

1 HB446
2 175363-1
3 By Representative Jones
4 RFD: Judiciary
5 First Read: 17-MAR-16

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8 SYNOPSIS: Under existing law, there are certain
9 periods of confinement that may be imposed for
10 parolees and probationers who violate the terms of
11 parole or probation, with exceptions. Furthermore,
12 significant revisions were made to the criminal
13 justice, corrections, and probation and parole
14 systems during the 2015 Regular Session (Act
15 2015-185).

16 This bill would further clarify certain
17 provisions of Act 2015-185, 2015 Regular Session,
18 including clarification of when modifications to
19 the initial voluntary sentencing standards are
20 effective and the periods of confinement that may
21 be imposed for violations and would specify that,
22 prior to the imposition of confinement, the parolee
23 or probationer must be presented with a written
24 violation report.

25 This bill would modify the predicate
26 monetary values of theft of property in the third
27 degree, theft of lost property in the third degree,

1 theft of services in the third degree, and
2 receiving stolen property in the third degree.

3 This bill would also modify the criminal
4 penalties for criminal solicitation, attempt, and
5 criminal conspiracy for consistency with Class D
6 felony offenses.

7 This bill would further clarify that the
8 Board of Pardons and Paroles may impose periods of
9 confinement of two to three twenty-four hour
10 periods and would indicate that judges may impose
11 periods of confinement of two to three twenty-four
12 hour periods for violations.

13 This bill would clarify that the Department
14 of Corrections is responsible for the release of
15 defendants sentenced to certain periods of
16 confinement and would remove release ranges to
17 provide for a mandatory release date.

18 This bill would clarify the phrase
19 "consenting community corrections programs" for
20 Class D felony offenses, and would specify that the
21 Department of Veterans Affairs is the responsible
22 agency for identifying referral and other services
23 to veterans, including any operating Veterans
24 Treatment Courts.

25 This bill would also extend the current
26 reporting deadline of April 20, 2016, of the

1 legislative committee assisting the Legislative
2 Prison Joint Task Force to April 20, 2017.

3 Amendment 621 of the Constitution of Alabama
4 of 1901, now appearing as Section 111.05 of the
5 Official Recompilation of the Constitution of
6 Alabama of 1901, as amended, prohibits a general
7 law whose purpose or effect would be to require a
8 new or increased expenditure of local funds from
9 becoming effective with regard to a local
10 governmental entity without enactment by a 2/3 vote
11 unless: it comes within one of a number of
12 specified exceptions; it is approved by the
13 affected entity; or the Legislature appropriates
14 funds, or provides a local source of revenue, to
15 the entity for the purpose.

16 The purpose or effect of this bill would be
17 to require a new or increased expenditure of local
18 funds within the meaning of the amendment. However,
19 the bill does not require approval of a local
20 governmental entity or enactment by a 2/3 vote to
21 become effective because it comes within one of the
22 specified exceptions contained in the amendment.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to crimes and offenses, corrections, and
2 pardons and paroles; to amend Sections 12-25-34, 13A-4-1,
3 13A-4-2, and 13A-4-3, Code of Alabama 1975, Sections 6, 7, 9,
4 11, and 18 of Act 2015-185, 2015 Regular Session, now
5 appearing as Sections 13A-8-4.1, 13A-8-8.1, 13A-8-10.25,
6 13A-8-18.1, 15-22-26.2, 13A-5-8.1, and 15-22-29.1, Code of
7 Alabama 1975, respectively, Sections 13A-5-6 and 15-18-8, Code
8 of Alabama 1975, as last amended by Act 2015-463, 2015 Regular
9 Session, and Sections 12-25-32, 15-18-172, 15-22-29, 15-22-32,
10 15-22-52, 15-22-54, and 29-2-20, Code of Alabama 1975, as last
11 amended by Act 2015-185, 2015 Regular Session, to clarify when
12 modifications to the initial voluntary sentencing standards
13 are effective; to modify the predicate monetary values of
14 theft of property in the third degree, theft of lost property
15 in the third degree, theft of services in the third degree,
16 and receiving stolen property in the third degree; to modify
17 the criminal penalties for criminal solicitation, attempt, and
18 criminal conspiracy for consistency with Class D felony
19 offenses; to clarify the periods of confinement that may be
20 imposed for violations; to specify that, prior to the
21 imposition of confinement, a parolee or probationer must be
22 presented with a violation report; to clarify that the Board
23 of Pardons and Paroles may impose periods of confinement of
24 two to three 24-hour periods; to indicate that judges may
25 impose periods of confinement up to two to three 24-hour
26 periods for violations; to clarify that the Department of
27 Corrections is responsible for the release of defendants

1 sentenced to certain periods of confinement; to remove release
2 ranges to provide for a mandatory release date; to clarify use
3 of the phrase "consenting community corrections programs" for
4 Class D felony offenses; to remove the requirement that the
5 Department of Corrections identify alternatives in local
6 jurisdictions to community corrections programs and place the
7 responsibility with the sentencing court; to specify that the
8 Department of Veterans Affairs is the responsible agency for
9 identifying referral and other services to veterans; to extend
10 the current reporting deadline of the legislative committee
11 assisting the Legislative Prison Joint Task Force; and in
12 connection therewith would have as its purpose or effect the
13 requirement of a new or increased expenditure of local funds
14 within the meaning of Amendment 621 of the Constitution of
15 Alabama of 1901, now appearing as Section 111.05 of the
16 Official Recompilation of the Constitution of Alabama of 1901,
17 as amended.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 12-25-34, 13A-4-1, 13A-4-2, and
20 13A-4-3, Code of Alabama 1975, Sections 6, 7, 9, 11, and 18 of
21 Act 2015-185, 2015 Regular Session, now appearing as Sections
22 13A-8-4.1, 13A-8-8.1, 13A-8-10.25, 13A-8-18.1, 15-22-26.2,
23 13A-5-8.1, and 15-22-29.1, Code of Alabama 1975, respectively,
24 Sections 13A-5-6 and 15-18-8, Code of Alabama 1975, as last
25 amended by Act 2015-463, 2015 Regular Session, and Sections
26 12-25-32, 15-18-172, 15-22-29, 15-22-32, 15-22-52, 15-22-54,
27 and 29-2-20, Code of Alabama 1975, as last amended by Act

1 2015-185, 2015 Regular Session, are amended to read as
2 follows:

3 "§12-25-32.

4 "For the purposes of this article, the following
5 terms have the following meanings:

6 "(1) COMMISSION. The Alabama Sentencing Commission,
7 established as a state agency under the Supreme Court by this
8 chapter.

9 "(2) CONTINUUM OF PUNISHMENTS. An array of
10 punishment options, from probation to incarceration, graduated
11 in restrictiveness according to the degree of supervision of
12 the offender including, but not limited to, all of the
13 following:

14 "a. Active Incarceration. A sentence, other than an
15 intermediate punishment or unsupervised probation, that
16 requires an offender to serve a sentence of imprisonment. The
17 term includes time served in a work release program operated
18 as a custody option by the Alabama Department of Corrections
19 or in the Supervised Intensive Restitution program of the
20 Department of Corrections pursuant to Article 7, commencing
21 with Section 15-18-110, of Chapter 18 of Title 15.

22 "b. Intermediate Punishment. A sentence that may
23 include assignment to any community based punishment program
24 or may include probation with conditions or probation in
25 conjunction with a period of confinement. Intermediate
26 punishments include, but are not limited to, all of the
27 following options:

- 1 "1. A split sentence pursuant to Section 15-18-8.
- 2 "2. Assignment to a community punishment and
- 3 corrections program pursuant to the Alabama Community
- 4 Punishment and Corrections Act or local acts.
- 5 "3. Assignment to a community based manual labor
- 6 work program pursuant to Sections 14-5-30 to 14-5-37,
- 7 inclusive.
- 8 "4. Intensive probation supervision pursuant to
- 9 Section 15-22-56.
- 10 "5. Cognitive and behavioral training.
- 11 "6. Community service work.
- 12 "7. County probation.
- 13 "8. Day fines or means-based fines.
- 14 "9. Day reporting.
- 15 "10. Drug or alcohol testing.
- 16 "11. Drug court programs.
- 17 "12. Educational programs.
- 18 "13. Electronic monitoring.
- 19 "14. Home confinement or house arrest.
- 20 "15. Ignition interlock.
- 21 "16. Intermittent confinement.
- 22 "17. Jail and prison diversion programs.
- 23 "18. Job readiness and work.
- 24 "19. Literacy and basic learning.
- 25 "20. Pretrial diversion programs.
- 26 "21. Residential drug treatment.

