

HB271 INTRODUCED



1 G81A6C-1

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10 RFD: Judiciary

11 First Read: 06-Apr-23

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SYNOPSIS:

Act 2015-185 created a new Class D felony classification and created penalties for Class D felony offenses.

Additionally, Act 2015-185 reclassified certain crimes and offenses, creating certain Class D felony offenses.

This bill would eliminate the Class D felony classification and reclassify current Class D felony offenses.

This bill would repeal Class D felony offenses created by Act 2015-185 and any criminal offense classified as a Class D felony offense.

This bill would require the Alabama Sentencing Commission to immediately modify its standards, worksheets, and instructions necessary to comply with current law.

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

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



HB271 INTRODUCED

29 specified exceptions; it is approved by the affected
30 entity; or the Legislature appropriates funds, or
31 provides a local source of revenue, to the entity for
32 the purpose.

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

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A BILL

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TO BE ENTITLED

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AN ACT

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47 Relating to crimes and offenses; to amend Sections
48 12-25-34.2, 13A-5-3, 13A-5-6, 13A-5-9, 13A-5-11, 13A-5-13,
49 13A-6-184, 13A-8-4, 13A-8-5, 13A-8-8, 13A-8-9, 13A-8-10.2,
50 13A-8-10.3, 13A-8-10.6, 13A-8-18, 13A-8-19, 13A-9-3, 13A-9-4,
51 13A-9-7, 13A-9-14, 13A-12-212, 13A-12-213, 13A-12-214,
52 13A-12-291, 15-12-21, 15-13-209, 15-18-8, 15-22-54, 8-7A-20,
53 12-25-33, 26-23F-6, and 28-1-8, Code of Alabama 1975, to
54 eliminate the Class D felony offense; reclassify certain
55 felony offenses; to require the Alabama Sentencing Commission
56 to immediately modify its standards, worksheets, and



HB271 INTRODUCED

57 instructions; repeal Sections 13A-8-4.1, 13A-8-8.1,
58 13A-8-10.25, 13A-8-18.1, 13A-9-3.1, and 13A-9-6.1; to make
59 nonsubstantive, technical revisions to update the existing
60 code language to current style; and in connection therewith
61 would have as its purpose or effect the requirement of a new
62 or increased expenditure of local funds within the meaning of
63 Section 111.05 of the Constitution of Alabama of 2022.

64 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

65 Section 1. Sections 12-25-34.2, 13A-5-3, 13A-5-6,
66 13A-5-9, 13A-5-11, 13A-5-13, 13A-6-184, 13A-8-4, 13A-8-5,
67 13A-8-8, 13A-8-9, 13A-8-10.2, 13A-8-10.3, 13A-8-10.6,
68 13A-8-18, 13A-8-19, 13A-9-3, 13A-9-4, 13A-9-7, 13A-9-14,
69 13A-12-212, 13A-12-213, 13A-12-214, and 13A-12-291, Code of
70 Alabama 1975, are amended to read as follows:

71 "§12-25-34.2

72 (a) For the purposes of this section, the following
73 words ~~shall~~ have the following meanings:

74 (1) AGGRAVATING FACTORS. Substantial and compelling
75 reasons justifying an exceptional sentence whereby the
76 sentencing court may impose a departure sentence above the
77 presumptive sentence recommendation for an offense.
78 Aggravating factors may result in dispositional or sentence
79 range departures, or both, and shall be stated on the record
80 by the court.

81 (2) DEPARTURE. A sentence which departs from the
82 presumptive sentence recommendation for an offender.

83 (3) DISPOSITION. The part of the sentencing courts
84 presumptive sentence recommendation other than sentence



HB271 INTRODUCED

85 length.

86 (4) DISPOSITIONAL DEPARTURE. A sentence ~~which~~that
87 departs from the presumptive sentence recommendation for
88 disposition of sentence.

89 (5) MITIGATING FACTORS. Substantial and compelling
90 reasons justifying an exceptional sentence whereby the
91 sentencing court may impose a departure sentence below the
92 presumptive sentence recommendation for an offense. Mitigating
93 factors may result in disposition or sentence range
94 departures, or both, and shall be stated on the record by the
95 court.

96 (6) NONVIOLENT OFFENSES. As defined in Section
97 12-25-32.

98 (7) PRESUMPTIVE SENTENCE RECOMMENDATION. The
99 recommended sentence range and disposition provided in the
100 sentencing standards.

101 (8) SENTENCE RANGE. The sentencing court's
102 discretionary range of length of sentence as provided and
103 recommended in the presumptive sentencing recommendation.

104 (9) SENTENCE RANGE DEPARTURE. A sentence ~~which~~that
105 departs from the presumptive sentence recommendation as to the
106 sentence range.

107 (10) VIOLENT OFFENSES. As defined in Section 12-25-32.

108 (b) (1) The voluntary sentencing standards as provided
109 for in Section 12-25-34, as applied to nonviolent offenses
110 shall become presumptive sentencing standards effective
111 October 1, 2013, to the extent the modification adopted by the
112 Alabama Sentencing Commission become effective October 1,



HB271 INTRODUCED

113 2013. The standards shall be applied by the courts in
114 sentencing subject to departures as provided herein. To
115 accomplish this purpose as to the existing initial voluntary
116 sentencing standards, the Alabama Sentencing Commission shall
117 adopt modifications to the standards, worksheets, and
118 instructions to the extent necessary to implement this
119 provision including, but not limited to, defining aggravating
120 and mitigating factors that allow for departure from the
121 presumptive sentencing recommendations. The commission's
122 modifications shall be presented to the Legislature in the
123 commission's annual report within the first five legislative
124 days of the 2013 Regular Session.

125 (2) The Alabama Sentencing Commission shall immediately
126 adopt modifications to the standards, worksheets, and
127 instructions to the extent necessary to implement this act.
128 The amendatory provisions of this act shall supersede any
129 standards, worksheets, and instructions of the commission that
130 are in conflict with these amendatory provisions.

131 (c) Durational and dispositional departures from the
132 presumptive sentencing standards shall be subject to appellate
133 review. Along with the modifications provided for in
134 subsection (b), the Alabama Sentencing Commission shall
135 recommend a narrowly defined scope of appellate review
136 applicable to departures from presumptive sentencing
137 recommendations. The scope of appellate review shall become
138 effective upon approval by an act of the Legislature enacted
139 by bill."

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HB271 INTRODUCED

141 "§13A-5-3

142 (a) Offenses are designated as felonies, misdemeanors,
143 or violations.

144 (b) Felonies are classified according to the relative
145 seriousness of the offense into ~~four~~ the following three
146 categories:

147 (1) Class A felonies~~;~~.

148 (2) Class B felonies~~;~~.

149 (3) Class C felonies~~;~~and.

150 ~~(4) Class D felonies.~~

151 (c) Misdemeanors are classified according to the
152 relative seriousness of the offense into the following three
153 categories:

154 (1) Class A misdemeanors~~;~~.

155 (2) Class B misdemeanors~~;~~and.

156 (3) Class C misdemeanors.

157 (d) Violations are not classified."

158 "§13A-5-6

159 (a) Sentences for felonies shall be for a definite term
160 of imprisonment, which imprisonment includes hard labor,
161 within the following limitations:

162 (1) For a Class A felony, for life or not more than 99
163 years or less than 10 years.

164 (2) For a Class B felony, not more than 20 years or
165 less than ~~2~~ two years.

