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3 SUBSTITUTE FOR HB113  
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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 punishable by death.

11 This bill would provide additional offenses  
12 where a judge may deny bail and would provide for a  
13 pretrial detention hearing under certain  
14 circumstances.

15 This bill would also make nonsubstantive,  
16 technical revisions to update the existing code  
17 language to current style.  
18

19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 Relating to bail, to amend Sections 15-13-2,  
24 15-13-3, 15-13-7, 15-13-104, 15-13-105, and 15-13-106, Code of  
25 Alabama 1975, to create Aniah's Law, to provide for additional  
26 offenses that would allow a judge to deny bail; to provide for  
27 a pretrial detention hearing under certain conditions; and to

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

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited  
5 as Aniah's Law.

6 Section 2. Sections 15-13-2, 15-13-3, 15-13-7,  
7 15-13-104, 15-13-105, and 15-13-106, Code of Alabama 1975, are  
8 amended to read as follows:

9 "§15-13-2.

10 "In all cases other than those specified in  
11 ~~subsection (a) of~~ Section 15-13-3, a defendant is, before  
12 conviction, entitled to bail as a matter of right.

13 "§15-13-3.

14 "(a) A defendant ~~cannot~~ may not be admitted to bail  
15 when he or she is charged with ~~an offense which may be~~  
16 ~~punished by death~~ capital murder pursuant to Section 13A-5-40,  
17 if the court is of the opinion, on the evidence adduced, that  
18 he or she is guilty of the offense ~~in the degree punishable~~  
19 ~~capitally, nor when he is charged with a personal injury to~~  
20 ~~another which is likely to produce death and which was~~  
21 ~~committed under circumstances such as would, if death arises~~  
22 ~~from such injury, constitute an offense which may be punished~~  
23 ~~by death.~~

24 "~~(b) In cases punishable capitally, the defendant is~~  
25 ~~entitled to bail as a matter of right when the state, after~~  
26 ~~the finding of the indictment, has continued the case twice,~~  
27 ~~without his consent, for the testimony of absent witnesses.~~

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

8           "(b) (1) The court, after a hearing as provided in  
9 this subsection, and the presentment of an indictment or a  
10 showing of probable cause in the charged offense, if the  
11 prosecuting attorney proves by clear and convincing evidence  
12 that no condition or combination of conditions of release will  
13 reasonably ensure the defendant's appearance in court or  
14 protect the safety of the community or any person, may deny a  
15 defendant's bail, if he or she is charged with any of the  
16 following offenses:

17           "a. Murder, as provided in Section 13A-6-2.

18           "b. Assault in the first degree, as provided in  
19 Section 13A-6-20.

20           "c. Kidnapping in the first degree, as provided in  
21 Section 13A-6-43.

22           "d. Rape in the first degree, as provided in Section  
23 13A-6-61.

24           "e. Sodomy in the first degree, as provided in  
25 Section 13A-6-63.

26           "f. Sexual torture, as provided in Section  
27 13A-6-65.1.

1           "g. Domestic violence in the first degree, as  
2 provided in Section 13A-6-130.

3           "h. Human trafficking in the first degree, as  
4 provided in Section 13A-6-152.

5           "i. Burglary in the first degree, as provided in  
6 Section 13A-7-5.

7           "j. Arson in the first degree, as provided in  
8 Section 13A-7-41.

9           "k. Robbery in the first degree, as provided in  
10 Section 13A-8-41.

11           "l. Terrorism, as provided in subdivision (b) (2) of  
12 Section 13A-10-152.

13           "m. Aggravated child abuse, as provided in  
14 subsection (b) of Section 26-15-3.1.

15           "(2) A court shall order that a defendant charged  
16 with an offense listed in this subsection be held without bond  
17 prior to a pretrial detention hearing, for a period of not  
18 more than 10 days, excluding Saturdays, Sundays, and state  
19 holidays.

20           "(3) The court shall hold a pretrial detention  
21 hearing immediately upon the defendant's first appearance  
22 before the court, unless the prosecuting attorney or the  
23 defendant requests a continuance. Except for good cause, a  
24 continuance on a motion of the defendant may not exceed five  
25 days, excluding Saturdays, Sundays, and state holidays, and a  
26 continuance on motion by the prosecuting attorney may not  
27 exceed three days, excluding Saturdays, Sundays, and state

1 holidays. During the continuance, the defendant shall be  
2 detained.

3 "(4)a. A defendant shall have all of the following  
4 rights at a pretrial detention hearing:

5 "1. To be represented by counsel. If the defendant  
6 is financially unable to obtain counsel, he or she shall have  
7 counsel appointed.

8 "2. To testify.

9 "3. To present witnesses.

10 "4. To present evidence.

11 "5. To cross-examine witnesses.

12 "b. The judge shall have discretion as to who the  
13 defendant may call as a witness as provided in this  
14 subdivision at the pretrial detention hearing.

