

1 HB110
2 208636-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

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8 SYNOPSIS: Under existing law, a parolee or probationer
9 who violates the conditions of his or her parole is
10 required to serve a 45 day period of confinement in
11 a Department of Corrections facility in certain
12 circumstances.

13 This bill would allow parolees and
14 probationers to serve the 45 day period of
15 confinement in a county jail.

16 This bill would also require the Department
17 of Corrections to pay a county jail a set rate for
18 housing a parolee or probationer in certain
19 circumstances.

20 This bill would also provide that the
21 Department of Corrections is responsible for health
22 care costs of parolees and probationers being
23 housed in a county jail facility.

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

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Relating to the Department of Corrections and
6 pardons and paroles; to amend Sections 15-22-29, 15-22-32, and
7 15-22-52, and Section 15-22-54, as last amended by Act
8 2019-513, 2019 Regular Session, Code of Alabama 1975, to allow
9 parolee and probation violators to serve confinement in a
10 county jail in certain circumstances; to require the
11 Department of Corrections to pay a county jail to house
12 parolees and probationers in certain circumstances; to require
13 that the Department of Corrections is responsible for the
14 health care costs of parolees and probationers in certain
15 circumstances; and to make nonsubstantive, technical revisions
16 to update the existing code language to current style.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 15-22-29, 15-22-32, and
19 15-22-52, and Section 15-22-54, as last amended by Act
20 2019-513, 2019 Regular Session, Code of Alabama 1975, are
21 amended to read as follows:

22 "§15-22-29.

23 "(a) The Board of Pardons and Paroles, in releasing
24 a prisoner on parole, shall specify in writing the conditions
25 of ~~his~~ parole, and provide a copy of ~~such the~~ conditions ~~shall~~
26 ~~be given~~ to the parolee. A ~~violation of such~~ parolee who

1 violates conditions of parole may ~~render the prisoner liable~~
2 be subject to arrest and reimprisonment.

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

9 "(1) The parolee ~~shall~~ may not leave the state
10 without the consent of the board~~;~~.

11 "(2) ~~He or she~~ The parolee shall contribute to the
12 support of his or her dependents to the best of his or her
13 ability~~;~~.

14 "(3) ~~He or she~~ The parolee shall make reparation or
15 restitution for his or her crime~~;~~.

16 "(4) ~~He or she~~ The parolee shall abandon evil
17 associates and ways~~;~~.

18 "(5) ~~He or she~~ The parolee shall ~~carry out~~ follow
19 the instructions of his or her parole officer and ~~in general~~
20 ~~so comport himself or herself as such~~ cooperate with the
21 parole officer shall determine; and.

22 "~~(6) He or she shall submit to behavioral treatment,~~
23 ~~substance abuse treatment, GPS monitoring, other treatment as~~
24 ~~deemed necessary by the board or the supervising parole~~
25 ~~officer, and/or a period or periods of confinement in a~~
26 ~~consenting jail facility. Periods of confinement imposed by~~
27 ~~the supervising parole officer shall not exceed six days per~~

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

13 "§15-22-32.

14 "(a) ~~Whenever~~ If there is reasonable cause to
15 believe that a prisoner who has been paroled has violated his
16 or her parole, ~~the Board of Pardons and Paroles, at its next~~
17 ~~meeting, may declare the prisoner to be delinquent, and time~~
18 ~~owed shall date from the delinquency. The Department of~~
19 ~~Corrections, after receiving notice from the sheriff of the~~
20 ~~county jail where the state prisoner is being held, shall~~
21 ~~promptly notify the board of the return of a paroled prisoner~~
22 ~~charged with violation of his or her parole. Thereupon, the~~
23 board, a single member of the board, a parole revocation
24 hearing officer, or a designated parole officer shall hold a
25 parole court at the prison or at another place as it may
26 determine.