166 (3) For a Class C felony, not more than 10 years or
167 less than ~~1~~ one year and ~~1~~ one day ~~and must be in accordance~~
168 ~~with subsection (b) of Section 15-18-8 unless sentencing is~~



HB271 INTRODUCED

169 ~~pursuant to Section 13A-5-9 or the offense is a sex offense~~
170 ~~pursuant to Section 15-20A-5.~~

171 ~~(4) For a Class D felony, not more than 5 years or less~~
172 ~~than 1 year and 1 day and must be in accordance with~~
173 ~~subsection (b) of Section 15-18-8.~~

174 ~~(5)~~ (4) For a Class A felony in which a firearm or
175 deadly weapon was used or attempted to be used in the
176 commission of the felony, or a Class A felony sex offense
177 involving a child as defined in Section 15-20A-4, not less
178 than 20 years.

179 ~~(6)~~ (5) For a Class B or C felony in which a firearm or
180 deadly weapon was used or attempted to be used in the
181 commission of the felony, or a Class B felony sex offense
182 involving a child as defined in Section 15-20A-4, not less
183 than 10 years.

184 (b) The actual time of release within the limitations
185 established by subsection (a) shall be determined under
186 procedures established elsewhere by law.

187 (c) In addition to any penalties ~~heretofore or~~
188 ~~hereafter~~ otherwise provided by law, in all cases where an
189 offender is designated as a sexually violent predator pursuant
190 to Section 15-20A-19, or where an offender is convicted of a
191 Class A felony sex offense involving a child as defined in
192 Section 15-20A-4, and is sentenced to a county jail or the
193 Alabama Department of Corrections, the sentencing judge shall
194 impose an additional penalty of not less than 10 years of
195 post-release supervision to be served upon the defendant's
196 release from incarceration.



HB271 INTRODUCED

197 (d) In addition to any penalties ~~heretofore or~~
198 ~~hereafter~~ otherwise provided by law, in all cases where an
199 offender is convicted of a sex offense pursuant to Section
200 13A-6-61, 13A-6-63, or 13A-6-65.1, when the defendant was 21
201 years of age or older and the victim was six years of age or
202 less at the time the offense was committed, the defendant
203 shall be sentenced to life imprisonment without the
204 possibility of parole."

205 "§13A-5-9

206 (a) In all cases when it is shown that a criminal
207 defendant has been previously convicted of a ~~Class A, Class B,~~
208 ~~or Class C~~ felony and after the conviction has committed
209 another ~~Class A, Class B, or Class C~~ felony, he or she ~~must~~
210 shall be punished as follows:

211 (1) On conviction of a Class C felony, he or she ~~must~~
212 shall be punished for a Class B felony.

213 (2) On conviction of a Class B felony, he or she ~~must~~
214 shall be punished for a Class A felony.

215 (3) On conviction of a Class A felony, he or she ~~must~~
216 shall be punished by imprisonment for life or for any term of
217 not more than 99 years but not less than 15 years.

218 (b) In all cases when it is shown that a criminal
219 defendant has been previously convicted of any two felonies
220 ~~that are Class A, Class B, or Class C felonies~~ and after
221 ~~such~~the convictions has committed another ~~Class A, Class B, or~~
222 ~~Class C~~ felony, he or she ~~must~~ shall be punished as follows:

223 (1) On conviction of a Class C felony, he or she ~~must~~
224 shall be punished for a Class A felony.



HB271 INTRODUCED

225 (2) On conviction of a Class B felony, he or she ~~must~~
226 shall be punished by imprisonment for life or for any term of
227 not more than 99 years but not less than 15 years.

228 (3) On conviction of a Class A felony, he or she ~~must~~
229 shall be punished by imprisonment for life or for any term of
230 not less than 99 years.

231 (c) In all cases when it is shown that a criminal
232 defendant has been previously convicted of any three felonies
233 ~~that are Class A, Class B, or Class C felonies~~ and after
234 ~~such~~the convictions has committed another ~~Class A, Class B, or~~
235 ~~Class C~~ felony, he or she ~~must~~ shall be punished as follows:

236 (1) On conviction of a Class C felony, he or she ~~must~~
237 shall be punished by imprisonment for life or for any term of
238 not more than 99 years but not less than 15 years.

239 (2) On conviction of a Class B felony, he or she ~~must~~
240 shall be punished by imprisonment for life or any term of not
241 less than 20 years.

242 (3) On conviction of a Class A felony, where the
243 defendant has no prior convictions for any Class A felony, he
244 or she ~~must~~ shall be punished by imprisonment for life or life
245 without the possibility of parole, in the discretion of the
246 trial court.

247 (4) On conviction of a Class A felony, where the
248 defendant has one or more prior convictions for any Class A
249 felony, he or she ~~must~~ shall be punished by imprisonment for
250 life without the possibility of parole.

251 ~~(d) In all cases when it is shown that a criminal~~
252 ~~defendant has been previously convicted of any two or more~~



HB271 INTRODUCED

253 ~~felonies that are Class A or Class B felonies and after such~~
254 ~~convictions has committed a Class D felony, upon conviction,~~
255 ~~he or she must be punished for a Class C felony.~~

256 ~~(e) In all cases when it is shown that a criminal~~
257 ~~defendant has been previously convicted of any three or more~~
258 ~~felonies and after such convictions has committed a Class D~~
259 ~~felony, upon conviction, he or she must be punished for a~~
260 ~~Class C felony."~~

261 "§13A-5-11

262 (a) A sentence to pay a fine for a felony shall be for
263 a definite amount, fixed by the court, within the following
264 limitations:

265 (1) For a Class A felony, not more than ~~\$60,000;~~ sixty
266 thousand dollars (\$60,000).

267 (2) For a Class B felony, not more than ~~\$30,000;~~ thirty
268 thousand dollars (\$30,000).

269 (3) For a Class C felony, not more than ~~\$15,000;~~
270 fifteen thousand dollars (\$15,000).

271 ~~(4) For a Class D felony, not more than \$7,500; or~~

272 ~~(5)~~ (4) Any amount not exceeding double the pecuniary
273 gain to the defendant or loss to the victim caused by the
274 commission of the offense.

275 (b) As used in this section, "gain" means the amount of
276 money or the value of property derived from the commission of
277 the crime, less the amount of money or the value of property
278 returned to the victim of the crime or seized or surrendered
279 to lawful authority prior to the time sentence is imposed.

280 "Value" shall be determined by the standards established in



HB271 INTRODUCED

281 ~~subdivision (14) of~~ Section 13A-8-1.

282 (c) The court may conduct a hearing upon the issue of
283 the defendant's gain or the victim's loss from the crime
284 according to procedures established by rule of court.

285 (d) This section shall not apply if a higher fine is
286 otherwise authorized by law for a specific crime."

287 "§13A-5-13

288 (a) The Legislature finds and declares the following:

289 (1) It is the right of every person, regardless of
290 race, color, religion, national origin, ethnicity, or physical
291 or mental disability, to be secure and protected from threats
292 of reasonable fear, intimidation, harassment, and physical
293 harm caused by activities of groups and individuals.

294 (2) It is not the intent, by enactment of this section,
295 to interfere with the exercise of rights protected by the
296 Constitution of the State of Alabama or the United States.

297 (3) The intentional advocacy of unlawful acts by groups
298 or individuals against other persons or groups and bodily
299 injury or death to persons is not constitutionally protected
300 when violence or civil disorder is imminent, and poses a
301 threat to public order and safety, and ~~such~~ the conduct should
302 be subjected to criminal sanctions.

303 (b) The purpose of this section is to impose additional
304 penalties where it is shown that a perpetrator committing the
305 underlying offense was motivated by the victim's actual or
306 perceived race, color, religion, national origin, ethnicity,
307 or physical or mental disability.

