

1 HB110
2 212159-3
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

1
2 ENROLLED, An Act,

3 Relating to parole and probation; to amend Sections
4 15-22-29, 15-22-32, 15-22-52, and 15-22-54, as last amended by
5 Act 2019-513, 2019 Regular Session, Code of Alabama 1975; to
6 revise the limitations on confinement and location of
7 confinement for parole and probation violators; to revise the
8 circumstances when a parolee or probationer's parole or
9 probation may be revoked; to provide that the Department of
10 Corrections must reimburse the county commission for health
11 care costs of state parolees and probationers in certain
12 circumstances; to require the Department of Corrections to
13 designate county jails for the confinement of parole and
14 probation violators; to provide that the Board of Pardons and
15 Paroles may establish and maintain residential transition
16 centers and to provide for the operation of the facilities; to
17 provide that a parole or probation violator may get credit for
18 any time served in custody in certain circumstances; to amend
19 Section 14-3-30, Code of Alabama 1975, to require the court or
20 the court clerk to provide electronic notification to the
21 Department of Corrections when a defendant is sentenced to the
22 custody of the department; to require the Department of
23 Corrections, in agreement with a county commission and the
24 sheriff, to select county jails to provide for the housing and
25 care of parole and probation violators; to provide for the

1 selection process of the county jails; and to make
2 nonsubstantive, technical revisions to update the existing
3 code language to current style.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 15-22-29, 15-22-32, 15-22-52,
6 and 15-22-54, as last amended by Act 2019-513, 2019 Regular
7 Session, Code of Alabama 1975, are amended to read as follows:

8 "§15-22-29.

9 "(a) The Board of Pardons and Paroles, in releasing
10 a prisoner on parole, shall specify in writing the conditions
11 of his or her parole~~7~~ and a copy of ~~such~~ the conditions shall
12 be given to the parolee. A ~~violation of such~~ parolee who
13 violates the conditions of parole may ~~render the prisoner~~
14 ~~liable~~ be subject to arrest and reimprisonment.

15 "(b) The Board of Pardons and Paroles shall adopt
16 general rules ~~with regard to~~ regarding the conditions of
17 parole and their violation and may make special rules to
18 govern particular cases. ~~Such~~ The rules, both general and
19 special, shall include, ~~among other things, a requirement that~~
20 but are not limited to, all of the following:

21 "(1) The parolee shall not leave the state without
22 the consent of the board~~7~~.

23 "(2) ~~He or she~~ The parolee shall contribute to the
24 support of his or her dependents to the best of his or her
25 ability~~7~~.

1 ~~"(3) He or she~~ The parolee shall make reparation or
2 restitution for his or her crime~~;~~.

3 ~~"(4) He or she~~ The parolee shall ~~abandon evil~~
4 ~~associates and ways;~~ avoid persons or places of disreputable
5 or harmful character.

6 ~~"(5) He or she~~ The parolee shall ~~carry out~~ follow
7 the instructions of his or her parole officer and ~~in general~~
8 ~~so~~ comport himself or herself as ~~such~~ the officer shall
9 determine~~;~~ and.

10 ~~"(6) He or she~~ The parolee shall submit to
11 behavioral treatment, substance abuse treatment, GPS
12 monitoring, or any other treatment as deemed necessary by the
13 board or the supervising parole officer~~;~~ ~~and/or a period or~~
14 ~~periods of confinement in a consenting jail facility. Periods~~
15 ~~of confinement imposed by the supervising parole officer shall~~
16 ~~not exceed six days per month during any three separate months~~
17 ~~during the period of parole. The six days per month~~
18 ~~confinement provided for in this subdivision shall only be~~
19 ~~imposed by the supervising parole officer as two-day or~~
20 ~~three-day consecutive periods at any single time. In no event~~
21 ~~shall the total periods of confinement imposed by the~~
22 ~~supervising parole officer provided for in this subdivision~~
23 ~~exceed 18 total days in a consenting jail facility.~~
24 ~~Confinement provided herein shall be subject to the~~
25 ~~limitations, provisions, and conditions provided in Section~~

1 ~~15-22-32, and the board's authority to directly impose~~
2 ~~sanctions, periods of confinement, or revoke parole shall not~~
3 ~~otherwise be limited.~~

4 "(7) The parolee may not buy, own, or possess a
5 firearm in violation of federal law or in violation of Section
6 13A-11-72.

7 "§15-22-32.