1 "(b) (1) The parole court shall be held within 20
2 business days and shall consider the case of the parole
3 violator,~~who~~. The parolee shall be given an opportunity to
4 appear personally or by counsel before ~~the board or~~ the parole
5 court ~~and to~~ produce witnesses and to explain the charges made
6 against him or her. ~~The board member, parole revocation~~
7 ~~hearing officer, or a designated parole officer, acting as a~~
8 parole court, ~~shall~~ determine whether sufficient evidence
9 supports the violation charges.

10 "(2) If a hearing is not held within ~~the specified~~
11 20 business days, the parolee shall be released back to parole
12 supervision.

13 "~~(b) Upon~~ (c) (1) After conducting a parole court and
14 upon finding sufficient evidence to support a parole
15 violation, the parole court may recommend to the board
16 revocation or reinstatement of parole, and the board may
17 ~~revoke or reinstate parole. Upon revocation of parole, the~~
18 ~~board may require the prisoner to serve in a state prison~~
19 ~~facility the balance of the term for which he or she was~~
20 ~~originally sentenced or any portion thereof, calculated from~~
21 ~~the date of delinquency. The delinquent parolee shall be~~
22 ~~deemed to begin serving the balance of the prison time~~
23 ~~required on the date of his or her rearrest as a delinquent~~
24 ~~parolee. However, in all cases, excluding violent offenses~~
25 ~~defined pursuant to Section 12-25-32 and classified as a Class~~
26 ~~A felony, and sex offenses, defined pursuant to Section~~
27 ~~15-20A-5, the parole court may only recommend revocation and~~

1 ~~the board may only revoke parole as provided below~~ take any of
2 the following actions:

3 ~~"(1) Unless~~ a. If the underlying offense is ~~was~~ a
4 violent offense as defined in Section 12-25-32 and classified
5 as a Class A felony, when a parolee under supervision of the
6 Board of Pardons and Paroles has violated a condition of
7 parole, other than being a sex offense pursuant to Section
8 15-20A-5, or aggravated theft by deception pursuant to Section
9 13A-8-2.1, the board may revoke parole and require the parolee
10 to serve the balance of the term for which he or she was
11 originally sentenced, or any portion thereof, in a state
12 prison facility, calculated from the date of his or her
13 rearrest as a delinquent parolee.

14 "b. If the parole violation was for being arrested
15 or convicted of a new offense or absconding, the parole court
16 may recommend and the board may revoke parole and require the
17 parolee to serve the balance of the term for which he or she
18 was originally sentenced, or any portion thereof, in a state
19 prison facility, calculated from the date of his or her
20 rearrest as a delinquent parolee.

21 "c. For all other parolees, the board may impose a
22 period of confinement of no more than 45 consecutive days to
23 be served in ~~the custody population of the Department of~~
24 ~~Corrections. By April 29, 2016, the Department of Corrections~~
25 ~~shall develop and implement a streamlined process to transport~~
26 ~~and receive the parolee into its custody population and shall~~
27 ~~identify and, if possible, implement policies aimed at~~

1 ~~reducing the administrative delays, if any, in transferring to~~
2 ~~the Department of Corrections the physical custody of the~~
3 ~~parolee and those whose parole has been revoked. Such process~~
4 ~~shall be developed in cooperation with the Alabama Sheriffs'~~
5 ~~Association and the Association of County Commissions of~~
6 ~~Alabama. Such process shall include the most cost-effective~~
7 ~~method to process sanctioned parole violators for the maximum~~
8 ~~45-day confinement period and shall provide that the~~
9 ~~Department of Corrections shall reimburse the state mileage~~
10 ~~rate, as determined by the Alabama Comptroller's Office, to~~
11 ~~the county for any state inmate sanctioned as a parole~~
12 ~~violation and transferred to or from a Department of~~
13 ~~Corrections facility by the county a county jail, calculated~~
14 ~~from the date of his or her rearrest as a delinquent parolee.~~
15 Upon completion of the confinement period and release from
16 confinement, the parolee shall automatically continue on
17 parole for the remaining term of the sentence without further
18 action from the board. The parole court ~~shall~~ may not
19 recommend and the board ~~shall~~ may not revoke parole unless the
20 parolee has previously received a total of three periods of
21 confinement ~~under~~ pursuant to this subsection paragraph. A
22 parolee shall receive only three total periods of confinement
23 ~~under~~ pursuant to this subsection paragraph. The maximum 45
24 day term of confinement ~~ordered under this subsection shall~~
25 may not be reduced by credit for incarceration time already
26 served in the case. Confinement ~~under~~ pursuant to this
27 ~~subsection paragraph~~ shall be credited to the balance of the