1 "22. Residential community based punishment programs
2 in which the offender is required to spend at least eight
3 hours per day, or overnight, within a facility and is required
4 to participate in activities such as counseling, treatment,
5 social skills training, or employment training, conducted at
6 the residential facility or at another specified location.

7 "23. Restorative justice as established in Section
8 12-17-226.6.

9 "(i) Victim impact panels.

10 "(ii) Voluntary victim offender conferencing.

11 "(iii) Voluntary victim offender mediation.

12 "24. Self-help groups.

13 "25. Sobriety or breath alcohol remote monitoring.

14 "26. Substance abuse education and treatment.

15 "27. Treatment alternatives to street crime (TASC).

16 "28. Voice recognition, curfew restriction, or
17 employment monitoring.

18 "29. Work release, other than those work release
19 programs operated by the Alabama Department of Corrections, as
20 a custody option.

21 "c. Unsupervised Probation. A sentence in a criminal
22 case that includes a period of probation but does not include
23 supervision, active incarceration, or an intermediate
24 punishment.

25 "d. Post-release Supervision. A mandatory period of
26 supervision following sentences of active incarceration as

1 defined in paragraph a. that may include one or more
2 intermediate punishment options.

3 "(3) COURT. Unless otherwise stated, a district or
4 circuit court exercising jurisdiction to sentence felony
5 offenders.

6 "(4) EVIDENCE-BASED PRACTICES. Policies, procedures,
7 programs, and practices proven by widely accepted and
8 published research to reliably produce reductions in
9 recidivism.

10 "(5) FELONY OFFENSE. A noncapital felony offense.

11 "(6) INITIAL VOLUNTARY STANDARDS. The voluntary
12 sentencing standards effective on October 1, 2006. These
13 standards were based on statewide historic sentences imposed
14 with normative adjustments designed to reflect current
15 sentencing policies.

16 "(7) NONVIOLENT OFFENSE. All offenses which are not
17 violent offenses.

18 "(8) NONVIOLENT OFFENDER. Any offender who does not
19 qualify as a violent offender pursuant to subdivision (14).

20 "(9) OFFENDER. A person convicted of a noncapital
21 felony offense.

22 "(10) RELEASE AUTHORITY. Any public official,
23 agency, or other entity authorized by law to release a
24 sentenced offender from incarceration or other conditions of a
25 sentence.

26 "(11) SENTENCING EVENT. A sentencing event includes
27 all convictions sentenced at the same time, whether included

1 as counts in one case or as multiple cases, regardless of
2 whether each offense is a sentencing standards offense.

3 "~~(11)~~(12) VALIDATED RISK AND NEEDS ASSESSMENT. An
4 actuarial tool that has been validated and established by
5 administrative rule in Alabama to determine the likelihood of
6 an offender engaging in future criminal behavior. The Board of
7 Pardons and Paroles and the Department of Corrections shall
8 adopt compatible tools to conduct a validated risk and needs
9 assessment upon offenders within the jurisdiction of the
10 state. A validated risk and needs assessment shall include,
11 but not be limited to, an offender's prior criminal history,
12 the nature and severity of the present offense, and potential
13 for future violence.

14 "~~(12)~~(13) TRUTH-IN-SENTENCING STANDARDS. Truth in
15 sentencing is scheduled to become effective October 1, 2020.

16 "~~(13)~~(14) UNDER SUPERVISION. All offenders under the
17 supervision of any criminal justice agency or program
18 including, but not limited to, any of the following entities:

19 "a. The Alabama Department of Corrections.

20 "b. State or county probation offices.

21 "c. Community corrections programs pursuant to
22 Alabama Community Corrections Act.

23 "d. Jails.

24 "e. State or local law enforcement agencies.

25 "f. Any court.

26 "~~(14)~~(15) VIOLENT OFFENDER. A violent offender is an
27 offender who has been convicted of a violent offense, or who

1 is determined by the trial court judge or a release authority
2 to have demonstrated a propensity for violence, aggression, or
3 weapons related behavior based on the criminal history or
4 behavior of the offender while under supervision of any
5 criminal justice system agency or entity.

6 "~~(15)~~(16) VIOLENT OFFENSE.

7 "a. For the purposes of this article, a violent
8 offense includes each of the following offenses, or any
9 substantially similar offense to those listed in this
10 subdivision created after June 20, 2003:

11 "1. Capital murder pursuant to Sections 13A-6-2 and
12 13A-5-40.

13 "2. Murder pursuant to Section 13A-6-2.

14 "3. Manslaughter pursuant to Section 13A-6-3.

15 "4. Criminally negligent homicide pursuant to
16 Section 13A-6-4.

17 "5. Assault I pursuant to Section 13A-6-20.

18 "6. Assault II pursuant to Section 13A-6-21.

19 "7. Compelling street gang membership pursuant to
20 Section 13A-6-26.

21 "8. Kidnapping I pursuant to Section 13A-6-43.

22 "9. Kidnapping II pursuant to Section 13A-6-44.

23 "10. Rape I pursuant to Section 13A-6-61.

24 "11. Rape II pursuant to Section 13A-6-62.

25 "12. Sodomy I pursuant to Section 13A-6-63.

26 "13. Sodomy II pursuant to Section 13A-6-64.

27 "14. Sexual torture pursuant to Section 13A-6-65.1.

- 1 "15. Sexual abuse I pursuant to Section 13A-6-66.
- 2 "16. Enticing a child to enter a vehicle for immoral
3 purposes pursuant to Section 13A-6-69.
- 4 "17. Stalking pursuant to Section 13A-6-90.
- 5 "18. Aggravated stalking pursuant to Section
6 13A-6-91.
- 7 "19. Soliciting a child by computer pursuant to
8 Section 13A-6-110.
- 9 "20. Domestic violence I pursuant to Section
10 13A-6-130.
- 11 "21. Domestic violence II pursuant to Section
12 13A-6-131.
- 13 "22. Burglary I pursuant to Section 13A-7-5.
- 14 "23. Burglary II pursuant to Section 13A-7-6.
- 15 "24. Burglary III pursuant to subdivision (1) or
16 subdivision (2) of subsection (a) of Section 13A-7-7.
- 17 "25. Arson I pursuant to Section 13A-7-41.
- 18 "26. Criminal possession of explosives pursuant to
19 Section 13A-7-44.
- 20 "27. Extortion I pursuant to Section 13A-8-14.
- 21 "28. Robbery I pursuant to Section 13A-8-41.
- 22 "29. Robbery II pursuant to Section 13A-8-42.
- 23 "30. Robbery III pursuant to Section 13A-8-43.
- 24 "31. Pharmacy robbery pursuant to Section 13A-8-51.
- 25 "32. Terrorist threats pursuant to Section
26 13A-10-15.
- 27 "33. Escape I pursuant to Section 13A-10-31.

1 "34. Promoting prison contraband I pursuant to
2 Section 13A-10-36, involving a deadly weapon or dangerous
3 instrument.

4 "35. Intimidating a witness pursuant to Section
5 13A-10-123.

6 "36. Intimidating a juror pursuant to Section
7 13A-10-127.

8 "37. Treason pursuant to Section 13A-11-2.

9 "38. Discharging a weapon into an occupied building,
10 dwelling, automobile, etc., pursuant to Section 13A-11-61.

11 "39. Promoting prostitution I pursuant to Section
12 13A-12-111.

13 "40. Production of obscene matter involving a minor
14 pursuant to Section 13A-12-197.

15 "41. Trafficking pursuant to Section 13A-12-231.

16 "42. Child abuse pursuant to Section 26-15-3

17 "43. Elder abuse pursuant to Section 38-9-7.

18 "44. Terrorism pursuant to Section 13A-10-152.

19 "45. Hindering prosecution for terrorism pursuant to
20 Section 13A-10-154.

21 "46. Domestic violence III pursuant to subsection
22 (d) of Section 13A-6-132.

23 "47. Domestic violence by strangulation or
24 suffocation pursuant to Section 13A-6-138.

25 "48. Human trafficking I pursuant to Section
26 13A-6-152.

