

1 SB178
2 204283-2
3 By Senators Coleman-Madison, Singleton, Smitherman and Figures
4 RFD: Judiciary
5 First Read: 03-FEB-21

1
2
3
4
5
6
7
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.
27

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~~ At this time, the
24 board, a ~~single~~ member of the board, a parole revocation
25 hearing officer, or a designated parole officer shall hold a
26 parole court at the prison or at another place as it may
27 determine within 20 business days. At this time during the

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

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

1 "~~(1) Unless the underlying offense is a violent~~
2 ~~offense as defined in Section 12-25-32 and classified as a~~
3 ~~Class A felony, when~~ When a parolee under supervision of the
4 Board of Pardons and Paroles has violated a condition of
5 parole, other than being arrested or convicted of a new
6 offense or absconding, the parole court may recommend and the
7 board may impose a period of confinement of no more than 45
8 consecutive days to be served in the custody population of the
9 Department of Corrections.

10 "(2) By April 29, 2016, the Department of
11 Corrections shall develop and implement a streamlined process
12 to transport and receive the parolee into its custody
13 population. ~~and~~ The Department of Corrections also shall
14 identify and, if possible, implement policies aimed at
15 reducing the administrative delays, if any, in transferring to
16 the Department of Corrections the physical custody of the
17 parolee and those whose parole has been revoked. Such process
18 shall be developed in cooperation with the Alabama Sheriffs'
19 Association and the Association of County Commissions of
20 Alabama. Such process shall include the most cost-effective
21 method to process sanctioned parole violators for the maximum
22 45 day confinement period and shall provide that the
23 Department of Corrections shall reimburse the state mileage
24 rate, as determined by the Alabama Comptroller's Office, to
25 the county for any state inmate sanctioned as a parole
26 violator and transferred to or from a Department of
27 Corrections facility by the county.

1 "(3) Upon completion of the confinement period and
2 release from confinement, the parolee shall automatically
3 continue on parole for the remaining term of the sentence
4 without further action from the board. The parole court shall
5 not recommend and the board shall not revoke parole unless the
6 parolee has previously received a total of three periods of
7 confinement under this subsection. A parolee shall receive
8 only three total periods of confinement under this subsection.
9 The maximum 45 day term of confinement ordered under this
10 subsection shall ~~not be reduced by credit for incarceration~~
11 ~~time already served in the case~~ for time spent in holding
12 pending the imposition of the period of confinement. The
13 reduction for time spent in holding shall apply retroactively
14 to any person serving a period of confinement under this
15 subsection. Confinement under this subsection shall be
16 credited to the balance of the incarceration term for which
17 the parolee was originally sentenced. In the event the time
18 remaining on parole supervision is 45 days or less, the term
19 of confinement shall be for the remainder of the parolee's
20 sentence.

21 "~~(2)~~(4) The total time spent in confinement under
22 this subsection shall not exceed the term of the parolee's
23 original sentence.

24 "~~(3)~~(5) Confinement shall be immediate. The board
25 shall be responsible for ensuring that the Department of
26 Corrections receives necessary documentation for imposing a

1 period of confinement within five business days of the board's
2 action.

3 ~~"(4)(6)~~ If the parolee is presented to a county jail
4 for any period of confinement as contemplated hereinabove with
5 a serious medical condition, the admittance of the parolee
6 would create a security risk to the county jail, or if the
7 jail is near, at, or over capacity, the sheriff may refuse to
8 admit the parolee. If while in custody of the county jail the
9 parolee develops a serious medical condition, the presence of
10 the parolee creates a security risk to the county jail, or the
11 county jail reaches near, at, or over capacity, the sheriff
12 may release the parolee upon notification to the parole
13 officer. A sheriff and his or her staff shall be immune from
14 liability for exercising discretion pursuant to Section
15 36-1-12 in refusing to admit a parolee into the jail or
16 releasing a parolee from jail under the circumstances
17 described above.

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

21 "(d) The board may appoint or employ, as the board
22 deems necessary, hearing officers who shall conduct a parole
23 court. Such hearing officers shall have authority to determine
24 the sufficiency of evidence to support parole violation
25 charges and recommend to the board revocation of parole
26 pursuant to subsection (b) or reinstatement of parole.

1 "(e) In lieu of the provisions of subsections (a)
2 and (b), when a parolee violates his or her parole terms and
3 conditions, his or her parole officer may require the parolee
4 to submit to behavioral treatment, substance abuse treatment,
5 GPS monitoring, such other treatment as determined by the
6 board or supervising officer, or a period of confinement in a
7 consenting jail facility as specified in subdivision (6) of
8 subsection (b) of Section 15-22-29. The parole officer may
9 exercise such authority after administrative review and
10 approval by the officer's supervisor.

11 "(f) Prior to imposing a sanction provided under
12 subsection (e) and pursuant to subdivision (6) of subsection
13 (b) of Section 15-22-29, the parolee must first be presented
14 with a violation report, putting forth the alleged parole
15 violations and supporting evidence. The parolee may request a
16 hearing before the parole court to be heard in person within
17 10 days. The parolee shall be given notice of the right to
18 seek such parole court review and advised of the right (i) to
19 a hearing before a neutral and detached parole court on the
20 alleged violation or violations, with the right to present
21 relevant witnesses and documentary evidence; (ii) to retain
22 and have counsel at the hearing if he or she so desires; and
23 (iii) to confront and cross examine any adverse witnesses.
24 Upon the signing of a waiver of these rights by the parolee
25 and the supervising parole officer, with approval of a
26 supervisor, the parolee may be treated, monitored, or confined
27 for the period recommended in the violation report and

1 designated on the waiver. However, the parolee shall have no
2 right of review if he or she has signed a written waiver of
3 rights as provided in this subsection.

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

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