8 "(a) Whenever there is reasonable cause to believe
9 that a prisoner who has been paroled has violated his or her
10 parole, the Board of Pardons and Paroles, at its next meeting,
11 may declare the ~~prisoner~~ parolee to be delinquent, and time
12 owed shall date from the delinquency. The Department of
13 Corrections, after receiving notice from the sheriff of the
14 county jail where the ~~state prisoner~~ parolee is being held,
15 shall promptly notify the board of the return of a ~~paroled~~
16 ~~prisoner~~ parolee charged with violation of his or her parole.
17 ~~Thereupon, the~~ The board, a single member of the board, a
18 parole revocation hearing officer, or a designated parole
19 officer shall hold a parole court at the prison or at another
20 place as it may determine within 20 business days and consider
21 the case of the parole violator, ~~who.~~ The parolee shall be
22 given an opportunity to appear personally or by counsel before
23 ~~the board or~~ the parole court and to produce witnesses, and
24 explain the charges made against him or her. ~~The board member,~~
25 ~~parole revocation hearing officer, or a designated parole~~

1 ~~officer, acting as a~~ parole court, shall determine whether
 2 sufficient evidence supports the violation charges. If a
 3 hearing is not held within ~~the specified~~ 20 business days, the
 4 parolee shall be released back to parole supervision.

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

21 "(1)a. ~~Unless~~ If the underlying offense ~~is~~ was a
 22 violent offense as defined in Section 12-25-32 and classified
 23 as a Class A felony, ~~when a parolee under supervision of the~~
 24 ~~Board of Pardons and Paroles has violated a condition of~~
 25 ~~parole, other than being~~ a sex offense pursuant to Section

1 15-20A-5, or aggravated theft by deception pursuant to Section
2 13A-8-2.1, the board shall revoke parole and require the
3 parolee to serve the balance of the term for which he or she
4 was originally sentenced, or any portion thereof, in a state
5 prison facility, calculated from the date of his or her
6 rearrest as a delinquent parolee.

7 "b. If the parole violation was for being arrested
8 or convicted of a new offense or absconding, the parole court
9 may recommend and the board may revoke parole and require the
10 parolee to serve the balance of the term for which he or she
11 was originally sentenced, or any portion thereof, in a state
12 prison facility, calculated from the date of his or her
13 rearrest as a delinquent parolee.

14 "c. For all other parolees, the board may impose a
15 period of confinement of no more than 45 consecutive days to
16 be served in the custody population of the Department of
17 Corrections. By April 29, 2016, the Department of Corrections
18 shall develop and implement a streamlined process to transport
19 and receive the parolee into its custody population and shall
20 identify and, if possible, implement policies aimed at
21 reducing the administrative delays, if any, in transferring to
22 the Department of Corrections the physical custody of the
23 parolee and those whose parole has been revoked. Such process
24 shall be developed in cooperation with the Alabama Sheriffs'
25 Association and the Association of County Commissions of

1 ~~Alabama. Such process shall include the most cost-effective~~
2 ~~method to process sanctioned parole violators for the maximum~~
3 ~~45-day confinement period and shall provide that the a~~
4 residential transition center established pursuant to Section
5 6 of the act adding this amendatory language or a consenting
6 county jail designated for this purpose as provided in Section
7 5 of the act adding this amendatory language. The parolee
8 shall be held in the county jail of the county in which the
9 revocation occurred while awaiting the revocation hearing. The
10 Department of Corrections shall reimburse the state mileage
11 rate to the county, as determined by the Alabama Comptroller's
12 Office, ~~to the county~~ for any state inmate ~~sanctioned as~~
13 charged with, or sanctioned or revoked for, a parole ~~violation~~
14 violation and who is transferred to or from a Department of
15 Corrections facility or to or from a consenting county jail by
16 the county.

17 "(2) Upon completion of the confinement period and
18 release from confinement, the parolee shall automatically
19 continue on parole for the remaining term of the sentence
20 without further action from the board. The parole court ~~shall~~
21 may not recommend and the board ~~shall~~ may not revoke parole
22 unless the parolee has previously received a total of three
23 periods of confinement under this subsection. A parolee shall
24 receive only three total periods of confinement ~~under~~ pursuant
25 to this subsection. The maximum ~~45-day~~ 45-day term of

1 confinement ordered ~~under~~ pursuant to this subsection shall
2 not be reduced by ~~credit for incarceration time already~~ any
3 time served ~~in the case~~. Confinement ~~under this subsection~~ in
4 custody prior to the imposition of the period of confinement
5 and shall be credited to the balance of the incarceration term
6 for which the parolee was originally sentenced. In the event
7 the time remaining on parole supervision is 45 days or less,
8 the term of confinement ~~shall be for~~ may not exceed the
9 remainder of the parolee's sentence.

10 "~~(2)~~ (3) The total time spent in confinement under
11 this subsection ~~shall~~ may not exceed the term of the parolee's
12 original sentence.

13 "~~(3)~~ (4) Confinement shall be immediate. The board
14 shall ~~be responsible for ensuring~~ ensure that the Department
15 of Corrections, a county jail, a residential transition
16 center, or a consenting county jail receives necessary
17 documentation for imposing a period of confinement within five
18 business days of the board's action.