1 "49. Human trafficking II pursuant to Section
2 13A-6-153.

3 "50. Hindering prosecution in the first degree
4 pursuant to Section 13A-10-43.

5 "51. Any substantially similar offense for which an
6 Alabama offender has been convicted under prior Alabama law or
7 the law of any other state, the District of Columbia, the
8 United States, or any of the territories of the United States.

9 "b. The basis for defining these offenses as violent
10 is that each offense meets at least one of the following
11 criteria:

12 "1. Has as an element, the use, attempted use, or
13 threatened use of a deadly weapon or dangerous instrument or
14 physical force against the person of another.

15 "2. Involves a substantial risk of physical injury
16 against the person of another.

17 "3. Is a nonconsensual sex offense.

18 "4. Is particularly reprehensible.

19 "c. Any attempt, conspiracy, or solicitation to
20 commit a violent offense shall be considered a violent offense
21 for the purposes of this article.

22 "d. Any criminal offense which meets the criteria
23 provided in paragraph b. enacted after 2003.

24 "§12-25-34.

25 "(a) Statewide voluntary sentencing standards shall
26 be developed and presented to the Legislature in stages over a
27 three-year period as follows:

1 "(1) By July 31, 2003, the commission shall develop
2 and distribute to all sentencing judges a reference manual
3 analyzing historical sentencing practices by duration of
4 sentence and disposition of felony offenders in Alabama. The
5 reference manual shall indicate those types of offenders
6 historically most likely to be sentenced to punishments other
7 than active incarceration where alternatives to active
8 incarceration are available.

9 "(2) Concurrently with the development and
10 distribution of the reference manual, the commission shall
11 develop and begin testing worksheets and voluntary sentencing
12 standards in selected circuits for selected felony offenses.

13 "(3) The commission shall develop and present the
14 initial voluntary sentencing standards to the Legislature
15 before or during the 2006 Regular Session. These standards
16 shall be introduced in the 2006 Regular Session and shall
17 become effective on October 1 following the 2006 Regular
18 Session, if approved by an act of the Legislature passed
19 during that session. The initial voluntary sentencing
20 standards based on sentences imposed shall apply to
21 convictions for felony offenses sentenced on or after October
22 1, 2006, and committed before the effective date of the
23 voluntary truth-in-sentencing standards.

24 "(4) The commission shall develop and present
25 truth-in-sentencing standards to the Legislature before or
26 during the 2020 Regular Session. These standards shall be
27 introduced in the 2020 Regular Session and shall become

1 effective on October 1 following the 2020 Regular Session, if
2 approved by an act of the Legislature. The voluntary
3 truth-in-sentencing standards shall apply only to felony
4 offenses committed on or after the effective date of these
5 standards.

6 "(b) Recommended sentence ranges shall be
7 established by standards that are based on historical
8 sentencing practices, adjusted to achieve sentencing goals as
9 established in Rule 26 of the Alabama Rules of Criminal
10 Procedure, this chapter, and Section 12-25-31.

11 "(c) Voluntary sentencing standards shall take into
12 account and include statewide historically based sentence
13 ranges, including all applicable statutory minimums and
14 sentence enhancement provisions, including the Habitual Felony
15 Offender Act, with adjustments made to reflect current
16 sentencing policies. No additional penalties pursuant to any
17 sentence enhancement statute shall apply to sentences imposed
18 based on the voluntary sentencing standards.

19 "(d) Commencing with the 2013 Regular Session, any
20 modifications to the initial voluntary sentencing standards
21 made by the commission shall be contained in the annual report
22 presented to the Governor, the Legislature, the Chief Justice,
23 and the Attorney General. An annual report containing proposed
24 modifications shall be presented to the Governor, the
25 Legislature, the Chief Justice, and the Attorney General at
26 least forty-five days prior to each regular session of the
27 Legislature. The modifications presented for nonviolent

1 offenses shall become effective ~~on October 1 following~~ 30 days
2 from the last day of the legislative session in which the
3 modifications were presented unless rejected by an act of the
4 Legislature enacted by bill during the legislative session.
5 The modifications presented for violent offenses shall become
6 effective ~~on October 1 following~~ 30 days from the last day of
7 the legislative session in which the modifications were
8 presented, if approved by an act of the Legislature enacted by
9 bill during the legislative session in which the modifications
10 were presented.

11 "§13A-5-6.

12 "(a) Sentences for felonies shall be for a definite
13 term of imprisonment, which imprisonment includes hard labor,
14 within the following limitations:

15 "(1) For a Class A felony, for life or not more than
16 99 years or less than 10 years.

17 "(2) For a Class B felony, not more than 20 years or
18 less than 2 years.

19 "(3) For a Class C felony, not more than 10 years or
20 less than 1 year and 1 day. ~~and~~ A Class C felony must be
21 sentenced either in accordance with subsection (b) of Section
22 15-18-8 ~~unless sentencing is or~~ pursuant to Section 13A-5-9,
23 unless sentenced as a part of a sentencing event, as defined
24 in Section 12-25-32, involving a Class A or Class B felony.

25 "(4) For a Class D felony, not more than 5 years or
26 less than 1 year and 1 day. ~~and~~ A Class D felony must be
27 sentenced in accordance with subsection (b) of Section

1 15-18-8, unless sentenced as part of a sentencing event, as
2 defined in Section 12-25-32, involving a Class A , Class B, or
3 Class C felony.

4 "(5) For a Class A felony in which a firearm or
5 deadly weapon was used or attempted to be used in the
6 commission of the felony, or a Class A felony sex offense
7 involving a child as defined in Section 15-20A-4(26), not less
8 than 20 years.

9 "(6) For a Class B or C felony in which a firearm or
10 deadly weapon was used or attempted to be used in the
11 commission of the felony, or a Class B felony sex offense
12 involving a child as defined in Section 15-20A-4(26), not less
13 than 10 years.

14 "(b) The actual time of release within the
15 limitations established by subsection (a) of this section
16 shall be determined under procedures established elsewhere by
17 law.

18 "(c) In addition to any penalties heretofore or
19 hereafter provided by law, in all cases where an offender is
20 designated as a sexually violent predator pursuant to Section
21 15-20A-19, or where an offender is convicted of a Class A
22 felony sex offense involving a child as defined in Section
23 15-20A-4(26), and is sentenced to a county jail or the Alabama
24 Department of Corrections, the sentencing judge shall impose
25 an additional penalty of not less than 10 years of
26 post-release supervision to be served upon the defendant's
27 release from incarceration.

1 "(d) In addition to any penalties heretofore or
2 hereafter provided by law, in all cases where an offender is
3 convicted of a sex offense pursuant to Section 13A-6-61,
4 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of
5 age or older and the victim was six years of age or less at
6 the time the offense was committed, the defendant shall be
7 sentenced to life imprisonment without the possibility of
8 parole.

9 "§13A-5-8.1.

10 "If a defendant is participating in a court
11 supervised evidence-based treatment program, as that term is
12 defined in Section 12-25-32, a court ordered faith-based
13 program, or any other court ordered rehabilitative program and
14 is subsequently terminated from that program, the court may
15 then order that the defendant be confined in either a prison,
16 jail-type institution, treatment institution, or a ~~consenting~~
17 community corrections program. The court shall impose a
18 sentence length that complies with either Section 13A-5-6,
19 Section 13A-5-9, or the sentencing guidelines, whichever is
20 applicable. Nothing in this section shall preclude the court
21 from imposing a split sentence under Section 15-18-8 or from
22 suspending a sentence under Section 15-22-50. Nothing in this
23 section shall limit the court's discretion with regard to any
24 defendant ordered to participate in a court supervised
25 evidence-based treatment program, as that term is defined in
26 Section 12-25-32, a court ordered faith-based program, or any

1 other court ordered rehabilitative program, whether pre-trial,
2 pre-trial adjudication, or as a condition of bond.

3 "§13A-8-4.1.

4 "(a) The theft of property that exceeds five hundred
5 dollars (\$500) in value but does not exceed one thousand ~~four~~
6 ~~hundred and ninety-nine dollars (\$1,499)~~ five hundred dollars
7 (\$1,500) in value, and which is not taken from the person of
8 another, constitutes theft of property in the third degree.

9 "(b) Theft of property in the third degree is a
10 Class D felony.