308 (c) A person who has been found guilty of a crime, the



HB271 INTRODUCED

309 commission of which was shown beyond a reasonable doubt to
310 have been motivated by the victim's actual or perceived race,
311 color, religion, national origin, ethnicity, or physical or
312 mental disability, shall be punished as follows:

313 (1) Felonies:

314 a. On conviction of a Class A felony ~~that was found to~~
315 ~~have been motivated by the victim's actual or perceived race,~~
316 ~~color, religion, national origin, ethnicity, or physical or~~
317 ~~mental disability~~, the sentence shall not be less than 15
318 years.

319 b. On conviction of a Class B felony ~~that was found to~~
320 ~~have been motivated by the victim's actual or perceived race,~~
321 ~~color, religion, national origin, ethnicity, or physical or~~
322 ~~mental disability~~, the sentence shall not be less than 10
323 years.

324 c. On conviction of a Class C felony ~~that was found to~~
325 ~~have been motivated by the victim's actual or perceived race,~~
326 ~~color, religion, national origin, ethnicity, or physical or~~
327 ~~mental disability~~, the sentence shall not be less than two
328 years.

329 ~~d. On conviction of a Class D felony that was found to~~
330 ~~have been motivated by the victim's actual or perceived race,~~
331 ~~color, religion, national origin, ethnicity, or physical or~~
332 ~~mental disability, the sentence shall not be less than 18~~
333 ~~months.~~

334 e.d. For purposes of this subdivision, a criminal
335 defendant who has been previously convicted of any felony and
336 receives an enhanced sentence pursuant to this section is also



HB271 INTRODUCED

337 subject to enhanced punishment under the Alabama Habitual
338 Felony Offender Act, Section 13A-5-9.

339 (2) ~~Misdemeanors:~~

340 On conviction of a misdemeanor ~~which was found beyond a~~
341 ~~reasonable doubt to have been motivated by the victim's actual~~
342 ~~or perceived race, color, religion, national origin,~~
343 ~~ethnicity, or physical or mental disability,~~ the defendant
344 shall be sentenced for a Class A misdemeanor, except that the
345 defendant shall be sentenced to a minimum of three months."

346 "§13A-6-184

347 (a) By August 31, 2016, a domestic or interstate
348 business engaging in an escort business of companionship in
349 this state ~~must~~ shall register with the Secretary of State.

350 (b) (1) A violation of subsection (a) is a Class A
351 misdemeanor.

352 (2) A second or subsequent violation of subsection (a)
353 is a Class ~~D~~ C felony."

354 "§13A-8-4

355 (a) The theft of property ~~between one thousand five~~
356 ~~hundred dollars (\$1,500)~~ that exceeds five hundred dollars
357 (\$500) in value ~~and~~ but does not exceed two thousand five
358 hundred dollars (\$2,500) in value, and which is not taken from
359 the person of another, constitutes theft of property in the
360 second degree.

361 (b) ~~Theft of property in the second degree is a Class C~~
362 ~~felony.~~ The theft of a credit or debit card, regardless of its
363 value, constitutes theft of property in the second degree.

364 (c) The theft of a firearm, rifle, or shotgun,



HB271 INTRODUCED

365 regardless of its value, constitutes theft of property in the
366 second degree.

367 (d) The theft of any substance controlled by Chapter 2
368 of Title 20 or any amendments thereto, regardless of value,
369 constitutes theft of property in the second degree.

370 (e) The theft of any livestock which includes cattle,
371 swine, equine or equidae, or sheep, regardless of their value,
372 constitutes theft of property in the second degree.

373 (f) Theft of property in the second degree is a Class C
374 felony."

375 "§13A-8-5

376 (a) The theft of property ~~which~~ that does not exceed
377 five hundred dollars (\$500) in value and ~~which~~ that is not
378 taken from the person of another constitutes theft of property
379 in the ~~fourth~~ third degree.

380 (b) Theft of property in the ~~fourth~~ third degree is a
381 Class A misdemeanor."

382 "§13A-8-8

383 (a) The theft of lost property ~~between one thousand~~
384 ~~five hundred dollars (\$1,500)~~ that exceeds five hundred
385 dollars (\$500) in value ~~and~~ but does not exceed two thousand
386 five hundred dollars (\$2,500) in value constitutes theft of
387 lost property in the second degree.

388 (b) Theft of lost property in the second degree is a
389 Class C felony."

390 "§13A-8-9

391 (a) The theft of lost property ~~which~~ that does not
392 exceed five hundred dollars (\$500) in value constitutes theft



HB271 INTRODUCED

393 of lost property in the ~~fourth~~third degree.

394 (b) Theft of lost property in the ~~fourth~~third degree
395 is a Class A misdemeanor."

396 "§13A-8-10.2

397 (a) The theft of services ~~between one thousand five~~
398 ~~hundred dollars (\$1,500)~~that exceeds five hundred dollars
399 (\$500) in value ~~and~~but does not exceed two thousand five
400 hundred dollars (\$2,500) in value constitutes theft of
401 services in the second degree.

402 (b) Theft of services in the second degree is a Class C
403 felony."

404 "§13A-8-10.3

405 (a) The theft of services ~~which~~that does not exceed
406 five hundred dollars (\$500) in value constitutes theft of
407 services in the ~~fourth~~third degree.

408 (b) Theft of services in the ~~fourth~~third degree is a
409 Class A misdemeanor."

410 "§13A-8-10.6

411 (a) A person commits the crime of cargo theft if the
412 person knowingly obtains or exerts unauthorized control over
413 either of the following:

414 (1) A vehicle engaged in commercial transportation of
415 cargo or an appurtenance thereto, including, without
416 limitation, a trailer, semitrailer, container, railcar, or
417 other associated equipment, or the cargo being transported
418 therein or thereon, which is the property of another, with the
419 intention of depriving the other person of the property,
420 regardless of the manner in which the property is taken or



HB271 INTRODUCED

421 appropriated.

422 (2) A trailer, semitrailer, container, railcar, or
423 other associated equipment, or the cargo being transported
424 therein or thereon, which is the property of another, with the
425 intention of depriving the other person of the property,
426 regardless of the manner in which the property is taken or
427 appropriated.

428 (b) (1) Cargo theft that has a collective value in
429 excess of fifty thousand dollars (\$50,000) is a Class B
430 felony, except the punishment shall be a term of imprisonment
431 of not less than 10 years nor more than 20 years and a fine
432 not to exceed one hundred fifty thousand dollars (\$150,000).

433 (2) Cargo theft that has a collective value exceeding
434 ~~ten thousand~~ five hundred dollars ~~(\$10,000)~~ (\$500), but not
435 exceeding fifty thousand dollars (\$50,000), is a Class C
436 felony, except the offense shall be punishable by a term of
437 imprisonment of not less than five years nor more than 10
438 years and a fine not to exceed seventy-five thousand dollars
439 (\$75,000).

440 ~~(3) Cargo theft that has a collective value exceeding~~
441 ~~five hundred dollars (\$500), but does not exceed ten thousand~~
442 ~~dollars (\$10,000), is a Class D felony, except the offense~~
443 ~~shall be punishable by a term of imprisonment of not less than~~
444 ~~two years and a fine not to exceed twenty thousand dollars~~
445 ~~(\$20,000).~~

446 ~~(4)~~ (3) Cargo theft that has a collective value of five
447 hundred dollars (\$500) or less, is a Class A misdemeanor.

