guardian, or legal custodian of the child upon his or her
14 promise to bring the child before the juvenile court when
15 requested, unless the placement of the child in detention or
16 shelter care appears required pursuant to the criteria
17 provided in Section 12-15-128. If a parent, legal guardian, or
18 other legal custodian fails, when requested, to bring the
19 child before the juvenile court as provided in this section,
20 the juvenile court may issue an order directing that the child
21 be taken into custody and brought before the juvenile court,
22 in accordance with subsection (b).

23 "(3) Bring the child, if not released, to the place
24 designated by the juvenile court and give written notice of
25 the action taken and the reasons for taking the child into
26 custody to the juvenile court intake officer, to the parent,

1 legal guardian, or other legal custodian of the child, and, in
2 the case of dependency, to the Department of Human Resources.

3 "(b) Prior to authorizing the admission of the child
4 to detention, shelter, or other care, the juvenile court
5 intake officer, on an allegation of delinquency or in need of
6 supervision or of dependency, shall administer a detention
7 risk assessment tool to any child who is under consideration
8 for placement in detention, developed pursuant to Section 2 of
9 the act adding this amendatory language and review the need
10 for detention or shelter care, including reviewing the written
11 notice of the person who took the child into custody without
12 an order of the juvenile court and the results of the
13 detention risk assessment tool, and shall direct the law
14 enforcement officer or other person currently having the child
15 in custody to release the child unless detention or shelter
16 care is required pursuant to Section 12-15-128. The juvenile
17 court intake officer may allow release with or without
18 electronic or telephone monitoring pending the 72-hour hearing
19 requirement.

20 "(c) A person taking a child or minor into custody
21 pursuant to subdivision (3) of subsection (a) of Section
22 12-15-125 shall bring the child or minor to a medical or
23 mental health facility if the child or minor is believed to be
24 suffering from a serious mental health condition, illness, or
25 injury which requires either prompt treatment or prompt
26 diagnosis for the welfare of the child or minor or for
27 evidentiary purposes, and, in the most expeditious manner

1 possible, give notice of the action taken together with a
2 statement of taking the child or minor into custody in writing
3 to the court, the parents, legal guardian or other legal
4 custodian and to the intake office and to the Department of
5 Human Resources in the case of a dependency allegation.

6 "§12-15-128.

7 "(a) It is the intent of the Legislature that a
8 child who is alleged to be delinquent shall only be placed in
9 detention in those circumstances that indicate that detention
10 is necessary to protect public safety from an imminent risk.
11 Detention shall not be used for the purposes of
12 rehabilitation. Where a child alleged to be delinquent is
13 placed in detention, the length of a child's stay in detention
14 should be short.

15 ~~"(a)~~ (b) An allegedly delinquent child, dependent
16 child, or child in need of supervision lawfully taken into
17 custody shall immediately be released, upon the ascertainment
18 of the necessary facts, to the care, custody, and control of
19 the parent, legal guardian, or legal custodian of the child or
20 other suitable person able to provide supervision and care for
21 the child, unless the juvenile court or juvenile court intake
22 officer, subject to the limitations in Section 12-15-208,
23 finds any scores the child as eligible for detention on a
24 statewide detention risk assessment tool, developed pursuant
25 to Section 2 of the act adding this amendatory language and
26 also finds one or more of the following:

1 "(1) The child has no parent, legal guardian, legal
2 custodian, or other suitable person able to provide
3 supervision and care for the child.

4 "(2) The release of the child would present a clear
5 and substantial threat of a serious nature to the person or
6 property of others and where the child is alleged to be
7 delinquent.

8 ~~"(3) The release of the child would present a
9 serious threat of substantial harm to the child.~~

10 "~~(4)~~ (3) The child is at risk of failing to appear at
11 a future court hearing based upon a recent ~~has a history~~
12 record of failing to appear for hearings before the juvenile
13 court.

14 ~~"(5) The child is alleged to be delinquent for
15 possessing a pistol, short-barreled rifle, or short-barreled
16 shotgun, in which case the child may be detained in a juvenile
17 detention facility until the hearing required by Section
18 12-15-207. Pistol as used in this section shall be as defined
19 in subdivision (1) of Section 13A-11-70. Short-barreled rifle
20 and short-barreled shotgun as used in this section shall be as
21 defined in Section 13A-11-62.~~

22 "(c) Detention shall not be used as a result of a
23 parent or guardian avoiding his or her legal responsibility to
24 provide supervision and care for the child.

25 "(d) A child alleged to be in need of supervision
26 shall not be placed in detention except pursuant to Section
27 12-15-208.

1 "~~(b)~~(e) The criteria for continuing the allegedly
2 delinquent child or child in need of supervision in detention
3 or shelter or other care, or for continuing the allegedly
4 dependent child in shelter or other care, as set forth in
5 subsection (a) shall govern the decisions of all persons
6 involved in determining whether the continued detention or
7 shelter care is warranted pending juvenile court disposition
8 and those criteria shall be supported by clear and convincing
9 evidence in support of the decision not to release the child.

10 "(f) Prior to the decision to continue the allegedly
11 delinquent child in detention, the court shall consider and
12 make written findings of fact as to whether each of the
13 following options is inappropriate:

14 "(1) Release to the child's parents, guardian, or
15 custodian on the juvenile's promise to appear.

16 "(2) Release to the child's parents, guardian, or
17 custodian upon written assurance to secure the youth's
18 presence at the next hearing.

19 "(3) Release to the care of a custodian or state
20 agency, other than a residential facility, able to assist the
21 juvenile to appear at the next hearing.

22 "(4) Release of the child with imposition of
23 restrictions on activities, associations, movements, and
24 residence related to securing the child's appearance at the
25 next hearing.

1 "(5) Release of the child with required
2 participation in a home detention program or other
3 non-custodial, non-residential alternative to detention.

4 "(6) Imposition of any other restrictions other than
5 detention reasonably related to securing the appearance of the
6 child at the next hearing.

7 "~~(c)~~(g) In releasing a child, a juvenile court or
8 the juvenile court intake officer may impose restrictions on
9 the travel, association, or place of abode of the child or
10 place the child under the supervision of a department, agency,
11 or organization agreeing to supervise him or her, and may
12 place the child under supervision such as electronic or
13 telephone monitoring, if available. A child, once placed in
14 detention, may also be released pursuant to the same
15 conditions should there be a need to release the child from a
16 juvenile detention facility because of an overcrowded
17 population.

18 "§12-15-132.

19 "(a) A child on probation or aftercare incident to
20 an adjudication as a delinquent child or a child in need of
21 supervision who violates the terms of his or her probation or
22 aftercare may be proceeded against for a revocation of the
23 order only in accordance with subsection (k) of Section
24 12-15-215.

25 "(b) A proceeding to revoke probation or aftercare
26 shall be commenced by the filing of a petition entitled
27 "petition to revoke probation" or "petition to revoke

1 aftercare." Except as otherwise provided, these petitions
2 shall be screened, reviewed, and prepared in the same manner
3 and shall contain the same information as provided in Sections
4 12-15-120 and 12-15-121. The petition shall recite the date
5 that the child was placed on probation or aftercare and shall
6 state the time and manner in which notice of the terms of
7 probation or aftercare was given.

8 "(c) Probation or aftercare revocation proceedings
9 shall require clear and convincing evidence. In all other
10 respects, proceedings to revoke probation or aftercare shall
11 be governed by the procedures, safeguards, and rights and
12 duties applicable to delinquency and child in need of
13 supervision cases contained in this chapter.

14 "(d) If a child is found to have violated the terms
15 of his or her probation or aftercare pursuant to a revocation
16 hearing, the juvenile court may ~~extend the period of probation~~
17 ~~or aftercare or~~ make any ~~other~~ order of disposition specified
18 for a child adjudicated delinquent or in need of supervision
19 pursuant to Section 12-15-215, except that the juvenile court
20 may not place a child in a residential facility or secure
21 custody except pursuant to subsection (k) of Section
22 12-15-215.

23 "(e) A violation of probation for a child in need of
24 supervision is not an adjudication of delinquency.

25 "§12-15-203.

26 "(a) A prosecutor, before a hearing on a delinquency
27 petition on its merits and after notifying, verbally or in

1 writing, the juvenile probation officer, may file a motion
2 requesting the juvenile court judge to transfer a child for
3 criminal prosecution to the circuit or district court, if the
4 child was 14 or more years of age at the time of the conduct
5 charged and is alleged to have committed an act which would
6 constitute one of the following offenses: a criminal offense
7 as defined by this code if committed by an adult.

8 "(1) A Class A felony.

9 "(2) A felony resulting in serious physical injury
10 as defined in subdivision (14) of Section 13A-1-2.

11 "(3) A felony involving deadly physical force as
12 defined in subdivision (6) of Section 13A-1-2.

13 "(4) A felony involving a deadly weapon as defined
14 in subdivision (7) of Section 13A-1-2.

15 "(5) A felony involving a dangerous instrument as
16 defined in subdivision (5) of Section 13A-1-2.

17 "(6) A Class A or B felony or burglary in the third
18 degree as provided in Section 13A-7-7 involving a residence
19 and the child has previously been adjudicated delinquent of
20 two previous acts which would have been a Class A or B felony
21 or burglary in the third degree involving a residence if the
22 acts had been committed by an adult.

23 "(b) The juvenile court judge shall conduct a
24 hearing on all motions for the purpose of determining whether
25 it is in the best interests of the child or the public to
26 grant the motion. Only if there are no reasonable grounds to
27 believe the child is committable to an institution,

1 department, or agency for individuals with an intellectual
2 disability or mental illness, may the juvenile court judge
3 order the case transferred for criminal prosecution.

4 "(c) When there are grounds to believe that the
5 child is committable to an institution, department, or agency
6 for individuals with an intellectual disability or mental
7 illness, the juvenile court judge shall order an examination
8 pursuant to Section 12-15-130.

9 "(d) Evidence of the following and other relevant
10 factors shall be considered in determining whether the motion
11 shall be granted:

12 "(1) The nature of the present alleged offense.

13 "(2) The extent and nature of the prior delinquency
14 record of the child.

15 "(3) The nature of past treatment efforts and the
16 nature of the response of the child to the efforts.

17 "(4) Demeanor.

18 "(5) The extent and nature of the physical and
19 mental maturity of the child.