11 "(c) The theft of a credit card or a debit card,
12 regardless of its value, constitutes theft of property in the
13 third degree.

14 "§13A-8-8.1.

15 "(a) The theft of lost property which exceeds five
16 hundred dollars (\$500) in value but does not exceed one
17 thousand ~~four hundred and ninety-nine dollars (\$1,499)~~ five
18 hundred dollars (\$1,500) in value constitutes theft of lost
19 property in the third degree.

20 "(b) Theft of lost property in the third degree is a
21 Class D felony.

22 "§13A-8-10.25.

23 "(a) The theft of services which exceeds five
24 hundred dollars (\$500) in value but does not exceed one
25 thousand ~~four hundred and ninety-nine dollars (\$1,499)~~ five
26 hundred dollars (\$1,500) in value constitutes theft of
27 services in the third degree.

1 "(b) Theft of services in the third degree is a
2 Class D felony.

3 "§13A-8-18.1.

4 (a) Receiving stolen property which exceeds five
5 hundred dollars (\$500) in value but does not exceed one
6 thousand ~~four hundred and ninety nine dollars (\$1,499)~~ five
7 hundred dollars (\$1,500) in value constitutes receiving stolen
8 property in the third degree.

9 (b) Receiving stolen property in the third degree is
10 a Class D felony.

11 "§13A-4-1.

12 "(a) (1) A person is guilty of criminal solicitation
13 if, with the intent that another person engage in conduct
14 constituting a crime, he solicits, requests, commands or
15 importunes such other person to engage in such conduct.

16 "(2) A person may not be convicted of criminal
17 solicitation upon the uncorroborated testimony of the person
18 allegedly solicited, and there must be proof of circumstances
19 corroborating both the solicitation and the defendant's
20 intent.

21 "(b) A person is not liable under this section if,
22 under circumstances manifesting a voluntary and complete
23 renunciation of his criminal intent, he (1) notified the
24 person solicited of his renunciation and (2) gave timely and
25 adequate warning to the law enforcement authorities or
26 otherwise made a substantial effort to prevent the commission
27 of the criminal conduct solicited. The burden of injecting

1 this issue is on the defendant, but this does not shift the
2 burden of proof.

3 "(c) A person is not liable under this section when
4 his solicitation constitutes conduct of a kind that is
5 necessarily incidental to the commission of the offense
6 solicited. When the solicitation constitutes an offense other
7 than criminal solicitation which is related to but separate
8 from the offense solicited, defendant is guilty of such
9 related offense only and not of criminal solicitation.

10 "(d) It is no defense to a prosecution for criminal
11 solicitation that the person solicited could not be guilty of
12 the offense solicited because of:

13 "(1) Criminal irresponsibility or other legal
14 incapacity or exemption; or

15 "(2) Unawareness of the criminal nature of the
16 conduct solicited or of the defendant's criminal purpose; or

17 "(3) Any other factor precluding the mental state
18 required for the commission of the offense in question.

19 "(e) It is no defense to a prosecution for criminal
20 solicitation that defendant belongs to a class of persons who
21 by definition are legally incapable in an individual capacity
22 of committing the offense that he solicited another to commit.

23 "(f) Criminal solicitation is a:

24 "(1) Class A felony if the offense solicited is
25 murder.

26 "(2) Class B felony if the offense solicited is a
27 Class A felony.

1 "(3) Class C felony if the offense solicited is a
2 Class B felony.

3 "(4) Class D felony if the offense solicited is a
4 Class C felony.

5 "~~(4)~~ (5) Class A misdemeanor if the offense
6 solicited is a Class ~~C~~ D felony.

7 "~~(5)~~ (6) Class B misdemeanor if the offense
8 solicited is a Class A misdemeanor.

9 "~~(6)~~ (7) Class C misdemeanor if the offense
10 solicited is a Class B misdemeanor.

11 "~~(7)~~ (8) Violation if the offense solicited is a
12 Class C misdemeanor.

13 "§13A-4-2.

14 "(a) A person is guilty of an attempt to commit a
15 crime if, with the intent to commit a specific offense, he
16 does any overt act towards the commission of such offense.

17 "(b) It is no defense under this section that the
18 offense charged to have been attempted was, under the
19 attendant circumstances, factually or legally impossible of
20 commission, if such offense could have been committed had the
21 attendant circumstances been as the defendant believed them to
22 be.

23 "(c) A person is not liable under this section if,
24 under circumstances manifesting a voluntary and complete
25 renunciation of this criminal intent, he avoided the
26 commission of the offense attempted by abandoning his criminal
27 effort and, if mere abandonment is insufficient to accomplish

1 such avoidance, by taking further and affirmative steps which
2 prevented the commission thereof. The burden of injecting this
3 issue is on the defendant, but this does not shift the burden
4 of proof.

5 "(d) An attempt is a:

6 "(1) Class A felony if the offense attempted is
7 murder.

8 "(2) Class B felony if the offense attempted is a
9 Class A felony.

10 "(3) Class C felony if the offense attempted is a
11 Class B felony.

12 "(4) Class D felony if the offense attempted is a
13 Class C felony.

14 "~~(4)~~ (5) Class A misdemeanor if the offense
15 attempted is a Class ~~C~~ D felony.

16 "~~(5)~~ (6) Class B misdemeanor if the offense
17 attempted is a Class A misdemeanor.

18 "~~(6)~~ (7) Class C misdemeanor if the offense
19 attempted is a Class B misdemeanor.

20 "~~(7)~~ (8) Violation if the offense attempted is a
21 Class C misdemeanor.

22 "§13A-4-3.

23 "(a) A person is guilty of criminal conspiracy if,
24 with the intent that conduct constituting an offense be
25 performed, he agrees with one or more persons to engage in or
26 cause the performance of such conduct, and any one or more of

1 such persons does an overt act to effect an objective of the
2 agreement.

3 "(b) If a person knows or should know that one with
4 whom he agrees has in turn agreed or will agree with another
5 to effect the same criminal objective, he shall be deemed to
6 have agreed with such other person, whether or not he knows
7 the other's identity.

8 "(c) A person is not liable under this section if,
9 under circumstances manifesting a voluntary and complete
10 renunciation of his criminal purpose, he gave a timely and
11 adequate warning to law enforcement authorities or made a
12 substantial effort to prevent the enforcement of the criminal
13 conduct contemplated by the conspiracy. Renunciation by one
14 conspirator, however, does not affect the liability of another
15 conspirator who does not join in the abandonment of the
16 conspiratorial objective. The burden of injecting the issue of
17 renunciation is on the defendant, but this does not shift the
18 burden of proof.

19 "(d) It is no defense to a prosecution for criminal
20 conspiracy that:

21 "(1) The person, or persons, with whom defendant is
22 alleged to have conspired has been acquitted, has not been
23 prosecuted or convicted, has been convicted of a different
24 offense or is immune from prosecution, or

25 "(2) The person, or persons, with whom defendant
26 conspired could not be guilty of the conspiracy or the object

1 crime because of lack of mental responsibility or culpability,
2 or other legal incapacity or defense, or

3 "(3) The defendant belongs to a class of persons who
4 by definition are legally incapable in an individual capacity
5 of committing the offense that is the object of the
6 conspiracy.

7 "(e) A conspirator is not liable under this section
8 if, had the criminal conduct contemplated by the conspiracy
9 actually been performed, he would be immune from liability
10 under the law defining the offense or as an accomplice under
11 Section 13A-2-24.

12 "(f) Liability as accomplice. - Accomplice liability
13 for offenses committed in furtherance of a conspiracy is to be
14 determined as provided in Section 13A-2-23.

15 "(g) Criminal conspiracy is a:

16 "(1) Class A felony if an object of the conspiracy
17 is murder.

18 "(2) Class B felony if an object of the conspiracy
19 is a Class A felony.

20 "(3) Class C felony if an object of the conspiracy
21 is a Class B felony.

22 "(4) Class D felony if an object of the conspiracy
23 is a Class C felony.

24 "~~(4)~~ (5) Class A misdemeanor if an object of the
25 conspiracy is a Class ~~C~~ D felony.

26 "~~(5)~~ (6) Class B misdemeanor if an object of the
27 conspiracy is a Class A misdemeanor.

1 "~~(6)~~ (7) Class C misdemeanor if an object of the
2 conspiracy is a Class B misdemeanor.

