

1 SB90  
2 204283-1  
3 By Senators Coleman-Madison, Singleton and Smitherman  
4 RFD: Judiciary  
5 First Read: 04-FEB-20

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

15                             Also under existing law, a parolee may spend  
16                             time in holding prior to the board imposing a term  
17                             of confinement for a violation of a condition of  
18                             parole.

19                             This bill would provide that a parolee shall  
20                             receive a reduction of the term of confinement  
21                             imposed by the board for time spent in holding,  
22                             pending the imposition of the period of  
23                             confinement.

24                             This bill also would apply retroactively to  
25                             any person currently serving a period of  
26                             confinement for violating a condition of parole.  
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1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
4

5 Relating to parole violations, to amend Section  
6 15-22-32, Code of Alabama 1975; to provide that a parolee who  
7 violates a condition of parole shall receive a reduction of  
8 the term of confinement imposed by the Board of Pardons and  
9 Paroles for time spent in holding pending the imposition of  
10 the period of confinement.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 15-22-32, Code of Alabama 1975,  
13 is amended to read as follows:

14 "§15-22-32.

15 "(a) Whenever there is reasonable cause to believe  
16 that a prisoner who has been paroled has violated his or her  
17 parole, the Board of Pardons and Paroles, at its next meeting,  
18 may declare the prisoner to be delinquent, and time owed shall  
19 date from the delinquency. The Department of Corrections,  
20 after receiving notice from the sheriff of the county jail  
21 where the state prisoner is being held, shall promptly notify  
22 the board of the return of a paroled prisoner charged with  
23 violation of his or her parole. Thereupon, the board, a single  
24 member of the board, a parole revocation hearing officer, or a  
25 designated parole officer shall hold a parole court at the  
26 prison or at another place as it may determine within 20  
27 business days and consider the case of the parole violator,

1 who shall be given an opportunity to appear personally or by  
2 counsel before the board or the parole court and produce  
3 witnesses and explain the charges made against him or her. The  
4 board member, parole revocation hearing officer, or a  
5 designated parole officer, acting as a parole court, shall  
6 determine whether sufficient evidence supports the violation  
7 charges. If a hearing is not held within the specified 20  
8 business days, the parolee shall be released back to parole  
9 supervision.

10 "(b) Upon finding sufficient evidence to support a  
11 parole violation, the parole court may recommend to the board  
12 revocation or reinstatement of parole, and the board may  
13 revoke or reinstate parole. Upon revocation of parole, the  
14 board may require the prisoner to serve in a state prison  
15 facility the balance of the term for which he or she was  
16 originally sentenced or any portion thereof, calculated from  
17 the date of delinquency. The delinquent parolee shall be  
18 deemed to begin serving the balance of the prison time  
19 required on the date of his or her rearrest as a delinquent  
20 parolee. However, in all cases, excluding violent offenses  
21 defined pursuant to Section 12-25-32 and classified as a Class  
22 A felony, and sex offenses, defined pursuant to Section  
23 15-20A-5, the parole court may only recommend revocation and  
24 the board may only revoke parole as provided below:

25 ~~"(1) Unless the underlying offense is a violent~~  
26 ~~offense as defined in Section 12-25-32 and classified as a~~  
27 ~~Class A felony, when When a parolee under supervision of the~~

1 Board of Pardons and Paroles has violated a condition of  
2 parole, other than being arrested or convicted of a new  
3 offense or absconding, the parole court may recommend and the  
4 board may impose a period of confinement of no more than 45  
5 consecutive days to be served in the custody population of the  
6 Department of Corrections. By April 29, 2016, the Department  
7 of Corrections shall develop and implement a streamlined  
8 process to transport and receive the parolee into its custody  
9 population and shall identify and, if possible, implement  
10 policies aimed at reducing the administrative delays, if any,  
11 in transferring to the Department of Corrections the physical  
12 custody of the parolee and those whose parole has been  
13 revoked. Such process shall be developed in cooperation with  
14 the Alabama Sheriffs' Association and the Association of  
15 County Commissions of Alabama. Such process shall include the  
16 most cost-effective method to process sanctioned parole  
17 violators for the maximum 45 day confinement period and shall  
18 provide that the Department of Corrections shall reimburse the  
19 state mileage rate, as determined by the Alabama Comptroller's  
20 Office, to the county for any state inmate sanctioned as a  
21 parole violator and transferred to or from a Department of  
22 Corrections facility by the county. Upon completion of the  
23 confinement period and release from confinement, the parolee  
24 shall automatically continue on parole for the remaining term  
25 of the sentence without further action from the board. The  
26 parole court shall not recommend and the board shall not  
27 revoke parole unless the parolee has previously received a