20 "(6) The interests of the community and of the child
21 requiring that the child be placed under legal restraint or
22 discipline.

23 "(e) Prior to a hearing on the motion by the
24 prosecutor, a written study and report to the juvenile court
25 judge, relevant to the factors listed in subsection (d), shall
26 be made by a juvenile probation officer.

1 "(f) When a child is transferred for criminal
2 prosecution, the juvenile court judge shall set forth in
3 writing his or her reasons for granting the motion, which
4 shall include a finding of probable cause for believing that
5 the allegations are true and correct.

6 "(g) The finding of probable cause by the juvenile
7 court judge shall preclude the necessity for a preliminary
8 hearing subsequent to the transfer of the case for criminal
9 prosecution, and the court having jurisdiction of the offense
10 or offenses charged may exercise any authority over the case
11 and the child, subsequent to the transfer, which is otherwise
12 applicable to cases involving adult offenders pursuant to
13 provisions of laws or rules of procedure adopted by the
14 Supreme Court of Alabama.

15 "(h) A child who is transferred to a court for
16 criminal prosecution shall be tried as an adult for the
17 offense charged arising from the same facts and circumstances
18 and committed at the same time as the offense charged ~~and all~~
19 ~~lesser included offenses of the offense charged.~~

20 ~~"(i) A conviction or adjudication as a youthful~~
21 ~~offender of a child of a criminal offense, with the exception~~
22 ~~of a nonfelony traffic offense, shall terminate the~~
23 ~~jurisdiction of the juvenile court over that child with~~
24 ~~respect to any future delinquent acts and with respect to any~~
25 ~~pending allegations of delinquency which have not been~~
26 ~~disposed of by the juvenile court at the time of the criminal~~
27 ~~conviction or adjudication as a youthful offender. Any pending~~

1 ~~or future criminal acts committed by the child shall be~~
2 ~~prosecuted as other criminal charges are prosecuted.~~
3 ~~Termination of the jurisdiction of the juvenile court over the~~
4 ~~child with respect to future criminal charges and pending~~
5 ~~allegations of delinquency, as provided herein, shall not~~
6 ~~affect the jurisdiction of the juvenile court over the child~~
7 ~~with respect to any other matter provided in this chapter,~~
8 ~~specifically including any prior allegations of delinquency~~
9 ~~which, at the time of the criminal conviction, has been~~
10 ~~disposed of by the juvenile court either through informal~~
11 ~~adjustment, consent decree, or adjudication. The juvenile~~
12 ~~court is specifically authorized, to the extent practicable,~~
13 ~~to continue exercising its jurisdiction over the child with~~
14 ~~respect to such previously disposed delinquency cases after~~
15 ~~the termination of its jurisdiction with respect to other~~
16 ~~criminal charges, including jurisdiction to enforce its order~~
17 ~~requiring the payment of fines, costs, restitution, or other~~
18 ~~money ordered by the juvenile court pursuant to Section~~
19 ~~12-15-117.~~

20 "§12-15-204.

21 "(a) Notwithstanding any other provision of law, any
22 person who has attained the age of 16 years at the time of the
23 conduct charged and who is charged with the commission of any
24 act or conduct, which if committed by an adult would
25 constitute any of the following, shall not be subject to the
26 jurisdiction of juvenile court but shall be charged, arrested,
27 and tried as an adult:

1 "(1) A capital offense.

2 "~~(2) A Class A felony. Murder as defined in Section~~
3 ~~13A-6-2.~~

4 "~~(3) A felony which has as an element thereof the~~
5 ~~use of a deadly weapon. Rape in the first degree as defined in~~
6 ~~Section 13A-6-61 with a deadly weapon.~~

7 "~~(4) A felony which has as an element thereof the~~
8 ~~causing of death or serious physical injury. Robbery in the~~
9 ~~first degree with a deadly weapon as defined in subdivision~~
10 ~~(a) (1) of Section 13A-8-41.~~

11 "~~(5) A felony which has as an element thereof the~~
12 ~~use of a dangerous instrument against any person who is one of~~
13 ~~the following:~~

14 "~~a. A law enforcement officer or official.~~

15 "~~b. A correctional officer or official.~~

16 "~~c. A parole or probation officer or official.~~

17 "~~d. A juvenile court probation officer or official.~~

18 "~~e. A district attorney or other prosecuting officer~~
19 ~~or official.~~

20 "~~f. A judge or judicial official.~~

21 "~~g. A court officer or official.~~

22 "~~h. A person who is a grand juror, juror, or witness~~
23 ~~in any legal proceeding of whatever nature when the offense~~
24 ~~stems from, is caused by, or is related to the role of the~~
25 ~~person as a juror, grand juror, or witness.~~

26 "~~i. A teacher, principal, or employee of the public~~
27 ~~education system of Alabama.~~

1 "~~(6) Trafficking in drugs in violation of Section~~
2 ~~13A-12-231, or as the same may be amended.~~

3 "~~(7)~~ (5) Any lesser included offense of the above
4 offenses charged or any lesser felony offense charged arising
5 from the same facts and circumstances and committed at the
6 same time as the offenses listed above. Provided, however,
7 that the juvenile court shall maintain original jurisdiction
8 over these lesser included offenses if the grand jury fails to
9 indict for any of the offenses enumerated in ~~subsections~~
10 subdivisions (a) (1) to (a) ~~(6)~~ (4), inclusive. The juvenile
11 court shall also maintain original jurisdiction over these
12 lesser included offenses, subject to double jeopardy
13 limitations, if the court handling criminal offenses dismisses
14 all charges for offenses enumerated in ~~subsections~~
15 subdivisions (a) (1) to (a) ~~(6)~~ (4), inclusive.

16 "~~(b) Notwithstanding any other provision of law, any~~
17 ~~person who has been convicted or adjudicated a youthful~~
18 ~~offender in a court handling criminal offenses pursuant to the~~
19 ~~provisions of this section shall not thereafter be subject to~~
20 ~~the jurisdiction of juvenile court for any pending or~~
21 ~~subsequent offense. Provided, however, pursuant to Section~~
22 ~~12-15-117, the juvenile court shall retain jurisdiction over~~
23 ~~an individual of any age for the enforcement of any prior~~
24 ~~orders of the juvenile court requiring the payment of fines,~~
25 ~~court costs, restitution, or other money ordered by the~~
26 ~~juvenile court until paid in full.~~

1 "~~(c)~~(b) This section shall apply to all cases in
2 which the alleged criminal conduct occurred after April 14,
3 1994. All conduct occurring before April 14, 1994, shall be
4 governed by pre-existing law.

5 "§12-15-207.

6 "(a) (1) When a child is not released from detention
7 or shelter care as provided in Section 12-15-127, a petition
8 shall be filed and a hearing held within 72 hours of placement
9 in detention or shelter care, Saturdays, Sundays, and holidays
10 included, to determine probable cause and to determine whether
11 or not continued detention or shelter care is required.

12 "(2) The filing of a petition under this section
13 does not abrogate the duty of the intake officer to determine
14 whether a child is required to be offered an informal
15 adjustment pursuant to Section 12-15-119.

16 "(b) Notice of the detention or shelter care
17 hearing, either verbal or written, stating the date, time,
18 place, and purpose of the hearing and the right to counsel
19 shall be given by a juvenile probation officer to the parent,
20 legal guardian, or legal custodian if they can be found and to
21 the child if the child is over 12 years of age .

22 "(c) At the commencement of the detention or shelter
23 care hearing, the juvenile court shall advise the parent,
24 legal guardian, legal custodian, and the parties of the right
25 to counsel and shall appoint counsel if the juvenile court
26 determines they are indigent. The parties shall be informed of
27 the right of the child to remain silent. The parent, legal

1 guardian, legal custodian, and the parties shall also be
2 informed of the contents of the petition and, except as
3 provided herein, shall be given an opportunity to admit or
4 deny the allegations of the petition. Prior to the acceptance
5 of an admission of the allegations of the petition, the
6 juvenile court shall: (1) Verify if the child was previously
7 convicted or adjudicated a youthful offender pursuant to
8 Section 12-15-203 or (2) rule on any motion of the prosecutor
9 requesting the juvenile court to transfer the child for
10 criminal prosecution. The juvenile court shall not accept a
11 plea of guilt or an admission to the allegations of the
12 petition in any case in which the child will be transferred
13 for prosecution as an adult, either by grant of the motion of
14 the prosecutor to transfer or pursuant to Section 12-15-203.

15 "(d) All relevant and material evidence helpful in
16 determining the need for detention or shelter care may be
17 admitted by the juvenile court even though not admissible in
18 subsequent hearings, including the results of a detention risk
19 assessment.

20 "(e) If the child is not released and no parent,
21 legal guardian, or other legal custodian has been notified and
22 none appeared or waived appearance at the hearing, upon the
23 filing of an affidavit by the parent, legal guardian, or legal
24 custodian stating these facts and requesting a hearing, the
25 juvenile court shall rehear the matter within 24 hours

26 "(f) If a person 18 years of age or older is alleged
27 to have violated a condition of probation or aftercare after

1 the person was adjudicated to be delinquent, and that person
2 is eligible for detention pursuant to subsection (b) of
3 Section 12-15-128, the juvenile court may order that the
4 person be confined in the appropriate jail or lockup for
5 adults as ordered by the juvenile court pursuant to the
6 criteria listed in Section 12-15-208.

7 "(g) Video conferencing may be used to conduct a
8 detention hearing unless one or more party objects and the
9 court finds good cause to hold the hearing in person.

10 "§12-15-209.

11 "(a) When the juvenile court finds, pursuant to
12 subsection (b) of Section 12-15-128, that full-time detention
13 or shelter care of a child is not required, the juvenile court
14 shall order the release of the child, and in so doing, may
15 impose one or more of the following conditions:

16 "(1) Place the child in the custody of a parent,
17 legal guardian, legal custodian, or any other person whom the
18 juvenile court deems proper, or place the child with a
19 department, agency, or organization agreeing to supervise the
20 child.

21 "(2) Place restrictions on the travel, association,
22 or place of abode of the child during the period of his or her
23 release, or place the child under electronic or telephone
24 monitoring, if available.