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

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

8 "(3) Confinement shall be immediate. The board shall
9 ~~be responsible for ensuring~~ ensure that the Department of
10 Corrections or a county jail that will be housing the parolee
11 pursuant to this section receives necessary documentation for
12 imposing a period of confinement within five business days of
13 the board's action.

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

1 parolee from jail ~~under the circumstances described above~~
2 pursuant to this section.

3 "(5) The Department of Corrections shall be
4 responsible for health care costs of any parolee being housed
5 in a county jail pursuant to this section.

6 "(6) The Department of Corrections shall pay a
7 county jail housing parolees, pursuant to this section, twenty
8 dollars (\$20) per day the parolee is housed in the county
9 jail.

10 ~~"(c) (d)~~ The position of Parole Revocation Hearing
11 Officer is created and established, subject to ~~provisions of~~
12 the state Merit System.

13 ~~"(d) (e)~~ The board may appoint or employ, ~~as the~~
14 ~~board deems necessary,~~ hearing officers who shall conduct a
15 parole court. ~~Such hearing officers shall have authority to~~
16 ~~determine the sufficiency of evidence to support parole~~
17 ~~violation charges and recommend to the board revocation of~~
18 ~~parole pursuant to subsection (b) or reinstatement of parole.~~

19 ~~"(e) (f)~~ In lieu of ~~the provisions of~~ subsections
20 (a) and (b), when a parolee violates his or her parole terms
21 and conditions, his or her parole officer, after an
22 administrative review and approval by the parole officer's
23 supervisor, may ~~require the parolee to submit to behavioral~~
24 impose any of the following sanctions:

25 "(1) Mandatory behavioral treatment,

26 "(2) Mandatory substance abuse treatment,

27 "(3) GPS monitoring, ~~such.~~

1 "(4) Any other treatment as determined by the board
2 or ~~supervising parole officer, or a.~~

3 "(5)a. A short period of confinement in a consenting
4 jail facility ~~as specified in subdivision (6) of subsection~~
5 ~~(b) of Section 15-22-29. The parole officer may exercise such~~
6 ~~authority after administrative review and approval by the~~
7 ~~officer's supervisor.~~ Periods of confinement under this
8 paragraph may not exceed six days per month during any three
9 separate months during the period of parole. The six days per
10 month confinement may only be imposed as two-day or three-day
11 consecutive periods at any single time. The total periods of
12 confinement provided may not exceed 18 total days in a
13 consenting jail facility.

14 "b. Confinement pursuant to paragraph a. may not
15 limit the board's ability to directly impose sanctions,
16 periods of confinement, or revoke parole.

17 "~~(f)~~ (g) (1) Prior to imposing a sanction ~~provided~~
18 ~~under pursuant to subsection (e) and pursuant to subdivision~~
19 ~~(6) of subsection (b) of Section 15-22-29~~ (f), the parolee
20 must first be presented with a written violation report,
21 ~~putting~~ setting forth the alleged parole violations and
22 supporting evidence.

23 "(2) The parolee may request a hearing before the
24 parole court to be heard in person within 10 days.