3 "~~(7)~~ (8) Violation if an object of the conspiracy is
4 a Class C misdemeanor.

5 "§15-18-8.

6 "(a) When a defendant is convicted of an offense,
7 other than a sex offense involving a child as defined in
8 Section 15-20A-4(26), that constitutes a Class A or Class B
9 felony offense, and receives a sentence of 20 years or less in
10 any court having jurisdiction to try offenses against the
11 State of Alabama and the judge presiding over the case is
12 satisfied that the ends of justice and the best interests of
13 the public as well as the defendant will be served thereby, he
14 or she may order:

15 "(1) That a defendant convicted of a Class A or
16 Class B felony be confined in a prison, jail-type institution,
17 or treatment institution for a period not exceeding three
18 years in cases where the imposed sentence is not more than 15
19 years, and that the execution of the remainder of the sentence
20 be suspended notwithstanding any provision of the law to the
21 contrary and that the defendant be placed on probation for
22 such period and upon such terms as the court deems best.

23 "(2) That a defendant convicted of a Class A, Class
24 B, or Class C felony with an imposed sentence of greater than
25 15 years but not more than 20 years be confined in a prison,
26 jail-type institution, or treatment institution for a period
27 of three to five years for Class A or Class B felony

1 convictions and for a period of three years for Class C felony
2 convictions, during which the offender shall not be eligible
3 for parole or release because of deduction from sentence for
4 good behavior under the Alabama Correctional Incentive Time
5 Act, and that the remainder of the sentence be suspended
6 notwithstanding any provision of the law to the contrary and
7 that the defendant be placed on probation for the period upon
8 the terms as the court deems best.

9 "(3) This subsection shall not be construed to
10 impose the responsibility for offenders sentenced to a
11 Department of Corrections facility upon a local confinement
12 facility not operated by the Department of Corrections.

13 "(b) Unless a defendant is sentenced to probation,
14 drug court, or a pretrial diversion program, when a defendant
15 is convicted of an offense that constitutes a Class C or D
16 felony offense and receives a sentence of not more than 15
17 years, the judge presiding over the case shall order that the
18 convicted defendant be confined in a prison, jail-type
19 institution, treatment institution, or community corrections
20 program for a Class C felony offense or in a ~~consenting~~
21 community corrections program for a Class D felony offense,
22 except as provided in subsection (e), for a period not
23 exceeding two years in cases where the imposed sentence is not
24 more than 15 years, and that the execution of the remainder of
25 the sentence be suspended notwithstanding any provision of the
26 law to the contrary and that the defendant be placed on
27 probation for a period not exceeding three years and upon such

1 terms as the court deems best. In all cases when it is shown
2 that a defendant has been previously convicted of any three or
3 more felonies or has been previously convicted of any two or
4 more felonies that are Class A or Class B felonies, and after
5 such convictions has committed a Class D felony, upon
6 conviction, he or she must be punished for a Class C felony.
7 This subsection shall not be construed to impose the
8 responsibility for offenders sentenced to a Department of
9 Corrections facility upon a local confinement facility not
10 operated by the Department of Corrections.

11 "(c) Nothing in this section shall be construed as
12 superseding the sentencing requirements set forth and adopted
13 by the Legislature as prescribed by the Alabama Sentencing
14 Commission's Sentencing Standards.

15 "(d) In counties or jurisdictions where no community
16 corrections program exists or resources from a community
17 investment are not complete, a county or jurisdiction may
18 enter into a compact or contract with another county or other
19 counties to create a multi-jurisdiction community corrections
20 facility that meets the needs and resources of each county or
21 jurisdiction or enter into a compact or contract with a county
22 or jurisdiction that has a community corrections program to
23 provide services, as provided in and pursuant to Article 9 of
24 this chapter.

25 "(e) If no community corrections program exists
26 within a county or jurisdiction or an existing program has
27 reached the maximum participation level established by its

1 community punishment and corrections plan as provided in
2 Section 15-18-172 and no alternative program options are
3 available under subsection (e) of Section 15-18-172, a
4 defendant convicted of an offense that constitutes a Class D
5 felony may be sentenced to high-intensity probation under the
6 supervision of the Board of Pardons and Paroles in lieu of
7 community corrections.

8 "(f) Probation may not be granted for a sex offense
9 involving a child as defined in Section 15-20A-4(26), which
10 constitutes a Class A or B felony. Otherwise, probation may be
11 granted whether the offense is punishable by fine or
12 imprisonment or both. If an offense is punishable by both fine
13 and imprisonment, the court may impose a fine and place the
14 defendant on probation as to imprisonment. Probation may be
15 limited to one or more counts or indictments, but, in the
16 absence of express limitation, shall extend to the entire
17 sentence and judgment.

18 "(g) Regardless of whether the defendant has begun
19 serving the minimum period of confinement ordered under the
20 provisions of subsections (a) or (b), if the imposed sentence
21 is not more than 20 years, the court shall retain jurisdiction
22 and authority throughout that period to suspend that portion
23 of the minimum sentence that remains and place the defendant
24 on probation, notwithstanding any provision of the law to the
25 contrary and the court may revoke or modify any condition of
26 probation or may change the period of probation.

1 "(h) While incarcerated or on probation and among
2 the conditions thereof, the defendant may be required:

3 "(1) To pay a fine in one or several sums;

4 "(2) To make restitution or reparation to aggrieved
5 parties for actual damages or loss caused by the offense for
6 which conviction was had; and

7 "(3) To provide for the support of any persons for
8 whose support he or she is legally responsible.

9 "(i) Except as otherwise provided pursuant to
10 Section 15-18-64, the defendant's liability for any fine or
11 other punishment imposed as to which probation is granted
12 shall be fully discharged by the fulfillment of the terms and
13 conditions of probation.

14 "(j) During any term of probation, the defendant
15 shall report to the probation authorities at such time and
16 place as directed by the judge imposing sentence.

17 "(k) No defendant serving a minimum period of
18 confinement ordered under the provisions of subsections (a) or
19 (b) shall be entitled to parole or to deductions from his or
20 her sentence under the Alabama Correctional Incentive Time
21 Act, during the minimum period of confinement so ordered;
22 provided, however, that this subsection shall not be construed
23 to prohibit application of the Alabama Correctional Incentive
24 Time Act to any period of confinement which may be required
25 after the defendant has served such minimum period.

26 "§15-18-172.

1 "(a) A county or group of counties may establish a
2 community punishment and corrections program for state and
3 county inmates or youthful offenders in custody of the county.
4 The program shall be established by a county by resolution
5 adopted by the county commission or by community punishment
6 and corrections authorities or other nonprofit entities as
7 provided herein. The program shall establish the maximum
8 number of offenders who may participate in the program and
9 participation shall be limited to space availability. No
10 offenders may be sentenced or assigned to the program in
11 excess of the maximum number established for the program. No
12 county is obligated to fund any activities of a community
13 corrections program established under this article without an
14 affirmative vote of the affected county commission.

15 "(b) The department may contract with such counties,
16 authorities, or other nonprofit entities as provided herein
17 concerning start-up costs and the costs of maintenance,
18 including medical expenses, of state inmates participating in
19 any program authorized under this article or under any county
20 program functioning pursuant to any state or local act.

21 "(c) The department shall promulgate rules and
22 regulations pursuant to the Alabama Administrative Procedure
23 Act establishing conditions for state inmates' participation
24 in the community punishment and corrections program, the
25 observance of which may be a condition to such participation.

26 "(d) A state inmate incarcerated in a state facility
27 may be approved by the department for participation in a

1 community punishment and corrections program established under
2 this article and be assigned to a program in the county from
3 which the inmate was sentenced if a community punishment and
4 corrections program under this article has been established in
5 that county and if the sentencing judge of the county
6 authorizes the inmate to participate in the program. An inmate
7 may be assigned to a community punishment and corrections
8 program in another county if the presiding judge of the other
9 county and the sentencing judge agree to the assignment and if
10 the county has agreed in the contract to accept inmates
11 originally sentenced in other counties. In the event the
12 sentencing judge is unavailable due to death, retirement, or
13 any other reason, the presiding judge from the sentencing
14 circuit shall act in the sentencing judge's stead. An inmate
15 assigned to a community punishment and corrections program
16 pursuant to this article shall not be eligible for parole
17 consideration.

