

1 SB228  
2 203991-1  
3 By Senator Albritton  
4 RFD: Finance and Taxation General Fund  
5 First Read: 25-FEB-20

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8 SYNOPSIS: Under existing law, a parole or probation  
9 officer may impose brief periods of confinement for  
10 parole or probation violations.

11 This bill would revise the limitations for  
12 confinement for parole and probation violations.

13 Under existing law, a parolee or probationer  
14 may have his or her parole or probation revoked  
15 under certain circumstances.

16 This bill would revise the circumstances in  
17 which a person's parole or probation may be  
18 revoked.

19 This bill would provide that counties are  
20 not financially responsible for the health care  
21 expenses while housing a parolee or probationer in  
22 a county jail.

23 This bill would require the Department of  
24 Corrections to establish three regional state-owned  
25 facilities for the confinement of parole or  
26 probation violators.

1                   This bill would also provide for the daily  
2                   rate the counties shall be reimbursed for housing  
3                   state parolees or probationers.

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

7  
8                   A BILL  
9                   TO BE ENTITLED  
10                  AN ACT

11  
12                  Relating to parolee and probation violations; to  
13                  amend Sections 15-22-29, 15-22-32, 15-22-52, and 15-22-54, as  
14                  last amended by Act 2019-513, 2019 Regular Session, Code of  
15                  Alabama 1975; to revise the limitations on confinement for  
16                  parole and probation violations; to provide that the  
17                  Department of Corrections shall reimburse the county  
18                  commission for health care costs of state parolees and  
19                  probationers; to require the Department of Corrections to  
20                  designate regional facilities for the confinement of parole  
21                  and probation violators; and to make nonsubstantive, technical  
22                  revisions to update the existing code language to current  
23                  style.

24                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25                  Section 1. Sections 15-22-29, 15-22-32, 15-22-52,  
26                  and 15-22-54, as last amended by Act 2019-513, 2019 Regular  
27                  Session, Code of Alabama 1975, are amended to read as follows:

1                   "§15-22-29.

2                   "(a) The Board of Pardons and Paroles, in releasing  
3 a prisoner on parole, shall specify in writing the conditions  
4 of his or her parole~~7~~ and a copy of ~~such~~ the conditions shall  
5 be given to the parolee. A violation of ~~such~~ the conditions  
6 may render the prisoner liable to arrest and reimprisonment.

7                   "(b) The Board of Pardons and Paroles shall adopt  
8 general rules ~~with regard to~~ regarding the conditions of  
9 parole and their violation and may make special rules to  
10 govern particular cases. ~~Such~~ The rules, both general and  
11 special, shall include, ~~among other things, a requirement that~~  
12 but are not limited to, all of the following:

13                   "(1) The parolee shall not leave the state without  
14 the consent of the board~~7~~.

15                   "(2) ~~He or she~~ The parolee shall contribute to the  
16 support of his or her dependents to the best of his or her  
17 ability~~7~~.

18                   "(3) ~~He or she~~ The parolee shall make reparation or  
19 restitution for his or her crime~~7~~.

20                   "(4) ~~He or she~~ The parolee shall abandon evil  
21 associates and ways~~7~~.

22                   "(5) ~~He or she~~ The parolee shall carry out the  
23 instructions of his or her parole officer and ~~in general so~~  
24 comport himself or herself as ~~such~~ the officer shall  
25 determine~~7~~ and.

26                   "(6) ~~He or she~~ The parolee shall submit to  
27 behavioral treatment, substance abuse treatment, GPS

1 monitoring, or other treatment as deemed necessary by the  
2 board or the supervising parole officer, ~~and/or a period.~~

3 "(7) The parolee may be required to serve a period  
4 or periods of confinement in a consenting jail facility.  
5 Periods of confinement imposed by the supervising parole  
6 officer shall not exceed six days per month during any three  
7 separate months during the period of parole. The six days per  
8 month confinement provided for in this subdivision shall only  
9 be imposed by the supervising parole officer as two-day or  
10 three-day consecutive periods at any single time. In no event  
11 shall the total periods of confinement imposed by the  
12 supervising parole officer provided for in this subdivision  
13 exceed ~~18~~ nine total days in a consenting jail facility.  
14 Confinement provided herein by this subdivision shall be  
15 subject to the limitations, provisions, and conditions  
16 provided in Section 15-22-32, and the board's authority to  
17 directly impose sanctions, periods of confinement, or revoke  
18 parole shall not otherwise be limited.