448 ~~(5)~~ (4) A person convicted of cargo theft may also be



HB271 INTRODUCED

449 disqualified from driving a commercial motor vehicle for a
450 period of one year for the first conviction and for life for
451 the second or subsequent conviction, subject to possible
452 reduction as provided in subsection (c) of Section
453 32-6-49.11."

454 "§13A-8-18

455 (a) Any of the following constitutes receiving stolen
456 property in the second degree:

457 (1) Receiving stolen property that ~~is between one~~
458 ~~thousand five hundred dollars (\$1,500)~~ exceeds five hundred
459 dollars (\$500) in value ~~and but does not exceed~~ two thousand
460 five hundred dollars (\$2,500) in value.

461 (2) Receiving stolen property of any value under the
462 circumstances described in subdivision (b) (3) of Section
463 13A-8-16.

464 (3) Receiving stolen property that is a firearm, rifle,
465 or shotgun, regardless of its value.

466 (b) Receiving stolen property in the second degree is a
467 Class C felony."

468 "§13A-8-19

469 (a) Receiving stolen property ~~which~~ that does not
470 exceed five hundred dollars (\$500) in value constitutes
471 receiving stolen property in the ~~fourth~~ third degree.

472 (b) Receiving stolen property in the ~~fourth~~ third
473 degree is a Class A misdemeanor."

474 "§13A-9-3

475 (a) A person commits the crime of forgery in the second
476 degree if, with intent to defraud, he or she falsely makes,



HB271 INTRODUCED

477 completes, or alters a written instrument ~~which~~ that is or
478 purports to be, or ~~which~~ that is calculated to become or to
479 represent if completed, any of the following:

480 (1) A deed, will, codicil, or contract, assignment or a
481 check, draft, note, or other commercial instrument that ~~which~~
482 does or may evidence, create, transfer, terminate, or
483 otherwise affect a legal right, interest, obligation, or
484 status; ~~or~~.

485 (2) A public record, ~~or~~ an instrument filed or required
486 or authorized by law to be filed in a public office or with a
487 public employee; ~~or~~.

488 (3) A written instrument officially issued or created
489 by a public office, public employees or government agency.

490 (b) Forgery in the second degree is a Class C felony."

491 "§13A-9-4

492 (a) A person commits the crime of forgery in the ~~fourth~~
493 third degree if, with intent to defraud, he or she falsely
494 makes, completes, or alters a written instrument.

495 (b) Forgery in the ~~fourth~~ third degree is a Class A
496 misdemeanor."

497 "§13A-9-7

498 (a) A person commits the crime of criminal possession
499 of a forged instrument in the ~~fourth~~ third degree if he or she
500 possesses or utters a forged instrument of a kind covered in
501 Section 13A-9-4 with knowledge that it is forged and with
502 intent to defraud.

503 (b) Criminal possession of a forged instrument in the
504 ~~fourth~~ third degree is a Class A misdemeanor."



HB271 INTRODUCED

505 "§13A-9-14

506 (a) A person commits the crime of illegal possession of
507 a credit or debit card if, knowing that he or she does not
508 have the consent of the owner, he or she takes, exercises
509 control over, or otherwise uses the card.

510 (b) A person commits the crime of fraudulent use of a
511 credit card or debit card if he or she uses, attempts to use,
512 or allows to be used, a credit card or debit card for the
513 purpose of obtaining property, services, or anything else of
514 value with knowledge that:

515 (1) The card is stolen; ~~or~~ .

516 (2) The card has been revoked or cancelled; ~~or~~ .

517 (3) For any other reason the use of the card is
518 unauthorized by either the issuer or the person to whom the
519 credit card or debit card is issued. The mere use by the
520 original issuee of a credit card or debit card ~~which~~ that has
521 expired is not within the provisions of ~~subdivision (b) (3) of~~
522 ~~this section~~ this subdivision.

523 (c) "Credit card" means any instrument or device,
524 including a card to obtain telecommunication services, whether
525 known as a credit card, credit plate, bank service card,
526 banking card, check guarantee card, welfare card, a card used
527 to facilitate the transfer of government benefits such as an
528 electronic benefit transfer card (EBT card) or similar card,
529 or a debit card, or by any other name, including an account
530 number, issued with or without fee by an issuer for the use of
531 the cardholder in obtaining money, goods, services, or
532 anything else of value, including telecommunication services,



HB271 INTRODUCED

533 on credit or for use in an automated banking device to obtain
534 any of the services offered through the device.

535 (d) "Debit card" means any instrument or writing or
536 other evidence known by any name issued with or without fee by
537 an issuer for the use of a depositor in obtaining money,
538 goods, services, or anything else of value, payment of which
539 is made against funds previously deposited in an account with
540 the issuer.

541 (e) Illegal possession of or fraudulent use of a credit
542 card or debit card is a Class ~~D~~C felony."

543 "§13A-12-212

544 (a) A person commits the crime of unlawful possession
545 of a controlled substance if either of the following occur:

546 (1) Except as otherwise authorized, he or she possesses
547 a controlled substance enumerated in Schedules I through V.

548 (2) He or she obtains by fraud, deceit,
549 misrepresentation, or subterfuge or by the alteration of a
550 prescription or written order or by the concealment of a
551 material fact or by the use of a false name or giving a false
552 address, a controlled substance enumerated in Schedules I
553 through V or a precursor chemical enumerated in Section
554 20-2-181.

555 (b) Unlawful possession of a controlled substance is a
556 Class ~~D~~C felony."

557 "§13A-12-213

558 (a) A person commits the crime of unlawful possession
559 of ~~marihuana~~marijuana in the first degree if, except as
560 otherwise authorized~~+~~,



HB271 INTRODUCED

561 ~~(1) He~~ he or she possesses ~~marihuana~~ marijuana for
562 other than personal use; ~~or.~~

563 ~~(2) He or she possesses marihuana for his or her~~
564 ~~personal use only after having been previously convicted of~~
565 ~~unlawful possession of marihuana in the second degree or~~
566 ~~unlawful possession of marihuana for his or her personal use~~
567 ~~only.~~

568 (b) Unlawful possession of ~~marihuana~~ marijuana in the
569 first degree ~~pursuant to subdivision (1) of subsection (a)~~ is
570 a Class C felony.

571 ~~(c) Unlawful possession of marihuana in the first~~
572 ~~degree pursuant to subdivision (2) of subsection (a) is a~~
573 ~~Class D felony."~~

574 "§13A-12-214

575 (a) A person commits the crime of unlawful possession
576 of ~~marihuana~~ marijuana in the second degree if, except as
577 otherwise authorized, he or she possesses ~~marihuana~~ marijuana
578 for ~~his~~ personal use only.

579 (b) (1) Unlawful possession of ~~marihuana~~ marijuana in
580 the second degree is a Class A misdemeanor.

581 (2) A fourth or subsequent conviction for unlawful
582 possession of marijuana is a Class C felony."

583 "§13A-12-291

584 (a) A ~~driver's~~ driver license shall be suspended
585 pursuant to Section 13A-12-290 for conviction of, adjudication
586 of, or a finding of delinquency based on, the following
587 crimes:

588 (1) Criminal solicitation to commit the crime of



HB271 INTRODUCED

589 trafficking in specified substances under Section 13A-12-231
590 ~~or unlawful possession with intent to distribute a controlled~~
591 ~~substance under subsections (c) and (d) of Section 13A-12-211.~~

592 (2) Attempt to commit the crime of trafficking in
593 specified substances under Section 13A-12-231 or unlawful
594 possession with intent to distribute a controlled substance
595 under subsections (c) and (d) of Section 13A-12-211.

