

## SB89 INTRODUCED



1 SB89  
2 29QTSII-1  
3 By Senator Smitherman  
4 RFD: Judiciary  
5 First Read: 13-Feb-24

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4 SYNOPSIS:

5 Under existing law, it is unlawful for a person  
6 to loiter or remain on a public roadway maintained by  
7 the state or the right-of-way of a public roadway  
8 maintained by the state.

9 This bill would provide that it is unlawful to  
10 loiter or remain in any area within 30 feet of any  
11 interchange involving a controlled-access or  
12 limited-access highway.

13 This bill would also provide criminal penalties  
14 for violations.

15 Section 111.05 of the Constitution of Alabama of  
16 2022, prohibits a general law whose purpose or effect  
17 would be to require a new or increased expenditure of  
18 local funds from becoming effective with regard to a  
19 local governmental entity without enactment by a 2/3  
20 vote unless: it comes within one of a number of  
21 specified exceptions; it is approved by the affected  
22 entity; or the Legislature appropriates funds, or  
23 provides a local source of revenue, to the entity for  
24 the purpose.

25 The purpose or effect of this bill would be to  
26 require a new or increased expenditure of local funds  
27 within the meaning of the section. However, the bill  
28 does not require approval of a local governmental



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entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to crimes and offenses; to amend Section 13A-11-9, Code of Alabama 1975, as last amended by Act 2023-245 of the 2023 Regular Session; to further provide for the crime of loitering; to provide criminal penalties for violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-11-9, Code of Alabama 1975, as last amended by Act 2023-245, 2023 Regular Session, is amended to read as follows:

"§13A-11-9

(a) A person commits the crime of loitering if he or she does any of the following:

(1) Loiters, remains, or wanders about in a public place for the purpose of begging.

(2) Loiters or remains in a public place for the purpose of gambling.



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(3) Loiters or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution or sodomy.

(4) Being masked, loiters, remains, or congregates in a public place.

(5) Loiters or remains in or about a school, college, or university building or grounds after having been told to leave by any authorized official of the school, college, or university, not having any reason or relationship involving custody of or responsibility for a pupil or any other specific, legitimate reason for being there, and not having written permission from a school, college, or university administrator.

(6) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade, or commercial transactions involving the sale of merchandise or services.

(7) Loiters or remains in any place with one or more persons for the purpose of unlawfully using or possessing a dangerous drug.

(8) Loiters or remains on a public roadway maintained by the state ~~or~~, the right-of-way of a public roadway maintained by the state, or any area within 30 feet of any interchange involving a controlled-access or limited-access highway.

(b) A person does not commit a crime under subdivision (a) (4) if he or she is going to or from or staying at a masquerade party, or is participating in a public parade or



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presentation of an educational, religious, or historical character or in an event as defined in Section 13A-11-140.

(c) Sodomy in subdivision (a)(3) is defined as in Section 13A-6-60.

(d) Dangerous drug in subdivision (a)(7) means any narcotic, drug, or controlled substance as defined in Chapter 2 of Title 20 and any schedule incorporated therein.

(e) Loitering is a violation. A second or subsequent violation of this section in the same jurisdiction is a Class C misdemeanor.

(f)(1) Prior to making an arrest for a violation of subdivision ~~(a)(1)~~ (a)(8), a law enforcement officer may instruct any person in violation of subdivision ~~(a)(1)~~ (a)(8) to immediately and peaceably exit the public roadway maintained by the state or the right-of-way of the public roadway maintained by the state.

(2)a. Prior to making an arrest for an initial violation of subdivision ~~(a)(1)~~ (a)(8), a law enforcement officer may offer to transport any person in violation of subdivision ~~(a)(1)~~ (a)(8) to a location in the jurisdiction that offers emergency housing, if applicable.

b. If a person accepts an offer made pursuant to subdivision (1), a law enforcement officer may transport the person accordingly.

(g) Any actions undertaken by a law enforcement officer pursuant to this section shall be subject to Section 36-1-12."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of



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113 local funds, the bill is excluded from further requirements  
114 and application under Section 111.05 of the Constitution of  
115 Alabama of 2022, because the bill defines a new crime or  
116 amends the definition of an existing crime.

117 Section 3. This act shall become effective on June 1,  
118 2024.