

SB255 INTRODUCED



1 SB255
2 KN2LAAA-1
3 By Senator Givhan
4 RFD: Judiciary
5 First Read: 21-Mar-24



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SYNOPSIS:

Under existing law, if there is reasonable cause to believe a parolee has violated his or her parole, the Board of Pardons and Paroles is required to hold a parole court, in person or by electronic means, within 20 business days of the request. If a parole court is not held within 20 business days, the parolee shall be released from custody.

This bill would provide that a parolee may be held up to 40 business days for the board to conduct a parole court if a proclaimed state of emergency prevents a parole court from occurring within 20 business days.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to pardons and paroles; to amend Section 15-22-32, Code of Alabama 1975, to expand the length of time that the Board of Pardons and Paroles has to conduct a parole



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29 court in certain circumstances; and to make nonsubstantive,
30 technical revisions to update the existing code language to
31 current style.

32 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

33 Section 1. Section 15-22-32, Code of Alabama 1975, is
34 amended to read as follows:

35 "§15-22-32

36 (a) Whenever there is reasonable cause to believe that
37 a prisoner who has been paroled has violated his or her
38 parole, the Board of Pardons and Paroles, at its next meeting,
39 may declare the parolee to be delinquent, and time owed shall
40 date from the delinquency. The Department of Corrections,
41 after receiving notice from the sheriff of the county jail
42 where the parolee is being held, shall promptly notify the
43 board of the return of a parolee charged with violation of his
44 or her parole. The board, a single member of the board, a
45 parole revocation hearing officer, or a designated parole
46 officer shall hold a parole court ~~at the prison or at another~~
47 ~~place as it may determine within 20 business days~~ and consider
48 the case of the parole violator. The parolee shall be ~~given an~~
49 ~~opportunity to appear personally or by counsel before the~~
50 ~~parole court and to produce witnesses, and explain the charges~~
51 ~~made against him or her~~ afforded all rights provided in
52 subdivision (f) (1). The parole court shall determine whether
53 sufficient evidence supports the violation charges. ~~If a~~
54 ~~hearing is not held within 20 business days, the parolee shall~~
55 ~~be released back to parole supervision.~~

56 (b) Upon finding sufficient evidence to support a



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57 parole violation, the parole court may recommend to the board
58 revocation or reinstatement of parole, and the board may take
59 any of the following actions:

60 (1)a. If the underlying offense was a violent offense
61 as defined in Section 12-25-32 and classified as a Class A
62 felony, a sex offense pursuant to Section 15-20A-5, or
63 aggravated theft by deception pursuant to Section 13A-8-2.1,
64 the board shall revoke parole and require the parolee to serve
65 the balance of the term for which he or she was originally
66 sentenced, or any portion thereof, in a state prison facility,
67 calculated from the date of his or her rearrest as a
68 delinquent parolee.

69 b. If the parole violation was for being arrested or
70 convicted of a new offense or absconding, the board may revoke
71 parole and require the parolee to serve the balance of the
72 term for which he or she was originally sentenced, or any
73 portion thereof, in a state prison facility, calculated from
74 the date of his or her rearrest as a delinquent parolee.

75 c. For all other parolees, the board may impose a
76 period of confinement of no more than 45 consecutive days to
77 be served in a residential transition center established
78 pursuant to Section 15-22-30.1 or a consenting county jail
79 designated for this purpose as provided in Section 14-1-23.
80 The parolee shall be held in the county jail of the county in
81 which the violation occurred while awaiting the revocation
82 hearing. The Department of Corrections shall reimburse the
83 state mileage rate to the county, as determined by the Alabama
84 Comptroller's Office, for any state inmate charged with, or



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85 sanctioned or revoked for, a parole violation and who is
86 transferred to or from a Department of Corrections facility or
87 to or from a consenting county jail by the county.

88 (2) Upon completion of the confinement period and
89 release from confinement, the parolee shall automatically
90 continue on parole for the remaining term of the sentence
91 without further action from the board. The parole court may
92 not recommend and the board may not revoke parole unless the
93 parolee has previously received a total of three periods of
94 confinement under this subsection. A parolee shall receive
95 only three total periods of confinement pursuant to this
96 subsection. The maximum 45-day term of confinement ordered
97 pursuant to this subsection shall be reduced by any time
98 served in custody prior to the imposition of the period of
99 confinement and shall be credited to the balance of the
100 incarceration term for which the parolee was originally
101 sentenced. In the event the time remaining on parole
102 supervision is 45 days or less, the term of confinement may
103 not exceed the remainder of the parolee's sentence.