596 (3) Criminal conspiracy to commit the crime of
597 trafficking in specified substances under Section 13A-12-231.

598 (4) Trafficking in specified substances under Section
599 13A-12-231.

600 (5) Unlawful possession with intent to distribute a
601 controlled substance under subsections (c) ~~and or~~ (d) of
602 Section 13A-12-211.

603 (b) The suspension of a ~~driver's~~driver license for
604 driving under the influence of a controlled substance or under
605 the combined influence of a controlled substance and alcohol
606 pursuant to Section 32-5A-191 shall be governed by that
607 section."

608 Section 2. Sections 15-12-21, 15-13-209, 15-18-8, and
609 15-22-54, Code of Alabama 1975, are amended to read as
610 follows:

611 "§15-12-21

612 (a) If it appears to the trial court that an indigent
613 defendant is entitled to counsel, that the indigent defendant
614 does not expressly waive the right to assistance of counsel,
615 and that the indigent defendant is not able financially or
616 otherwise to obtain the assistance of counsel through another



HB271 INTRODUCED

617 indigent defense system for the circuit, the court shall
618 appoint counsel to represent and assist the defendant. It
619 shall be the duty of the appointed counsel, as an officer of
620 the court and as a member of the bar, to represent and assist
621 the indigent defendant to the best of his or her ability.

622 (b) If it appears to the trial court in a delinquency
623 case, need of supervision case, or other judicial proceeding
624 in which a juvenile is a party, that the juvenile is entitled
625 to counsel and that the juvenile is not able financially or
626 otherwise to obtain the assistance of counsel or that
627 appointed counsel is otherwise required by law, the court
628 shall appoint counsel to represent and assist the juvenile or
629 act in the capacity of guardian ad litem for the juvenile. It
630 shall be the duty of the appointed counsel, as an officer of
631 the court and as a member of the bar, to represent and assist
632 the juvenile to the best of his or her ability.

633 (c) If it appears to the trial court that the parents,
634 guardian, or custodian of a juvenile who is a party in a
635 judicial proceeding, are entitled to counsel and the parties
636 are unable to afford counsel, upon request, the court shall
637 appoint counsel to represent and assist the parents, guardian,
638 or custodian. It shall be the duty of the appointed counsel,
639 as an officer of the court and as a member of the bar, to
640 represent and assist the parties to the best of his or her
641 ability.

642 (d) If the appropriate method for providing indigent
643 defense services is by appointed counsel in a case described
644 in subsections (a), (b), and (c), including cases tried de



HB271 INTRODUCED

645 novo in circuit court on appeal from a juvenile proceeding,
646 appointed counsel shall be entitled to receive for ~~their~~ his
647 or her services a fee to be approved by the trial court. ~~The~~
648 ~~amount of the fee shall be based on the number of hours spent~~
649 ~~by the attorney in working on the case.~~ The amount of the fee
650 shall be based on the number of hours spent by the attorney in
651 working on the case and shall be computed at the rate of
652 seventy dollars (\$70) per hour for time reasonably expended on
653 the case. The total fees paid to any one attorney in any one
654 case, from the time of appointment through the trial of the
655 case, including motions for new trial, shall not exceed the
656 following:

657 (1) In cases where the original charge is a capital
658 offense or a charge ~~which~~ that carries a possible sentence of
659 life without parole, there shall be no limit on the total fee.

660 (2) Except for cases covered by subdivision (1), in
661 cases where the original charge is a Class A felony, the total
662 fee shall not exceed four thousand dollars (\$4,000).

663 (3) In cases where the original charge is a Class B
664 felony, the total fee shall not exceed three thousand dollars
665 (\$3,000).

666 (4) In cases where the original charge is a Class C ~~or~~
667 ~~Class D~~ felony, the total fee shall not exceed two thousand
668 dollars (\$2,000).

669 (5) In juvenile cases, the total fee shall not exceed
670 two thousand five hundred dollars (\$2,500).

671 (6) In all other cases, the total fee shall not exceed
672 one thousand five hundred dollars (\$1,500).



HB271 INTRODUCED

673 (e) Counsel shall also be entitled to be reimbursed for
674 any nonoverhead expenses reasonably incurred in the
675 representation of his or her client, with any expense in
676 excess of three hundred dollars (\$300) subject to advance
677 approval by the trial court as necessary for the indigent
678 defense services and as a reasonable cost or expense.
679 Reimbursable expenses shall not include overhead expenses.
680 Fees and expenses of all experts, investigators, and others
681 rendering indigent defense services to be used by counsel for
682 an indigent defendant shall be approved in advance by the
683 trial court as necessary for the indigent defense services and
684 as a reasonable cost or expense. Retrials of any case shall be
685 considered a new case for billing purposes. Upon review, the
686 director may authorize interim payment of the attorney fees or
687 expenses, or both.

688 ~~(e)~~ (f) Within a reasonable time after the conclusion of
689 the trial or ruling on a motion for a new trial or after an
690 acquittal or other judgment disposing of the case, not to
691 exceed 90 days, counsel shall submit a bill for services
692 rendered to the office. The bill shall be accompanied by a
693 certification by the trial court that counsel provided
694 representation to the indigent defendant, that the matter has
695 been concluded, and that to the best of his or her knowledge
696 the bill is reasonable based on the defense provided. The
697 trial court need not approve the items included on the bill or
698 the amount of the bill, but may provide any information
699 requested by the office or the indigent defense advisory board
700 relating to the representation. The bill for compensation of



HB271 INTRODUCED

701 appointed counsel shall be submitted to the office. After
702 review and approval, the office shall recommend to the
703 Comptroller that the bill be paid. The office may forward the
704 bill to the indigent defense advisory board for review and
705 comment prior to approval. The Comptroller shall remit payment
706 in a timely manner not to exceed 90 days from submission. In
707 the event that payment is not made within 90 days of
708 submission, counsel shall be entitled to receive interest at a
709 rate of six percent until ~~such~~ the payment is issued."

710 "§15-13-209

711 (a) Except as otherwise provided in this article, it
712 shall be unlawful for any individual to act as a professional
713 bondsman or recovery agent, or transact business as either,
714 without first obtaining a license from the board, but a
715 professional surety bondsman shall obtain a license from the
716 Department of Insurance and shall comply with all licensing
717 requirements issued by the Department of Insurance.

718 (b) Any individual who willfully violates subsection
719 (a) or any other provision of this article, or a rule adopted
720 or order issued by the board pursuant to this article, upon
721 conviction, shall be guilty of a Class ~~D~~ C felony.

722 (c) Each individual licensed in accordance with this
723 article shall designate to the board a physical address where
724 his or her records are to be kept."

725 "§15-18-8

726 (a) When a defendant is convicted of an offense, other
727 than a sex offense involving a child as defined in Section
728 15-20A-4, that constitutes a Class A or Class B felony



HB271 INTRODUCED

729 offense, and receives a sentence of 20 years or less in any
730 court having jurisdiction to try offenses against the State of
731 Alabama and the judge presiding over the case is satisfied
732 that the ends of justice and the best interests of the public
733 as well as the defendant will be served thereby, he or she may
734 order:

735 (1) That a defendant convicted of a Class A ~~or~~, Class
736 B, or Class C felony be confined in a prison, jail-type
737 institution, or treatment institution for a period not
738 exceeding three years in cases where the imposed sentence is
739 not more than 15 years, and that the execution of the
740 remainder of the sentence be suspended notwithstanding any
741 provision of the law to the contrary and that the defendant be
742 placed on probation for ~~such a~~ period ~~and upon such terms~~ as
743 determined by the court ~~deems best~~.