19 "§15-22-32.

20 "(a) (1) Whenever there is reasonable cause to  
21 believe that a prisoner who has been paroled has violated his  
22 or her parole, the Board of Pardons and Paroles, at its next  
23 meeting, may declare the prisoner to be delinquent, and time  
24 owed shall date from the delinquency. The Department of  
25 Corrections, after receiving notice from the sheriff of the  
26 county jail where the state prisoner is being held, shall  
27 promptly notify the board of the return of a paroled prisoner

1 charged with violation of his or her parole. ~~Thereupon, the~~  
2 The board, a single member of the board, a parole revocation  
3 hearing officer, or a designated parole officer shall hold a  
4 parole court at the prison or at another place as it may  
5 determine within 20 business days and consider the case of the  
6 parole violator, who. The parole violator shall be given an  
7 opportunity to appear personally or by counsel before the  
8 board or the parole court and produce witnesses and explain  
9 the charges made against him or her. ~~The board member, parole~~  
10 ~~revocation hearing officer, or a designated parole officer,~~  
11 ~~acting as a parole court,~~ shall determine whether sufficient  
12 evidence supports the violation charges. If a hearing is not  
13 held within ~~the specified~~ 20 business days, the parolee shall  
14 be released back to parole supervision.

15 "(2) Counties shall not be financially responsible  
16 for the costs of health care provided to parole violators. The  
17 county may submit an invoice to the Department of Corrections  
18 for reimbursement of the county's actual cost of health care  
19 for a paroled prisoner charged with a violation of his or her  
20 parole, which shall be paid within 30 days of receipt by the  
21 department.

22 "(b) Upon finding sufficient evidence to support a  
23 parole violation, the parole court may recommend to the board  
24 revocation or reinstatement of parole, and the board may  
25 revoke or reinstate parole. Upon revocation of parole, the  
26 board ~~may~~ shall require the prisoner to serve in a state  
27 prison facility the balance of the term for which he or she

1 was originally sentenced or any portion ~~thereof~~ of the  
2 original sentence, calculated from the date of delinquency.  
3 The delinquent parolee shall be deemed to begin serving the  
4 balance of the prison time required on the date of his or her  
5 rearrest as a delinquent parolee. ~~However, in~~ In all cases,  
6 excluding violent offenses ~~defined pursuant to~~ as provided in  
7 Section 12-25-32 and classified as a Class A felony, ~~and~~ sex  
8 offenses, ~~defined pursuant to~~ as provided in Section 15-20A-5,  
9 and aggravated theft by deception offenses as provided in  
10 Section 13A-8-2.1, the parole court may only recommend  
11 revocation and the board may only revoke parole as provided  
12 below:

13 " (1) ~~Unless the underlying offense is a violent~~  
14 ~~offense as defined in Section 12-25-32 and classified as a~~  
15 ~~Class A felony, when~~ When a parolee under supervision of the  
16 Board of Pardons and Paroles has violated a condition of  
17 parole, other than being arrested or convicted of a new  
18 offense or absconding, the parole court may recommend and the  
19 board may impose a period of confinement of no more than 45  
20 consecutive days to be served in the custody population of the  
21 Department of Corrections. ~~By April 29, 2016, the Department~~  
22 ~~of Corrections shall develop and implement a streamlined~~  
23 ~~process to transport and receive the parolee into its custody~~  
24 ~~population and shall identify and, if possible, implement~~  
25 ~~policies aimed at reducing the administrative delays, if any,~~  
26 ~~in transferring to the Department of Corrections the physical~~  
27 ~~custody of the parolee and those whose parole has been~~

1 ~~revoked. Such process shall be developed in cooperation with~~  
2 ~~the Alabama Sheriffs' Association and the Association of~~  
3 ~~County Commissions of Alabama. Such process shall include the~~  
4 ~~most cost-effective method to process sanctioned parole~~  
5 ~~violators for the maximum 45 day confinement period and shall~~  
6 ~~provide that the Department of Corrections shall reimburse the~~  
7 ~~state mileage rate, as determined by the Alabama Comptroller's~~  
8 ~~Office, to the county for any state inmate sanctioned as a~~  
9 ~~parole violator and transferred to or from a Department of~~  
10 ~~Corrections facility by the county.~~

11 "(2) On or before October 1, 2020, the Department of  
12 Corrections shall designate three regional state-owned  
13 facilities where parole violators will be housed pursuant to  
14 this section.