104 (3) The total time spent in confinement under this
105 subsection may not exceed the term of the parolee's original
106 sentence.

107 (4) Confinement shall be immediate. The board shall
108 ensure that the Department of Corrections, a county jail, a
109 residential transition center, or a consenting county jail
110 receives necessary documentation for imposing a period of
111 confinement within five business days of the board's action.

112 (5) If the parolee is presented to a county jail,



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113 excluding a consenting county jail designated for this
114 purpose, as provided in Section 14-1-23, for any period of
115 confinement with a serious health condition, if the admittance
116 of the parolee would create a security risk to the county
117 jail, or if the county jail is near, at, or over capacity, the
118 sheriff may refuse to admit the parolee. If, while in custody
119 of the county jail, the parolee develops a serious health
120 condition, if the presence of the parolee creates a security
121 risk to the county jail, or if the county jail reaches near,
122 at, or over capacity, the sheriff may release the parolee upon
123 notification to the parole officer. A sheriff and employees in
124 the county jail shall be immune from liability for exercising
125 discretion pursuant to Section 36-1-12 in refusing to admit a
126 parolee into the jail or releasing a parolee from jail
127 pursuant to this subdivision.

128 (c) The position of Parole Revocation Hearing Officer
129 is created and established, subject to the state Merit System.

130 (d) The board may appoint or employ hearing officers
131 who shall conduct a parole court. The hearing officers shall
132 determine the sufficiency of evidence to support parole
133 violation charges and recommend to the board revocation of
134 parole pursuant to subsection (b) or reinstatement of parole.

135 (e) In lieu of subsections (a) and (b), when a parolee
136 violates his or her parole terms and conditions, his or her
137 parole officer, after an administrative review and approval by
138 the parole officer's supervisor, may impose any of the
139 following sanctions:

140 (1) Mandatory behavior treatment.



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141 (2) Mandatory substance abuse treatment.

142 (3) GPS monitoring.

143 (4) Any other treatment as determined by the board or
144 supervising officer.

145 (5)a. A short period of confinement in the county jail
146 of the county in which the violation occurred. Periods of
147 confinement under this subdivision may not exceed six days per
148 month during any three separate months during the period of
149 parole. The six days per month confinement periods may only be
150 imposed as two-day or three-day consecutive periods at any
151 single time. The total periods of confinement may not exceed
152 nine total days.

153 b. Confinement pursuant to this subdivision does not
154 limit the board's ability to directly impose sanctions,
155 periods of confinement, or revoke parole.

156 (f) (1) Prior to imposing a sanction pursuant to
157 subsection (e), the parolee must first be presented with a
158 violation report setting forth the alleged parole violations
159 and supporting evidence. The parolee shall be advised that he
160 or she has all of the following rights:

161 a. 1. The right to have a parole court, in person or by
162 electronic means, on the alleged violation or violations.

163 ~~If~~ Except as provided in subparagraph 2., if a parole court is
164 requested, no parolee ~~shall~~ may be held beyond 20 business
165 days of the request. ~~Only requesting parolees posing a threat~~
166 ~~to public safety or a flight risk shall be arrested while~~
167 ~~awaiting parole court.~~

168 2. If a parole court cannot be held within 20 business



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169 days due to a state of emergency being proclaimed under
170 Chapter 9 of Title 31, the parole court shall be considered
171 within 40 business days of the request. No inmate may be held
172 beyond 40 business days of the request. This subparagraph only
173 applies to inmates being held in a Department of Corrections
174 facility.

175 b. The right to present relevant witnesses and
176 documentary evidence.

177 c. The right to retain and have counsel at the hearing
178 if he or she so desires.

179 d. The right to confront and cross examine any adverse
180 witnesses.

181 (2) Upon the signing of a waiver of these rights by the
182 parolee and the supervising parole officer, with approval of a
183 supervisor, the parolee may be treated, monitored, or confined
184 for the period recommended in the violation report and
185 designated on the waiver. The parolee may not request a review
186 if he or she has signed a written waiver of rights as provided
187 in this subsection.

188 (g) The board shall adopt guidelines and procedures to
189 implement the requirements of this section, which shall
190 include the requirement of a supervisor's approval prior to
191 exercise of the delegation of authority authorized by
192 subsection (e)."

193 Section 2. This act shall become effective on October
194 1, 2024.