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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB60  
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8 SYNOPSIS: Under existing law, a person may only be  
9 denied bail if he or she is charged with an offense  
10 which may be punished by death.

11 This bill would provide additional offenses  
12 that would require mandatory denial of bail.

13 This bill would also make nonsubstantive,  
14 technical revisions to update the existing code  
15 language to current style.  
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17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
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21 Relating to bail, to amend Sections 15-13-2 and  
22 15-13-3, Code of Alabama 1975, to provide that every person  
23 charged with certain enumerated crimes, before conviction, be  
24 released from custody on the least restrictive condition or  
25 combination of conditions and certain enumerated findings are  
26 made and procedural protections are afforded; and to make

1 nonsubstantive, technical revisions to update the existing  
2 code language to current style.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 15-13-2 and 15-13-3, Code of  
5 Alabama 1975, are amended to read as follows:

6 "§15-13-2.

7 "In all cases other than those specified in  
8 ~~subsection (a) of Section 15-13-3, a defendant is, before~~  
9 ~~conviction, entitled to bail as a matter of right~~ release from  
10 custody on the least restrictive condition or combination of  
11 conditions. No condition of release, including unaffordable  
12 monetary conditions, may be imposed that results in the  
13 detention of a defendant.

14 "§15-13-3.

15 "(a) ~~A defendant cannot be admitted to bail when he~~  
16 ~~is charged with an offense which may be punished by death if~~  
17 ~~the court is of the opinion, on the evidence adduced, that he~~  
18 ~~is guilty of the offense in the degree punishable capitally,~~  
19 ~~nor when he is charged with a personal injury to another which~~  
20 ~~is likely to produce death and which was committed under~~  
21 ~~circumstances such as would, if death arises from such injury,~~  
22 ~~constitute an offense which may be punished by death.~~ If a  
23 defendant is charged with any of the following offenses, the  
24 defendant may be detained without bail only if a judge makes  
25 findings on the record, following an adversarial hearing with  
26 counsel, that there is clear and convincing evidence either  
27 that supports conviction, or shows the defendant presents a

1 significant risk of intentional flight to avoid prosecution or  
2 to imminently cause bodily harm to a person or persons if  
3 released, and that no conditions or combinations of conditions  
4 are available to reasonably reduce the risk:

5 "(1) A capital offense, as provided in Section  
6 13A-5-40.

7 "(2) An offense that caused injury to another, is  
8 likely to cause the death of that person, and if death occurs  
9 would constitute a capital offense, as provided in Section  
10 13A-5-40.

11 "(3) Murder, as provided in Section 13A-6-2.

12 "(4) Kidnapping in the first degree, as provided in  
13 Section 13A-6-43.

14 "(5) Kidnapping in the second degree, as provided in  
15 Section 13A-6-44.

16 "(6) Rape in the first degree, as provided in  
17 Section 13A-6-61.

18 "(7) Sodomy in the first degree, as provided in  
19 Section 13A-6-63.

20 "(8) Sexual torture, as provided in Section  
21 13A-6-65.1.

22 "(9) Sexual abuse in the first degree, as provided  
23 in Section 13A-6-66.

24 "(10) Human trafficking in the first degree, as  
25 provided in Section 13A-6-152.

26 "(b) In cases ~~punishable capitally~~ where bail is  
27 denied pursuant to subsection (a), the defendant is entitled

1 to bail as a matter of right when the state, after the finding  
2 of the indictment, has continued the case twice, without ~~his~~  
3 the defendant's consent, for the testimony of absent  
4 witnesses.

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

12 Section 2. This act shall become effective  
13 immediately upon the ratification of an amendment to the  
14 Constitution of Alabama of 1901, to provide that an individual  
15 is entitled to release from custody on the least restrictive  
16 condition or combination of conditions prior to conviction,  
17 unless charged with a crime enumerated by the Legislature in  
18 general law, proposed in SB 59 of the 2020 Regular Session.