19 "~~(4)~~ (5) If the parolee is presented to a county
20 jail, excluding a consenting county jail designated for this
21 purpose, as provided in Section 5 of the act adding this
22 amendatory language, for any period of confinement ~~as~~
23 ~~contemplated hereinabove~~ with a serious ~~medical~~ health
24 condition, if the admittance of the parolee would create a
25 security risk to the county jail, or if the county jail is

1 near, at, or over capacity, the sheriff may refuse to admit
2 the parolee. If, while in custody of the county jail, the
3 parolee develops a serious ~~medical~~ health condition, if the
4 presence of the parolee creates a security risk to the county
5 jail, or if the county jail reaches near, at, or over
6 capacity, the sheriff may release the parolee upon
7 notification to the parole officer. A sheriff and ~~his or her~~
8 staff employees in the county jail shall be immune from
9 liability for exercising discretion pursuant to Section
10 36-1-12 in refusing to admit a parolee into the jail or
11 releasing a parolee from jail ~~under the circumstances~~
12 ~~described above~~ pursuant to this subdivision.

13 "(c) The position of Parole Revocation Hearing
14 Officer is created and established, subject to ~~provisions of~~
15 the state Merit System.

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

22 "(e) In lieu of ~~the provisions of~~ subsections (a)
23 and (b), when a parolee violates his or her parole terms and
24 conditions, his or her parole officer, after an administrative
25 review and approval by the parole officer's supervisor, may

1 ~~require the parolee to submit to behavioral~~ impose any of the
2 following sanctions:

3 "(1) Mandatory behavior treatment,

4 "(2) Mandatory substance abuse treatment,

5 "(3) GPS monitoring, ~~such,~~

6 "(4) Any other treatment as determined by the board
7 or supervising officer, ~~or a,~~

8 "(5)a. A short period of confinement in a consenting
9 the county jail facility as specified in subdivision (6) of
10 subsection (b) of Section 15-22-29. The parole officer may
11 exercise such authority after administrative review and
12 approval by the officer's supervisor. of the county in which
13 the revocation occurred. Periods of confinement under this
14 subdivision may not exceed six days per month during any three
15 separate months during the period of parole. The six days per
16 month confinement periods may only be imposed as two-day or
17 three-day consecutive periods at any single time. The total
18 periods of confinement may not exceed nine total days.

19 "b. Confinement pursuant to this subdivision does
20 not limit the board's ability to directly impose sanctions,
21 periods of confinement, or revoke parole.

22 "(f) (1) Prior to imposing a sanction provided under
23 pursuant to subsection (e) and pursuant to subdivision (6) of
24 subsection (b) of Section 15-22-29, the parolee must first be
25 presented with a violation report, putting setting forth the

1 alleged parole violations and supporting evidence. The parolee
2 ~~may request a hearing before the parole court to be heard in~~
3 ~~person within 10 days. The parolee shall be given notice of~~
4 ~~the right to seek such parole court review and advised of the~~
5 ~~right (i) to a hearing before a neutral and detached~~ shall be
6 advised that he or she has all of the following rights:

7 "a. The right to have a parole court, in person or
8 by electronic means, on the alleged violation or violations,
9 with the. If a parole court is requested, no probationer shall
10 be held beyond 20 business days of the request. Only
11 requesting parolees posing a threat to public safety or a
12 flight risk shall be arrested while awaiting parole court.

13 "b. The right to present relevant witnesses and
14 documentary evidence; ~~(ii).~~

15 "c. The right to retain and have counsel at the
16 hearing if he or she so desires; ~~and (iii).~~

17 "d. The right to confront and cross examine any
18 adverse witnesses.

19 "(2) Upon the signing of a waiver of these rights by
20 the parolee and the supervising parole officer, with approval
21 of a supervisor, the parolee may be treated, monitored, or
22 confined for the period recommended in the violation report
23 and designated on the waiver. ~~However, the~~ The parolee shall
24 have no right of may not request a review if he or she has

1 signed a written waiver of rights as provided in this
 2 subsection.

3 "(g) The board shall adopt guidelines and procedures
 4 to implement the requirements of this section, which shall
 5 include the requirement of a supervisor's approval prior to
 6 exercise of the delegation of authority authorized by
 7 subsection (e).

8 "§15-22-52.

9 "The court shall determine and may at any time
 10 modify the conditions of probation ~~and~~. The conditions of
 11 probation shall include among them the following or any other
 12 conditions. Such conditions shall provide that the probationer
 13 shall, but are not limited to, all of the following:

14 "(1) Avoid injurious or vicious habits~~7.~~

15 "(2) Avoid persons or places of disreputable or
 16 harmful character~~7.~~

17 "(3) Report to the probation officer as directed~~7.~~

18 "(4) Permit the probation officer to visit him or
 19 her at his or her home or elsewhere~~7.~~

20 "(5) Work faithfully at suitable ~~employments~~
 21 employment as far as possible~~7.~~

22 "(6) Remain within a specified place~~7.~~

23 "(7) Pay the fine imposed or costs or ~~such~~ any
 24 portions thereof of fines or costs, as the court may
 25 determine~~,~~ and in ~~such~~ installments as the court may direct~~7.~~

1 "(8) Make reparation or restitution to the aggrieved
2 party for the damage or loss caused by his or her offense in
3 an amount to be determined by the court~~7.~~.