25 "(3) Impose any other condition deemed reasonably
26 necessary and consistent with the criteria for detaining
27 children specified in Section 12-15-128, ~~including~~ other than

1 a condition requiring that the child return to custody or be
2 placed in a residential facility except as otherwise provided
3 for by law ~~as required.~~

4 "(b) An order releasing a child on any conditions
5 specified in subsection (a) may at any time be amended to
6 impose additional or different conditions of release or to
7 return the child to custody for failure to appear before the
8 court when required or if the court finds the child presents a
9 clear and substantial threat of a serious nature to the person
10 or property of others ~~conform to the conditions originally~~
11 ~~imposed.~~

12 "§12-15-211.

13 "(a) The juvenile court may suspend delinquency or
14 child in need of supervision proceedings pursuant to a consent
15 decree. The terms and conditions of the consent decree shall
16 be agreed to by the child and his or her parent, legal
17 guardian, or legal custodian. The consent decree shall be
18 entered at any time after the filing of a delinquency or child
19 in need of supervision petition and before the entry of an
20 adjudication order. The child and his or her parent, legal
21 guardian, or legal custodian shall be advised of their rights,
22 including the right to counsel.

23 "(b) Where an objection is made by the prosecutor,
24 the juvenile court, after considering the objection and the
25 reasons therefor, shall proceed to determine whether it is
26 appropriate to enter a consent decree.

1 "~~(c) A~~ Unless the child is discharged sooner by the
2 juvenile court, a consent decree shall remain in force for a
3 limited duration as follows: ~~six months unless the child is~~
4 ~~discharged sooner by the juvenile court. Upon application of a~~
5 ~~juvenile probation officer or other department or agency~~
6 ~~supervising the child, made before the expiration of the~~
7 ~~six-month period, a consent decree may be extended by the~~
8 ~~juvenile court for an additional six months.~~

9 "(1) For a child in need of supervision offense, a
10 period not to exceed three months.

11 "(2) For an offense which would constitute a
12 misdemeanor if it were committed by an adult, a period not to
13 exceed six months.

14 "(3) For an offense which would constitute a Class C
15 or D felony if it were committed by an adult, a period not to
16 exceed nine months.

17 "(4) For an offense which would constitute a Class A
18 or B felony if it were committed by an adult, a period not to
19 exceed 12 months.

20 "(d) If prior to discharge by the juvenile probation
21 officer or expiration of the consent decree, a new delinquency
22 or child in need of supervision petition is filed against the
23 child, or the child otherwise fails to fulfill express terms
24 and conditions of the decree, the petition under which the
25 child was continued under supervision may be reinstated after
26 a hearing and the case may proceed to adjudication.

1 "(e) Upon satisfaction by the child of the
2 conditions of the consent decree or upon the child being
3 otherwise discharged by the juvenile court, the petition shall
4 be dismissed with prejudice.

5 "(f) No fine, fee, or court cost shall be assessed
6 against a child as part of a consent decree.

7 "§12-15-215.

8 "(a) If the juvenile court finds on proof beyond a
9 reasonable doubt, based upon competent, material, and relevant
10 evidence, that a child committed the acts by reason of which
11 the child is alleged to be delinquent or in need of
12 supervision, it may proceed immediately to hear evidence as to
13 whether the child is in need of care or rehabilitation and to
14 file its findings thereon. In the absence of evidence to the
15 contrary, a finding that the child has committed an act which
16 constitutes a felony is sufficient to sustain a finding that
17 the child is in need of care or rehabilitation. If the
18 juvenile court finds that the child is not in need of care or
19 rehabilitation, it shall dismiss the proceedings and discharge
20 the child from any detention or other temporary care
21 theretofore ordered. If the juvenile court finds that the
22 child is in need of care or rehabilitation, it may make any of
23 the following orders or dispositions, subject to the
24 limitations and prohibitions of this section, and the
25 limitations on secure custody and placement in a residential
26 facility contained in Section 12-15-208 and Section 12-15-110:

1 "(1) Permit the child to remain with the parent,
2 legal guardian, or other legal custodian of the child, subject
3 to the conditions and limitations the juvenile court may
4 prescribe in accordance with this section.

5 "(2) Place the child on probation pursuant to
6 conditions and limitations the juvenile court may prescribe in
7 accordance with this section.

8 "(3) Transfer legal and physical custody to any of
9 the following:

10 "a. The Department of Youth Services, with or
11 without an order to a specific institution.

12 "1. A child shall be eligible for placement with the
13 department only upon adjudication under this section for
14 either of the following:

15 "(i) A Class A, B, or C that is not for drug
16 possession.

17 "(ii) A. A Class C felony that is for drug
18 possession, a Class D felony, or a misdemeanor; and

19 "B. The child has at least four prior felony or
20 misdemeanor adjudications arising from separate incidents.

21 "2. The court may only suspend an order of custody
22 to the Department of Youth Services or a residential facility
23 upon disposition if the child meets the criteria defined in
24 subparagraph (a) (3) a.1.

25 "3. If the court issues a suspended order under
26 subparagraph (a) (3) a.2., the court may only impose that
27 suspended order upon adjudication of a subsequent delinquent

1 offense or upon adjudication of a substantive probation
2 violation.

3 "(i) A substantive probation violation occurs when
4 there is a willful failure to comply with a condition of
5 probation that satisfies all of the following:

6 "A. Is included by the disposing court, in writing,
7 as a special condition ordered in accordance with the results
8 of a validated risk and needs assessment.

9 "B. Does not amount to a general condition.

10 "C. Is identified in writing as a condition the
11 violation of which allows the court to lift suspension of the
12 child's sentence.

13 "4. The court may not order specific conditions that
14 the child must complete prior to release from custody of the
15 department. In making an order of commitment to the
16 department, the juvenile court may make recommendations
17 regarding programs or conditions, but those recommendations
18 shall not be binding upon the department.

19 "5. The court may not order a determinate sentence
20 for a child committed to custody of the department, except
21 upon a finding that the child is a serious juvenile offender
22 pursuant to Section 12-15-219.

23 "b. In the case of a child in need of supervision,
24 ~~the Department of Youth Services, or~~ the Department of Human
25 Resources; provided however 1. that prior to any transfer of
26 custody to the Department of Human Resources, the case shall
27 first be referred to the county children's services

1 facilitation team, which must proceed according to Article 5;
2 and 2. that the child's commission of one or more status
3 offenses shall not constitute a sufficient basis for transfer
4 of legal or physical custody to the Department of Human
5 Resources. Upon referral to the county children's services
6 facilitation team, the juvenile probation officer shall
7 continue to provide case management to the status offender
8 unless the county children's services facilitation team
9 appoints another person to act as case manager. The juvenile
10 probation officer shall participate in county children's
11 services facilitation team meetings and share records
12 information and reports on the status offender with the county
13 children's services facilitation team. When the juvenile court
14 transfers legal and physical custody to the Department of
15 Human Resources, all requirements which shall be met for a
16 child to be eligible for federal funding shall apply,
17 including, but not limited to, the requirements set out in
18 Sections 12-15-312, 12-15-315, and 12-15-317.

19 "c. A local, public, or private agency,
20 organization, or facility willing and able to assume the
21 education, care, and maintenance of the child and which is
22 licensed or otherwise authorized by law to receive and provide
23 care for children. Any order of placement under this
24 subsection to a residential facility or secure custody as
25 defined in Section 12-15-102 shall adhere to the placement
26 eligibility criteria defined in paragraph (a) (3)a., except

1 where the proceedings are pursuant to Article 3 of Chapter 15
2 of this title or Article 4 of Chapter 15 of this title.

3 "d. During the term of supervision, a relative or
4 other individual who is found by the juvenile court to be
5 qualified to receive and care for the child.

6 "e. This subdivision applies to a child not in the
7 legal or physical custody of the Department of Youth Services
8 but ordered to be placed in a residential facility operated by
9 the Department of Youth Services.

10 "(4) Make any other order that does not place a
11 child in a residential facility or secure custody as defined
12 in Section 12-15-102 as the juvenile court in its discretion
13 shall deem to be for the welfare and best interests of the
14 child consistent with the results of a validated risk and
15 needs assessment, including random drug screens, ~~assessment of~~
16 ~~fines not to exceed two hundred fifty dollars (\$250),~~ and
17 restitution against the parent, legal guardian, legal
18 custodian, or child, as the juvenile court deems appropriate.
19 Costs for juvenile court-ordered drug screening may not be
20 ordered against the child but may be ordered paid for by the
21 state out of moneys appropriated as "court costs not otherwise
22 provided for." Restitution against the parent, legal guardian,
23 legal custodian, or child shall be governed by the same
24 principles applicable in the Restitution to Victims of Crime
25 Act, commencing with Section 15-18-65, except that restitution
26 may only be assessed for material loss, which means uninsured

1 property loss, uninsured out-of-pocket monetary loss,
2 uninsured lost wages, and uninsured medical expenses.

3 "(5) Direct the parent, legal guardian, or legal
4 custodian of the child to perform reasonable acts as are
5 deemed necessary to promote the best interests of the child.

6 "(6) In any case where a child is adjudicated
7 delinquent for possessing a pistol, short-barreled rifle, or
8 short-barreled shotgun, any pistol, short-barreled rifle, or
9 short-barreled shotgun possessed by that child is forfeited
10 and shall be ordered to be destroyed by the juvenile court.

11 "(b) No child by virtue of a disposition pursuant to
12 this section shall be committed or transferred to a penal
13 institution or other facility used for the execution of
14 sentences of persons convicted of a crime.

15 "(c) No child in need of supervision, unless also a
16 delinquent child, shall be ordered to be placed in an
17 institution or facility established for the care and
18 rehabilitation of delinquent children ~~unless the juvenile~~
19 ~~probation officer submits a written recommendation and the~~
20 ~~juvenile court finds upon a further hearing that the child is~~
21 ~~not amenable to treatment or rehabilitation pursuant to any~~
22 ~~prior disposition.~~

23 ~~"In determining if a child is not amenable to~~
24 ~~treatment or rehabilitation, the juvenile court shall consider~~
25 ~~evidence of the following and other relevant factors:~~

26 ~~"(1) Prior treatment efforts, such as, but not~~
27 ~~limited to:~~

1 ~~"a. Mental health counseling, if any.~~

2 ~~"b. Individualized educational plans, if any.~~

3 ~~"c. Other educational records.~~

4 ~~"d. Individualized service plans, if any.~~

5 ~~"(2) The age of the child.~~

6 ~~"(3) The history of the child being involved with~~
7 ~~the juvenile court, including, but not limited to, informal~~
8 ~~adjustments, consent decrees, adjudications, and prior~~
9 ~~placements.~~

10 ~~"(4) Other factors contributing to the behavioral~~
11 ~~difficulties of the child.~~

12 ~~"The written recommendations of the juvenile~~
13 ~~probation officer shall include evidence of the foregoing and~~
14 ~~other relevant factors.~~

15 "(d) When a delinquent child may be committable to
16 the Department of Mental Health, the juvenile court shall
17 proceed as provided in Article 4, commencing with Section
18 12-15-401.

