

1 HB130
2 208003-2
3 By Representatives Brown (C), Stringer, Lovvorn, Wilcox,
4 Oliver, Estes, Simpson, Robertson, Sells, Treadaway, Pringle,
5 Collins, Sullivan, Ellis, Blackshear, Baker, Whitt, Pettus,
6 Ball, Moore (P), Kitchens, Wheeler, Marques, Gaston, Sorrells,
7 Reynolds, Allen and Shedd
8 RFD: Judiciary
9 First Read: 02-FEB-21
10 PFD: 01/26/2021

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2 ENROLLED, An Act,

3 Relating to bail, to amend Sections 15-13-2,
4 15-13-3, 15-13-7, 15-13-104, 15-13-105, and 15-13-106, Code of
5 Alabama 1975, to create Aniah's Law, to provide for additional
6 offenses that would allow a judge to deny bail; to provide for
7 a pretrial detention hearing under certain conditions; and to
8 make nonsubstantive, technical revisions to update the
9 existing code language to current style.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. This act shall be known and may be cited
12 as Aniah's Law.

13 Section 2. Sections 15-13-2, 15-13-3, 15-13-7,
14 15-13-104, 15-13-105, and 15-13-106, Code of Alabama 1975, are
15 amended to read as follows:

16 "§15-13-2.

17 "In all cases other than those specified in
18 ~~subsection (a) of~~ Section 15-13-3, a defendant ~~is~~, before
19 conviction, is entitled to bail as a matter of right.

20 "§15-13-3.

21 "(a) A defendant ~~cannot be admitted to~~ is not
22 eligible for bail when he or she is charged with ~~an offense~~
23 ~~which may be punished by death~~ capital murder pursuant to
24 Section 13A-5-40, if the court is of the opinion, on the
25 evidence adduced, that he or she is guilty of the offense ~~in~~

1 ~~the degree punishable capitally, nor when he is charged with a~~
2 ~~personal injury to another which is likely to produce death~~
3 ~~and which was committed under circumstances such as would, if~~
4 ~~death arises from such injury, constitute an offense which may~~
5 ~~be punished by death.~~

6 ~~"(b) In cases punishable capitally, the defendant is~~
7 ~~entitled to bail as a matter of right when the state, after~~
8 ~~the finding of the indictment, has continued the case twice,~~
9 ~~without his consent, for the testimony of absent witnesses.~~

10 ~~"In such case, if the indictment is dismissed, the~~
11 ~~defendant, on application for bail, is entitled to the benefit~~
12 ~~of any continuance had upon such indictment by the state for~~
13 ~~absent witnesses; and, if another indictment is not found at~~
14 ~~the same court at which the former is dismissed, the order of~~
15 ~~dismissal is to be taken as a continuance by the state for~~
16 ~~absent witnesses.~~

17 "(b) (1) The court, after a hearing as provided in
18 this subsection, after the presentment of an indictment or a
19 showing of probable cause in the charged offense, and if the
20 prosecuting attorney proves by clear and convincing evidence
21 that no condition or combination of conditions of release will
22 reasonably ensure the defendant's appearance in court or
23 protect the safety of the community or any person, may deny a
24 defendant's bail, if he or she is charged with any of the
25 following offenses:

1 "a. Murder, as provided in Section 13A-6-2.

2 ~~"b. Assault in the first degree, as provided in~~
3 ~~Section 13A-6-20.~~

4 "b. Kidnapping in the first degree, as provided in
5 Section 13A-6-43.

6 "c. Rape in the first degree, as provided in Section
7 13A-6-61.

8 "d. Sodomy in the first degree, as provided in
9 Section 13A-6-63.

10 "e. Sexual torture, as provided in Section
11 13A-6-65.1.

12 "f. Domestic violence in the first degree, as
13 provided in Section 13A-6-130.

14 "g. Human trafficking in the first degree, as
15 provided in Section 13A-6-152.

16 "h. Burglary in the first degree, as provided in
17 Section 13A-7-5.

18 "i. Arson in the first degree, as provided in
19 Section 13A-7-41.

20 "j. Robbery in the first degree, as provided in
21 Section 13A-8-41.

22 "k. Terrorism, as provided in subdivision (b) (2) of
23 Section 13A-10-152.

24 "l. Aggravated child abuse, as provided in
25 subsection (b) of Section 26-15-3.1.

1 "(2) A court shall order that a defendant charged
2 with an offense listed in this subsection be held without bond
3 prior to a pretrial detention hearing.

4 "(3) The court shall hold a pretrial detention
5 hearing immediately upon the defendant's first appearance
6 before the court, unless the prosecuting attorney or the
7 defendant requests a continuance. Except for good cause, a
8 continuance on a motion of the defendant may not exceed five
9 days, excluding Saturdays, Sundays, and state holidays, and a
10 continuance on motion by the prosecuting attorney may not
11 exceed three days, excluding Saturdays, Sundays, and state
12 holidays. The defendant shall be detained during any
13 continuance.

14 "(4)a. A defendant shall have all of the following
15 rights at a pretrial detention hearing:

16 "1. To be represented by counsel. If the defendant
17 is financially unable to obtain counsel, he or she shall have
18 counsel appointed.

19 "2. To testify.