4 "(9) Support his or her dependents to the best of
5 his or her ability~~7; and.~~.

6 "(10) Submit to behavioral treatment, substance
7 abuse treatment, GPS monitoring, or any other treatment as
8 deemed necessary by the court or supervising probation
9 officer~~, and/or a period or periods of confinement in a
10 consenting jail facility. Periods of confinement imposed by
11 the supervising probation officer shall not exceed six days
12 per month during any three separate months during the period
13 of probation. The six days per month confinement provided for
14 in this subsection shall only be imposed by the supervising
15 probation officer as two-day or three-day consecutive periods
16 at any single time. In no event shall the total periods of
17 confinement imposed by the supervising probation officer
18 provided for in this subsection exceed 18 total days in a
19 consenting jail facility. Confinement provided herein shall be
20 subject to the limitations, provisions, and conditions
21 provided in Section 15-22-54, and the court's authority to
22 directly impose sanctions, periods of confinement, or revoke
23 probation shall not otherwise be limited.~~

1 "(11) The probationer may not buy, own, or possess a
2 firearm in violation of federal law or in violation of Section
3 13A-11-72.

4 "§15-22-54.

5 "(a) The period of probation or suspension of
6 execution of sentence shall be determined by the court and
7 ~~shall~~ may not be waived by the defendant, ~~and the~~. The period
8 of probation or suspension may be continued, extended, or
9 terminated. ~~However, except~~ as determined by the court. Except
10 as provided in Section 32-5A-191, relating to ignition
11 interlock requirements, ~~in no case shall~~ the maximum probation
12 period of a defendant guilty of a misdemeanor may not exceed
13 two years, nor shall the maximum probation period of a
14 defendant guilty of a felony exceed five years, except as
15 provided in Section 13A-8-2.1. When the conditions of
16 probation or suspension of sentence are fulfilled, the court
17 ~~shall~~, by an order duly entered on its minutes, shall
18 discharge the defendant.

19 "(b) The court granting probation, upon the
20 recommendation of the officer supervising the probationer, may
21 terminate all authority and supervision over the probationer
22 prior to the declared date of completion of probation upon
23 showing a continued satisfactory compliance with the
24 conditions of probation over a sufficient portion of the
25 period of the probation. At least every two years, and after

1 providing notice to the district attorney, the court shall
2 review the probationer's suitability for discharge from
3 probation supervision if the probationer has satisfied all
4 financial obligations owed to the court, including
5 restitution, and has not had his or her supervision revoked.

6 "(c) At any time during the period of probation or
7 suspension of execution of sentence, the court may issue a
8 warrant and ~~cause~~ have the defendant ~~to be~~ arrested for
9 violating any of the conditions of probation or suspension of
10 sentence, ~~upon which~~ and the court shall hold a violation
11 hearing. No probationer shall be held in jail awaiting ~~such~~
12 the violation hearing for longer than 20 business days, unless
13 new criminal charges are pending. If the hearing is not held
14 within the specified time, the sheriff shall release the
15 probation violator unless there are other pending criminal
16 charges. A judge ~~shall have authority to~~ may issue a bond to a
17 probationer for release from custody.

18 "(d) Except as provided in Chapter 15 of Title 12,
19 any probation officer, police officer, or other officer with
20 power of arrest, when requested by the probation officer, may
21 arrest a probationer without a warrant. ~~In case of~~ When an
22 arrest is made without a warrant, the arresting officer shall
23 have a written statement by the probation officer setting
24 forth that the probationer has, in his or her judgment,
25 violated the conditions of probation, and the statement shall

1 be sufficient warrant for the detention of the probationer in
 2 the county jail or other appropriate place of detention until
 3 the probationer is brought before the court. The probation
 4 officer shall ~~forthwith~~ report the arrest and detention to the
 5 court and submit in writing a report showing in what manner
 6 the probationer has violated probation.