15 "a. If the Department of Corrections fails to  
16 designate three regional state-owned facilities on or before  
17 October 1, 2020, and the parole violator is housed in a county  
18 jail, the department shall begin paying to the county a daily  
19 housing rate for each inmate. The daily housing rate shall be  
20 equal to the average daily cost of care of inmates in state  
21 custody in the previous fiscal year, which shall be calculated  
22 by the department and published in its annual report and on  
23 its website. Each fiscal year a newly calculated rate shall be  
24 published on or before November 15. The newly calculated rate  
25 shall take effect annually on January 1. Counties shall submit  
26 monthly invoices to the department which shall be paid within  
27 30 days of receipt by the department. Counties shall not be



1 financially responsible for costs of health care provided to  
2 inmates sanctioned as parole violators.

3 "b. If the Department of Corrections designates  
4 three regional state-operated facilities on or before October  
5 1, 2020, and the department fails to transfer the parole  
6 violation, the department shall begin paying to the county a  
7 daily housing rate for each inmate. The rate shall be equal to  
8 the average daily cost of care of inmates in state custody,  
9 which shall be calculated pursuant to paragraph a.

10 "c. Counties shall not be financially responsible  
11 for the costs of health care provided to parolees whose parole  
12 has been revoked. The county may submit an invoice to the  
13 Department of Corrections for reimbursement of the county's  
14 actual cost of health care of a parolee, which shall be paid  
15 within 30 days of receipt by the department.

16 "(3) Upon completion of the confinement period and  
17 release from confinement, the parolee shall automatically  
18 continue on parole for the remaining term of the sentence  
19 without further action from the board. The parole court shall  
20 not recommend and the board shall not revoke parole unless the  
21 parolee has previously received ~~a total of three periods~~ one  
22 period of confinement ~~under~~ pursuant to this subsection. ~~A~~  
23 ~~parolee shall receive only three periods of confinement under~~  
24 ~~this subsection.~~ The maximum 45 day term of confinement  
25 ordered ~~under~~ pursuant to this subsection ~~shall~~ may not be  
26 reduced by credit for incarceration time already served in the  
27 case. Confinement under this subsection shall be credited to

1 the balance of the incarceration term for which the parolee  
2 was originally sentenced. In the event the time remaining on  
3 parole supervision is 45 days or less, the term of confinement  
4 shall be for the remainder of the parolee's sentence.

5 "~~(2)~~ (4) The total time spent in confinement under  
6 this subsection shall not exceed the term of the parolee's  
7 original sentence.

8 "~~(3)~~ (5) Confinement shall be immediate. The board  
9 shall ~~be responsible for ensuring~~ ensure that the Department  
10 of Corrections receives necessary documentation for imposing a  
11 period of confinement within five business days of the board's  
12 action.

13 "~~(4)~~ (6) If the parolee is presented to a county  
14 jail for any period of confinement ~~as contemplated hereinabove~~  
15 with a serious ~~medical~~ health condition, if the admittance of  
16 the parolee would create a security risk to the county jail,  
17 or if the jail is near, at, or over capacity, the sheriff may  
18 refuse to admit the parolee. If while in custody of the county  
19 jail the parolee develops a serious ~~medical~~ health condition,  
20 if the presence of the parolee creates a security risk to the  
21 county jail, or if the county jail reaches near, at, or over  
22 capacity, the sheriff may release the parolee upon  
23 notification to the parole officer. A sheriff and his or her  
24 staff shall be immune from liability for exercising discretion  
25 pursuant to Section 36-1-12, in refusing to admit a parolee  
26 into the jail or releasing a parolee from jail under the  
27 circumstances described ~~above~~ in this subdivision.

1           "(c) The position of Parole Revocation Hearing  
2 Officer is created and established, subject to provisions of  
3 the state Merit System.

4           "(d) The board may appoint or employ, as the board  
5 deems necessary, hearing officers who shall conduct a parole  
6 court. ~~Such~~ The hearing officers shall ~~have authority to~~  
7 determine the sufficiency of evidence to support parole  
8 violation charges and recommend to the board revocation of  
9 parole pursuant to subsection (b) or reinstatement of parole.