19 "(e) Whenever the juvenile court vests legal custody
20 in an agency or department, it shall transmit with the order
21 copies of the clinical reports, predisposition study, and
22 other information it has pertinent to the care and treatment
23 of the child.

24 "(f) When a child is placed in the legal custody of
25 a department, agency, organization, entity, or person as
26 provided in this section, when the parent, legal guardian, or
27 legal custodian of the child has resources for child support,

1 the juvenile court shall order child support in conformity
2 with the child support guidelines as set out in Rule 32,
3 Alabama Rules of Judicial Administration. The child support
4 shall be paid to the department, agency, organization, entity,
5 or person in whose legal custody the child is placed and may
6 be expended for those matters that are necessary for the
7 welfare and well-being of those children placed in the
8 departments, agencies, organizations, entities, or persons. In
9 these cases, the juvenile court shall issue income withholding
10 orders subject to state law.

11 "(g) Whenever the juvenile court commits a child to
12 a state or local department or agency or orders a state or
13 local department or agency to provide services or treatment
14 for a child, that department or agency shall accept the child
15 for commitment, ordered services, or treatment within seven
16 days of the order of the juvenile court. Notwithstanding the
17 foregoing, if compliance with the order of the juvenile court
18 within seven days, including Section 44-1-24, would place a
19 department or agency in violation of either a state statute or
20 standard, then compliance is not required.

21 "(h) (1) The total length of supervision, from
22 initial disposition to final discharge, including any time
23 spent on probation, in placement, in custody, or on aftercare,
24 including any extensions for violations of probation or
25 aftercare, shall be limited by offense level as follows:

26 "a. For a child adjudicated as a child in need of
27 supervision, supervision shall not exceed nine months.

1 "b. For a child adjudicated delinquent for an
2 offense which would be a misdemeanor if it were committed by
3 an adult, supervision shall not exceed 12 months.

4 "c. For a child adjudicated delinquent for an
5 offense which would be a Class C or D felony if it were
6 committed by an adult, supervision shall not exceed 15 months.

7 "d. For a child adjudicated delinquent for an
8 offense which would be a Class A or B felony if it were
9 committed by an adult, a period not to exceed 18 months,
10 except that for those offenses for which a child would be
11 automatically transferred pursuant to Section 12-15-204 if the
12 child was 16 or 17 years old, the limitation does not apply.

13 "(2) For the purposes of this subsection, a child's
14 maximum length of supervision shall not be more than that
15 permitted for the most serious adjudicated charge arising from
16 a single incident.

17 "(3) For the purposes of this subsection, if a child
18 is adjudicated on multiple charges, the court may not apply
19 the maximum length of supervision for the charges
20 consecutively. If a child is adjudicated for multiple cases
21 simultaneously, the court shall apply the maximum length of
22 supervision for all charges concurrently.

23 "(4) For the purposes of this subsection, in the
24 event of an unauthorized leave lasting more than 24 hours, the
25 period of supervision shall be tolled until the minor is
26 located.

1 "(i) The court may not order against any child any
2 fine, fee, or court cost. Any local law that requires or
3 allows the assessment of any fine, fee, or court cost against
4 a child, including supervision fees, shall be superseded by
5 this section and may not be assessed or collected.

6 "(j) Upon release from custody of the Department of
7 Youth Services, the court may place a child on aftercare
8 supervision, pursuant to Section 44-1-36, for up to six
9 months, except that where the commitment was for those
10 offenses for which a child would be automatically transferred
11 pursuant to Section 12-15-204 if the child was 16 or 17 years
12 old, the six-month limitation does not apply.

13 "(k) In issuing an order of probation pursuant to
14 subdivision (a) (2), the juvenile court shall only issue orders
15 that adhere to the following limitations:

16 "(1) Probation conditions shall be individualized
17 and based on the results of a validated risk and needs
18 assessment pursuant to Section 10 of the act adding this
19 amendatory language.

20 "(2)a. Probation length shall determined based on
21 the most serious adjudicated offense arising from the facts
22 before the court, and shall be limited as follows:

23 "1. For a child adjudicated as a child in need of
24 supervision, the court may order no more than three months of
25 probation.

26 "2. For a child adjudicated delinquent for an
27 offense that would be a misdemeanor offense if it were

1 committed by an adult, the court may order no more than six
2 months of probation.

3 "3. For a child adjudicated delinquent for an
4 offense that would be a Class C or D felony if it were
5 committed by an adult, the court may order no more than nine
6 months of probation.

7 "4. For a child adjudicated delinquent for an
8 offense that would be a Class A or B felony if it were
9 committed by an adult, the court may order no more than 12
10 months of probation.

11 "b. Only a new adjudication, other than an
12 adjudication for a violation of probation or aftercare, may
13 result in a new period of probation pursuant to the
14 limitations in this subsection.

15 "c. For the purposes of this subsection, in the
16 event of an unauthorized leave lasting more than 24 hours, the
17 period of probation shall be tolled until the child is
18 located.

19 "(3)a. Probation length may only be extended beyond
20 the timeframes outlined in subdivision (k) (2) to allow the
21 child to complete an evidence-based treatment program that the
22 child has already begun at the time of the extension request.

23 "b. Probation length may not be extended for
24 violations of probation or for non-payment of fines, fees,
25 court costs, or restitution.

26 "(4) Any modification of supervision conditions must
27 be consistent with the results of a validated risk and needs

1 assessment, pursuant to Section 10 of the act adding this
2 amendatory language and Section 12-15-221.

3 "(5) The court may not order that a child be placed
4 in secure custody or a residential facility upon violation of
5 probation or aftercare, except in accordance with subparagraph
6 (a) (3)a.2. and as follows:

7 "a. The court may order a youth to detention as
8 follows upon a finding that probation has been violated:

9 "1. For up to 24 hours on a first violation.

10 "2. For up to 48 hours on a second or subsequent
11 violation.

12 "(6) No placement in a residential facility or
13 detention may be ordered for non-payment of fines, fees, court
14 costs, or restitution.

15 "§12-15-221.

16 "(a) An order awarding legal custody or an order of
17 probation made by the juvenile court in the case of a child
18 may be modified, revoked, or extended on motion by:

19 "(1) A child, whose legal custody has been
20 transferred to a department, institution, agency, or person,
21 requesting the juvenile court for a modification or
22 termination of the order, alleging that the child is no longer
23 in need of placement or probation and the department,
24 institution, agency, or person has denied application for
25 release of the child or has failed to act upon the application
26 within a reasonable time; or

1 "(2) A department, institution, agency, or person
2 vested with legal custody or responsibility for probation,
3 requesting the juvenile court for a modification, an
4 extension, or a termination of the order on the grounds that
5 the action is in the best interests of the child or necessary
6 to safeguard the welfare of the child or the public interest.

7 "(b) The juvenile court may dismiss the motions
8 filed pursuant to subsection (a) if, after preliminary
9 investigation, it finds that they are without substance. If
10 the juvenile court is of the opinion that the order should be
11 reviewed, upon due notice to all necessary parties as
12 prescribed by rules of court, it may proceed to a hearing in
13 the same manner and under the same safeguards provided for in
14 this chapter for the issuance of the original order. It may
15 thereupon terminate the order if it finds the child is no
16 longer in need of care or rehabilitation or it may enter an
17 order extending or modifying the original order if it finds
18 this action necessary to safeguard the child or the public
19 interest.

20 "(c) The juvenile court shall only extend probation
21 or add additional conditions upon adjudication of a violation
22 of probation and consistent with the results of a validated
23 risk and needs assessment as provided in subsection (k) of
24 Section 12-15-215.

25 "(d) The juvenile court shall dismiss any motion
26 filed pursuant to subsection (a) if, after preliminary
27 investigation, it finds that an extension requested in the

1 motion would exceed the overall supervision length defined in
2 subsection (h) of Section 12-15-215 or probation length as
3 defined in subsection (k) of Section 12-15-215 or that an
4 extension or modification is not consistent with the results
5 of a validated risk and needs assessment pursuant to Section
6 10 of the act adding this amendatory language.

7 "§12-15-701.

8 "(a) For the purposes of this section, sexually
9 exploited child shall mean an individual under the age of 18
10 years who is under the jurisdiction of the juvenile court and
11 who has been subjected to sexual exploitation because he or
12 she is any of the following:

13 "(1) A victim of the crime of human trafficking
14 sexual servitude as provided in Section 13A-6-150, et seq.

15 "(2) Engaged in prostitution as provided in Section
16 13A-12-120 or 13A-12-121.

17 "(3) A victim of the crime of promoting prostitution
18 as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113.

19 "(b) A sexually exploited child may not be
20 adjudicated delinquent or convicted of a crime of prostitution
21 as provided in Section 13A-12-120 or 13A-12-121, or any
22 municipal ordinance prohibiting such acts.

23 "(c) In any proceeding based upon a child's arrest
24 for an act of prostitution, there is a presumption that the
25 child satisfies the definition of a sexually exploited child
26 as provided in this section.

1 "(d) If a law enforcement officer or a person seeks
2 to file a complaint against a child for an offense of
3 prostitution as provided in Section 13A-12-120 or 13A-12-121,
4 the juvenile court intake officer shall evaluate the complaint
5 to determine if the child is a sexually exploited child and
6 could have another complaint filed stating that the child is
7 alleged to be in need of supervision or alleged to be
8 dependent, and not a child alleged to be delinquent, pursuant
9 to Rule 12 of the Alabama Rules of Juvenile Procedure. A
10 juvenile probation officer who is designated to be a juvenile
11 court intake officer ~~may~~ shall determine if a child alleged to
12 be in need of supervision is appropriate for an informal
13 adjustment pursuant to Section 12-15-119 ~~Rule 15 of the~~
14 ~~Alabama Rules of Juvenile Procedure.~~

15 "(e) If a petition alleging that a sexually
16 exploited child is in need of supervision or is dependent is
17 filed, a sexually exploited child may be adjudicated a child
18 in need of supervision or a dependent child pursuant to
19 Section 12-15-102(4) and (8). Once the sexually exploited
20 child is adjudicated, the juvenile court shall retain
21 jurisdiction over the sexually exploited child and may enforce
22 prior orders requiring payment of court-ordered monies
23 pursuant to Section 12-15-117. The juvenile court may issue
24 any requisite order or conduct any hearing necessary to
25 protect the health or safety of a sexually exploited child
26 that is determined to be in the best interests of the child.
27 The juvenile court may also, on an emergency basis, enter an

1 order of protection or restraint to protect the health or
2 safety of a sexually exploited child.