7 "(e) After conducting a violation hearing and
 8 finding sufficient evidence to support a probation violation,
 9 the court may ~~revoke probation to impose a sentence of~~
 10 ~~imprisonment, and credit shall be given for all time spent in~~
 11 ~~custody prior to revocation.~~ take any of the following
 12 actions:

13 "(1)a. If the ~~probationer was convicted of~~
 14 underlying offense was a Class D felony and his or her
 15 probation is revoked, the incarceration portion of any split
 16 sentence imposed due to revocation shall be limited to two
 17 years or one-third of the original suspended prison sentence,
 18 whichever is less. ~~However, in all cases, excluding~~

19 "b. If the underlying offense was a violent offenses
 20 offense as defined pursuant to in Section 12-25-32 and
 21 classified as a Class A felony, a sex offenses defined offense
 22 pursuant to Section 15-20A-5, and or aggravated theft by
 23 deception ~~offenses~~ pursuant to Section 13A-8-2.1, the court
 24 ~~may only revoke probation as provided below:~~ shall revoke
 25 probation and require the probationer to serve the balance of

1 the term for which he or she was originally sentenced, or any
2 portion thereof, in a state prison facility, calculated from
3 the date of his or her rearrest as a delinquent probationer.

4 ~~"(1) Unless the underlying offense is a violent~~
5 ~~offense as defined in Section 12-25-32 and classified as a~~
6 ~~Class A felony or an offense of aggravated theft by deception~~
7 ~~as defined in Section 13A-8-2.1, when a defendant under~~
8 ~~supervision for a felony conviction has violated a condition~~
9 ~~of probation, other than arrest or conviction~~

10 "c. If the probation violation was for being
11 arrested or convicted of a new offense or absconding, the
12 court may revoke probation and require the probationer to
13 serve the balance of the term for which he or she was
14 originally sentenced, or any portion thereof, in a state
15 prison facility, calculated from the date of his or her
16 rearrest as a delinquent probationer.

17 "d. For all other probationers, the court may impose
18 a period of confinement of no more than 45 consecutive days to
19 be served in the custody population of the Department of
20 Corrections. By April 29, 2016, the Department of Corrections
21 shall develop and implement a streamlined process to transport
22 and receive the probationer into its custody population and
23 shall identify and, if possible, implement policies aimed at
24 reducing the administrative delays, if any, in transferring to
25 the Department of Corrections the physical custody of the

1 ~~probationer and those whose probation has been revoked. The~~
2 ~~process shall be developed in cooperation with the Alabama~~
3 ~~Sheriffs' Association and the Association of County~~
4 ~~Commissions of Alabama. The process shall include the most~~
5 ~~cost-effective method to process sanctioned probation~~
6 ~~violators for the maximum 45-day confinement period and shall~~
7 ~~provide that the~~ a residential transition center established
8 pursuant to Section 6 of the act adding this amendatory
9 language or a consenting county jail designated for this
10 purpose as provided in Section 5 of the act adding this
11 amendatory language. The probationer shall be held in the
12 county jail of the county in which the revocation occurred
13 while awaiting the revocation hearing. The Department of
14 Corrections shall reimburse the state mileage rate to the
15 county, as determined by the Alabama Comptroller's Office, to
16 the county for any state inmate sanctioned as probationer
17 charged with, or sanctioned or revoked for, a probation
18 violation and who is transferred to or from a
19 Department of Corrections facility or to or from a consenting
20 county jail by the county.

21 "(2) Upon completion of the confinement period, the
22 remaining probation period or suspension of sentence shall
23 automatically continue upon the defendant's release from
24 confinement. The court ~~shall~~ may not revoke probation unless
25 the defendant has previously received a total of three periods

1 of confinement ~~under~~ pursuant to this subsection. For purposes
 2 of revocation, the court may take judicial notice of the three
 3 total periods of confinement under this subsection. A
 4 defendant shall only receive three total periods of
 5 confinement ~~under~~ pursuant to this subsection. The maximum 45
 6 day term of confinement ordered ~~under~~ pursuant to this
 7 subsection for a felony shall ~~not~~ be reduced by ~~credit for any~~
 8 ~~time already served in the case. Any credit shall instead~~
 9 custody prior to the imposition of the period of confinement
 10 and shall be applied credited to the suspended sentence. ~~In~~
 11 ~~the event~~ If the time remaining on the imposed sentence is 45
 12 days or less, the term of confinement ~~shall be for~~ may not
 13 exceed the remainder of the defendant's sentence.

14 ~~"(2)~~ (3) The total time spent in confinement under
 15 this subsection ~~shall~~ may not exceed the term of the
 16 defendant's original sentence.

17 ~~"(3)~~ (4) Confinement shall be immediate. The court
 18 shall ~~be responsible for ensuring~~ ensure that the circuit
 19 clerk receives the order revoking probation within five
 20 business days. The circuit clerk shall ensure that the
 21 Department of Corrections, a county jail, a residential
 22 transition center, or a consenting county jail receives
 23 necessary transcripts for imposing a period of confinement
 24 within five business days of its receipt of the court's order.