25 "(3) The parolee shall be given written notice of
26 the right to seek ~~such~~ a parole court review and be advised of
27 ~~the right (i) to~~ all of the following rights:

1 "a. To have a hearing before a neutral and detached
2 parole court on the alleged violation or violations, with the
3 right to present relevant witnesses and documentary evidence,
4 ~~(ii) to.~~

5 "b. To retain and have counsel at the hearing if he
6 or she so desires,~~and (iii) to.~~

7 "c. To confront and cross examine any adverse
8 witnesses.

9 "(4) Upon the signing of a waiver of these rights by
10 the parolee and the ~~supervising~~ parole officer, with the
11 approval of a supervisor, the parolee may be treated,
12 monitored, or confined for the period recommended in the
13 violation report and designated on the waiver. ~~However, the~~

14 "(5) The parolee shall have no right of review if he
15 or she has signed a written waiver of rights as provided in
16 this subsection. A signed waiver shall be deemed as the
17 parolee's consent to the treatment, monitoring, or confinement
18 recommended in the violation report and designated on the
19 waiver.

20 "(6) Should a parolee not sign a written waiver
21 consenting to the recommended treatment, monitoring, or
22 confinement, the revocation process shall be initiated by the
23 filing of a delinquency report by the parole officer, subject
24 to subsections (a) and (b), including the requirement that a
25 parole court hearing be held within 20 business days.

26 ~~"(g)~~ (h) The board shall adopt guidelines and
27 procedures to implement the requirements of this section,

1 which shall include the requirement of a supervisor's approval
2 prior to exercise of the delegation of authority authorized by
3 subsection (e).

4 "§15-22-52.

5 "The court shall determine, and may at any time, may
6 modify the conditions of probation ~~and shall include among~~
7 ~~them the following or any other conditions. Such.~~ The
8 conditions of probation shall ~~provide that the probationer~~
9 ~~shall include, but are not limited to, all of the following:~~

10 "(1) Avoid injurious or vicious habits~~;~~.

11 "(2) Avoid persons or places of disreputable or
12 harmful character~~;~~.

13 "(3) Report to the probation officer as directed~~;~~.

14 "(4) Permit the probation officer to visit him or
15 her at his or her home or elsewhere~~;~~.

16 "(5) Work faithfully at suitable ~~employments as far~~
17 ~~as possible;~~ employment to the extent possible.

18 "(6) Remain within a specified ~~place;~~ location.

19 "(7) Pay the fine ~~imposed~~ or costs imposed or ~~such~~
20 ~~portions thereof as the court may determine and in such~~
21 installments of fines and costs imposed, as the determined by
22 the court may direct;.

23 "(8) Make reparation or restitution to the aggrieved
24 party for the damage or loss caused by his or her offense in
25 an amount to be determined by the court~~;~~.

26 "(9) Support his or her dependents to the best of
27 his or her ability~~;~~ and.

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

19 "§15-22-54.

20 "(a) (1) The period of probation or suspension of
21 execution of sentence shall be determined by the court and
22 shall may not be waived by the defendant, ~~and the.~~

23 "(2) The period of probation or suspension of
24 execution of sentence may be continued, extended, or
25 terminated by the court.

1 "(3) When the conditions of probation or suspension
2 of sentence are fulfilled, the court, by order duly entered on
3 its minutes, shall discharge the defendant.

4 "~~However,~~ (b) (1) The maximum probation period of a
5 defendant convicted of a misdemeanor may not exceed two years,
6 except as provided in Section 32-5A-191, relating to ignition
7 interlock requirements, ~~in no case shall the maximum probation~~
8 ~~period of a defendant guilty of a misdemeanor exceed two~~
9 ~~years, nor shall the.~~

10 "(2) The maximum probation period of a defendant
11 guilty convicted of a felony may not exceed five years, except
12 as provided in Section 13A-8-2.1, relating to aggravated theft
13 by deception. ~~When the conditions of probation or suspension~~
14 ~~of sentence are fulfilled, the court shall, by order duly~~
15 ~~entered on its minutes, discharge the defendant.~~

16 "~~(b)~~ (c) (1) The court granting probation, upon the
17 recommendation of the officer supervising the probationer, may
18 terminate all authority and supervision over the probationer
19 prior to the declared date of completion of probation upon
20 showing a continued satisfactory compliance with the
21 conditions of probation over a sufficient portion of the
22 period of the probation.