18 "(e) The department shall annually identify
19 alternatives to community punishment and corrections programs
20 for those counties which have not established a community
21 punishment and corrections program under this article. The
22 department shall publish a list of such alternatives on its
23 website and shall provide a list of such alternatives to each
24 district and circuit court annually. ~~The department~~ To be
25 included in the list required by this subsection, the Alabama
26 Department of Veterans Affairs shall include provide to the
27 department a list of referral services available for veterans

1 and servicemen, and, when available and appropriate, shall
2 include any Veterans Treatment Court in operation in the
3 appropriate county or circuit as an alternative.

4 "§15-22-26.2.

5 "(a) A convicted defendant sentenced to a period of
6 confinement under the supervision of the Department of
7 Corrections shall be subject to the following provisions,
8 unless the defendant is released to a term of probation or
9 released on parole under the provisions of Chapter 22 of Title
10 15:

11 "(1) If the defendant is sentenced to a period of
12 five years or less, he or she shall be released by the
13 Department of Corrections to supervision by the Board of
14 Pardons and Paroles no less than three months and no more than
15 five months prior to the defendant's release date;

16 "(2) If the defendant is sentenced to a period of
17 more than five years but less than 10 years, he or she shall
18 be released by the Department of Corrections to supervision by
19 the Board of Pardons and Paroles no less than six months and
20 no more than nine months prior to the defendant's release
21 date; or

22 "(3) If the defendant is sentenced to a period of 10
23 years or more, he or she shall be released by the Department
24 of Corrections to supervision by the Board of Pardons and
25 Paroles no less than 12 months and no more than 24 months
26 prior to the defendant's release date.

1 "(b) The provisions of this section shall not apply
2 to a defendant convicted of any sex offense involving a child,
3 as defined in Section 15-20A-4.

4 "(c) Prior to the defendant's release to supervision
5 pursuant to this section, notice of such release shall be
6 provided by the Department of Corrections to the victim and
7 interested parties through the victim notification system
8 established pursuant to Section 15-22-36.2 and under the
9 provisions of Section 15-22-36.

10 "(d) Release of an offender to supervision pursuant
11 to this section shall be release to an intensive program under
12 the supervision of the Board of Pardons and Paroles.

13 "(e) Offenders released pursuant to this section
14 shall be subject to supervision as parolees pursuant to
15 Sections 15-22-29 through 15-22-32, including, but not limited
16 to, the ability to respond to violations of supervision
17 conditions established by the Board of Pardons and Paroles, up
18 to and including revocation. Those limitations contained in
19 Section 15-22-32(b) (1) on the board's ability to revoke shall
20 apply to offenders released under this section, as well as the
21 administrative authority granted to supervising officers to
22 impose short periods of confinement of two to three 24-hour
23 periods.

24 "§15-22-29.

25 "(a) The Board of Pardons and Paroles, in releasing
26 a prisoner on parole, shall specify in writing the conditions
27 of his parole, and a copy of such conditions shall be given to

1 the parolee. A violation of such conditions may render the
2 prisoner liable to arrest and reimprisonment.

3 "(b) The Board of Pardons and Paroles shall adopt
4 general rules with regard to conditions of parole and their
5 violation and may make special rules to govern particular
6 cases. Such rules, both general and special, shall include,
7 among other things, a requirement that:

8 "(1) The parolee shall not leave the state without
9 the consent of the board;

10 "(2) He or she shall contribute to the support of
11 his or her dependents to the best of his or her ability;

12 "(3) He or she shall make reparation or restitution
13 for his or her crime;

14 "(4) He or she shall abandon evil associates and
15 ways;

16 "(5) He or she shall carry out the instructions of
17 his or her parole officer and in general so comport himself or
18 herself as such officer shall determine; and

19 "(6) He or she shall submit to behavioral treatment,
20 substance abuse treatment, GPS monitoring, other treatment as
21 deemed necessary by the board or the supervising parole
22 officer, and/or a short period or periods of confinement of
23 two to three 24-hour periods in a consenting jail facility as
24 ordered by the board or imposed by the supervising officer.
25 Periods of confinement imposed by the supervising parole
26 officer shall not exceed six ~~days~~ 24-hour periods per month
27 during any three separate months during the period of parole.

1 The six ~~days~~ 24-hour periods per month confinement provided
2 for in this subdivision shall only be imposed by the
3 supervising parole officer as ~~two-day or three-day~~ 48 or 72
4 hour consecutive periods at any single time. In no event shall
5 the total periods of confinement imposed during the current
6 supervision term by the supervising parole officer provided
7 for in this subdivision exceed 18 total ~~days~~ 24-hour periods
8 in a consenting jail facility. Confinement provided herein
9 shall be ~~subject to the limitations, provisions, and~~
10 ~~conditions provided in~~ pursuant to Section 15-22-32, and the
11 board's authority to directly impose sanctions, periods of
12 confinement, or revoke parole shall not otherwise be limited.

13 "§15-22-29.1.

14 "Prior to January 30, 2016, the Board of Pardons and
15 Paroles shall collaborate with the Alabama Sentencing
16 Commission to define ~~and establish the fundamental terms and~~
17 ~~conditions of high intensity probation~~ intensive supervision,
18 which shall include high intensity probation and intensive
19 program.

20 "§15-22-32.

21 "(a) Whenever there is reasonable cause to believe
22 that a prisoner who has been paroled has violated his or her
23 parole, the Board of Pardons and Paroles, at its next meeting,
24 may declare the prisoner to be delinquent, and time owed shall
25 date from the delinquency. The Department of Corrections,
26 after receiving notice from the sheriff of the county jail
27 where the state prisoner is being held, shall promptly notify

1 the board of the return of a paroled prisoner charged with
2 violation of his or her parole. Thereupon, the board, a single
3 member of the board, a parole revocation hearing officer, or a
4 designated parole officer shall hold a parole court at the
5 prison or at another place as it may determine within 20
6 business days and consider the case of the parole violator,
7 who shall be given an opportunity to appear personally or by
8 counsel before the board or the parole court and produce
9 witnesses and explain the charges made against him or her. The
10 board member, parole revocation hearing officer, or a
11 designated parole officer, acting as a parole court, shall
12 determine whether sufficient evidence supports the violation
13 charges. If a hearing is not held within the specified 20
14 business days, the parolee shall be released back to parole
15 supervision.

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

1 A felony, and sex offenses, defined pursuant to Section
2 15-20A-5, the parole court may only recommend revocation and
3 the board may only revoke parole as provided below:

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, when~~ When a parolee under supervision of the
7 Board of Pardons and Paroles has violated a condition of
8 parole, other than being arrested or convicted of a new
9 offense or absconding, the parole court may recommend and the
10 board may impose a period of confinement of no more than 45
11 consecutive days to be served in the custody population of the
12 Department of Corrections. By April 29, 2016, the Department
13 of Corrections shall develop and implement a streamlined
14 process to transport and receive the parolee into its custody
15 population and shall identify and, if possible, implement
16 policies aimed at reducing the administrative delays, if any,
17 in transferring to the Department of Corrections the physical
18 custody of the parolee and those whose parole has been
19 revoked. Such process shall be developed in cooperation with
20 the Alabama Sheriffs' Association and the Association of
21 County Commissions of Alabama. Such process shall include the
22 most cost-effective method to process sanctioned parole
23 violators for the maximum 45 day confinement period and shall
24 provide that the Department of Corrections shall reimburse the
25 state mileage rate, as determined by the Alabama Comptroller's
26 Office, to the county for any state inmate sanctioned as a
27 parole violator and transferred to or from a Department of

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

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

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

26 "(4) If the parolee is presented to a county jail
27 for any period of confinement as contemplated herein above

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

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

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

23 "(e) In lieu of the provisions of subsections (a)
24 and (b), when a parolee violates his or her parole terms and
25 conditions, the board or his or her parole officer may require
26 the parolee to submit to ~~behavioral treatment, substance abuse~~
27 ~~treatment, GPS monitoring, such other treatment as determined~~

1 ~~by the board or supervising officer, or~~ a period of
2 confinement in a consenting jail facility as specified in
3 subdivision (6) of subsection (b) of Section 15-22-29. The
4 parole officer may exercise such authority after
5 administrative review and approval by the officer's
6 supervisor.