1 "~~(4)~~ (5) If a probation violator, ~~as described in~~
 2 ~~subdivision (1)~~, is presented to ~~the~~ a county jail, excluding
 3 a consenting county jail designated for this purpose, as
 4 provided in Section 5 of the act adding this amendatory
 5 language, for any period of confinement and the probation
 6 ~~violator has~~ with a serious ~~medical~~ health condition, if the
 7 confinement of the probation violator ~~creates~~ would create a
 8 security risk to the county jail facility, or if the county
 9 jail is near, at, or over capacity, the sheriff may refuse to
 10 admit the probation violator. If, while in custody of the
 11 county jail, the probation violator develops a serious ~~medical~~
 12 health condition, if the confinement of the probation violator
 13 creates a security risk to the ~~facility~~ county jail, or if the
 14 county jail reaches near, at, or ~~overcapacity~~ over capacity,
 15 the sheriff may release the probation violator upon
 16 notification to the probation officer and to the court who has
 17 jurisdiction over the probation violator. A sheriff and ~~his or~~
 18 ~~her staff~~ employees in the county jail shall be immune from
 19 liability for exercising discretion pursuant to Section
 20 36-1-12 in refusing to admit a probation violator into the
 21 jail or releasing a probation violator from jail ~~under the~~
 22 ~~circumstances described above~~ pursuant to this subdivision.

23 "(f) In lieu of ~~the provisions of~~ subsections (c)
 24 through (e), when a probationer violates his or her probation
 25 terms and conditions imposed by the court, his or her

1 probation officer, after an administrative review and approval
2 by the probation officer's supervisor, may ~~require the~~
3 ~~probationer to submit to~~ impose any of the following
4 sanctions:

5 "(1) Mandatory behavioral treatment~~7.~~

6 "(2) Mandatory substance abuse treatment~~7.~~

7 "(3) GPS monitoring~~7, such.~~

8 "(4) Any other treatment as determined by the ~~board~~
9 court or supervising officer~~7, or a.~~

10 "(5) A short period of confinement in ~~a consenting~~
11 ~~the county jail facility as specified in subdivision (10) of~~
12 ~~Section 15-22-52~~ of the county in which the revocation
13 occurred. Periods of confinement under this subdivision may
14 not exceed six days per month during any three separate months
15 during the period of probation. The six days per month
16 confinement period may only be imposed as two-day or three-day
17 consecutive periods at any single time. The total periods of
18 confinement may not exceed nine total days.

19 "(g) (1) Prior to imposing a sanction ~~provided under~~
20 ~~pursuant to subsection (f) and pursuant to subdivision (10) of~~
21 ~~Section 15-22-52~~, the probationer must first be presented with
22 a violation report, with the alleged probation violations and
23 supporting evidence ~~noted~~. The probationer ~~may file a motion~~
24 ~~with the court to conduct a probation violation hearing within~~
25 ~~10 days. The probationer shall be given notice of the right to~~

1 ~~the hearing and advised of the right: (i) To~~ shall be advised
 2 that he or she has all of the following:

3 "a. The right to have a hearing before the court on
 4 the alleged violation or violations in person, with the or by
 5 electronic means. If a hearing is requested, no probationer
 6 shall be held beyond 20 business days of the request. Only
 7 requesting probationers posing a threat to public safety or a
 8 flight risk shall be arrested while awaiting a hearing.

9 "b. The right to present relevant witnesses and
 10 documentary evidence; (ii).

11 "c. The right to retain and have counsel at the
 12 hearing and that counsel will be appointed if the probationer
 13 is indigent; and (iii).

14 "d. The right to confront and cross examine any
 15 adverse witnesses.

16 "(2) Upon the signing of a waiver of these rights by
 17 the probationer and the supervising probation officer, with
 18 approval of a supervisor, the probationer may be treated,
 19 monitored, or confined for the period recommended in the
 20 violation report and designated in the waiver. However, the
 21 The probationer shall have no right of may not request a
 22 review if he or she has signed a written waiver of rights as
 23 provided in this subsection.

24 "(h) The board shall adopt guidelines and procedures
 25 to implement the requirements of this section, which shall

1 include the requirement of a supervisor's approval prior to a
2 supervising probation officer's exercise of the delegation of
3 authority authorized by subsection (f)."

4 Section 2. Section 14-3-30, Code of Alabama 1975, is
5 amended to read as follows:

6 "§14-3-30.

7 "(a) (1) When any ~~convict~~ defendant is sentenced to
8 the ~~penitentiary~~ custody of the Department of Corrections, the
9 judge of the court in which the sentence is rendered shall
10 order the inmate to be confined in the nearest secure jail.
11 ~~The clerk of the court shall at once notify the Department of~~
12 ~~Corrections as to the jail where the inmate is confined,~~
13 ~~forward to the department a copy of the judgment entry and~~
14 ~~sentence in the case, and inform the department if any special~~
15 ~~care is necessary to guard the inmate. Thereupon, the~~
16 ~~department shall direct where the inmate shall be taken for~~
17 ~~confinement or hard labor.~~ Within five days of the court
18 sentencing a defendant, the court or the court clerk shall
19 enter the sentencing order and the transcript of record into
20 the State Judicial Information System, or its successor
21 system, and E-Transcripts, or its successor system. Except as
22 provided in subdivision (2), upon receipt of the transcript,
23 the Department of Corrections shall accept the transcript,
24 accept the inmate for state confinement, and schedule the
25 transfer of the physical custody of the inmate. The sheriff

1 shall transfer physical custody of the inmate 30 calendar days
2 following the receipt of the original transcript by the
3 department.

