

1 SB52
2 196734-2
3 By Senator Melson
4 RFD: Judiciary
5 First Read: 04-FEB-20
6 PFD: 01/24/2020

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to municipalities; to amend Section
12 11-45-9.1, Code of Alabama 1975, to provide that a
13 municipality may authorize a law enforcement officer to issue
14 a summons and complaint in lieu of custodial arrest for
15 certain criminal offenses; and in connection therewith would
16 have as its purpose or effect the requirement of a new or
17 increased expenditure of local funds within the meaning of
18 Amendment 621 of the Constitution of Alabama of 1901, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 11-45-9.1, Code of Alabama 1975,
23 is amended to read as follows:

24 "§11-45-9.1.

25 "(a) (1) By ordinance, Except as provided in
26 subdivision (2), the governing body of any municipality ~~may,~~
27 by ordinance, may authorize any law enforcement officer of a

1 municipality or any law enforcement officer of the state, in
2 lieu of placing persons under custodial arrest, to issue a
3 summons and complaint to any person charged with violating any
4 ~~municipal littering ordinance; municipal ordinance which~~
5 ~~prohibits animals from running at large, which shall include~~
6 ~~leash laws and rabies control laws;~~ or any ~~Class C~~ misdemeanor
7 or violation ~~not involving violence, threat of violence, or~~
8 ~~alcohol or drugs~~ within the police jurisdiction of the
9 municipality.

10 "(2) An ordinance adopted pursuant to subdivision
11 (1) may not authorize a law enforcement officer to issue a
12 summons and complaint in lieu of arrest under any of the
13 following circumstances:

14 "a. The person is charged with committing a crime
15 involving violence, threat of violence, or domestic violence,
16 as defined under Article 7 (commencing with Section 13A-6-130)
17 of Chapter 6, Title 13A.

18 "b. The person is charged with the use or possession
19 of alcohol or a controlled substance and, in the opinion of
20 the law enforcement officer, is a risk to public safety.

21 "c. A victim of the crime is a minor.

22 "d. The person is charged with a violation of
23 Section 32-5A-191.

24 "e. The person is charged with a crime that would
25 require restitution to the victim.

26 "(b) ~~Such~~ The summons and complaint shall be on a
27 form approved by the governing body of the municipality and

1 shall contain the name of the court; the name of the
2 defendant; a description of the offense, including the
3 municipal ordinance number; the date and time of the offense;
4 the place of the offense; signature of the officer issuing the
5 citation; the scheduled court date and time; an explanation to
6 the person cited of the ways in which he or she may settle his
7 or her case; and a signature block for the magistrate to sign
8 upon the officer's oath and affirmation given prior to trial.

9 "(c) Whenever any person is arrested for a violation
10 of ~~any of the enumerated offenses~~ an offense subject to the
11 summons and complaint procedure of subdivision (1) of
12 subsection (a), the arresting officer shall take the name and
13 address of ~~such~~ the person and any other identifying
14 information and issue a summons and complaint to the person
15 charged. ~~Such~~ The officer shall release the person from
16 custody upon his or her written promise to appear in court at
17 the designated time and place as evidenced by his or her
18 signature on the summons and complaint, without any condition
19 relating to the deposit of security.

20 "(d) If any person refuses to give a written
21 recognizance to appear by placing his or her signature on the
22 summons and complaint, the officer shall take that person into
23 custody and bring him or her before any officer or official
24 who is authorized to approve bond.

25 "(e) Before implementation of the summons and
26 complaint procedure under subsection (a), the governing body
27 of the municipality shall adopt a schedule of fines for first,

1 second, and subsequent offenders of the alleged violation of
2 ~~such ordinances~~ offenses subject to the summons and complaint
3 procedure, which. The schedule of fines shall be posted in a
4 place conspicuous to the public within the court clerk's
5 office and the police department.

6 "(f) (1) When a person is charged with ~~one of the~~
7 ~~enumerated ordinance violations~~ an offense subject to the
8 summons and complaint procedure, he or she may elect to appear
9 before the municipal court magistrate, or where the municipal
10 court has been abolished, the district court magistrate,
11 within the time specified in the summons and complaint, and
12 upon entering a plea of guilty, pay the fine and court costs.
13 A plea of guilty shall only be accepted by the magistrate
14 after the defendant has executed a notice and waiver of rights
15 form.

16 "(2) In the alternative, the defendant shall have
17 the option of depositing the required bail, and upon a plea of
18 not guilty, shall be entitled to a trial as authorized by law.

19 "(g) The court clerk or magistrate shall receive and
20 issue receipts for cash bail from persons who wish to be heard
21 in court; enter the time of their appearance on the court
22 docket; and notify the arresting officer and witnesses, if
23 any, to be present.

24 "(h) If the defendant fails to appear as specified
25 in the summons and complaint, the judge or magistrate having
26 jurisdiction of the offense may issue a warrant for his or her
27 arrest commanding that he or she be brought before the court

1 to answer the charge contained on the summons and complaint.
2 In addition, any person who willfully violates his or her
3 written promise or bond to appear, given in accordance with
4 this section, shall be guilty of the separate offense of
5 failing to appear, a misdemeanor, regardless of the
6 disposition of the charge upon which he or she was originally
7 arrested.

8 "(i) All fines and forfeitures collected upon a
9 conviction or upon the forfeiture of bail of any person
10 charged with a violation of ~~such~~ the ordinances, shall be
11 remitted to the general fund of the municipality or as
12 otherwise provided by law; provided, however, fines,
13 forfeitures, and court costs assessed and collected in
14 district court shall be distributed as now provided by law."

15 Section 2. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

23 Section 3. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 04-FEB-20

Read for the second time and placed on the calen-
dar 2 amendments..... 20-FEB-20

Read for the third time and passed as amended 25-FEB-20

Yeas 27
Nays 0

Patrick Harris,
Secretary.