23 "(2) At least every two years, and after providing
24 notice to the district attorney, the court shall review the
25 probationer's suitability for discharge from probation
26 supervision if the probationer has satisfied all financial

1 obligations owed to the court, including restitution, and has
2 not had his or her supervision revoked.

3 "~~(c)~~ (d) (1) At any time during the period of
4 probation or suspension of execution of sentence, the court
5 may issue a warrant and ~~cause~~ have the defendant ~~to be~~
6 arrested for violating any of the conditions of probation or
7 suspension of sentence, upon which the court shall hold a
8 violation hearing.

9 "(2) No probationer shall be held in jail awaiting
10 ~~such~~ the violation hearing for longer than 20 business days,
11 unless new criminal charges are pending. If the hearing is not
12 held within ~~the specified time~~ 20 business days, the sheriff
13 shall release the probation violator unless there are other
14 pending criminal charges.

15 "(3) A judge ~~shall have authority to~~ may issue a
16 bond to a probationer for release from custody.

17 "~~(d)~~ (e) Except as provided in Chapter 15 of Title
18 12, any probation officer, ~~police officer,~~ or ~~other~~ any law
19 enforcement officer with power of arrest, when requested by
20 the probation officer, may arrest a probationer without a
21 warrant. ~~In case of an arrest~~ If an arrest is made without a
22 warrant, the arresting officer shall have a written statement
23 by the probation officer setting forth that the probationer
24 ~~has,~~ in his or her judgment, has violated the conditions of
25 probation, ~~and the~~. The probation officer's written statement
26 shall be sufficient warrant for the detention of the
27 probationer in the county jail or other appropriate place of

1 detention until the probationer is brought before the court.
2 The probation officer shall ~~forthwith report~~ immediately
3 notify the court of the arrest and detention ~~to the court of~~
4 the probationer and shall submit ~~in writing~~ a written report
5 showing in what manner the probationer has violated probation.

6 ~~"(e)~~ (f) (1) After conducting a violation hearing and
7 finding sufficient evidence to support a probation violation,
8 the court may ~~revoke probation to impose a sentence of~~
9 ~~imprisonment, and credit shall be given for all time spent in~~
10 ~~custody prior to revocation.~~ take any of the following
11 actions:

12 "a. If the ~~probationer was convicted of~~ underlying
13 offense was a Class D felony and his or her probation is
14 revoked, the incarceration portion of any split sentence
15 imposed due to revocation shall be limited to two years or
16 one-third of the original suspended prison sentence, whichever
17 is less. ~~However, in all cases, excluding~~

18 "b. If the underlying offense was a violent offenses
19 offense as defined pursuant to in Section 12-25-32 and
20 classified as a Class A felony, a sex offenses defined offense
21 pursuant to Section 15-20A-5, and or aggravated theft by
22 deception ~~offenses~~ pursuant to Section 13A-8-2.1, the court
23 may ~~only revoke probation as provided below:~~ revoke probation
24 and require the probationer to serve the balance of the term
25 for which he or she was originally sentenced, or any portion
26 thereof, in a state prison facility, calculated from the date
27 of his or her rearrest as a delinquent probationer.