7 "(f) (1) Prior to imposing a ~~sanction~~ period of
8 confinement as provided under subsection (e) and pursuant to
9 subdivision (6) of subsection (b) of Section 15-22-29, the
10 parolee must first be presented with a written violation
11 report, putting forth the alleged parole violations and
12 supporting evidence. ~~The parolee may request a hearing before~~
13 ~~the parole court to be heard in person within 10 days.~~

14 "(2) The parolee shall be given written notice of
15 the right to seek ~~such~~ parole court review and advised of the
16 right to all of the following:

17 "~~(i) to~~ a. To have a hearing before a neutral and
18 detached parole court on the alleged violation or violations,
19 with the right to present relevant witnesses and documentary
20 evidence; ~~(ii) to.~~

21 "b. To retain and have counsel at the hearing if he
22 or she so desires; ~~and (iii) to.~~

23 "c. To confront and cross examine any adverse
24 witnesses.

25 "~~Upon~~ (3) The parolee may waive the right to such a
26 hearing, and upon the signing of a waiver ~~of these rights~~ by
27 the parolee and the supervising parole officer, with approval

1 of a supervisor, the parolee may be ~~treated, monitored, or~~
2 confined for the period recommended in the violation report
3 and designated on the waiver. ~~However, the~~

4 "(4) The parolee shall have no right of review if he
5 or she has signed a written waiver of rights as provided in
6 this subsection and the signed waiver shall be deemed as the
7 parolee's consent to the period of confinement recommended in
8 the violation report and designated in the waiver. Subject to
9 the sheriff's authority to refuse or release a parolee as set
10 out in subdivision (b) (4), the decision of the parole board or
11 a signed waiver providing for a period of confinement in a
12 consenting jail facility shall authorize and require the
13 sheriff to hold the parolee in the county jail for the
14 specified period of confinement. Should a parolee not sign a
15 written waiver consenting to the recommended period of
16 confinement, the revocation process shall be initiated by the
17 filing of a delinquency report by the supervising parole
18 officer, subject to subsections (a) and (b), including the
19 requirement that a parole court hearing be held within 20
20 business days.

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

26 "§15-22-52.

1 "The court shall determine and may at any time
2 modify the conditions of probation and shall include among
3 them the following or any other conditions. Such conditions
4 shall provide that the probationer shall:

5 "(1) Avoid injurious or vicious habits;

6 "(2) Avoid persons or places of disreputable or
7 harmful character;

8 "(3) Report to the probation officer as directed;

9 "(4) Permit the probation officer to visit him or
10 her at his or her home or elsewhere;

11 "(5) Work faithfully at suitable employments as far
12 as possible;

13 "(6) Remain within a specified place;

14 "(7) Pay the fine imposed or costs or such portions
15 thereof as the court may determine and in such installments as
16 the court may direct;

17 "(8) Make reparation or restitution to the aggrieved
18 party for the damage or loss caused by his or her offense in
19 an amount to be determined by the court;

20 "(9) Support his or her dependents to the best of
21 his or her ability; and

22 "(10) Submit to behavioral treatment, substance
23 abuse treatment, GPS monitoring, other treatment as deemed
24 necessary by the court or supervising probation officer,
25 and/or a short period or periods of confinement of two to
26 three 24-hour periods in a consenting jail facility as ordered
27 by the court or imposed by the supervising officer. Periods of

1 confinement imposed by the supervising probation officer shall
2 not exceed six ~~days~~ 24-hour periods per month during any three
3 separate months during the period of probation. The six ~~days~~
4 24-hour periods per month confinement provided for in this
5 subsection shall only be imposed by the supervising probation
6 officer as ~~two day or three day~~ two or three 24-hour
7 consecutive periods at any single time. In no event shall the
8 total periods of confinement imposed during the current
9 supervision term by the supervising probation officer provided
10 for in this subsection exceed 18 total ~~days~~ 24-hour periods in
11 a consenting jail facility. Confinement provided herein shall
12 be ~~subject to the limitations, provisions, and conditions~~
13 ~~provided in~~ pursuant to Section 15-22-54, and the court's
14 authority to directly impose sanctions, periods of
15 confinement, or revoke probation shall not otherwise be
16 limited.

17 "§15-22-54.

18 "(a) The period of probation or suspension of
19 execution of sentence shall be determined by the court and
20 shall not be waived by the defendant, and the period of
21 probation or suspension may be continued, extended, or
22 terminated. However, except as provided in Section 32-5A-191
23 relating to ignition interlock requirements, in no case shall
24 the maximum probation period of a defendant guilty of a
25 misdemeanor exceed two years, nor shall the maximum probation
26 period of a defendant guilty of a felony exceed five years.
27 When the conditions of probation or suspension of sentence are

1 fulfilled, the court shall, by order duly entered on its
2 minutes, discharge the defendant.

3 "(b) The court granting probation may, upon the
4 recommendation of the officer supervising the probationer,
5 terminate all authority and supervision over the probationer
6 prior to the declared date of completion of probation upon
7 showing a continued satisfactory compliance with the
8 conditions of probation over a sufficient portion of the
9 period of the probation. At least every two years, and after
10 providing notice to the district attorney, the court shall
11 review the probationer's suitability for discharge from
12 probation supervision if the probationer has satisfied all
13 financial obligations owed to the court, including
14 restitution, and has not had his or her supervision revoked.

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

1 "(d) Except as provided in Chapter 15 of Title 12,
2 any probation officer, police officer, or other officer with
3 power of arrest, when requested by the probation officer, may
4 arrest a probationer without a warrant. In case of an arrest
5 without a warrant, the arresting officer shall have a written
6 statement by the probation officer setting forth that the
7 probationer has, in his or her judgment, violated the
8 conditions of probation, and the statement shall be sufficient
9 warrant for the detention of the probationer in the county
10 jail or other appropriate place of detention until the
11 probationer is brought before the court. The probation officer
12 shall forthwith report the arrest and detention to the court
13 and submit in writing a report showing in what manner the
14 probationer has violated probation.

15 "(e) After conducting a violation hearing and
16 finding sufficient evidence to support a probation violation,
17 the court may revoke probation to impose a sentence of
18 imprisonment, and credit shall be given for all time spent in
19 custody prior to revocation. If the probationer was convicted
20 of a Class D felony and his or her probation is revoked, the
21 incarceration portion of any split sentence imposed due to
22 revocation shall be limited to two years or one-third of the
23 original suspended prison sentence, whichever is less.
24 However, in all cases, excluding violent offenses defined
25 pursuant to Section 12-25-32 and classified as a Class A
26 felony, and sex offenses, defined pursuant to Section

1 15-20A-5, the court may only revoke probation as provided
2 below:

3 ~~"(1) Unless the underlying offense is a violent~~
4 ~~offense as defined in Section 12-25-32 and classified as a~~
5 ~~Class A felony, when~~ When a defendant under supervision for a
6 felony conviction has violated a condition of probation, other
7 than arrest or conviction of a new offense or absconding, the
8 court may impose a period of confinement of no more than 45
9 consecutive days to be served in the custody population of the
10 Department of Corrections. By April 29, 2016, the Department
11 of Corrections shall develop and implement a streamlined
12 process to transport and receive the probationer into its
13 custody population and shall identify and, if possible,
14 implement policies aimed at reducing the administrative
15 delays, if any, in transferring to the Department of
16 Corrections the physical custody of the probationer and those
17 whose probation has been revoked. Such process shall be
18 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 probation violators for the
22 maximum 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 probation
26 violator and transferred to or from a Department of
27 Corrections facility by the county. Upon completion of the

1 confinement period, the remaining probation period or
2 suspension of sentence shall automatically continue upon the
3 defendant's release from confinement. The court shall not
4 revoke probation unless the defendant has previously received
5 a total of three periods of confinement under this subsection.
6 For purposes of revocation, the court may take judicial notice
7 of the three total periods of confinement under this
8 subsection. ~~A defendant shall only receive three total periods~~
9 ~~of confinement under this subsection.~~ After imposition of
10 three periods of confinement, the court shall retain
11 discretion to revoke probation as provided in subsection (e).
12 The maximum 45-day term of confinement ordered under this
13 subsection for a felony shall not be reduced by credit for
14 time already served in the case. Any such credit shall instead
15 be applied to the suspended sentence. In the event the time
16 remaining on the imposed sentence is 45 days or less, the term
17 of confinement shall be for the remainder of the defendant's
18 sentence.

