



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

SYNOPSIS:

This bill would establish a list of criminal offenses which are deemed to be felonies dangerous to human life.

This bill would provide prohibitions on the possession of a firearm by certain individuals released on bond or personal recognizance when the underlying criminal offense for which the person was arrested is a felony dangerous to human life.

This bill would prohibit the possession of a firearm by certain individuals previously convicted of a felony dangerous to human life within a certain time period.

This bill would also provide criminal penalties for a violation.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.



29 The purpose or effect of this bill would be to
30 require a new or increased expenditure of local funds
31 within the meaning of the amendment. However, the bill
32 does not require approval of a local governmental
33 entity or enactment by a 2/3 vote to become effective
34 because it comes within one of the specified exceptions
35 contained in the amendment.

36

37

38

A BILL

39

TO BE ENTITLED

40

AN ACT

41

42 Relating to firearms; to amend Section 13A-11-84, Code
43 of Alabama 1975; to establish a list of criminal offenses
44 deemed felonies dangerous to human life; to provide
45 prohibitions on the possession of a firearm by certain
46 individuals released on bond or personal recognizance for
47 certain underlying criminal offenses; to prohibit the
48 possession of a firearm by certain individuals convicted of a
49 felony dangerous to human life under certain conditions; to
50 provide criminal penalties for a violation; and in connection
51 therewith would have as its purpose or effect the requirement
52 of a new or increased expenditure of local funds within the
53 meaning of Section 111.05 of the Constitution of Alabama of
54 2022.

55

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

56

Section 1. As used in this act, the term "felony



57 dangerous to human life" shall include any of the following
58 offenses:

59 (1) Capital murder pursuant to Sections 13A-6-2 and
60 13A-5-40, Code of Alabama 1975.

61 (2) Murder pursuant to Section 13A-6-2, Code of Alabama
62 1975.

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

66 (4) A sex offense that is enumerated under Section
67 15-20A-5, Code of Alabama 1975, which involves any of the
68 following:

69 a. Force.

70 b. Incapacitation.

71 c. A child under 12 years of age.

72 (5) Assault in the first degree pursuant to Section
73 13A-6-20, Code of Alabama 1975.

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

77 (7) Kidnapping in the first degree pursuant to Section
78 13A-6-43, Code of Alabama 1975.

79 (8) Kidnapping in the second degree pursuant to Section
80 13A-6-44, Code of Alabama 1975.

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

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



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

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

89 (13) Burglary in the first degree pursuant to Section
90 13A-7-5, Code of Alabama 1975.

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

94 (15) Arson in the first degree pursuant to Section
95 13A-7-41, Code of Alabama 1975.

96 (16) Arson in the second degree pursuant to Section
97 13A-7-42(d), Code of Alabama 1975.

98 (17) Robbery in the first degree pursuant to Section
99 13A-8-41, Code of Alabama 1975.

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

102 (19) Escape in the first degree pursuant to Section
103 13A-10-31(a) (1), Code of Alabama 1975.

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

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

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

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

112 (24) Human trafficking in the first degree pursuant to



113 Section 13A-6-152, Code of Alabama 1975.

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

116 (26) An offense involving the use of a deadly weapon
117 fired or otherwise used from outside a dwelling while the
118 victim is inside a dwelling.

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

121 (28) Any substantially similar offense for which an
122 Alabama offender has been convicted under prior Alabama law or
123 the law of any other state, the District of Columbia, the
124 United States, or any of the territories of the United States.

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

130 (b) Unless waived by the defendant, a person may not be
131 convicted for violating this section unless the person is
132 first convicted of having committed a felony dangerous to
133 human life, or a lesser included felony dangerous to human
134 life offense, which gave rise to the charge and for which the
135 person was released on bail or personal recognizance.

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

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

140 (d) The penalties provided in subsection (c) shall be



141 in addition to any penalty provided for the underlying felony
142 dangerous to human life which gave rise to the charge under
143 this section.

144 (e) Notwithstanding any other provision of law, the
145 term of imprisonment provided in subsection (c) shall not be
146 eligible for any of the following:

147 (1) Probation.

148 (2) Community corrections.

149 (3) Any split or suspended sentence provision pursuant
150 to Section 15-18-8, Code of Alabama 1975.

151 (4) Any type of early release program, work release
152 program, good time, or any other program which would change
153 the overall time or location of incarceration.

154 (5) Any sentencing schedule or worksheet adopted,
155 created, or otherwise released by the Alabama Sentencing
156 Commission.

157 Section 3. (a) It shall be unlawful for any person to
158 knowingly have a firearm in his or her possession or under his
159 or her control when the person, within the preceding 25-year
160 period, has been convicted of committing or attempting to
161 commit a felony dangerous to human life or the person, within
162 the preceding five-year period, has been released from
163 incarceration following a conviction of a felony dangerous to
164 human life.

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

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



169 (c) Notwithstanding any other provision of law, the
170 person shall not be eligible for any of the following:

171 (1) Probation.

172 (2) Community corrections.