10           "(e) In lieu of the provisions of subsections (a)  
11 and (b), when a parolee violates his or her parole terms and  
12 conditions, his or her parole officer may require the parolee  
13 to submit to behavioral treatment, substance abuse treatment,  
14 GPS monitoring, ~~such~~ any other treatment as determined by the  
15 board or supervising officer, or a period of confinement in a  
16 consenting jail facility as specified in ~~subdivision~~  
17 subdivisions (6) and (7) of subsection (b) of Section  
18 15-22-29. The parole officer may ~~exercise such authority~~  
19 impose a sanction or sanctions after an administrative review  
20 and approval by the parole officer's supervisor.

21           "(f) (1) Prior to imposing a sanction ~~provided under~~  
22 pursuant to subsection (e) ~~and pursuant to subdivision or~~  
23 subdivision (6) or (7) of subsection (b) of Section 15-22-29,  
24 the parolee must first be presented with a violation report,  
25 ~~putting forth~~ with the alleged parole violations and  
26 supporting evidence. The parolee ~~may request a hearing before~~  
27 ~~the parole court to be heard in person within 10 days. The~~

1 ~~parolee shall be given notice of the right to seek such parole~~  
2 ~~court review and advised of the right (i) to a hearing before~~  
3 ~~a neutral and detached~~ shall be advised that he or she has the  
4 following rights:

5 "a. The right to have a parole court on the alleged  
6 violation or violations, ~~with the.~~ If requested, the parole  
7 court shall take place within 10 days of the request.

8 "b. The right to present relevant witnesses and  
9 documentary evidence, ~~(ii).~~

10 "c. The right to retain and have counsel at the  
11 hearing if he or she so desires, ~~and (iii).~~

12 "d. The right to confront and cross examine any  
13 adverse witnesses.

14 "(2) Upon the signing of a waiver of these rights by  
15 the parolee and the supervising parole officer, with approval  
16 of a supervisor, the parolee may be treated, monitored, or  
17 confined for the period recommended in the violation report  
18 and designated on the waiver. However, ~~the~~ The parolee shall  
19 have no right of may not request a review if he or she has  
20 signed a written waiver of rights as provided in this  
21 subsection.

22 "(g) The board shall adopt guidelines and procedures  
23 to implement the requirements of this section, which shall  
24 include the requirement of a supervisor's approval prior to  
25 exercise of the delegation of authority authorized by  
26 subsection (e).

27 "§15-22-52.

1           "The court shall determine and may at any time  
2 modify the conditions of probation~~and~~. The conditions of  
3 probation shall include ~~among them the following or any other~~  
4 ~~conditions. Such conditions shall provide that the probationer~~  
5 ~~shall~~, but is not limited to, all of the following:

6           "(1) Avoid injurious or vicious habits~~and~~.

7           "(2) Avoid persons or places of disreputable or  
8 harmful character~~and~~.

9           "(3) Report to the probation officer as directed~~and~~.

10          "(4) Permit the probation officer to visit him or  
11 her at his or her home or elsewhere~~and~~.

12          "(5) Work faithfully at suitable ~~employments~~  
13 employment as far as possible~~and~~.

14          "(6) Remain within a specified place~~and~~.

15          "(7) Pay the fine imposed or costs or ~~such~~ any  
16 portions ~~thereof~~ of fines or costs, as the court may  
17 determine~~and~~, and in ~~such~~ installments as the court may direct~~and~~.

18          "(8) Make reparation or restitution to the aggrieved  
19 party for the damage or loss caused by his or her offense in  
20 an amount to be determined by the court~~and~~.

21          "(9) Support his or her dependents to the best of  
22 his or her ability~~and~~.

23          "(10) Submit to behavioral treatment, substance  
24 abuse treatment, GPS monitoring, or other treatment as deemed  
25 necessary by the court or supervising probation officer~~and~~  
26 ~~and/or~~.

