

House Judiciary Reported Substitute for HB301



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL
TO BE ENTITLED
AN ACT

Relating to firearms; to amend Section 13A-11-84, Code of Alabama 1975; to establish a list of criminal offenses deemed felonies dangerous to human life; to provide prohibitions on the possession of a firearm by certain individuals released on bond or personal recognizance for certain underlying criminal offenses; to prohibit the possession of a firearm by certain individuals convicted of a felony dangerous to human life under certain conditions; to provide criminal penalties for a violation; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the term "felony dangerous to human life" shall include any of the following offenses:

(1) Capital murder pursuant to Sections 13A-6-2 and 13A-5-40, Code of Alabama 1975.



House Judiciary Reported Substitute for HB301

29 (2) Murder pursuant to Section 13A-6-2, Code of Alabama
30 1975.

31 (3) Manslaughter pursuant to Section 13A-6-3, Code of
32 Alabama 1975, except the term does not include manslaughter
33 arising out of the operation of a vehicle.

34 (4) A sex offense that is enumerated under Section
35 15-20A-5, Code of Alabama 1975, which involves any of the
36 following:

37 a. Force.

38 b. Incapacitation.

39 c. A child under 12 years of age.

40 (5) Assault in the first degree pursuant to Section
41 13A-6-20, Code of Alabama 1975.

42 (6) Assault in the second degree pursuant to
43 subdivision (a) (1), (a) (2), or (a) (4) of Section 13A-6-21,
44 Code of Alabama 1975.

45 (7) Kidnapping in the first degree pursuant to Section
46 13A-6-43, Code of Alabama 1975.

47 (8) Kidnapping in the second degree pursuant to Section
48 13A-6-44, Code of Alabama 1975.

49 (9) Enticing a child to enter a vehicle for immoral
50 purposes pursuant to Section 13A-6-69, Code of Alabama 1975.

51 (10) Aggravated stalking pursuant to Section 13A-6-91,
52 Code of Alabama 1975.

53 (11) Domestic violence in the first degree pursuant to
54 Section 13A-6-130, Code of Alabama 1975.

55 (12) Domestic violence in the second degree pursuant to
56 Section 13A-6-131(a) (1), Code of Alabama 1975.



House Judiciary Reported Substitute for HB301

57 (13) Burglary in the first degree pursuant to Section
58 13A-7-5, Code of Alabama 1975.

59 (14) Burglary in the second degree pursuant to
60 subdivision (a)(1) or (a)(3) of Section 13A-7-6, Code of
61 Alabama 1975.

62 (15) Arson in the first degree pursuant to Section
63 13A-7-41, Code of Alabama 1975.

64 (16) Arson in the second degree pursuant to Section
65 13A-7-42(d), Code of Alabama 1975.

66 (17) Robbery in the first degree pursuant to Section
67 13A-8-41, Code of Alabama 1975.

68 (18) Pharmacy robbery pursuant to Section 13A-8-51,
69 Code of Alabama 1975.

70 (19) Escape in the first degree pursuant to Section
71 13A-10-31(a)(1), Code of Alabama 1975.

72 (20) Production of obscene matter involving a minor
73 pursuant to Section 13A-12-197, Code of Alabama 1975.

74 (21) Torture, willful abuse, etc., of a child pursuant
75 to Section 26-15-3, Code of Alabama 1975.

76 (22) Aggravated child abuse pursuant to 26-15-3.1, Code
77 of Alabama 1975.

78 (23) Elder abuse pursuant to Section 38-9-7, Code of
79 Alabama 1975.

80 (24) Human trafficking in the first degree pursuant to
81 Section 13A-6-152, Code of Alabama 1975.

82 (25) Human trafficking in the second degree pursuant to
83 Section 13A-6-153, Code of Alabama 1975.

84 (26) An offense involving the use of a deadly weapon



House Judiciary Reported Substitute for HB301

85 fired or otherwise used from outside a dwelling while the
86 victim is inside a dwelling.

87 (27) An offense involving the use of a deadly weapon
88 fired or otherwise used within or from a vehicle.

89 (28) Any substantially similar offense for which an
90 Alabama offender has been convicted under prior Alabama law or
91 the law of any other state, the District of Columbia, the
92 United States, or any of the territories of the United States.

93 (29) Any attempt of any offense described in this
94 section which constitutes a Class A or Class B felony.

95 Section 2. (a) It shall be unlawful for any person
96 charged with the commission or attempted commission of any
97 felony dangerous to human life, and thereafter released on
98 bond or personal recognizance, to knowingly have a firearm in
99 his or her possession or under his or her control.

100 (b) Unless waived by the defendant, a person may not be
101 convicted for violating this section unless the person is
102 first convicted of having committed a felony dangerous to
103 human life, or a lesser included felony dangerous to human
104 life offense, which gave rise to the charge and for which the
105 person was released on bail or personal recognizance.

106 (c) (1) Any person who violates subsection (a) shall be
107 guilty of a Class B felony.

108 (2) Upon a second or subsequent violation of subsection
109 (a), the person shall be guilty of a Class A felony.

110 (d) The penalties provided in subsection (c) shall be
111 in addition to any penalty provided for the underlying felony
112 dangerous to human life which gave rise to the charge under



House Judiciary Reported Substitute for HB301

113 this section.

114

115 Section 3. (a) It shall be unlawful for any person to
116 knowingly have a firearm in his or her possession or under his
117 or her control when the person, within the preceding 25-year
118 period, has been convicted of committing or attempting to
119 commit a felony dangerous to human life or the person, within
120 the preceding five-year period, has been released from
121 incarceration following a conviction of a felony dangerous to
122 human life.