1 total of three periods of confinement under this subsection. A  
2 parolee shall receive only three total periods of confinement  
3 under this subsection. The maximum 45 day term of confinement  
4 ordered under this subsection shall ~~not be reduced by credit~~  
5 ~~for incarceration time already served in the case~~ for time  
6 spent in holding pending the imposition of the period of  
7 confinement. The reduction for time spent in holding shall  
8 apply retroactively to any person serving a period of  
9 confinement under this subsection. Confinement under this  
10 subsection shall be credited to the balance of the  
11 incarceration term for which the parolee was originally  
12 sentenced. In the event the time remaining on parole  
13 supervision is 45 days or less, the term of confinement shall  
14 be for the remainder of the parolee's sentence.

15 "(2) The total time spent in confinement under this  
16 subsection shall not exceed the term of the parolee's original  
17 sentence.

18 "(3) Confinement shall be immediate. The board shall  
19 be responsible for ensuring that the Department of Corrections  
20 receives necessary documentation for imposing a period of  
21 confinement within five business days of the board's action.

22 "(4) If the parolee is presented to a county jail  
23 for any period of confinement as contemplated hereinabove with  
24 a serious medical condition, the admittance of the parolee  
25 would create a security risk to the county jail, or if the  
26 jail is near, at, or over capacity, the sheriff may refuse to  
27 admit the parolee. If while in custody of the county jail the

1 parolee develops a serious medical condition, the presence of  
2 the parolee creates a security risk to the county jail, or the  
3 county jail reaches near, at, or over capacity, the sheriff  
4 may release the parolee upon notification to the parole  
5 officer. A sheriff and his or her staff shall be immune from  
6 liability for exercising discretion pursuant to Section  
7 36-1-12 in refusing to admit a parolee into the jail or  
8 releasing a parolee from jail under the circumstances  
9 described above.

10 "(c) The position of Parole Revocation Hearing  
11 Officer is created and established, subject to provisions of  
12 the state Merit System.

13 "(d) The board may appoint or employ, as the board  
14 deems necessary, hearing officers who shall conduct a parole  
15 court. Such hearing officers shall have authority to determine  
16 the sufficiency of evidence to support parole violation  
17 charges and recommend to the board revocation of parole  
18 pursuant to subsection (b) or reinstatement of parole.

19 "(e) In lieu of the provisions of subsections (a)  
20 and (b), when a parolee violates his or her parole terms and  
21 conditions, his or her parole officer may require the parolee  
22 to submit to behavioral treatment, substance abuse treatment,  
23 GPS monitoring, such other treatment as determined by the  
24 board or supervising officer, or a period of confinement in a  
25 consenting jail facility as specified in subdivision (6) of  
26 subsection (b) of Section 15-22-29. The parole officer may

1 exercise such authority after administrative review and  
2 approval by the officer's supervisor.

3 "(f) Prior to imposing a sanction provided under  
4 subsection (e) and pursuant to subdivision (6) of subsection  
5 (b) of Section 15-22-29, the parolee must first be presented  
6 with a violation report, putting forth the alleged parole  
7 violations and supporting evidence. The parolee may request a  
8 hearing before the parole court to be heard in person within  
9 10 days. The parolee shall be given notice of the right to  
10 seek such parole court review and advised of the right (i) to  
11 a hearing before a neutral and detached parole court on the  
12 alleged violation or violations, with the right to present  
13 relevant witnesses and documentary evidence; (ii) to retain  
14 and have counsel at the hearing if he or she so desires; and  
15 (iii) to confront and cross examine any adverse witnesses.  
16 Upon the signing of a waiver of these rights by the parolee  
17 and the supervising parole officer, with approval of a  
18 supervisor, the parolee may be treated, monitored, or confined  
19 for the period recommended in the violation report and  
20 designated on the waiver. However, the parolee shall have no  
21 right of review if he or she has signed a written waiver of  
22 rights as provided in this subsection.

23 "(g) The board shall adopt guidelines and procedures  
24 to implement the requirements of this section, which shall  
25 include the requirement of a supervisor's approval prior to  
26 exercise of the delegation of authority authorized by  
27 subsection (e)."

1                   Section 2. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.