20 "3. To present witnesses.

21 "4. To present evidence.

22 "5. To cross-examine witnesses.

23 "b. The judge shall have discretion as to who the
24 defendant may call as a witness as provided in this
25 subdivision at the pretrial detention hearing.

1 "(5) In considering whether there are any conditions
2 or combination of conditions that would reasonably ensure the
3 defendant's appearance in court or protect the safety of the
4 community and of any person, the court shall consider all of
5 the following factors:

6 "a. The nature and circumstances of the offenses
7 charged.

8 "b. The weight of the evidence against the
9 defendant.

10 "c. The history and characteristics of the
11 defendant, including, but not limited to the defendant's
12 character, physical and mental condition, family ties,
13 employment, financial resources, length of residence in the
14 community, community ties, past conduct, history relating to
15 drug or alcohol abuse, criminal history, and record concerning
16 appearance at court proceedings, and, whether, at the time of
17 the current offense, the defendant was on probation, parole,
18 or on other release pending trial, sentencing, appeal, or
19 completion of sentence for an offense.

20 "d. The nature and seriousness of the danger to any
21 person or the community if the defendant is released.

22 "(6) At any pretrial detention hearing, the rules
23 governing admissibility of evidence in criminal trials shall
24 not apply, and the court shall receive all relevant evidence.
25 All evidence shall be recorded. The testimony of a defendant

1 may not be admissible in any other criminal proceeding against
2 the defendant, except if being used for perjury based on the
3 testimony or for the purpose of impeachment in any subsequent
4 proceeding.

5 "(7)a. A prosecuting attorney may file a motion for
6 a pretrial detention hearing at any time.

7 "b. A pretrial detention hearing may be reopened,
8 before or after a determination by the court, at any time
9 prior to trial if the court finds that information exists that
10 was not known by the movant at the time of the pretrial
11 detention hearing.

12 "(8) In an order denying bail, the judge shall make
13 written findings or state for the record findings of fact and
14 a statement of the reasons for denying bail. The judge shall
15 enter an order denying bail within 48 hours of the hearing.

16 "§15-13-7.

17 "When a writ of arrest is issued upon an indictment,
18 the clerk issuing the writ ~~must~~ shall endorse ~~thereon~~ on the
19 writ an order to the sheriff to take bail of the defendant in
20 the amount fixed by the judge and endorsed by him or her on
21 the indictment, unless the defendant is charged with an
22 offense for which bail may be denied pursuant to Section
23 15-13-3. In that case, the writ of arrest shall indicate "no
24 bail," and the defendant may not be released prior to an
25 initial appearance.

1 "§15-13-104.

2 "Judicial officers shall see that the amount of bail
3 is affixed to any warrants of arrests issued by the judicial
4 officer at the time of their issuance for which the defendant
5 is arrested and taken into custody. If arrested for ~~a capital~~
6 an offense for which the defendant is not entitled to release
7 on bail pursuant to Section 15-13-3, the judicial officer
8 shall ~~take care to see~~ confirm that "no bail" is affixed on
9 the warrant. Judicial officers may delegate the affixation to
10 lawful employees of the court, but the amount shall be set by
11 the judicial officer.

12 "§15-13-105.

13 "In cases where a defendant is arrested without a
14 warrant for an offense that is bailable as a matter of right
15 and taken into custody and there is no standard bail schedule
16 prescribed by the presiding judge of the court of jurisdiction
17 for the amounts of bail for ~~such~~ the arrests without warrants,
18 then the arresting officer ~~shall~~, as soon as possible, shall
19 contact a judicial officer for an order of bail. If the
20 arresting officer is unable to contact the judicial officer
21 having jurisdiction of the case, the arresting officer may
22 contact any judicial officer having the authority to set bail
23 in that judicial circuit to issue the order of bail. If no
24 judicial officer has issued an order of bail within 24 hours
25 of the arrest of defendant, then the bail shall be set by

1 operation of law and the amount of bail shall be that amount
2 prescribed as the minimum amount established by the bail
3 schedule adopted by Supreme Court rule. Provided, however, in
4 violation and misdemeanor cases the minimum amount of bail
5 shall be three hundred dollars (\$300) for each offense
6 charged. The judicial officer may also fix the amount of bail
7 on the indictment.

8 "§15-13-106.

9 "Except in ~~capital~~ cases where there is no right to
10 release on bail pursuant to Section 15-13-3, no person or
11 defendant shall be committed to any jail in the State of
12 Alabama on a warrant unless there is an amount of bail affixed
13 to the warrant. No person or defendant shall remain in jail
14 anywhere in this state for more than 24 hours for any felony
15 or misdemeanor case without an order of bail, unless bail is
16 not authorized by law."

17 Section 3. This act shall become effective
18 immediately upon the ratification of the amendment to the
19 Constitution of Alabama of 1901, to provide that an individual
20 is entitled to reasonable bail prior to conviction, unless
21 charged with certain enumerated crimes as proposed in HB _____
22 of the 2021 Regular Session.

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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.

Jeff Woodard
Clerk

Senate	<hr/> 06-APR-21 <hr/>	Amended and Passed
House	<hr/> 15-APR-21 <hr/>	Concurred in Senate Amendment