4 (2) If a transcript contains substantial errors, the
5 Department of Corrections may reject the transcript. If the
6 department rejects the transcript, the department shall
7 immediately notify the court clerk of the rejection, along
8 with any deficiencies in the transcript. No later than five
9 days after the receipt of the validated transcript, the
10 department shall accept the validated transcript, accept the
11 inmate for state confinement, and schedule the transfer of the
12 physical custody of the inmate. The sheriff shall transfer
13 physical custody of the inmate 35 calendar days following the
14 receipt of the validated transcript.

15 "(b)(1) When the Department of Corrections has
16 received the original transcript of an inmate sentenced to the
17 custody of the department and the department is in receipt of
18 a transcript of such sentence, its custody, and the inmate is
19 being housed in a county jail, and if the inmate has a health
20 condition or develops a ~~medical~~ health condition which that
21 requires immediate treatment at a ~~medical-care~~ health care
22 facility outside the county jail, the department shall be
23 financially responsible for the cost of the treatment of the
24 inmate. The department shall receive any contractual discounts

1 ~~the medical care facility has agreed to grant for the~~
2 ~~treatment of inmates housed in state correctional facilities.~~

3 "(2) When the Department of Corrections has received
4 the original transcript of an inmate sentenced to the custody
5 of the department and the department is in receipt of a
6 transcript of such sentence, its custody, and the inmate is
7 being housed in a county jail, and if the inmate has a health
8 condition, develops a medical health condition, or has been is
9 diagnosed as having a medical health condition which that, in
10 the opinion of a physician licensed in Alabama, would require
11 requires treatment or, a medical procedure, or both, involving
12 a cost of more than two thousand dollars (\$2,000), the
13 department shall transport the inmate shall be transferred
14 within three calendar days of the notification of the
15 condition, to a state owned or operated correctional facility
16 or to the physical custody of the department as determined by
17 the Commissioner of the Department of Corrections. The inmate
18 shall receive treatment in the same manner as other state
19 inmates. If the department fails to take custody of the
20 inmate, the county may transport the inmate to receive the
21 recommended treatment, medical procedure, or both. The
22 transportation of the inmate to the treatment or procedure
23 does not relieve the department from the financial
24 responsibilities of the costs of the treatment or procedure.

1 "(3) Nothing in this ~~subsection shall~~ section may be
2 interpreted to relieve the department of its responsibility
3 for the maintenance and upkeep, including the payment of
4 ~~medical~~ health care costs, of an inmate sentenced to the
5 custody of the department, nor shall this ~~subsection~~ section
6 be interpreted as conferring any additional responsibility
7 upon a county for the maintenance and upkeep, or the payment
8 of ~~medical~~ health care costs, of any inmate sentenced to the
9 custody of the department."

10 Section 3. (a) (1) Counties are not financially
11 responsible for the cost of health care provided to a parolee
12 or probationer charged with, or sanctioned or revoked for, a
13 parole or probation violation.

14 (2) The county may submit an invoice to the
15 Department of Corrections for reimbursement of the county's
16 cost of health care administered outside the county jail and
17 actual costs of any care administered in the county jail.
18 Invoices must be paid by the department within 60 days of the
19 receipt of the invoice.

20 (b) (1)a. The Department of Corrections shall pay a
21 county jail housing and caring for parolees and probationers
22 charged with, or sanctioned or revoked for, a parole or
23 probation violation a per diem of twenty-eight dollars (\$28)
24 per day the parolee or probationer is housed in the county
25 jail.

1 b. Every three years the rate shall be adjusted by
2 the Department of Finance using the Consumer Price Index for
3 the previous three years.

4 (2) The county may submit an invoice to the
5 Department of Corrections for payment of the per diem provided
6 in subdivision (1). Invoices must be paid by the department
7 within 60 days of the receipt of the invoice.

8 (c) (1) If, after 60 days of receipt of an invoice,
9 the Department of Corrections has failed to pay for the health
10 care of parolees and probationers as required in subsection
11 (a), or has failed to pay the per diem as required in
12 subsection (b), a county may file a claim with the Board of
13 Adjustments.

14 (2) Notwithstanding any other provision of law, the
15 Board of Adjustments shall hear any claim filed by any county
16 pursuant to subsection (c) within 45 days of the filing of a
17 claim.