744 (2) That a defendant convicted of a Class A, Class B,
745 or Class C felony with an imposed sentence of greater than 15
746 years but not more than 20 years be confined in a prison,
747 jail-type institution, or treatment institution for a period
748 of three to five years ~~for Class A or Class B felony~~
749 ~~convictions and for a period of three years for Class C felony~~
750 ~~convictions, during which the offender shall not be eligible~~
751 ~~for parole or release because of deduction from sentence for~~
752 ~~good behavior under the Alabama Correctional Incentive Time~~
753 ~~Act,~~ and that the remainder of the sentence be suspended
754 notwithstanding any provision of the law to the contrary and
755 that the defendant be placed on probation for ~~the a~~ period
756 ~~upon the terms~~ as determined by the court ~~deems best~~.



HB271 INTRODUCED

757 ~~This subsection shall not be construed to impose the~~
758 ~~responsibility for offenders sentenced to a Department of~~
759 ~~Corrections facility upon a local confinement facility not~~
760 ~~operated by the Department of Corrections.~~

761 ~~(b) Unless a defendant is sentenced to probation, drug~~
762 ~~court, or a pretrial diversion program, when a defendant is~~
763 ~~convicted of an offense that constitutes a Class C or D felony~~
764 ~~offense and receives a sentence of not more than 15 years, the~~
765 ~~judge presiding over the case shall order that the convicted~~
766 ~~defendant be confined in a prison, jail-type institution,~~
767 ~~treatment institution, or community corrections program for a~~
768 ~~Class C felony offense or in a consenting community~~
769 ~~corrections program for a Class D felony offense, except as~~
770 ~~provided in subsection (c), for a period not exceeding two~~
771 ~~years in cases where the imposed sentence is not more than 15~~
772 ~~years, and that the execution of the remainder of the sentence~~
773 ~~be suspended notwithstanding any provision of the law to the~~
774 ~~contrary and that the defendant be placed on probation for a~~
775 ~~period not exceeding three years and upon such terms as the~~
776 ~~court deems best. In all cases when it is shown that a~~
777 ~~defendant has been previously convicted of any three or more~~
778 ~~felonies or has been previously convicted of any two or more~~
779 ~~felonies that are Class A or Class B felonies, and after such~~
780 ~~convictions has committed a Class D felony, upon conviction,~~
781 ~~he or she must be punished for a Class C felony. This~~
782 ~~subsection shall not be construed to impose the responsibility~~
783 ~~for offenders sentenced to a Department of Corrections~~
784 ~~facility upon a local confinement facility not operated by the~~



HB271 INTRODUCED

785 ~~Department of Corrections.~~

786 ~~(e)~~ (b) Nothing in this section shall be construed as
787 superseding the sentencing requirements set forth and adopted
788 by the Legislature as prescribed by the Alabama Sentencing
789 Commission's Sentencing Standards.

790 ~~(d)~~ (c) In counties or jurisdictions where no community
791 corrections program exists or resources from a community
792 investment are not complete, a county or jurisdiction may
793 enter into a compact or contract with another county or other
794 counties to create a multi-jurisdiction community corrections
795 facility that meets the needs and resources of each county or
796 jurisdiction or enter into a compact or contract with a county
797 or jurisdiction that has a community corrections program to
798 provide services, as provided in and pursuant to Article 9 of
799 this chapter.

800 ~~(e) If no community corrections program exists within a~~
801 ~~county or jurisdiction and no alternative program options are~~
802 ~~available under subsection (e) of Section 15-18-172, a~~
803 ~~defendant convicted of an offense that constitutes a Class D~~
804 ~~felony may be sentenced to high-intensity probation under the~~
805 ~~supervision of the Board of Pardons and Paroles in lieu of~~
806 ~~community corrections.~~

807 ~~(f)~~ (d) Probation may not be granted for a sex offense
808 involving a child as defined in Section 15-20A-4, ~~which~~ that
809 constitutes a Class A or B felony. Otherwise, probation may be
810 granted whether the offense is punishable by fine or
811 imprisonment or both. If an offense is punishable by both fine
812 and imprisonment, the court may impose a fine and place the



HB271 INTRODUCED

813 defendant on probation as to imprisonment. Probation may be
814 limited to one or more counts or indictments, but, in the
815 absence of express limitation, shall extend to the entire
816 sentence and judgment.

817 ~~(g)~~ (e) Regardless of whether the defendant has begun
818 serving the minimum period of confinement ordered under ~~the~~
819 ~~provisions of subsections~~ subsection (a) or ~~(b)~~ (j), if the
820 imposed sentence is not more than 20 years, the court shall
821 retain jurisdiction and authority throughout that period to
822 suspend that portion of the minimum sentence that remains and
823 place the defendant on probation, notwithstanding any
824 provision of the law to the contrary and the court may revoke
825 or modify any condition of probation or may change the period
826 of probation.

827 ~~(h)~~ (f) While incarcerated or on probation and among the
828 conditions thereof, the defendant may be required to do any of
829 the following:

830 (1) To pay a fine in one or several sums ~~;~~ .

831 (2) To make restitution or reparation to aggrieved
832 parties for actual damages or loss caused by the offense for
833 which conviction was had ~~;~~ and.

834 (3) To provide for the support of any persons for whose
835 support he or she is legally responsible.

836 ~~(i)~~ (g) Except as otherwise provided pursuant to Section
837 15-18-64, the defendant's liability for any fine or other
838 punishment imposed as to which probation is granted shall be
839 fully discharged by the fulfillment of the terms and
840 conditions of probation.



HB271 INTRODUCED

841 ~~(j)~~ (h) During any term of probation, the defendant
842 shall report to the probation authorities at ~~such a~~ time and
843 place as directed by the judge imposing sentence.

844 ~~(k)~~ (i) No defendant serving a minimum period of
845 confinement ordered under subsection (a) or ~~(b)~~ (j) shall be
846 entitled to parole or to deductions from his or her sentence
847 under the Alabama Correctional Incentive Time Act, during the
848 minimum period of confinement so ordered; provided, however,
849 that this subsection shall not be construed to prohibit
850 application of the Alabama Correctional Incentive Time Act to
851 any period of confinement which may be required after the
852 defendant has served ~~such the~~ minimum period.

853 ~~(l)~~ (j) When a defendant is convicted of a misdemeanor
854 or convicted of a municipal ordinance, the judge presiding
855 over the case may impose a sentence in accordance with Section
856 13A-5-7. The court may order a portion of the sentence to be
857 suspended and the defendant be placed on probation for ~~such a~~
858 period not exceeding two years ~~and upon such terms as the~~
859 ~~court deems best.~~

860 (k) Nothing in this section shall be construed to
861 impose the responsibility for offenders sentenced to a
862 Department of Corrections facility upon a local confinement
863 facility not operated by the Department of Corrections."

864 "§15-22-54

865 (a) The period of probation or suspension of execution
866 of sentence shall be determined by the court and may not be
867 waived by the defendant. The period of probation or suspension
868 may be continued, extended, or terminated as determined by the



HB271 INTRODUCED

869 court. Except as provided in Section 32-5A-191, relating to
870 ignition interlock requirements, the maximum probation period
871 of a defendant guilty of a misdemeanor may not exceed two
872 years, nor shall the maximum probation period of a defendant
873 guilty of a felony exceed five years, except as provided in
874 Section 13A-8-2.1. When the conditions of probation or
875 suspension of sentence are fulfilled, the court, by an order
876 duly entered on its minutes, shall discharge the defendant.