3 "(f) A sexually exploited child who commits an act
4 of prostitution as provided in Section 13A-12-120 or
5 13A-12-121 may not be transferred from the jurisdiction of
6 juvenile court to any adult court pursuant to Section
7 12-15-203, ~~except in those cases where the child has been~~
8 ~~convicted or adjudicated a youthful offender divesting the~~
9 ~~juvenile court of jurisdiction as provided in Sections~~
10 ~~12-15-203(i) and 12-15-204(b).~~

11 "(g) A sexually exploited child who commits an act
12 of prostitution as provided in Section 13A-12-120 or
13 13A-12-121 shall be afforded all rights pursuant to Section
14 12-15-202.

15 "(h) All social and community services shall be made
16 available to a sexually exploited child. Services may include,
17 but are not limited to, any of the following:

18 "(1) Forensic evidence collection.

19 "(2) Forensic interviewing.

20 "(3) Counseling.

21 "(4) Advocacy.

22 "(5) Shelter.

23 "(6) Alcohol or substance abuse treatment.

24 "(7) Mental health services.

25 "(8) Medical treatment.

26 "(9) Legal services.

1 "(10) Educational tutoring, counseling, and language
2 interpreter services.

3 "(11) Crisis intervention services.

4 "(12) Safety planning.

5 "(13) Investigation and prosecution of the
6 individuals subjecting the child to sexual exploitation or
7 abuse.

8 "§12-25-9.

9 "The commission shall have the following
10 responsibilities:

11 "(1) To review state sentencing structure, including
12 laws, policies, and practices, and recommend changes to the
13 criminal code, criminal rules of procedure, and other aspects
14 of sentencing necessary to accomplish the purposes and
15 objectives of this article.

16 "(2) To review the overcrowding problem in county
17 jails, with particular emphasis on funding for the county
18 jails and the proper removal of state prisoners from county
19 jails pursuant to state law and state and federal court
20 orders, and to make recommendations for resolution of these
21 issues to the Governor, Legislature, Attorney General, and
22 Judicial System Study Commission before the 2002 Regular
23 Legislative Session.

24 "(3) To make recommendations to the Governor,
25 Legislature, Attorney General, and Judicial System Study
26 Commission concerning the enactment of laws relating to

1 criminal offenses, sentencing, and correctional or probation
2 matters.

3 "(4) To publish an annual report and other reports
4 as the chair deems necessary.

5 "(5) To serve as a clearinghouse for the collection,
6 preparation, and dissemination of information on sentencing
7 practices.

8 "(6) To maintain and make available for public
9 inspection records of actions taken by the commission.

10 "(7) To serve as a partner to the Juvenile Justice
11 Oversight Committee in accordance with Section 8 of the act
12 adding this amendatory language to do all of the following:

13 "a. Collect juvenile justice data.

14 "b. Monitor custody orders committing youth to the
15 Department of Youth Services and report comprehensive data on
16 orders that commit ineligible youth to the department to the
17 committee.

18 "c. Report juvenile justice data regularly to the
19 committee.

20 "§16-28-2.2.

21 "(a) Local boards of education, pursuant to
22 guidelines established by the State Board of Education, shall
23 establish educational programs to inform parents of school
24 children of their education-related responsibilities to their
25 children. The programs shall include, but shall not be limited
26 to, coverage of each of the following topics:

1 "(1) The criminal liability and criminal sanctions
2 parents may be subject to under Section 16-28-12, for failing
3 to compel their child to properly conduct himself or herself
4 as a pupil, or for failing to ensure that their child attends
5 school or enrolls in school.

6 "(2) The necessity for a parent to monitor and
7 supervise the school work and educational activities of the
8 child.

9 "(3) An explanation of the responsibilities of
10 teachers and the school system to a child, and an enumeration
11 of those matters that are strictly the responsibility of the
12 parent.

13 "(4) Techniques and suggestions to enable a parent
14 to best supervise the school work and educational activities
15 of the child.

16 "(5) An explanation of the interrelationship of the
17 family life of a child and the educational achievement of the
18 child.

19 "(6) An explanation of the services available to
20 parents and families of school children that may be accessed
21 in response to absenteeism and other school-related
22 misconduct.

23 "(b) The State Board of Education and local boards
24 of education shall develop strategies to ensure that parents
25 of school children receive this information. These strategies
26 may include provisions for weekend meetings, one-to-one

1 conferences, telephone communications, and neighborhood
2 meetings.

3 "(c) Local district attorneys and law enforcement
4 officials shall, at the request of the local board of
5 education, assist in the implementation and operation of this
6 section.

7 "§16-28-8.

8 "All school officers, including those in private
9 schools, or private tutors, but not those in church schools,
10 in this state offering instruction to pupils within the
11 compulsory attendance ages, shall make and furnish all reports
12 that may be required by the State Superintendent of Education
13 and by the county superintendent of education or by the board
14 of education of any city with reference to the workings of
15 this article. The principal teacher of each public school,
16 private school, church school and each private tutor shall
17 keep an attendance register showing the enrollment of the
18 school and every absence of each enrolled child from school
19 for a half day or more during each school day of the year,
20 along with any efforts made to intervene with the child and
21 that child's family to address school absence.

22 "§16-28-12.

23 "(a) Each parent, guardian, or other person having
24 control or custody of any child required to attend school or
25 receive regular instruction by a private tutor who fails to
26 have the child enrolled in school or who fails to send the
27 child to school, or have him or her instructed by a private

1 tutor during the time the child is required to attend a public
2 school, private school, church school, denominational school,
3 or parochial school, or be instructed by a private tutor, or
4 fails to require the child to regularly attend the school or
5 tutor, or fails to compel the child to properly conduct
6 himself or herself as a pupil in any public school in
7 accordance with the written policy on school behavior adopted
8 by the local board of education pursuant to this section and
9 fails to participate in an early warning truancy prevention
10 program offered by the school as provided in Section 5 of the
11 act adding this amendatory language and documented by the
12 appropriate school official which conduct may result in the
13 suspension of the pupil, shall be guilty of a misdemeanor and,
14 upon conviction, shall be fined not more than one hundred
15 dollars (\$100) and may also be sentenced to hard labor for the
16 county for not more than 90 days. The absence of a child
17 without the consent of the principal teacher of the public
18 school he or she attends or should attend, or of the tutor who
19 instructs or should instruct the child, shall be prima facie
20 evidence of the violation of this section.

21 "(b) Each local public board of education shall
22 adopt a written policy for its standards on school behavior.
23 Each local public school superintendent shall provide at the
24 commencement of each academic year a copy of the written
25 policy on school behavior to each parent, guardian, or other
26 person having care or control of a child who is enrolled.
27 Included in the written policy shall be a copy of this

1 section. The signature of the student and the parent,
2 guardian, or other person having control or custody of the
3 child shall document receipt of the policy.

4 "(c) Any parent, guardian, or other person having
5 control or custody of any child enrolled in public school who
6 fails to require the child to regularly attend the school or
7 tutor, or fails to compel the child to properly conduct
8 himself or herself as a pupil in accordance with the written
9 policy on school behavior adopted by the local board of
10 education and documented by the appropriate school official
11 which conduct may result in the suspension of the pupil, shall
12 be reported by the principal to the superintendent of
13 education of the school system in which the suspected
14 violation occurred. The superintendent of education or his or
15 her designee shall report suspected violations to the district
16 attorney within 10 days. Any principal or superintendent of
17 education or his or her designee intentionally failing to
18 report a suspected violation shall be guilty of a Class C
19 misdemeanor. The district attorney shall vigorously enforce
20 this section to ensure proper conduct and required attendance
21 by any child enrolled in public school.

22 "§16-28-13.

23 "No parent, guardian or other person having control
24 or charge of any child shall be convicted for failure to have
25 said child enrolled in school or for failure to send a child
26 to school or for failure to require such child to regularly
27 attend such school or tutor, or for failure to compel such

1 child to properly conduct himself as a pupil, if such parent,
2 guardian or other person having control or charge of such
3 child can establish to the reasonable satisfaction of the
4 court the following:

5 "(1) That the principal teacher in charge of said
6 school which he attends or should attend or the tutor who
7 instructs or should instruct said child gave permission for
8 the child to be absent; or

9 "(2) That such parent, guardian or other person is
10 unable to provide necessary books and clothes in order that
11 the child may attend school in compliance with law, and that
12 such parent, guardian or other person had prior to the opening
13 of the school, or immediately after the beginning of such
14 dependency, reported such dependent condition to the juvenile
15 court of the county and offered to turn the child over to the
16 State Department of Human Resources as a dependent child; or

17 "(3) That such parent, guardian or other person has
18 made a bona fide effort to control such child and is unable to
19 do so, and files in court a written statement that he is
20 unable to control such child; or

21 "(4) That there exists a good cause or valid excuse
22 for such absence; or

23 "(5) That such parent, guardian or other person has
24 made a bona fide, diligent effort to secure the regular
25 attendance of such child and that the absence was without his
26 knowledge, connivance or consent.

1 "A good cause or valid excuse, as used in this
2 section, exists when on account of sickness or other condition
3 attendance was impossible or entirely inadvisable or
4 impracticable or when, by virtue of the extraordinary
5 circumstances, the absence is generally recognized as
6 excusable; or

7 "(6) That the school did not make reasonable efforts
8 to engage the parent, guardian, or other person having control
9 or charge of the child in an early warning truancy prevention
10 program established pursuant to Section 5 of the act adding
11 this amendatory language prior to filing a complaint.

12 "§16-28-14.

