

1 HB312
2 205071-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 25-FEB-20

SYNOPSIS: Under existing law, there are certain circumstances in which a law enforcement officer may arrest an individual without a warrant.

This bill would revise the circumstances in which a law enforcement officer may arrest an individual without a warrant.

A BILL
TO BE ENTITLED
AN ACT

Relating to criminal procedure; to amend Section 15-10-3, as last amended by Act 2019-252, 2019 Regular Session, Code of Alabama 1975, to revise the circumstances in which a law enforcement officer may arrest an individual without a warrant.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-10-3, as last amended by Act 2019-252, 2019 Regular Session, Code of Alabama 1975, is amended to read as follows:

1 "§15-10-3.

2 "(a) An officer may arrest a person without a
3 warrant, on any day and at any time in any of the following
4 instances:

5 "(1) If a public offense has been committed or a
6 breach of the peace threatened in the presence of the officer.

7 "(2) When a felony has been committed, though not in
8 the presence of the officer, by the person arrested.

9 "(3) When a felony has been committed and the
10 officer has probable cause to believe that the person arrested
11 committed the felony.

12 "(4) When the officer has probable cause to believe
13 that the person arrested has committed a felony, although it
14 may afterwards appear that a felony had not in fact been
15 committed.

16 "(5) When a charge has been made, upon probable
17 cause, that the person arrested has committed a felony.

18 "(6) When the officer has actual knowledge that a
19 warrant for the person's arrest ~~for the commission of a felony~~
20 ~~or misdemeanor~~ has been issued, provided the warrant was
21 issued in accordance with this chapter. ~~However, upon~~ Upon
22 request, the officer shall show the warrant to the arrested
23 person as soon as possible. If the officer does not have the
24 warrant in his or her possession at the time of arrest the
25 officer shall inform the defendant of the offense charged and
26 of the fact that a warrant has been issued.

1 "(7) When the officer has probable cause to believe
2 that a felony or misdemeanor has been committed by the person
3 arrested in violation of a protection order, including a
4 domestic violence protection order or an elder abuse
5 protection order, issued by a court of competent jurisdiction.

6 "(8) When an offense involves a crime of domestic
7 violence, including domestic violence in the first degree,
8 pursuant to Section 13A-6-130, domestic violence in the second
9 degree, pursuant to Section 13A-6-131, domestic violence in
10 the third degree, pursuant to Section 13A-6-132, interference
11 with a domestic violence emergency call, in violation of
12 Section 13A-6-137, or domestic violence by strangulation or
13 suffocation, pursuant to Section 13A-6-138, or elder abuse as
14 defined in Section 38-9F-3, and the arrest is based on
15 probable cause.

16 "(b) When a law enforcement officer investigates an
17 allegation of domestic violence or elder abuse, whether or not
18 an arrest is made, the officer shall make a written report of
19 the alleged incident, including a statement of the complaint,
20 and the disposition of the case.

21 "(c) If the defendant is arrested under this section
22 for committing an act of domestic violence, including domestic
23 violence in the first degree, pursuant to Section 13A-6-130,
24 domestic violence in the second degree, pursuant to Section
25 13A-6-131, domestic violence in the third degree, pursuant to
26 Section 13A-6-132, interference with a domestic violence
27 emergency call, in violation of Section 13A-6-137, or domestic

1 violence by strangulation or suffocation, pursuant to Section
2 13A-6-138, in violation of a domestic violence protection
3 order, or an act of elder abuse in violation of an elder abuse
4 protection order, the defendant shall be held in custody until
5 brought before the court within 48 hours for the purpose of
6 enforcing the protection order and for consideration of bail
7 in accordance with Section 15-13-190 and the applicable rules
8 of criminal procedure, pending a hearing. If the defendant is
9 not brought before the court within 48 hours, the defendant
10 shall be subject to bail according to the Alabama Rules of
11 Criminal Procedure."

12 Section 2. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.