877 (b) The court granting probation, upon the
878 recommendation of the officer supervising the probationer, may
879 terminate all authority and supervision over the probationer
880 prior to the declared date of completion of probation upon
881 showing a continued satisfactory compliance with the
882 conditions of probation over a sufficient portion of the
883 period of the probation. At least every two years, and after
884 providing notice to the district attorney, the court shall
885 review the probationer's suitability for discharge from
886 probation supervision if the probationer has satisfied all
887 financial obligations owed to the court, including
888 restitution, and has not had his or her supervision revoked.

889 (c) At any time during the period of probation or
890 suspension of execution of sentence, the court may issue a
891 warrant and have the defendant arrested for violating any of
892 the conditions of probation or suspension of sentence, and the
893 court shall hold a violation hearing. No probationer shall be
894 held in jail awaiting the violation hearing for longer than 20
895 business days, unless new criminal charges are pending. If the
896 hearing is not held within the specified time, the sheriff



HB271 INTRODUCED

897 shall release the probation violator unless there are other
898 pending criminal charges. A judge may issue a bond to a
899 probationer for release from custody.

900 (d) Except as provided in Chapter 15 of Title 12, any
901 probation officer, police officer, or other officer with power
902 of arrest, when requested by the probation officer, may arrest
903 a probationer without a warrant. When an arrest is made
904 without a warrant, the arresting officer shall have a written
905 statement by the probation officer setting forth that the
906 probationer has, in his or her judgment, violated the
907 conditions of probation, and the statement shall be sufficient
908 warrant for the detention of the probationer in the county
909 jail or other appropriate place of detention until the
910 probationer is brought before the court. The probation officer
911 shall report the arrest and detention to the court and submit
912 in writing a report showing in what manner the probationer has
913 violated probation.

914 (e) After conducting a violation hearing and finding
915 sufficient evidence to support a probation violation, the
916 court may take any of the following actions:

917 ~~(1)a. If the underlying offense was a Class D felony~~
918 ~~and his or her probation is revoked, the incarceration portion~~
919 ~~of any split sentence imposed due to revocation shall be~~
920 ~~limited to two years or one-third of the original suspended~~
921 ~~prison sentence, whichever is less.~~

922 ~~b.~~ (1)a. If the underlying offense was a violent offense
923 as defined in Section 12-25-32 and ~~classified as~~ a Class A
924 felony, a sex offense pursuant to Section 15-20A-5, or



HB271 INTRODUCED

925 aggravated theft by deception pursuant to Section 13A-8-2.1,
926 the court shall revoke probation and require the probationer
927 to serve the balance of the term for which he or she was
928 originally sentenced, or any portion thereof, in a state
929 prison facility, calculated from the date of his or her
930 rearrest as a delinquent probationer.

931 ~~e.~~b. If the probation violation was for being arrested
932 or convicted of a new offense or absconding, the court may
933 revoke probation and require the probationer to serve the
934 balance of the term for which he or she was originally
935 sentenced, or any portion thereof, in a state prison facility,
936 calculated from the date of his or her rearrest as a
937 delinquent probationer.

938 ~~d.~~c. For all other probationers, the court may impose a
939 period of confinement of no more than 45 consecutive days to
940 be served in a residential transition center established
941 pursuant to Section 15-22-30.1 or a consenting county jail
942 designated for this purpose as provided in Section 14-1-23.
943 The probationer shall be held in the county jail of the county
944 in which the violation occurred while awaiting the revocation
945 hearing. The Department of Corrections shall reimburse the
946 state mileage rate to the county, as determined by the Alabama
947 Comptroller's Office, for any probationer charged with, or
948 sanctioned or revoked for, a probation violation and who is
949 transferred to or from a Department of Corrections facility or
950 to or from a consenting county jail by the county.

951 (2) Upon completion of the confinement period, the
952 remaining probation period or suspension of sentence shall



HB271 INTRODUCED

953 automatically continue upon the defendant's release from
954 confinement. The court may not revoke probation unless the
955 defendant has previously received a total of three periods of
956 confinement pursuant to this subsection. For purposes of
957 revocation, the court may take judicial notice of the three
958 total periods of confinement under this subsection. A
959 defendant shall only receive three total periods of
960 confinement pursuant to this subsection. The maximum ~~45-day~~
961 45-day term of confinement ordered pursuant to this subsection
962 for a felony shall be reduced by any time served in custody
963 prior to the imposition of the period of confinement and shall
964 be credited to the suspended sentence. If the time remaining
965 on the imposed sentence is 45 days or less, the term of
966 confinement may not exceed the remainder of the defendant's
967 sentence.

968 (3) The total time spent in confinement under this
969 subsection may not exceed the term of the defendant's original
970 sentence.

971 (4) Confinement shall be immediate. The court shall
972 ensure that the circuit clerk receives the order revoking
973 probation within five business days. The circuit clerk shall
974 ensure that the Department of Corrections, a county jail, a
975 residential transition center, or a consenting county jail
976 receives necessary transcripts for imposing a period of
977 confinement within five business days of its receipt of the
978 court's order.

979 (5) If a probation violator is presented to a county
980 jail, excluding a consenting county jail designated for this



HB271 INTRODUCED

981 purpose, as provided in Section 14-1-23, for any period of
982 confinement with a serious health condition, if the
983 confinement of the probation violator would create a security
984 risk to the county jail, or if the county jail is near, at, or
985 over capacity, the sheriff may refuse to admit the probation
986 violator. If, while in custody of the county jail, the
987 probation violator develops a serious health condition, if the
988 confinement of the probation violator creates a security risk
989 to the county jail, or if the county jail reaches near, at, or
990 over capacity, the sheriff may release the probation violator
991 upon notification to the probation officer and to the court
992 who has jurisdiction over the probation violator. A sheriff
993 and employees in the county jail shall be immune from
994 liability for exercising discretion pursuant to Section
995 36-1-12 in refusing to admit a probation violator into the
996 jail or releasing a probation violator from jail pursuant to
997 this subdivision.

998 (f) In lieu of subsections (c) through (e), when a
999 probationer violates his or her probation terms and conditions
1000 imposed by the court, his or her probation officer, after an
1001 administrative review and approval by the probation officer's
1002 supervisor, may impose any of the following sanctions:

1003 (1) Mandatory behavioral treatment.

1004 (2) Mandatory substance abuse treatment.

1005 (3) GPS monitoring.

1006 (4) Any other treatment as determined by the court or
1007 supervising officer.

1008 (5) A short period of confinement in the county jail of



HB271 INTRODUCED

1009 the county in which the violation occurred. Periods of
1010 confinement under this subdivision may not exceed six days per
1011 month during any three separate months during the period of
1012 probation. The six days per month confinement period may only
1013 be imposed as two-day or three-day consecutive periods at any
1014 single time. The total periods of confinement may not exceed
1015 nine total days.

1016 (g) (1) Prior to imposing a sanction pursuant to
1017 subsection (f), the probationer must first be presented with a
1018 violation report, ~~with~~ containing the alleged probation
1019 violations and supporting evidence. The probationer shall be
1020 advised that he or she has all of the following:

1021 a. The right to have a hearing before the court on the
1022 alleged violation or violations in person or by electronic
1023 means. If a hearing is requested, no probationer shall be held
1024 beyond 20 business days of the request. Only requesting
1025 probationers posing a threat to public safety or a flight risk
1026 shall be arrested while awaiting a hearing.