1 ~~"(1) Unless the underlying offense is a violent~~
2 ~~offense as defined in Section 12-25-32 and classified as a~~
3 ~~Class A felony or an offense of aggravated theft by deception~~
4 ~~as defined in Section 13A-8-2.1, when a defendant under~~
5 ~~supervision for a felony conviction has violated a condition~~
6 ~~of probation, other than arrest or conviction~~

7 "c. If the probation violation was for being
8 arrested or convicted of a new offense or absconding, the
9 court may revoke probation and require the probationer to
10 serve the balance of the term for which he or she was
11 originally sentenced, or any portion thereof, in a state
12 prison facility, calculated from the date of his or her
13 rearrest as a delinquent probationer.

14 "d. For all other probationers, the court may impose
15 a period of confinement of no more than 45 consecutive days to
16 be served in the custody population of the Department of
17 Corrections. By April 29, 2016, the Department of Corrections
18 shall develop and implement a streamlined process to transport
19 and receive the probationer into its custody population and
20 shall identify and, if possible, implement policies aimed at
21 reducing the administrative delays, if any, in transferring to
22 the Department of Corrections the physical custody of the
23 probationer and those whose probation has been revoked. The
24 process shall be developed in cooperation with the Alabama
25 Sheriffs' Association and the Association of County
26 Commissions of Alabama. The process shall include the most
27 cost-effective method to process sanctioned probation

1 ~~violators for the maximum 45-day confinement period and shall~~
2 ~~provide that the Department of Corrections shall reimburse the~~
3 ~~state mileage rate, as determined by the Alabama Comptroller's~~
4 ~~Office, to the county for any state inmate sanctioned as a~~
5 ~~probation violator and transferred to or from a Department of~~
6 ~~Corrections facility by the county a county jail, calculated~~
7 ~~from the date of his or her rearrest as a delinquent~~
8 ~~probationer~~. Upon completion of the confinement period, the
9 remaining probation period or suspension of sentence shall
10 automatically continue upon the defendant's release from
11 confinement. The court shall not revoke probation unless the
12 defendant has previously received a total of three periods of
13 confinement ~~under~~ pursuant to this subsection paragraph. For
14 purposes of revocation, the court may take judicial notice of
15 the three total periods of confinement ~~under~~ pursuant to this
16 ~~subsection paragraph~~. A ~~defendant shall~~ probationer may only
17 receive three total periods of confinement ~~under~~ pursuant to
18 this ~~subsection paragraph~~. The maximum 45-day term of
19 confinement ordered ~~under~~ pursuant to this subsection
20 ~~paragraph~~ for a felony ~~shall~~ may not be reduced by credit for
21 time already served in the case. Any credit shall instead be
22 applied to the suspended sentence. ~~In the event~~ If the time
23 remaining on the imposed sentence is 45 days or less, the term
24 of confinement shall be for the remainder of the ~~defendant's~~
25 probationer's sentence.

1 "(2) The total time spent in confinement ~~under~~
2 pursuant to this subsection ~~shall~~ may not exceed the term of
3 the ~~defendant's~~ probationer's original sentence.

4 "(3) Confinement shall be immediate. The court shall
5 ~~be responsible for ensuring~~ ensure that the circuit clerk
6 receives the order revoking probation within five business
7 days. The circuit clerk shall ensure that the Department of
8 Corrections or a county jail that will be housing the
9 probationer pursuant to this section receives necessary
10 transcripts for imposing a period of confinement within five
11 business days of its receipt of the court's order.

12 "(4) If a probation violator, ~~as described in~~
13 ~~subdivision (1),~~ is presented to the county jail for
14 confinement, pursuant to this section, and the probation
15 violator has a serious medical condition, if the confinement
16 of the probation violator creates a security risk to the jail
17 facility, or if the jail is near, at, or over capacity, the
18 sheriff may refuse to admit the probation violator. If, while
19 in custody of the county jail, the probation violator develops
20 a serious medical condition, if the confinement of the
21 probation violator creates a security risk to the facility, or
22 if the county jail reaches near, at, or overcapacity, the
23 sheriff may release the probation violator upon notification
24 to the probation officer and to the court who has jurisdiction
25 over the probation violator. A sheriff and his or her ~~staff~~
26 employees shall be immune from liability for exercising
27 discretion pursuant to Section 36-1-12 in refusing to admit a

1 probation violator into the jail or releasing a probation
2 violator from jail under the circumstances described ~~above~~ in
3 this subdivision.