13 "In case any child becomes an habitual truant, or
14 because of irregular attendance or misconduct has become a
15 menace to the best interest of the school which he is
16 attending or should attend, and the parent, guardian or other
17 person files a written statement in court as provided in
18 Section 16-28-13, stating that he is unable to control such
19 child, and the child has been afforded the opportunity in the
20 preceding 12 months to participate in an early warning truancy
21 prevention program in the school or at home in response to the
22 nonenrollment or nonattendance, the attendance officer must
23 file a complaint before the judge of the juvenile court of the
24 county, alleging the facts, whereupon such child must be
25 proceeded against in the juvenile court for the purpose of
26 ascertaining whether such child is a dependent, neglected or
27 delinquent child.

1 "§16-28-16.

2 "(a) It shall be the duty of the county
3 superintendent of education or the city superintendent of
4 education, as the case may be, to require the attendance
5 officer to investigate all cases of nonenrollment and of
6 nonattendance. In all cases investigated where no valid reason
7 for nonenrollment or nonattendance is found, the attendance
8 officer shall give written notice to the parent, guardian, or
9 other person having control of the child. In the event of the
10 absence of the parent, guardian, or other person having
11 control of the child from his or her usual place of residence,
12 the attendance officer shall leave a copy of the notice with
13 some person over 12 years of age residing at the usual place
14 of residence, with instructions to hand the notice to the
15 parent, guardian, or other person having control of the child,
16 which notice shall require the attendance of the child at the
17 school within three days from the date of the notice. In the
18 event the investigation discloses that the nonenrollment or
19 nonattendance was without valid excuse or good reason and
20 intentional, the attendance officer shall be required to bring
21 criminal prosecution against the parent, guardian, or other
22 person having control of the child if the attendance officer
23 also finds that the school has made reasonable efforts to
24 engage the child in an early warning truancy prevention
25 program established pursuant to Section 5 of the act adding
26 this amendatory language in the school or at home in response
27 to the nonenrollment or nonattendance.

1 "(b) Each child who is enrolled in a public school
2 shall be subject to the attendance and truancy provisions of
3 this article except that any parent or parents, guardian or
4 guardians who voluntarily enrolls their child in public
5 school, who feel that it is in the best interest of that child
6 shall have the right to withdraw the child at any time prior
7 to the current minimum compulsory attendance age.

8 "§16-28-17.

9 "It shall be the duty of the attendance officer,
10 probation officer or other officer authorized to execute writs
11 of arrest to take into custody without warrant any child
12 required to attend school or be instructed by a private tutor
13 who is found away from home and not in the custody of the
14 person having charge or control of such child during school
15 hours and who has been reported by any person authorized to
16 begin proceedings or prosecutions under the provisions of this
17 article as a truant. Such child shall forthwith be delivered
18 to the person having charge or control of said child or to the
19 principal teacher of the school or the private tutor from whom
20 ~~said~~ the child is a truant. If such child is an habitual
21 truant, and the school has made reasonable efforts to engage
22 the child in an early warning truancy prevention program in
23 the school or at home in response to the child's nonattendance
24 or nonenrollment, he or she shall be brought before the
25 juvenile court for intake ~~such disposition as the judge of~~
26 ~~said court finds proper from the facts.~~

27 "§16-28-18.

1 "The attendance officer whose appointment is by this
2 article provided for shall keep an accurate record of all
3 notices served, all cases prosecuted and all other services
4 performed and shall make an annual report of the same to the
5 county board of education or to the city board of education by
6 whom he or she is employed, and to the Alabama State
7 Department of Education.

8 "§44-1-1.

9 "The purpose of this chapter is to promote and
10 safeguard the social well-being and general welfare of the
11 youth of the state through a comprehensive and coordinated
12 program of public services for the prevention of juvenile
13 delinquency and the rehabilitation of delinquent youth. This
14 state program shall provide the following:

15 "(1) Social and educational services and facilities
16 for any youth whom a juvenile judge deems in need of such
17 state services except pursuant to subdivision (13) of Section
18 44-1-24;

19 "(2) The establishment of standards for social and
20 educational services and facilities for such youth;

21 "(3) Cooperation with public and voluntary agencies,
22 organizations, and citizen groups in the development and
23 coordination of programs and activities directed toward the
24 prevention, control, and treatment of delinquency;

25 "(4) The promotion and improvement of community
26 conditions, programs, and resources to aid parents in

1 discharging their responsibilities for the care, development,
2 and well-being of their children; and

3 "(5) The promotion of improved communications
4 between the public and voluntary agencies and bodies of this
5 state responsible for ~~said~~ youth and the juvenile courts of
6 this state.

7 "§44-1-24.

8 "The Department of Youth Services shall perform the
9 following:

10 "(1) Provide services for youths who have run away
11 from their own communities in this state or from their home
12 communities in other states to this state, and provide such
13 services, care, or cost for the youths as may be required
14 pursuant to the provisions of the Interstate Compact on
15 Juveniles.

16 "(2) Provide for the expansion of local detention
17 care for youths alleged to be delinquent pending court
18 hearing.

19 "(3) Secure the provision of medical, hospital,
20 psychiatric, surgical, or dental service, or payment of the
21 cost of such services, as may be needed for committed youths.

22 "(4) License and subsidize foster care facilities or
23 group homes for youths alleged to be delinquent pending
24 hearing before a juvenile court or adjudged delinquent
25 following hearing, including detention, examination, study,
26 care, treatment, and training.

1 "(5) Establish, maintain, and subsidize programs to
2 train employees of the department, juvenile courts, and law
3 enforcement personnel in such subject matters and techniques
4 as may be necessary to assure efficient and effective
5 administration of services in accordance with the purpose of
6 this chapter.

7 "(6) Make and enforce all rules and regulations
8 which are necessary and appropriate to the proper
9 accomplishment of the duties and functions vested in the
10 department by law with respect to youth services and which do
11 not conflict with or exceed the provisions of law vesting the
12 duties and functions in the department.

13 "(7)a. Enter into contracts with any other state or
14 federal agency or with any private person, organization, or
15 group capable of contracting, if the department finds the
16 action to be in the public interest.

17 "b. Where contracts are for the treatment or
18 rehabilitation of youth, the contracts shall adhere to a
19 system of performance-based contracting developed by the
20 department.

21 "(8) Upon approval of the Attorney General, file and
22 prosecute civil actions in any court in the name of the
23 department to enforce this chapter and enforce such rules and
24 regulations as may be promulgated under this chapter. Civil
25 actions may include actions for an injunction to restrain any
26 person, agency, or organization from violating any provision

1 of this chapter or any rule or regulation promulgated under
2 this chapter.

3 "(9) Accept gifts, trusts, bequests, grants,
4 endowments, or transfers of property of any kind and prudently
5 to manage the property in accordance with sound financial
6 principles.

7 "(10) Prescribe and furnish forms to clerks of
8 probate and juvenile courts for use in connection with any
9 action to be taken under this chapter.

10 "(11) Enter into reciprocal agreements with
11 appropriate agencies of other states relative to youth
12 services programs.

13 "(12) Engage in research in the field of youth
14 services, enter into contracts with public or voluntary
15 organizations, including educational institutions, and with
16 individuals for the purpose of securing research and to make
17 provisions for any pay grants to such organizations or
18 individuals in accordance with the rules of the department, as
19 may be necessary to secure the performance of the research.

20 "(13) If the court commits a youth who is ineligible
21 for custody pursuant to Section 12-15-215 to the custody of
22 the department, the department shall reject the commitment and
23 shall not admit the youth to its facilities.

24 "§44-1-36.

25 "(a) In the event a committed youth shall be
26 diagnosed in writing as mentally ill to the degree that ~~said~~
27 the youth is unable to profit from the programs operated by

1 the ~~department of youth services~~ Department of Youth Services
2 for the benefit of delinquent youth, the department may
3 petition the proper juvenile court for the commitment of the
4 ~~said~~ youth to the state hospital for the mentally ill. The
5 diagnosis must be made by a person who is legally and
6 professionally qualified under the laws of Alabama to make
7 such a diagnosis.

8 "(b) In the event a committed youth shall be
9 diagnosed in writing as ~~mentally retarded~~ a person with a
10 disability to the degree that ~~said~~ youth is unable to profit
11 from the programs operated by the department for the benefit
12 of delinquent youth, the department may petition the proper
13 juvenile court for the commitment of the ~~said~~ youth to the
14 state hospital ~~for the mentally retarded~~. The diagnosis must
15 be made by a person who is legally and professionally
16 qualified under the laws of Alabama to make such a diagnosis.

17 "(c) A committed youth shall be discharged who, in
18 the judgment of the director, has gained optimal
19 rehabilitation from the programs of the department and will
20 not be received again by the department under the original
21 commitment order.

22 "(d) A committed youth shall be released into
23 aftercare when the department determines that ~~said~~ the youth
24 is no longer in need of the services of the state training
25 schools and can function within open society under the
26 supervision of a probation officer in accordance with terms
27 and conditions as established by the committing court. The

1 department shall notify the committing court in writing at
2 least 10 days in advance of the release. The committing court,
3 at the time of release into aftercare, shall then invest
4 custody in a party which the court deems suitable. An order of
5 aftercare shall be issued pursuant to subsection (j) of
6 Section 12-15-215.

7 "(e) The committing court shall have jurisdiction to
8 extend an order of commitment during the time of aftercare and
9 to issue further orders in relation to the investment of legal
10 custody in some other party until the youth reaches his or her
11 twenty-first birthday only in accordance with subsection (h)
12 and subdivision (k) (5) of Section 12-15-215 upon proper
13 petitions being filed with the ~~said~~ court by a probation
14 officer alleging all reasons for any aftercare extension or
15 change of legal custody. A hearing shall be held in ~~said the~~
16 juvenile court within 10 days after the filing of the petition
17 to determine whether the youth's aftercare should be extended,
18 only in accordance with subsection (h) of Section 12-15-215
19 ~~for no more than six months.~~

20 "(f) When a committed youth has either fulfilled his
21 or her period of commitment or reached his or her supervision
22 length limitation as provided in subsection (h) of Section
23 12-15-215, whichever comes first, he or she shall be
24 discharged from the department's custody, and any recommitment
25 to the department must be based on a new offense and a new
26 hearing.