123 (b) (1) Any person who knowingly violates subsection (a)
124 shall be guilty of a Class B felony.

125 (2) Upon a second or subsequent violation of subsection
126 (a), the person shall be guilty of a Class A felony.

127

128 Section 4. Section 13A-11-84, Code of Alabama 1975, is
129 amended to read as follows:

130 "§13A-11-84

131 (a) ~~Every~~ Except as otherwise provided in Section 4 of
132 the act amending this section, a violation of ~~subsection (a)~~
133 ~~of~~ Section 13A-11-72 (a) or Section 13A-11-81 shall be a Class
134 C felony.

135 (b) Every violation of ~~subsection (b) of Section~~
136 13A-11-72 (b), ~~or Sections 13A-11-73, 13A-11-74, 13A-11-76, and~~
137 13A-11-77 through 13A-11-80 shall be a Class A misdemeanor.
138 The punishment for violating Section 13A-11-78 or 13A-11-79
139 may include revocation of license.

140 ~~(b)~~ (c) (1) It shall be the duty of any ~~sheriff,~~



House Judiciary Reported Substitute for HB301

141 ~~policeman, or other peace officer of the State of Alabama,~~ law
142 enforcement officer in this state arresting any person charged
143 with violating Sections 13A-11-71 ~~through 13A-11-73, or any~~
144 ~~one or more of those sections,~~ or 13A-11-72 to seize the
145 pistol or pistols in the possession or under the control of
146 the person or persons charged with violating the section or
147 sections, and to deliver the pistol or pistols to one of the
148 following named persons:

149 a. ~~if~~If a municipal officer makes the arrest, to the
150 city clerk or custodian of stolen property of the municipality
151 employing the arresting officer; ~~if.~~

152 b. If a county, state, or other peace officer makes the
153 arrest, to the sheriff of the county in which the arrest is
154 made.

155 (2) The person receiving the pistol or pistols from the
156 arresting officer shall keep it in a safe place in as good
157 condition as received until disposed of as ~~hereinafter~~
158 provided in this subsection.

159 (3) Within five days after the final conviction of any
160 person arrested for violating ~~any of the above-numbered~~
161 ~~sections~~ Sections 13A-11-71 or 13A-11-72, the person receiving
162 possession of the pistol or pistols, seized as provided in
163 this section, shall report the seizure and detention of the
164 pistol or pistols to the district attorney within the county
165 where the pistol or pistols ~~are~~ were seized, giving a full
166 description thereof, including the number, make, and model
167 thereof, the name of the person in whose possession it was
168 found when seized, the person making claim to same or any



House Judiciary Reported Substitute for HB301

169 interest therein, if the name can be ascertained or is known,
170 and the date of the seizure.

171 (4) Upon receipt of the report from the person
172 receiving possession of the pistol or pistols, ~~it shall be the~~
173 ~~duty of the district attorney within the county wherein the~~
174 ~~pistol or pistols were seized to forthwith~~ the district
175 attorney shall file a complaint in the circuit court of the
176 proper county, ~~praying~~ requesting that the seized pistol or
177 pistols be declared contraband, ~~be~~ forfeited to the state, and
178 ~~be~~ destroyed or used for law enforcement purposes.

179 (5) Any person, firm or corporation, or association of
180 persons ~~in whose possession~~ claiming to own or have an
181 interest in the pistol or pistols ~~may be~~ seized ~~or who claim~~
182 ~~to own the same or any interest therein~~ shall be made a party
183 defendant to the complaint, and ~~thereupon~~ the matter shall
184 proceed and be determined in the circuit court of the proper
185 county in the same form and manner, ~~as near as may be,~~ as in
186 the forfeiture and destruction of gaming devices, except as
187 otherwise provided.

188 (6) When any judgment of condemnation and forfeiture is
189 made in any case filed under this section, the ~~judge making~~
190 ~~the judgment~~ court shall direct the destruction of the pistol
191 or pistols by the person receiving possession of the pistol or
192 pistols from the arresting officer in the presence of the
193 clerk or register of the court, ~~unless the judge~~.

194 (7) Notwithstanding subdivision (6), if the court is of
195 the opinion that the nondestruction ~~thereof~~ of the pistol or
196 pistols is necessary or proper in the ends of justice, ~~in~~



House Judiciary Reported Substitute for HB301

197 ~~which event and~~ upon recommendation of the district attorney,
198 the ~~judge~~ court shall award the pistol or pistols to the
199 sheriff of the county or to the chief of police of the
200 municipality to be used exclusively by the sheriff or the
201 chief of police ~~in the enforcement of law, and the~~ for law
202 enforcement purposes. The sheriff of the county and the chiefs
203 of police of the municipalities shall keep a permanent record
204 of all pistols awarded to them, as provided for in this
205 section, to be accounted for as other public property, ~~and the~~
206 ~~order, in.~~

207 (8) In the event that no appeal is taken within 15 days
208 ~~from the rendition thereof, the court's order~~ shall be carried
209 out and executed before the expiration of 20 days from the
210 date of the judgment. The court may direct in the judgment
211 that the costs of the proceedings be paid by the person in
212 whose possession the pistol or pistols were found when seized,
213 or by any party or parties who claim to own the pistol or
214 pistols, or any interest therein, and who contested the
215 condemnation and forfeiture ~~thereof.~~"

216 Section 5. Although this bill would have as its purpose
217 or effect the requirement of a new or increased expenditure of
218 local funds, the bill is excluded from further requirements
219 and application under Section 111.05 of the Constitution of
220 Alabama of 2022, because the bill defines a new crime or
221 amends the definition of an existing crime.

222 Section 6. This act shall become effective on the first
223 day of the third month following its passage and approval by
224 the Governor, or its otherwise becoming law.