19 "(2) The total time spent in confinement under this
20 subsection shall not exceed the term of the defendant's
21 original sentence.

22 "(3) Confinement shall be immediate. The court shall
23 be responsible for ensuring that the circuit clerk receives
24 the order revoking probation within five business days. The
25 circuit clerk shall insure that the Department of Corrections
26 receives necessary transcripts for imposing a period of

1 confinement within five business days of its receipt of the
2 court's order.

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

21 "(f) In lieu of the provisions of subsections (c)
22 through (e) and subject to the provisions in subsection (g),
23 when a probationer violates his or her probation terms and
24 conditions imposed by the court, the court or his or her
25 probation officer may, after administrative review and
26 approval by the officer's supervisor, require the probationer
27 to submit to ~~behavioral treatment, substance abuse treatment,~~

1 ~~GPS monitoring, such other treatment as determined by the~~
2 ~~board or supervising officer, or a period of confinement in a~~
3 ~~consenting jail facility as specified in subdivision (10) of~~
4 ~~Section 15-22-52.~~

5 " (g) (1) Prior to imposing a ~~sanction~~ period of
6 confinement as provided under subsection (f) and pursuant to
7 subdivision (10) of Section 15-22-52, the probationer must
8 first be presented with a written violation report, ~~with~~
9 detailing the alleged probation violations and supporting
10 evidence noted. ~~The probationer may file a motion with the~~
11 ~~court to conduct a probation violation hearing within 10 days.~~

12 "(2) The probationer shall be given written notice
13 of the ~~right to such hearing and advised of the right~~
14 following rights:

15 "~~(i) to~~ a. To have a hearing before the court on
16 the alleged violation in person, with the right to present
17 relevant witnesses and documentary evidence; ~~(ii) to.~~

18 "b. To retain and have counsel at the hearing and
19 that counsel will be appointed if the probationer is indigent; ~~and~~
20 ~~(iii) to.~~

21 "c. To confront and cross examine any adverse
22 witnesses.

23 "(3) ~~Upon~~ The probationer may waive the right to a
24 hearing as set out above, and upon the signing of a waiver ~~of~~
25 ~~these rights~~ by the probationer and the supervising probation
26 officer, with approval of a supervisor, the probationer may be
27 ~~treated, monitored, or confined for the period recommended in~~

1 the violation report and designated in the waiver. ~~However,~~
2 the

3 "(4) The probationer shall have no right of review
4 if he or she has signed a written waiver of rights as provided
5 in this subsection, and the waiver shall be deemed as the
6 probationer's consent to the period of confinement recommended
7 in the violation report and designated in the waiver. Subject
8 to the sheriff's authority to refuse or release a probationer
9 as set out in subdivision (e) (4), a court order or a signed
10 waiver providing for a period of confinement in a consenting
11 jail facility shall authorize and require the sheriff to hold
12 the probationer in the county jail for the specified period of
13 confinement. Should a probationer not sign a written waiver
14 consenting to the recommended period of confinement, the
15 revocation process shall be initiated by the filing of a
16 report with the court by the supervising probation officer
17 pursuant to subsections (c) through (e), including the
18 requirement that a violation hearing be held within 20
19 business days.

20 "(h) The board shall adopt guidelines and procedures
21 to implement the requirements of this section, which shall
22 include the requirement of a supervisor's approval prior to a
23 supervising probation officer's exercise of the delegation of
24 authority authorized by ~~subsection~~ subsections (f) and (g).

25 "§29-2-20.

26 "(a) A permanent legislative committee which shall
27 be composed of eight members, two of whom shall be ex officio

1 members and six of whom shall be appointed members, three each
2 to be appointed by the President of the Senate and Speaker of
3 the House, who shall both serve as the ex officio members,
4 shall be formed to assist in realizing the recommendations of
5 the Legislative Prison Task Force and examine all aspects of
6 the operations of the Department of Corrections. The chairman
7 of the committee shall be selected by and from among the
8 membership. The committee shall make diligent inquiry and a
9 full examination of Alabama's present and long term prison
10 needs and they shall file reports of their findings and
11 recommendations to the Alabama Legislature not later than the
12 fifteenth legislative day of each regular session that the
13 committee continues to exist.

14 "(b) The committee shall study and address mental
15 health issues for prisoners reentering the community after a
16 term of imprisonment in order to streamline the sharing of
17 critical mental health information and in order to address
18 barriers to accessing mental health treatment for such
19 prisoners. The committee shall report such findings to the
20 Legislature no later than April 20, ~~2016~~ 2017, and shall work
21 in conjunction with the following in studying and addressing
22 such issues:

23 "(1) Department of Corrections;

24 "(2) Board of Pardons and Paroles;

25 "(3) Department of Mental Health;

26 "(4) Administrative Office of Courts;

27 "(5) Office of Prosecution Services;

1 "(6) Office of the Attorney General;
2 "(7) Alabama Law Enforcement Agency;
3 "(8) Association of County Commissions of Alabama;
4 "(9) Alabama Probate Judges Association;
5 "(10) Alabama Sheriffs' Association;
6 "(11) Alabama Criminal Defense Lawyers Association;
7 "(12) Alabama Circuit Judges' Association;
8 "(13) Department of Public Health;
9 "(14) Office of the Governor;
10 "(15) Alabama District Attorneys Association;
11 "(16) Alabama Drug Abuse Task Force; and
12 "(17) Any other advocacy groups as determined by the
13 committee.

14 "(c) The committee shall study and address issues
15 related to felony restitution collection in order to improve
16 rates of collection for restitution obligations in felony
17 cases and establish best practices relating to a defendant's
18 ability to pay obligations owed. The committee shall report
19 such findings to the Legislature no later than April 20, ~~2016~~
20 2017, and shall work in conjunction with the following in
21 studying and addressing such issues:

22 "(1) Department of Corrections;
23 "(2) Board of Pardons and Paroles;
24 "(3) Administrative Office of Courts;
25 "(4) Office of Prosecution Services;
26 "(5) Office of the Attorney General;
27 "(6) Alabama Law Enforcement Agency;

1 "(7) Alabama Criminal Defense Lawyers Association;
2 "(8) Alabama Circuit Judges' Association;
3 "(9) Association of County Commissions of Alabama;
4 "(10) Alabama Sheriffs' Association;
5 "(11) Alabama Crime Victims Compensation Commission;
6 "(12) The Alabama Circuit Clerk's Association;
7 "(13) Two crime victims' rights advocates designated
8 by the Attorney General;

9 "(14) Two members from the Alabama District
10 Attorneys Association, of which one shall be from a largely
11 populated metropolitan judicial circuit and the other shall be
12 from a small, rurally populated judicial circuit; and

13 "(15) Any other advocacy groups as determined by the
14 committee.

15 "(d) The committee shall study and address capacity
16 issues within the Department of Corrections to include, but
17 not limited to, the issue of design capacity and operational
18 or functional capacity, as well as the construction of new
19 prison facilities and the renovation of current correctional
20 facilities as they relate to prison overcrowding and public
21 safety. The committee shall report such findings to the
22 Legislature no later than April 20, ~~2016~~ 2017, and shall work
23 in conjunction with the following in studying and addressing
24 such issues:

- 25 "(1) Department of Corrections;
26 "(2) Board of Pardons and Paroles;
27 "(3) Department of Mental Health;

- 1 "(4) Department of Public Health;
2 "(5) Administrative Office of Courts;
3 "(6) Office of Prosecution Services;
4 "(7) Office of the Attorney General;
5 "(8) Alabama Law Enforcement Agency;
6 "(9) Alabama Drug Abuse Task Force;
7 "(10) Alabama Criminal Defense Lawyers Association;
8 "(11) Alabama Circuit Judges' Association;
9 "(12) Association of County Commissions of Alabama;
10 "(13) Two members from the Alabama Sheriffs'

11 Association, of which one shall be from a largely populated
12 metropolitan judicial circuit and the other shall be from a
13 small, rurally populated judicial circuit; and

14 "(14) Two members from the Alabama District
15 Attorneys Association, of which one shall be from a largely
16 populated metropolitan judicial circuit and the other shall be
17 from a small, rurally populated judicial circuit.

18 "(e) The studies and collaborating partners provided
19 for in this section shall reflect the racial, gender,
20 geographic, urban/rural, and economic diversity of the state."

21 Section 2. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

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