15 "(5) In considering whether there are any conditions  
16 or combination of conditions that would reasonably ensure the  
17 defendant's appearance in court or protect the safety of the  
18 community and of any person, the court shall consider all of  
19 the following factors:

20 "a. The nature and circumstances of the offenses  
21 charged.

22 "b. The weight of the evidence against the  
23 defendant.

24 "c. The history and characteristics of the  
25 defendant, including, but not limited to the defendant's  
26 character, physical and mental condition, family ties,  
27 employment, financial resources, length of residence in the

1 community, community ties, past conduct, history relating to  
2 drug or alcohol abuse, criminal history, and record concerning  
3 appearance at court proceedings, and, whether, at the time of  
4 the current offense, the defendant was on probation, parole,  
5 or on other release pending trial, sentencing, appeal, or  
6 completion of sentence for an offense.

7 "d. The nature and seriousness of the danger to any  
8 person or the community if the defendant is released.

9 "(6) At any pretrial detention hearing, the rules  
10 governing admissibility of evidence in criminal trials shall  
11 not apply, and the court shall receive all relevant evidence.  
12 All evidence shall be recorded. The testimony of a defendant  
13 may not be admissible in any other criminal proceeding against  
14 the defendant, except if being used for perjury based on the  
15 testimony or for the purpose of impeachment in any subsequent  
16 proceeding.

17 "(7)a. A prosecuting attorney may file a motion for  
18 a pretrial detention hearing at any time.

19 "b. A pretrial detention hearing may be reopened,  
20 before or after a determination by the court, at any time  
21 prior to trial if the court finds that information exists that  
22 was not known by the movant at the time of the pretrial  
23 detention hearing.

24 "(8) In an order denying bail, the judge shall make  
25 written findings or state for the record findings of fact and  
26 a statement of the reasons for denying bail. The judge shall  
27 enter an order denying bail within 48 hours of the hearing.

1           "§15-13-7.

2           "When a writ of arrest is issued upon an indictment,  
3 the clerk issuing the writ ~~must~~ shall endorse ~~thereon~~ on the  
4 writ an order to the sheriff to take bail of the defendant in  
5 the amount fixed by the judge and endorsed by him or her on  
6 the indictment, unless the defendant is charged with an  
7 offense for which bail may be denied pursuant to Section  
8 15-13-3. In that case, the writ of arrest shall indicate "no  
9 bail," and the defendant may not be released prior to an  
10 initial appearance.

11           "§15-13-104.

12           "Judicial officers shall see that the amount of bail  
13 is affixed to any warrants of arrests issued by the judicial  
14 officer at the time of their issuance for which the defendant  
15 is arrested and taken into custody. If arrested for ~~a capital~~  
16 an offense for which the defendant is not entitled to release  
17 on bail pursuant to Section 15-13-3, the judicial officer  
18 shall ~~take care to see~~ confirm that "no bail" is affixed on  
19 the warrant. Judicial officers may delegate the affixation to  
20 lawful employees of the court, but the amount shall be set by  
21 the judicial officer.

22           "§15-13-105.

23           "In cases where a defendant is arrested without a  
24 warrant for an offense that isailable as a matter of right  
25 and taken into custody and there is no standard bail schedule  
26 prescribed by the presiding judge of the court of jurisdiction  
27 for the amounts of bail for ~~such~~ the arrests without warrants,

1 then the arresting officer shall, as soon as possible, contact  
2 a judicial officer for an order of bail. If the arresting  
3 officer is unable to contact the judicial officer having  
4 jurisdiction of the case, the arresting officer may contact  
5 any judicial officer having the authority to set bail in that  
6 judicial circuit to issue the order of bail. If no judicial  
7 officer has issued an order of bail within 24 hours of the  
8 arrest of defendant, then the bail shall be set by operation  
9 of law and the amount of bail shall be that amount prescribed  
10 as the minimum amount established by the bail schedule adopted  
11 by Supreme Court rule. Provided, however, in violation and  
12 misdemeanor cases the minimum amount of bail shall be three  
13 hundred dollars (\$300) for each offense charged. The judicial  
14 officer may also fix the amount of bail on the indictment.

15 "§15-13-106.

16 "Except in ~~capital~~ cases where there is no right to  
17 release on bail pursuant to Section 15-13-3, no person or  
18 defendant shall be committed to any jail in the State of  
19 Alabama on a warrant unless there is an amount of bail affixed  
20 to the warrant. No person or defendant shall remain in jail  
21 anywhere in this state for more than 24 hours for any felony  
22 or misdemeanor case without an order of bail, unless bail is  
23 not authorized by law."

24 Section 3. This act shall become effective  
25 immediately upon the ratification of the amendment to the  
26 Constitution of Alabama of 1901, to provide that an individual  
27 is entitled to reasonable bail prior to conviction, unless



1 charged with certain enumerated crimes as proposed in HB81 of  
2 the 2020 Regular Session.