1           "(11) The probationer may be required to serve a  
2 period or periods of confinement in a consenting jail  
3 facility. Periods of confinement imposed by the supervising  
4 probation officer shall not exceed six days per month during  
5 any three separate months during the period of probation. The  
6 six days per month confinement provided for in this subsection  
7 shall only be imposed ~~by the supervising probation officer~~ as  
8 two-day or three-day consecutive periods at any single time.  
9 In no event shall the total periods of confinement imposed ~~by~~  
10 ~~the supervising probation officer provided for in this~~  
11 ~~subsection~~ exceed ~~18~~ nine total days in a consenting jail  
12 facility. Confinement provided ~~herein~~ by this subsection shall  
13 be subject to the limitations, provisions, and conditions  
14 provided in Section 15-22-54, and the court's authority to  
15 directly impose sanctions, periods of confinement, or revoke  
16 probation shall not otherwise be limited.

17           "§15-22-54.

18           "(a) The period of probation or suspension of  
19 execution of sentence shall be determined by the court and  
20 ~~shall~~ may not be waived by the defendant, ~~and the~~ The period  
21 of probation or suspension may be continued, extended, or  
22 terminated. ~~However, except~~ as determined by the court. Except  
23 as provided in Section 32-5A-191 relating to ignition  
24 interlock requirements and as provided in Section 13A-8-2.1,  
25 ~~in no case shall~~ the maximum probation period of a defendant  
26 guilty of a misdemeanor may not exceed two years, nor shall  
27 the maximum probation period of a defendant guilty of a felony

1 exceed five years, ~~except as provided in Section 13A-8-2.1.~~

2 When the conditions of probation or suspension of sentence are  
3 fulfilled, the court ~~shall~~, by an order duly entered on its  
4 minutes, shall discharge the defendant.

5 "(b) The court granting probation, upon the  
6 recommendation of the officer supervising the probationer, may  
7 terminate all authority and supervision over the probationer  
8 prior to the declared date of completion of probation upon  
9 showing a continued satisfactory compliance with the  
10 conditions of probation over a sufficient portion of the  
11 period of the probation. At least every two years, and after  
12 providing notice to the district attorney, the court shall  
13 review the probationer's suitability for discharge from  
14 probation supervision if the probationer has satisfied all  
15 financial obligations owed to the court, including  
16 restitution, and has not had his or her supervision revoked.

17 "(c) (1) At any time during the period of probation  
18 or suspension of execution of sentence, the court may issue a  
19 warrant and ~~cause~~ have the defendant ~~to be~~ arrested for  
20 violating any of the conditions of probation or suspension of  
21 sentence, ~~upon which~~ and the court shall hold a violation  
22 hearing. No probationer shall be held in jail awaiting ~~such~~  
23 the violation hearing for longer than 20 business days, unless  
24 new criminal charges are pending. If the hearing is not held  
25 within the specified time, the sheriff shall release the  
26 probation violator unless there are other pending criminal

1 charges. A judge ~~shall have authority to~~ may issue a bond to a  
2 probationer for release from custody.

3 "(2) Counties shall not be financially responsible  
4 for the costs of health care provided to state probation  
5 violators. The county may submit an invoice to the Department  
6 of Corrections for reimbursement of the county's actual cost  
7 of health care for a state probationer charged with a  
8 violation of his or her probation, which shall be paid within  
9 30 days of receipt by the department.

10 "(d) Except as provided in Chapter 15 of Title 12,  
11 any probation officer, police officer, or other officer with  
12 power of arrest, when requested by the probation officer, may  
13 arrest a probationer without a warrant. ~~In case of an~~ When an  
14 arrest is made without a warrant, the arresting officer shall  
15 have a written statement by the probation officer setting  
16 forth that the probationer has, in his or her judgment,  
17 violated the conditions of probation, and the statement shall  
18 be sufficient warrant for the detention of the probationer in  
19 the county jail or other appropriate place of detention until  
20 the probationer is brought before the court. The probation  
21 officer shall ~~forthwith~~ report the arrest and detention to the  
22 court and submit in writing a report showing in what manner  
23 the probationer has violated probation.

24 "(e) After conducting a violation hearing and  
25 finding sufficient evidence to support a probation violation,  
26 the court may revoke probation to impose a sentence of  
27 imprisonment, and credit shall be given for all time spent in



1 custody prior to revocation. If the probationer was convicted  
2 of a Class D felony and his or her probation is revoked, the  
3 incarceration portion of any split sentence imposed due to  
4 revocation shall be limited to two years or one-third of the  
5 original suspended prison sentence, whichever is less.