173 (3) Any split or suspended sentence provision pursuant
174 to Section 15-18-8, Code of Alabama 1975.

175 (4) Any type of early release program, work release
176 program, good time, or any other program which would change
177 the overall time or location of incarceration.

178 (5) Any sentencing schedule or worksheet adopted,
179 created, or otherwise released by the Alabama Sentencing
180 Commission.

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

183 "§13A-11-84

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

188 (b) Every violation of ~~subsection (b) of Section~~
189 13A-11-72 (b), ~~or Sections 13A-11-73,~~ 13A-11-74, 13A-11-76, and
190 13A-11-77 through 13A-11-80 shall be a Class A misdemeanor.
191 The punishment for violating Section 13A-11-78 or 13A-11-79
192 may include revocation of license.

193 ~~(b)~~ (c) (1) It shall be the duty of any ~~sheriff,~~
194 ~~policeman, or other peace officer of the State of Alabama,~~ law
195 enforcement officer in this state arresting any person charged
196 with violating Sections 13A-11-71 ~~through 13A-11-73, or any~~



197 ~~one or more of these sections,~~ or 13A-11-72 to seize the
198 pistol or pistols in the possession or under the control of
199 the person or persons charged with violating the section or
200 sections, and to deliver the pistol or pistols to one of the
201 following named persons:

202 a. ~~if~~If a municipal officer makes the arrest, to the
203 city clerk or custodian of stolen property of the municipality
204 employing the arresting officer; ~~if.~~

205 b. If a county, state, or other peace officer makes the
206 arrest, to the sheriff of the county in which the arrest is
207 made.

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

212 (3) Within five days after the final conviction of any
213 person arrested for violating ~~any of the above-numbered~~
214 ~~sections~~ Sections 13A-11-71 or 13A-11-72, the person receiving
215 possession of the pistol or pistols, seized as provided in
216 this section, shall report the seizure and detention of the
217 pistol or pistols to the district attorney within the county
218 where the pistol or pistols ~~are~~ were seized, giving a full
219 description thereof, including the number, make, and model
220 thereof, the name of the person in whose possession it was
221 found when seized, the person making claim to same or any
222 interest therein, if the name can be ascertained or is known,
223 and the date of the seizure.

224 (4) Upon receipt of the report from the person



225 receiving possession of the pistol or pistols, ~~it shall be the~~
226 ~~duty of the district attorney within the county wherein the~~
227 ~~pistol or pistols were seized to forthwith~~ the district
228 attorney shall file a complaint in the circuit court of the
229 proper county, ~~praying~~ requesting that the seized pistol or
230 pistols be declared contraband, ~~be~~ forfeited to the state, and
231 ~~be~~ destroyed or used for law enforcement purposes.

232 (5) Any person, firm or corporation, or association of
233 persons ~~in whose possession~~ claiming to own or have an
234 interest in the pistol or pistols ~~may be seized or who claim~~
235 ~~to own the same or any interest therein~~ shall be made a party
236 defendant to the complaint, and ~~thereupon~~ the matter shall
237 proceed and be determined in the circuit court of the proper
238 county in the same form and manner, ~~as near as may be,~~ as in
239 the forfeiture and destruction of gaming devices, except as
240 otherwise provided.

241 (6) When any judgment of condemnation and forfeiture is
242 made in any case filed under this section, the ~~judge making~~
243 ~~the judgment~~ court shall direct the destruction of the pistol
244 or pistols by the person receiving possession of the pistol or
245 pistols from the arresting officer in the presence of the
246 clerk or register of the court, ~~unless the judge~~.

247 (7) Notwithstanding subdivision (6), if the court is of
248 the opinion that the nondestruction ~~thereof~~ of the pistol or
249 pistols is necessary or proper in the ends of justice, ~~in~~
250 ~~which event and~~ upon recommendation of the district attorney,
251 the ~~judge~~ court shall award the pistol or pistols to the
252 sheriff of the county or to the chief of police of the



253 municipality to be used exclusively by the sheriff or the
254 chief of police ~~in the enforcement of law, and the~~ for law
255 enforcement purposes. The sheriff of the county and the chiefs
256 of police of the municipalities shall keep a permanent record
257 of all pistols awarded to them, as provided for in this
258 section, to be accounted for as other public property, ~~and the~~
259 ~~order, in.~~

260 (8) In the event that no appeal is taken within 15 days
261 ~~from the rendition thereof, the court's order~~ shall be carried
262 out and executed before the expiration of 20 days from the
263 date of the judgment. The court may direct in the judgment
264 that the costs of the proceedings be paid by the person in
265 whose possession the pistol or pistols were found when seized,
266 or by any party or parties who claim to own the pistol or
267 pistols, or any interest therein, and who contested the
268 condemnation and forfeiture ~~thereof.~~"

269 Section 5. Although this bill would have as its purpose
270 or effect the requirement of a new or increased expenditure of
271 local funds, the bill is excluded from further requirements
272 and application under Section 111.05 of the Constitution of
273 Alabama of 2022, because the bill defines a new crime or
274 amends the definition of an existing crime.

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