1 "(g) In the event that a youth has not been
2 discharged prior to the expiration of two years from the date
3 of the entry of the original commitment order, the department
4 must request either:

5 "(1) The termination of the commitment order and the
6 issuance of such other orders respecting the legal custody and
7 continued supervision of the youth as may be warranted under
8 the circumstances, or

9 "(2) The extension of the original order for a
10 further specifically limited period of time, on the grounds
11 that such extension is necessary for the welfare of the youth
12 or for the public interest, such extension not to exceed the
13 date upon which the youth will reach the age of 21 years.

14 "There must be a hearing at which the youth and his or her
15 parent, guardian, or counsel are present. The committing court
16 shall have jurisdiction until the youth reaches his or her
17 twenty-first birthday to issue an extension of its original
18 commitment order only pursuant to subsection (h) of Section
19 12-15-215. If the department does not act as prescribed in
20 this subsection, custody awarded by the commitment order is
21 terminated, and such order as regards such youth has no
22 further force and effect after the expiration of two years.

23 "(h) Upon the youth's reaching his or her
24 twenty-first birthday, custody awarded by the commitment order
25 is terminated, and such order as regards such person has no
26 further force and effect."

1 Section 2. (a) For the purposes of this section, a
2 "detention risk assessment tool" means an evidence-based tool
3 that is designed to assist in making detention determinations
4 by assessing a child's risk of failure to appear in court or
5 reoffend prior to adjudication.

6 (b) By January 1, 2020, the Administrative Office of
7 Courts shall develop a detention risk assessment tool to
8 inform pre-adjudication detention decisions, including whether
9 a child is eligible for detention, whether a child is eligible
10 to continue in detention once the child has been placed in
11 detention, and whether the child is eligible for a
12 non-custodial alternative to detention in lieu of release
13 without conditions.

14 (c) The Administrative Office of Courts shall
15 develop a scoring system to inform eligibility for detention
16 and detention alternatives, in conjunction with the criteria
17 provided in Section 12-15-128, Code of Alabama 1975.

18 Section 3. (a) By January 1, 2019, the
19 Administrative Office of Courts shall develop and implement a
20 statewide protocol to remind youth about pending court dates
21 in advance of hearings in delinquency and child in need of
22 supervision cases to reduce avoidable failures to appear.

23 (b) The protocol shall be developed in collaboration
24 with the Juvenile Justice Oversight Committee, established
25 pursuant to Section 8.

26 (c) The protocol may include the following:

1 (1) Phone calls to the current residence of the
2 child against whom a delinquency or child in need of
3 supervision petition has been filed in advance of hearing
4 dates.

5 (2) Other methods of informing the child and the
6 child's parent, legal guardian, or custodian of the date,
7 time, and location of hearings related to the child's case,
8 such as electronic mail or text messaging.

9 Section 4. (a) The Alabama State Department of
10 Education shall require each local board of education to
11 annually develop, approve, and submit a multi-disciplinary
12 agreement to the department in collaboration with relevant
13 stakeholders, including law enforcement agencies, juvenile
14 defense attorneys, chief probation officers, local mental
15 health authorities, families, and the courts to improve
16 responses to school-based offenses and reduce school-based
17 referrals to law enforcement and the courts while effectively
18 holding youth accountable within the school setting.

19 (b) Each agreement shall establish the following:

20 (1) Specific multi-tiered responses to school-based
21 offenses to be carried out within the school setting or at
22 home, prior to a court referral, to safely and effectively
23 hold youth accountable.

24 (2) Clear guidelines for how and when school-based
25 offenses are referred to law enforcement or the juvenile
26 justice system.

1 (c) To guide the development of local agreements,
2 the department shall develop minimum standards and best
3 practices for creating and implementing multi-tiered responses
4 to school-based offenses in the school setting. The department
5 shall ensure that its standards, and all local agreements, are
6 based upon evidence-based research, are data-driven, and
7 provide for continuous improvement.

8 (d) Each year, the department shall provide a report
9 to the oversight committee established pursuant to Section 8
10 compiling data on school district compliance with department
11 standards and best practices developed pursuant to subsection
12 (c) and summarizing the content of each local protocol.

13 Section 5. (a) The Alabama State Department of
14 Education shall require the Superintendent of Education, or
15 his or her designee, in each local school district to develop,
16 approve, and submit an annual plan to the department outlining
17 early warning truancy prevention programming for children and
18 their families in the home or school setting in response to
19 nonattendance or nonenrollment.

20 (b) To guide the development of local early warning
21 truancy prevention programming, the department shall develop
22 standards and best practices that are based upon
23 evidence-based research, are data-driven, and show continuous
24 improvement.

25 (c) Each school shall make reasonable efforts to
26 engage a child and the child's family in early warning truancy

1 prevention programming prior to filing a complaint alleging
2 either of the following:

3 (1) A violation against a parent, guardian, or other
4 person having control or custody of a child under Section
5 16-28-12, Code of Alabama 1975.

6 (2) That a child is in need of care, rehabilitation,
7 or supervision for alleged habitual truancy.

8 Section 6. (a) There is created the Juvenile Justice
9 Reinvestment Fund to the credit of the Department of Youth
10 Services within the State Treasury.

11 (b) (1) The Department of Youth Services shall
12 administer the fund and shall do all of the following:

13 a. Calculate the costs averted from reductions in
14 the department's custody and placement of youth in residential
15 facilities funded in whole or in part by the department.

16 b. Reserve the averted costs in the fund for
17 reinvestment.

18 c. Disburse grants pursuant to the priorities in
19 subsection (d).

20 d. Execute contracts pursuant to the priorities in
21 subsection (d).

22 e. Evaluate programs.

23 (2) For the purposes of this subsection, "averted
24 costs" means any costs avoided by a reduction in the number of
25 youth placed in Department of Youth Services residential
26 programs, as compared to a Fiscal Year 2018 baseline,
27 calculated by comparing the actual costs of youth in custody

1 and placed in residential programs during each fiscal year
2 with the costs of youth in custody and placed in residential
3 programs during Fiscal Year 2018.

4 (c) The Juvenile Justice Oversight Committee shall
5 monitor and advise in the administration of the fund, pursuant
6 to Section 8.

7 (d) The department shall prioritize disbursement of
8 funds as follows:

9 (1) For services adhering to evidence-based models,
10 which means programs or practices demonstrated by research to
11 reduce the likelihood of reoffending, or interventions rated
12 as effective for reducing recidivism pursuant to subsection
13 (g). Such services shall include both of the following:

14 a. Services made available to youth involved in all
15 stages of the juvenile justice system, including aftercare.

16 b. Services made available in every county in this
17 state.

18 (2) For services that are appropriately matched to a
19 youth's risk and needs, as determined by the results of a
20 validated risk and needs assessment pursuant to Section 10,
21 and that focus on serving youth and their families in their
22 own homes with the appropriate level of intensity, including
23 all of the following:

24 a. In-home family-focused therapy.

25 b. Individual and group therapy.

26 c. Mentoring programs.

27 d. Substance abuse treatment.

1 e. Outpatient juvenile sex offense treatment.

2 (3) For partnerships with state and local agencies
3 for the expansion or enhancement of programs that avert
4 juvenile justice system involvement.

5 (4) For expansion of early truancy prevention
6 efforts that do all of the following:

7 a. Take place prior to a court referral in schools,
8 in the home, or both.

9 b. Engage families.

10 c. Focus on youth who pose the greatest risk of
11 truancy.

12 d. Ensure that responses to behaviors by youth with
13 documented disabilities are handled in accordance with any
14 plans established for response to their disabilities in
15 educational settings such as individualized education programs
16 or 504 plans; and

17 e. Are shown to reduce referrals to the juvenile
18 court.

19 (5) For reimbursement of a portion of transportation
20 costs incurred by sheriffs.

21 (6) For training pursuant to Section 8.

22 (e) The department shall disburse funds through the
23 following:

24 (1) Contracts for services.

25 (2) Grants to counties or groups of counties, to
26 allow for program expansion across the state, especially in
27 rural counties.

1 (f) (1) The department shall only provide funding
2 from the fund to programs that adhere to performance-based
3 standards which incentivize reductions in reoffending and
4 reductions in subsequent commitments to the department.

5 (2) Performance-based standards may be implemented
6 by any of the following:

7 a. Contract provisions.

8 b. Grant provisions.

9 c. Shared funding provisions.

10 (g) (1) Programs receiving funding from the fund
11 shall adhere to evidence-based models or other interventions
12 rated by a standardized tool as effective for reducing
13 reoffending.

14 (2) The standardized tool used to rate effectiveness
15 for recidivism reductions shall be selected by the department
16 and the Administrative Office of Courts, in consultation with
17 the Juvenile Justice Oversight Committee in accordance with
18 Section 8.

19 Section 7. Alternatives to detention; definition,
20 funding.

21 (a) For the purposes of this section, the term
22 "non-custodial alternative to detention" means a program or
23 practice that is designed to ensure a youth's appearance at
24 future court hearings and to prevent rearrest prior to
25 adjudication, and is non-punitive and non-residential.

26 (b) A program of fiscal incentives shall be
27 developed and administered by the Department of Youth Services

1 to encourage the use of non-custodial alternatives to
2 detention, with a higher reimbursement rate to be paid for
3 alternatives to detention than for detention pursuant to
4 Section 44-1-28, Code of Alabama.

5 (c) (1) Funds from the Juvenile Justice Reinvestment
6 Fund created in Section 6 shall be reinvested, pursuant to
7 subsection (a) into non-custodial alternatives to detention.

8 (2) Such programs shall be made available for youth
9 who pose the greatest immediate risk to public safety or
10 likelihood of failure to appear and not for low-risk youth who
11 would otherwise be returned home, as measured by a detention
12 risk assessment pursuant to Section 2.

13 (d) Home detention shall be available in every
14 county.

15 (e) Individual counties or groups of counties may
16 develop non-custodial alternatives to detention.

17 Section 8. Juvenile Justice Oversight Committee;
18 purpose, responsibilities.

19 (a) The Juvenile Justice Oversight Committee is
20 created to oversee implementation of changes to the juvenile
21 justice system and coordinate communication and information
22 sharing across the juvenile justice system. The oversight
23 committee shall have members representing substantially
24 similar groups to the Alabama Juvenile Justice Task Force,
25 including the following:

26 (1) The Governor, or his or her designee.

1 (2) The Speaker of the House of Representatives, or
2 his or her designee.

3 (3) The President Pro Tempore of the Senate, or his
4 or her designee.

5 (4) The House Judiciary Committee Chair.

6 (5) A designee of the House Judiciary Committee
7 Chair.