18 Section 4. On or before January 1, 2022, the
19 Department of Corrections shall enter into agreements, and
20 operation shall begin pursuant to the agreements, with at
21 least one residential transition center established pursuant
22 to Section 6 of the act adding this amendatory language or at
23 least three consenting county jails designated pursuant to
24 Section 5 of the act adding this amendatory language, and
25 whose facilities will be used for the housing and care of

1 parolees and probationers charged with, or sanctioned or
2 revoked for, a parole or probation violation pursuant to
3 Section 15-22-32 or 15-22-54, Code of Alabama 1975. Where
4 county jails are used for the housing and care of such
5 parolees and probationers, the agreements shall be implemented
6 and the county jails shall be designated as provided by
7 Section 5 of the act adding this amendatory language.

8 Section 5. (a) For the purpose of establishing
9 consenting county jails for the housing and care of parolees
10 and probationers pursuant to Sections 15-22-32 and 15-22-54,
11 Code of Alabama 1975, the Department of Corrections, in
12 consultation with the Alabama Sheriffs' Association and the
13 Association of County Commissions of Alabama, shall develop an
14 application and a standard memorandum of agreement to be used
15 by county commissions and sheriffs who agree to provide
16 housing and care to parolees and probationers who have been
17 charged with, or sanctioned or revoked for, a parole or
18 probation violation.

19 (b) The application shall include, but is not
20 limited to, both of the following:

21 (1) A determination of the number of excess beds
22 available in the county jail, based on the evaluation of the
23 inmate census and the available occupied beds in the jail
24 during the previous 12-month period.

1 (2) A determination of the daily cost of housing and
2 caring for prisoners in the county jail during the previous
3 12-month period. This amount shall be in addition to the cost
4 of providing health care services.

5 (c) (1) A county commission, with the consent of the
6 sheriff, that elects to provide for the housing and care of
7 parole and probation violators, pursuant to Sections 15-22-32
8 and 15-22-54, Code of Alabama 1975, shall submit an
9 application to the Department of Corrections, submit to an
10 inspection of the county jail by the department to determine
11 its ability to house inmates and to provide for their housing
12 and care, and provide any other required documentation and
13 information required by the department.

14 (2) The department shall review all applications
15 annually and shall select the county jails for participation
16 in the program. Any county jail selected for participation
17 shall enter into a memorandum of agreement with the department
18 for the services.

19 (3) The department shall select at least one county
20 jail located in the northern region, one county jail located
21 in the central region, and one county jail located in the
22 southern region of the state.

23 (d) (1) Memoranda of agreement shall be for 12 months
24 and may be renewed for up to two additional 12-month periods

1 following an inspection and application as required in
 2 subsections (b) and (c).

3 (2) The memorandum of agreement shall require the
 4 Department of Corrections to provide for the cost of health
 5 care for parolees and probationers and to provide a per diem
 6 for each parolee and probationer as provided in Section 3 of
 7 the act adding this amendatory language.

8 (3) The memorandum of agreement shall provide for
 9 the reimbursement to the county for any increased costs of
 10 liability insurance premiums that are required by its
 11 insurance carrier for coverage attributed to the housing of
 12 inmates pursuant to this section.

13 (4) The memorandum of agreement shall establish a
 14 process for the submittal of monthly payments to the
 15 participating counties upon receipt of required documentation.

16 (e) Procedures for the transfer or release of
 17 parolees and probationers at the end of confinement for
 18 violations and other procedures necessary to efficiently
 19 implement this section shall be established by the Department
 20 of Corrections, in consultation with the Alabama Sheriffs'
 21 Association and the Association of County Commissions of
 22 Alabama.

23 (f) Any county that elects to provide for the
 24 housing and care of parole and probation violators pursuant to
 25 this section, and is participating in the liability

1 self-insurance fund established pursuant to Chapter 30 of
2 Title 11, Code of Alabama 1975, shall be eligible for the
3 liability self-insurance fund's coverage for any claims
4 arising out of the housing and care of parole and probation
5 violators.

6 Section 6. The Board of Pardons and Paroles may
7 establish and maintain one or more residential transition
8 centers for the housing of parolees and probationers ordered
9 to serve a period of confinement pursuant to Section 15-22-32
10 or 15-22-54, Code of Alabama 1975.

11 Section 7. Sections 1, 2, 3, and 4, of this act
12 shall become effective on January 1, 2022; the amendatory
13 language in Section 1 of this act to Sections 15-22-32 and
14 15-22-54, Code of Alabama 1975, that provides a parolee or
15 probationer shall receive credit for any time served in
16 custody prior to a revocation hearings, shall become effective
17 immediately; and Sections 5 and 6 of this act shall become
18 effective immediately following its passage and approval by
19 the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 23-FEB-21, as amended.

Jeff Woodard
Clerk

Senate	04-MAR-21	Amended and Passed
House	30-MAR-21	Passed, as amended by Conference Com- mittee Report
Senate	06-APR-21	Passed, as amended by Conference Com- mittee Report