4 "(5) The Department of Corrections shall be
5 responsible for health care costs of any probationer being
6 housed in a county jail pursuant to this section.

7 "(6) The Department of Corrections shall pay a
8 county jail housing probationers, pursuant to this section,
9 twenty dollars (\$20) per day the probationer is housed in the
10 county jail.

11 "~~(f)~~ (g) In lieu of ~~the provisions of~~ subsections
12 ~~(c)~~ (d) through ~~(e)~~ (f), when a probationer violates his or
13 her probation terms and conditions imposed by the court, his
14 or her probation officer, after administrative review and
15 approval by the probation officer's supervisor, may ~~require~~
16 ~~the probationer to submit to~~ impose any of the following
17 sanctions:

18 "(1) Mandatory behavioral treatment,

19 "(2) Mandatory substance abuse treatment,

20 "(3) GPS monitoring, ~~such.~~

21 "(4) Any other treatment as determined by the board
22 or supervising probation officer, ~~or a.~~

23 "(5) A short period of confinement in a consenting
24 jail facility as specified in subdivision (10) of Section
25 15-22-52. Periods of confinement may not exceed six days per
26 month during any three separate months during the period of
27 parole. The six days per month confinement may only be imposed

1 as two-day or three-day consecutive periods at any single
2 time. The total periods of confinement provided may not exceed
3 18 total days in a consenting jail facility.

4 "~~(g)~~ (h) (1) Prior to imposing a sanction ~~provided~~
5 ~~under pursuant to subsection (f) and pursuant to subdivision~~
6 ~~(10) of Section 15-22-52 (g)~~, the probationer ~~must~~ shall first
7 be presented with a written violation report, ~~with~~ setting
8 forth the alleged probation violations and supporting evidence
9 ~~noted~~. The probationer may file a motion with the court to
10 conduct a probation violation hearing within 10 days.

11 "(2) The probationer shall be given written notice
12 of the right to ~~the~~ a violation hearing and be advised of ~~the~~
13 right all of the following rights:

14 "~~(i)~~ a. To have a hearing before the court on the
15 alleged violation or violations in person, with the right to
16 present relevant witnesses and documentary evidence, ~~(ii) to.~~

17 "b. To retain and have counsel at the hearing and
18 that counsel will be appointed if the probationer is indigent, ~~and~~
19 ~~(iii) to.~~

20 "c. To confront and cross examine any adverse
21 witnesses.

22 "(3) The probationer may waive the right to a
23 hearing, and upon ~~Upon~~ the signing of a waiver of these rights
24 by the probationer and the ~~supervising~~ probation officer, with
25 the approval of a supervisor, the probationer may be treated,
26 monitored, or confined for the period recommended in the
27 violation report and designated in the waiver. ~~However, the~~

1 "(4) The probationer shall have no right of review
2 if he or she has signed a written waiver of rights as provided
3 in this subsection. A signed waiver shall be deemed as the
4 probationer's consent to the period of confinement recommended
5 in the violation report and designated in the waiver.

6 "(5) Should a probationer not sign a written waiver
7 consenting to the recommended treatment, monitoring, or period
8 of confinement, the revocation process shall be initiated by
9 the filing of a delinquency report by the probation officer,
10 subject to subsection (d), including the requirement that a
11 probation revocation hearing be held within 20 business days.

12 "~~(h)~~ (i) The board shall adopt guidelines and
13 procedures to implement the requirements of this section,
14 which shall include the requirement of a supervisor's approval
15 prior to a supervising probation officer's exercise of the
16 delegation of authority authorized by subsection ~~(f)~~ (g).

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