8 (6) The Senate Judiciary Committee Chair.

9 (7) A designee of the Senate Judiciary Committee
10 Chair.

11 (8) The Chief Justice of the Alabama Supreme Court,
12 or his or her designee.

13 (9) The Director of the Administrative Office of
14 Courts, or his or her designee.

15 (10) Two currently presiding juvenile court judges,
16 one representing a rural county and one representing an urban
17 county, appointed by the Administrative Office of Courts.

18 (11) The Commissioner of the Department of Youth
19 Services, or his or her designee.

20 (12) The Commissioner of the Department of Mental
21 Health, or his or her designee.

22 (13) The Commissioner of the Department of Human
23 Resources, or his or her designee.

24 (14) One district attorney licensed to practice in
25 Alabama with experience in representing children in
26 delinquency proceedings, appointed by the Governor.

1 (15) One public defender licensed to practice in
2 Alabama with experience in representing children in
3 delinquency proceedings, appointed by the Governor.

4 (16) One law enforcement official representing a
5 county with a local juvenile detention facility, appointed by
6 the Governor.

7 (17) The Executive Director of Alabama Children
8 First, or his or her designee.

9 (18) One representative of the Association of County
10 Commissions of Alabama, appointed by the Governor.

11 (19) One crime victim advocate, appointed by the
12 Governor.

13 (20) One juvenile probation officer, appointed by
14 the Administrative Office of Courts.

15 (b) The appointing authorities shall coordinate
16 their appointments to assure the committee membership is
17 inclusive and reflects the racial, gender, geographic, urban,
18 rural, and economic diversity of the state.

19 (c) The oversight committee shall select a member to
20 serve as its chair at its first meeting, and annually
21 thereafter.

22 (d) The responsibilities of the oversight committee
23 shall include all of the following:

24 (1) To review calculations of averted costs and
25 ensure reinvestment into evidence-based services for youth
26 living in the community.

1 (2) To develop performance measures to assess the
2 progress of implementation.

3 (3) To collect, analyze, and report on data for each
4 of the performance measures.

5 (4) To coordinate, collect, and review juvenile
6 justice system data from all relevant agencies, including
7 reviewing recidivism information into the juvenile or adult
8 systems.

9 (5) To make recommendations to strengthen juvenile
10 justice data systems to allow for linking individual cases
11 across agency data systems.

12 (6) To improve data collection and information
13 sharing to allow for tracking a child's trajectory through the
14 juvenile justice system, including all prior case history
15 across counties, including tracking outcomes after a child
16 leaves the juvenile justice system.

17 (7) To publish an annual report to the Governor,
18 Chief Justice of the Alabama Supreme Court, Speaker of the
19 House of Representatives, and Senate President Pro Tempore on
20 implementation progress and areas for further review.

21 (8) To examine and make recommendations to the
22 Legislature on whether a child should be represented by
23 defense counsel throughout his or her case, beginning at
24 initial intake.

25 (9) To examine and make recommendations on whether
26 defense counsel should be required to have tried a minimum
27 number of cases to completion, prior to appointment to

1 represent juveniles in juvenile court in transfer hearings,
2 delinquency cases that would constitute a Class A or B felony
3 case if committed by an adult, or sex offense case.

4 (10)a. To oversee required training on the following
5 topics:

- 6 1. Evidence-based practices.
- 7 2. Youth development.
- 8 3. Implicit bias.
- 9 4. Restorative justice principles.

10 b. The training in paragraph a. shall be required
11 for all of the following:

- 12 1. School administrators.
- 13 2. Educators.
- 14 3. Juvenile prosecutors.
- 15 4. Juvenile defense attorneys.
- 16 5. Juvenile court judges.
- 17 6. Other staff who work directly with youth in the
18 juvenile justice system.

19 (11) Oversee the creation of a collaborative funding
20 structure similar to existing collaborative funding structures
21 between the Department of Youth Services, the Department of
22 Human Resources, and the Department of Mental Health for
23 providing pre-court early interventions for youth at imminent
24 risk of juvenile justice system involvement.

25 (e) In accordance with subdivision (7) of Section
26 12-25-9, Code of Alabama 1975, the committee shall partner
27 with the Sentencing Commission to collect juvenile data.

1 (f) The oversight committee shall study the
2 expansion of training for juvenile defense attorneys,
3 including increasing the requirement for juvenile appointment
4 from three to six Continuing Legal Education hours and make a
5 recommendation to the Legislature.

6 Section 9. (a) A case plan shall be created for all
7 delinquency and CHINS cases following disposition. Each case
8 plan shall satisfy both of the following:

9 (1) Be informed by the results of a validated risk
10 and needs assessment pursuant to Section 10.

11 (2) Be individualized to the child.

12 (b) The Administrative Office of Courts shall
13 develop a statewide system of graduated responses to the
14 behavior of a child under court supervision, including those
15 placed on probation or placed on aftercare. The system of
16 graduated responses shall include both sanctions and
17 incentives that satisfy both of the following:

18 (1) Include a continuum of community-based responses
19 that serve the child without placement in a residential
20 facility or detention.

21 (2) Target the child's risk of reoffending, as
22 determined by the results of a validated risk and needs
23 assessment pursuant to Section 10.

24 (c) (1) The system of graduated response shall
25 authorize earned discharge credits as one incentive for
26 compliance. Earned discharge credits are defined as time

1 awarded toward early termination of an order of probation or
2 an order of aftercare.

3 (2) The Administrative Office of Courts shall
4 develop a system for awarding earned discharge credits for
5 each month that a child is compliant with the conditions of
6 his or her order of probation or order of aftercare.

7 (d) Behaviors under subsection (b) shall be
8 documented in the child's case plan. Documentation shall
9 include all of the following:

10 (1) Positive behaviors and incentives offered.

11 (2) Violations and corresponding sanctions.

12 (3) Whether the child has a subsequent violation
13 following an incentive or sanction.

14 (e) Before referring a child to juvenile court for
15 noncompliance with the terms of an order of probation or
16 aftercare under Section 12-15-132, Code of Alabama 1975, a
17 pattern of appropriate responses shall be documented in the
18 child's case plan.

19 (f) The Administrative Office of Courts shall
20 conduct yearly mandatory training for chief probation officers
21 and juvenile probation officers on evidence-based best
22 practices for graduated responses, including, but not limited
23 to, instruction on all of the following:

24 (1) Proper selection and use of incentives for
25 compliance.

26 (2) Proper selection and use of sanctions for
27 noncompliance.

1 (3) Integrating results from graduated responses
2 into case plans.

3 Section 10. (a) For the purposes of this section and
4 Section 9, "a risk and needs assessment" means an
5 evidence-based tool that identifies a child's risk to reoffend
6 and individual needs that, if met, are likely to reduce the
7 child's likelihood of reoffending.

8 (b) By January 1, 2020, the Administrative Office of
9 Courts and the Department of Youth Services shall together
10 develop and adopt a risk and needs assessment to inform
11 supervision and necessary treatment for any child petitioned
12 before the juvenile court on a delinquency or child in need of
13 supervision offense. The risk and needs assessment shall be
14 validated on the youth population to ensure accuracy in
15 assessing a child's risk to reoffend and individual needs
16 that, if met, are likely to reduce the child's likelihood of
17 reoffending.

18 (c) The risk and needs assessment shall be used as
19 follows:

20 (1) A juvenile probation officer shall administer a
21 risk and needs assessment to every child petitioned before the
22 court on a delinquency or child in need of supervision
23 offense.

24 (2) A juvenile judge shall review the risk and needs
25 assessment prior to disposition and use it to inform
26 disposition including any necessary treatment services for the
27 child.

1 (3) The juvenile judge shall not review the results
2 of the risk and needs assessment prior to adjudication.

3 (4) Department of Youth Services staff and
4 contracted providers shall incorporate results from the risk
5 and needs assessment into the development of a case plan for
6 every child placed in a residential facility for delinquency
7 or child in need of supervision offense, and juvenile
8 probation officers shall incorporate the risk and needs
9 assessment into the development of a case plan for every child
10 placed on probation or aftercare, pursuant to Section 9.

11 (d) Access to the results of risk and needs
12 assessments shall be granted to the following people,
13 officials, or agencies and only for the following stated
14 purposes:

15 (1) The juvenile judge, following adjudication, to
16 inform disposition.

17 (2) A juvenile probation officer for the purpose of
18 compiling information for assessments, administering
19 assessments, and preparing assessment reports.

20 (3) The Department of Youth Services and its
21 contracted providers.

22 (4) The child who is the subject of the report.

23 (5) A parent, legal guardian, or custodian of the
24 child who is the subject of the report.

25 (6) A defense attorney or guardian ad litem for the
26 child.

1 (e) No incriminatory or otherwise unfavorable or
2 disparaging information obtained from a child in the course of
3 a risk and needs assessment shall be subject to any court
4 subpoena or admitted into evidence against the child on the
5 issue of whether the child committed a delinquency or child in
6 need of supervision offense or on the issue of guilt in any
7 criminal proceedings.

8 (f) The risk and needs assessment and all materials
9 used to compile the information in the assessment in
10 possession of the juvenile court shall be destroyed when the
11 person about whom the risk and needs assessment was conducted
12 is no longer a child.

13 Section 11. (a) For the purposes of this section,
14 voluntary sexual activity between minors means sexual activity
15 between minors where each minor engages in the activity
16 willingly and without coercion.

17 (b) Notwithstanding the provisions of subsection (b)
18 of Section 13A-6-62, Code of Alabama 1975, subsection (b) of
19 13A-6-64, Code of Alabama 1975, subsection (d) of Section
20 13A-6-111, Code of Alabama 1975, subsection (a) of Section
21 13A-6-122, Code of Alabama 1975, or any other law to the
22 contrary, if the actor is a minor and the facts and
23 circumstances surrounding the sexual activity indicate that
24 the sexual activity was voluntary sexual activity between
25 minors, such activity shall be treated as a child in need of
26 supervision event rather than a delinquency or criminal
27 offense.

1 (c) If a child is charged with a delinquent or
2 criminal act based on a set of facts and circumstances which
3 constitute voluntary sexual activity between minors, the judge
4 may not adjudicate the child delinquent or convict the child
5 of a crime, but may adjudicate the child as in need of
6 supervision, pursuant to Section 12-15-215, Code of Alabama
7 1975.

8 Section 12. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.