

1 HB17  
2 196616-1  
3 By Representatives Rowe, Fridy and Weaver  
4 RFD: Judiciary  
5 First Read: 05-MAR-19  
6 PFD: 01/10/2019

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8 SYNOPSIS: Existing law sets no timeframe for a sheriff  
9 to issue or reinstate a person's pistol permit  
10 after his or her successful appeal of denial or  
11 revocation.

12 This bill would require a sheriff to issue  
13 or reinstate an appellant's pistol permit within  
14 three days after receipt of a district court order  
15 in favor of an individual whose pistol permit was  
16 denied or revoked.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 To amend Section 13A-11-75 as amended by Act  
23 2018-400, 2018 Regular Session, of the Code of Alabama 1975,  
24 relating to pistol permits; to provide a deadline for a  
25 sheriff to issue or reinstate an appellant's pistol permit  
26 after a successful appeal.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Section 13A-11-75 as amended by Act  
2                   2018-400, 2018 Regular Session, of the Code of Alabama 1975,  
3                   is amended to read as follows:

4                   "§13A-11-75.

5                   "(a) (1)a. The sheriff of a county, upon the  
6                   application of any person residing in that county, within 30  
7                   days from receipt of a complete application and accompanying  
8                   fee, shall issue or renew a permit for such person to carry a  
9                   pistol in a vehicle or concealed on or about his or her person  
10                  within this state for one- to five-year increments, as  
11                  requested by the person seeking the permit, from date of  
12                  issue, unless the sheriff determines that the person is  
13                  prohibited from the possession of a pistol or firearm pursuant  
14                  to state or federal law, or has a reasonable suspicion that  
15                  the person may use a weapon unlawfully or in such other manner  
16                  that would endanger the person's self or others. In making  
17                  such determination, the sheriff may consider whether the  
18                  applicant:

19                  "1. Was found guilty but mentally ill in a criminal  
20                  case.

21                  "2. Was found not guilty in a criminal case by  
22                  reason of insanity or mental disease or defect.

23                  "3. Was declared incompetent to stand trial in a  
24                  criminal case.

25                  "4. Asserted a defense in a criminal case of not  
26                  guilty by reason of insanity or mental disease or defect.

1           "5. Was found not guilty only by reason of lack of  
2 mental responsibility under the Uniform Code of Military  
3 Justice.

4           "6. Required involuntary inpatient treatment in a  
5 psychiatric hospital or similar treatment facility.

6           "7. Required involuntary outpatient treatment in a  
7 psychiatric hospital or similar treatment facility based on a  
8 finding that the person is an imminent danger to himself or  
9 herself or to others.

10          "8. Required involuntary commitment to a psychiatric  
11 hospital or similar treatment facility for any reason,  
12 including drug use.

13          "9. Is or was the subject of a prosecution or of a  
14 commitment or incompetency proceeding that could lead to a  
15 prohibition on the receipt or possession of a firearm under  
16 the laws of Alabama or the United States.

17          "10. Falsified any portion of the permit  
18 application.

19          "11. Caused justifiable concern for public safety.

20          "b. The sheriff shall take into account how recent  
21 any consideration under paragraph a. is in relation to the  
22 date of the application. The sheriff shall provide a written  
23 statement of the reasons for a denial of a permit and the  
24 evidence upon which it is based must be disclosed to the  
25 applicant, unless disclosure would interfere with a criminal  
26 investigation.

1            "c. Except as otherwise provided by the laws of this  
2 state, a permit issued under this subdivision is valid  
3 throughout the state.

4            "d. Except as expressly provided in this section, a  
5 sheriff may not place conditions or requirements on the  
6 issuance of a pistol permit or limit its scope or  
7 applicability.

8            "(2)a. The sheriff may revoke a permit issued under  
9 subdivision (1) for any reason that could lead to a denial of  
10 a permit under that subdivision.

11           "b. The sheriff shall provide a written statement of  
12 the reasons for the revocation and the evidence upon which it  
13 is based must be disclosed to the applicant, unless disclosure  
14 would interfere with a criminal investigation.

15           "(3) A person who is denied a permit under  
16 subdivision (1), or a person whose permit is revoked under  
17 subdivision (2), within 30 days of notification of the denial  
18 or revocation, may appeal the denial or revocation to the  
19 district court of the county where the denial or revocation  
20 was issued. Upon a review of a denial under this subdivision,  
21 the sheriff shall have the burden of proving by clear and  
22 convincing evidence that the person is prohibited from  
23 possession of a pistol or other firearm pursuant to state or  
24 federal law or, based on any of the considerations enumerated  
25 in subsection (a) (1) that the person may use a weapon  
26 unlawfully or in such other manner as would endanger the

1 person's self or others if granted a permit to carry a  
2 concealed weapon under this section.