6 ~~However, in~~ In all cases, excluding violent offenses ~~defined~~  
7 ~~pursuant to~~ as provided in Section 12-25-32 and classified as  
8 a Class A felony, sex offenses ~~defined pursuant to~~ as provided  
9 in Section 15-20A-5, and aggravated theft by deception  
10 offenses ~~pursuant to~~ as provided in Section 13A-8-2.1, the  
11 court may only revoke probation as provided below:

12 " (1) ~~Unless the underlying offense is a violent~~  
13 ~~offense as defined in Section 12-25-32 and classified as a~~  
14 ~~Class A felony or an offense of aggravated theft by deception~~  
15 ~~as defined in Section 13A-8-2.1, when~~ When a defendant under  
16 supervision for a felony conviction has violated a condition  
17 of probation, other than arrest or conviction of a new offense  
18 or absconding, the court may impose a period of confinement of  
19 no more than 45 consecutive days to be served in the custody  
20 population of the Department of Corrections. ~~By April 29,~~  
21 ~~2016, the Department of Corrections shall develop and~~  
22 ~~implement a streamlined process to transport and receive the~~  
23 ~~probationer into its custody population and shall identify~~  
24 ~~and, if possible, implement policies aimed at reducing the~~  
25 ~~administrative delays, if any, in transferring to the~~  
26 ~~Department of Corrections the physical custody of the~~  
27 ~~probationer and those whose probation has been revoked. The~~

1 ~~process shall be developed in cooperation with the Alabama~~  
2 ~~Sheriffs' Association and the Association of County~~  
3 ~~Commissions of Alabama. The process shall include the most~~  
4 ~~cost-effective method to process sanctioned probation~~  
5 ~~violators for the maximum 45-day confinement period and shall~~  
6 ~~provide that the Department of Corrections shall reimburse the~~  
7 ~~state mileage rate, as determined by the Alabama Comptroller's~~  
8 ~~Office, to the county for any state inmate sanctioned as a~~  
9 ~~probation violator and transferred to or from a Department of~~  
10 ~~Corrections facility by the county.~~

11 "(2) On or before October 1, 2020, the Department of  
12 Corrections shall designate three regional state-owned  
13 facilities where probation violators will be housed pursuant  
14 to this section.

15 "a. If the Department of Corrections fails to  
16 designate three regional state-owned facilities on or before  
17 October 1, 2020, and the probation violator is housed in a  
18 county jail, the department shall begin paying to the county a  
19 daily housing rate for each inmate. The daily housing rate  
20 shall be equal to the average daily cost of care of inmates in  
21 state custody in the previous fiscal year, which shall be  
22 calculated by the department and published in its annual  
23 report and on its website. Each fiscal year a newly calculated  
24 rate shall be published on or before November 15. The newly  
25 calculated rate shall take effect annually on January 1.  
26 Counties shall submit monthly invoices to the department which  
27 shall be paid within 30 days of receipt by the department.

1 Counties shall not be financially responsible for costs of  
2 health care provided to inmates sanctioned as probation  
3 violators.

4 "b. If the Department of Corrections designates  
5 three regional state-owned facilities on or before October 1,  
6 2020, and the department fails to transfer the probation  
7 violation, the department shall begin paying the county a daily  
8 housing rate for each probationer. The rate shall be equal to  
9 the average daily cost of care of inmates in state custody,  
10 which shall be calculated pursuant to paragraph a.

11 "c. Counties shall not be financially responsible  
12 for the costs of health care provided to state probationers  
13 whose probation has been revoked. The county may submit an  
14 invoice to the Department of Corrections for reimbursement of  
15 the county's actual cost of health care for a state  
16 probationer, which shall be paid within 30 days of receipt by  
17 the department.

18 "(3) Upon completion of the confinement period, the  
19 remaining probation period or suspension of sentence shall  
20 automatically continue upon the defendant's release from  
21 confinement. The court ~~shall~~ may not revoke probation unless  
22 the defendant has previously received ~~a total of three periods~~  
23 ~~one period~~ of confinement ~~under~~ pursuant to this subsection.  
24 For purposes of revocation, the court may take judicial notice  
25 of the ~~three total periods~~ one period of confinement ~~under~~  
26 pursuant to this subsection. ~~A defendant shall only receive~~  
27 ~~three total periods of confinement under this subsection.~~ The

1 maximum 45-day term of confinement ordered ~~under~~ pursuant to  
2 this subsection ~~for a felony shall~~ may not be reduced by  
3 credit for time already served in the case. Any credit shall  
4 instead be applied to the suspended sentence. In the event the  
5 time remaining on the imposed sentence is 45 days or less, the  
6 term of confinement shall be for the remainder of the  
7 defendant's sentence.

8 ~~"(2)~~ (4) The total time spent in confinement under  
9 this subsection shall not exceed the term of the defendant's  
10 original sentence.

11 ~~"(3)~~ (5) Confinement shall be immediate. The court  
12 shall ~~be responsible for ensuring~~ ensure that the circuit  
13 clerk receives the order revoking probation within five  
14 business days. The circuit clerk shall ensure that the  
15 Department of Corrections receives necessary transcripts for  
16 imposing a period of confinement within five business days of  
17 its receipt of the court's order.

18 ~~"(4)~~ (6) If a probation violator, ~~as described in~~  
19 ~~subdivision (1)~~, is presented to the county jail for any  
20 period of confinement ~~and the probation violator has~~ with a  
21 serious ~~medical~~ health condition, if the confinement of the  
22 probation violator creates a security risk to the jail  
23 facility, or if the jail is near, at, or over capacity, the  
24 sheriff may refuse to admit the probation violator. If, while  
25 in custody of the county jail, the probation violator develops  
26 a serious ~~medical~~ health condition, if the confinement of the  
27 probation violator creates a security risk to the facility, or

1 if the county jail reaches near, at, or ~~overcapacity~~ over  
2 capacity, the sheriff may release the probation violator upon  
3 notification to the probation officer and to the court who has  
4 jurisdiction over the probation violator. A sheriff and his or  
5 her staff shall be immune from liability for exercising  
6 discretion pursuant to Section 36-1-12, in refusing to admit a  
7 probation violator into the jail or releasing a probation  
8 violator from jail under the circumstances described ~~above~~ in  
9 this subdivision.

10 "(f) In lieu of the provisions of subsections (c)  
11 through (e), when a probationer violates his or her probation  
12 terms and conditions imposed by the court, his or her  
13 probation officer, after administrative review and approval by  
14 the officer's supervisor, may require the probationer to  
15 submit to behavioral treatment, substance abuse treatment, GPS  
16 monitoring, ~~such~~ any other treatment as determined by the  
17 board or supervising officer, or a period of confinement in a  
18 consenting jail facility as specified in ~~subdivision~~  
19 subdivisions (10) and (11) of Section 15-22-52.

20 "(g) (1) Prior to imposing a sanction ~~provided under~~  
21 pursuant to subsection (f) ~~and pursuant to subdivision or~~  
22 subdivisions (10) or (11) of Section 15-22-52, the probationer  
23 must first be presented with a violation report, with the  
24 alleged probation violations and supporting evidence ~~noted~~.  
25 The probationer ~~may file a motion with the court to conduct a~~  
26 ~~probation violation hearing within 10 days. The probationer~~  
27 ~~shall be given notice of the right to the hearing and advised~~

1 ~~of the right: (i) To~~ shall be advised that he or she has the  
2 following rights:

3 "a. The right to have a hearing before the court on  
4 the alleged violation ~~in person, with the.~~ If requested, the  
5 hearing shall take place within 10 days of the request.

6 "b. The right to present relevant witnesses and  
7 documentary evidence; ~~(ii).~~

8 "c. The right to retain and have counsel at the  
9 hearing and that counsel will be appointed if the probationer  
10 is indigent; ~~and (iii).~~

11 "d. The right to confront and cross examine any  
12 adverse witnesses.

13 "(2) Upon the signing of a waiver of these rights by  
14 the probationer and the supervising probation officer, with  
15 approval of a supervisor, the probationer may be treated,  
16 monitored, or confined for the period recommended in the  
17 violation report and designated in the waiver. ~~However, the~~  
18 The probationer shall have no right of may not request a  
19 review if he or she has signed a written waiver of rights as  
20 provided in this subsection.

21 "(h) The board shall adopt guidelines and procedures  
22 to implement the requirements of this section, which shall  
23 include the requirement of a supervisor's approval prior to a  
24 supervising probation officer's exercise of the delegation of  
25 authority authorized by subsection (f)."

1                   Section 2. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.