3 "(4) Within 30 days of receipt of the appeal, the  
4 district court shall review the appeal and issue a  
5 determination providing the reasons for the determination.

6 "(5) If the district court issues a determination in  
7 favor of a person whose permit was denied or revoked, the  
8 person shall be issued a permit or the permit must be  
9 reinstated no later than the close of business on the third  
10 day following the district court's transmittal of its order to  
11 the appropriate sheriff.

12 "(6) Nothing in this section shall be construed to  
13 permit a sheriff to disregard any federal law or regulation  
14 pertaining to the purchase or possession of a firearm.

15 "(b) Each permit shall be written or in an  
16 electronic or digital form to be prescribed by the Secretary  
17 of State in consultation with the Alabama Sheriff's  
18 Association, and shall bear the name, address, description,  
19 and signature of the permittee. The original hardcopy of the  
20 permit shall be issued to the permittee, and a duplicate  
21 shall, within seven days, be sent by registered or certified  
22 mail to the Secretary of the Alabama State Law Enforcement  
23 Agency. The application and a copy shall be preserved for six  
24 years by the authority issuing the same. The sheriff may  
25 charge a fee as provided by local law for the issuance of the  
26 permit under subdivision (1) of subsection (a). The amount of  
27 the fee for a period of one year up to five years shall be the

1 amount of the fee as prescribed by local law multiplied by the  
2 number of years of the permit requested by the applicant. The  
3 fee shall be paid into the county treasury unless otherwise  
4 provided by local law. Prior to issuance or renewal of a  
5 permit, the sheriff shall contact available local, state, and  
6 federal criminal history data banks, including the National  
7 Instant Criminal Background Check System, to determine whether  
8 possession of a firearm by an applicant would be a violation  
9 of state or federal law.

10 "(c) A sheriff may not place a time constraint or  
11 other requirement upon taking possession of a pistol permit by  
12 the applicant after he or she has been notified that his or  
13 her pistol permit has been approved.

14 "(d) For the convenience of the applicant, the  
15 sheriff may provide for application or renewal of a permit  
16 under subdivision (1) of subsection (a) through electronic  
17 means. The sheriff may also accept payment for a permit by  
18 debit or credit card or other consumer electronic payment  
19 method. Any transaction or banking fee charged for the  
20 electronic payment method shall be paid by the applicant.

21 "(e) If a person who is not a United States citizen  
22 applies for a permit under this section, the sheriff shall  
23 conduct an Immigration Alien Query through U.S. Immigration  
24 and Customs Enforcement, or any successor agency, and the  
25 application form shall require information relating to the  
26 applicant's country of citizenship, place of birth, and any  
27 alien or admission number issued by U.S. Immigration and

1 Customs Enforcement, or any successor agency. The sheriff  
2 shall review the results of these inquiries before making a  
3 determination of whether to issue a permit or renewal permit.  
4 A person who is unlawfully present in this state may not be  
5 issued a permit under this section.

6 "(f) The name, address, signature, photograph, and  
7 any other personally identifying information collected from an  
8 applicant or permittee under this section shall be kept  
9 confidential, shall be exempt from disclosure under Section  
10 36-12-40, and may only be used for law enforcement purposes  
11 except when a current permittee is charged in any state with a  
12 felony involving the use of a pistol. All other information on  
13 permits under this section, including information concerning  
14 the annual number of applicants, number of permits issued,  
15 number of permits denied or revoked, revenue from issuance of  
16 permits, and any other fiscal or statistical data otherwise,  
17 shall remain public writings subject to public disclosure.  
18 Except as provided above, the sheriff of a county shall redact  
19 the name, address, signature, photograph, and any other  
20 personally identifying information of a permit holder before  
21 releasing a copy of a permit for a non-law enforcement  
22 purpose. The sheriff may charge one dollar (\$1) per copy of  
23 any redacted permit record requested other than when requested  
24 for law enforcement purposes. To knowingly publish or release  
25 to the public in any form any information or records related  
26 to the licensing process, or the current validity of any

1 permit, except as authorized in this subsection or in response  
2 to a court order or subpoena, is a Class A misdemeanor.

3 "(g) A concealed pistol permit issued under this  
4 section shall be valid for the carrying of a pistol in a motor  
5 vehicle or concealed on the permittee's person throughout the  
6 state, unless prohibited by this section.

7 "(h) This section shall not be construed to limit or  
8 place any conditions upon a person's right to carry a pistol  
9 that is not in a motor vehicle or not concealed.

10 "(i) If a person issued a pistol permit in this  
11 state establishes residence in another state, the pistol  
12 permit shall expire upon the establishment of residence in the  
13 other state."

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