1027 b. The right to present relevant witnesses and
1028 documentary evidence.

1029 c. The right to retain and have counsel at the hearing
1030 and that counsel will be appointed if the probationer is
1031 indigent.

1032 d. The right to confront and cross examine any adverse
1033 witnesses.

1034 (2) Upon the signing of a waiver of these rights by the
1035 probationer and the supervising probation officer, with
1036 approval of a supervisor, the probationer may be treated,



HB271 INTRODUCED

1037 monitored, or confined for the period recommended in the
1038 violation report and designated in the waiver. The probationer
1039 may not request a review if he or she has signed a written
1040 waiver of rights as provided in this subsection.

1041 (h) The board shall adopt guidelines and procedures to
1042 implement the requirements of this section, which shall
1043 include the requirement of a supervisor's approval prior to a
1044 supervising probation officer's exercise of the delegation of
1045 authority authorized by subsection (f)."

1046 Section 3. Section 8-7A-20, Code of Alabama 1975, is
1047 amended to read as follows:

1048 "§8-7A-20

1049 (a) A person ~~that~~who intentionally makes a false
1050 statement, misrepresentation, or false certification in a
1051 record filed or required to be maintained under this chapter
1052 or that intentionally makes a false entry or omits a material
1053 entry in such a record, upon conviction, shall be guilty of a
1054 Class ~~D-felony~~ A misdemeanor.

1055 (b) A person ~~that~~who knowingly engages in an activity
1056 for which a license is required under this chapter without
1057 being licensed under this chapter and who receives more than
1058 five thousand dollars (\$5,000) in compensation within a
1059 one-year period from this activity, upon conviction, shall be
1060 guilty of a Class C felony.

1061 (c) A person ~~that~~who knowingly engages in an activity
1062 for which a license is required under this chapter without
1063 being licensed under this chapter and who receives no more
1064 than five thousand dollars (\$5,000) in compensation within a



HB271 INTRODUCED

1065 one-year period from this activity, upon conviction, shall be
1066 guilty of a Class ~~D-felony~~ A misdemeanor.

1067 (d) The enforcement of this chapter shall be vested in
1068 the commission. It is the duty of the commission to enforce
1069 this chapter and to investigate, prevent, and detect
1070 violations of this chapter. The commission is vested with the
1071 rights, privileges, and powers conferred by law upon district
1072 attorneys, including the power to appear before grand juries
1073 and to interrogate witnesses before such grand jury. A
1074 district attorney may empower the commission to proceed on its
1075 behalf in any proceeding under this chapter.

1076 (e) In any proceeding under this chapter, scienter need
1077 not be alleged and proved in prosecutions of violations
1078 involving unlicensed money transmission.

1079 (f) A proceeding under this chapter shall not preempt
1080 or foreclose any criminal action or liability which may arise
1081 under any other criminal provision of the Code of Alabama
1082 1975."

1083 Section 4. Section 12-25-33, Code of Alabama 1975, is
1084 amended to read as follows:

1085 "§12-25-33

1086 To achieve the goals recognized by the Legislature in
1087 Chapter 25 and Section 12-25-31, the commission shall do all
1088 of the following:

1089 (1) Develop, maintain, and modify as necessary a system
1090 of statewide voluntary sentencing standards for use in felony
1091 cases which shall take into account historical sentencing
1092 data, concerning time actually served for various felony



HB271 INTRODUCED

1093 offenses, sentences imposed for various felony offenses, and
1094 ~~such~~ other factors as appear historically relevant to
1095 determining both the duration and disposition of sentences in
1096 felony cases. The standards shall recognize a continuum of
1097 punishments in recommending the disposition of sentences.

1098 (2) Educate judges, prosecutors, defense attorneys,
1099 victim's service officers, community corrections officials,
1100 probation officers, and other personnel, where appropriate, in
1101 the use of the voluntary sentencing standards and worksheets.

1102 (3) Develop, distribute, and periodically update
1103 sentencing worksheets for the use of courts in determining
1104 both the duration and disposition of sentences in felony
1105 cases.

1106 (4) Prepare, distribute, and periodically update a form
1107 for sentencing courts to record the sentence of the offender
1108 and the reason or reasons for any departure from the voluntary
1109 sentencing standards.

1110 (5) Develop and distribute voluntary standards for
1111 sentencing courts that include recommended intermediate
1112 punishment options.

1113 (6) Evaluate validated risk and needs assessment
1114 instruments used by the Board of Pardons and Paroles, the
1115 Department of Corrections, and other agencies and entities and
1116 assist in developing an offender risk and needs assessment
1117 instrument for use in felony cases, based on a study of
1118 Alabama felons, that is intended to be predictive of the
1119 relative risk that a felon will become a threat to public
1120 safety.



HB271 INTRODUCED

1121 (7) Collect, analyze, and maintain data regarding
1122 sentencing practices in felony cases, including the use of the
1123 voluntary sentencing standards, and recommend changes or
1124 modifications of the standards and worksheets as the
1125 commission deems appropriate.

1126 (8) Collect and analyze information including
1127 sentencing data, crime trends, and existing correctional
1128 resources to enable the commission to make recommendations
1129 regarding projected correctional resource needs and to make
1130 recommendations to the Governor, the Legislature, the Chief
1131 Justice, and the Attorney General in the annual report of the
1132 commission. This annual report should also include data
1133 showing the impact of the initial voluntary standards and the
1134 truth-in-sentencing standards by race, gender, and location of
1135 the offender.

1136 (9) Study felony statutes in the context of sentencing
1137 patterns as they evolve and make recommendations for the
1138 revision of criminal offense statutes to provide more specific
1139 offense definitions and more narrowly prescribed ranges of
1140 punishment.

1141 (10) Study bills introduced in the Legislature
1142 affecting criminal laws and procedure and prepare impact
1143 statements of proposed legislation on Alabama's criminal
1144 justice system, including the prison population.

1145 (11) Report upon its work and recommendations annually
1146 to the Governor, the Legislature, the Chief Justice, and the
1147 Attorney General, to include the number of incarcerated
1148 inmates that are currently only serving a sentence for a



HB271 INTRODUCED

1149 nonviolent offense and who also have a violent offense in
1150 their criminal history. The Department of Corrections shall
1151 provide to the commission any information necessary to
1152 complete such report.

1153 ~~(12) Conduct the research necessary to determine the~~
1154 ~~appropriate point values for offenses classified as Class D~~
1155 ~~felonies for purposes of the sentencing guidelines and~~
1156 ~~establish such point values within the sentencing range set~~
1157 ~~forth in Section 13A-5-6.~~

1158 ~~(13)~~ (12) Perform ~~such~~ other functions as may be
1159 required by law or necessary to carry out the duties of the
1160 commission prescribed in this chapter and this article."

1161 Section 5. Section 26-23F-6, Code of Alabama 1975, is
1162 amended to read as follows:

1163 "§26-23F-6

1164 (a) Except as provided in subsection (b), any person
1165 who knowingly violates any provision of Section 26-23F-5 shall
1166 be guilty of a Class ~~D~~C felony for each violation.

1167 (b) Any person who experiments on a living unborn
1168 infant or the bodily remains of a deceased unborn infant,
1169 experiments upon an unborn infant who is intended to be
1170 aborted, or performs or offers to perform an abortion where
1171 part or all of the justification or reason for the abortion is
1172 that the bodily remains may be used for research or
1173 experimentation in violation of Section 26-23F-5 shall be
1174 guilty of a Class C felony."

1175 Section 6. Section 28-1-8, Code of Alabama 1975, is
1176 amended to read as follows:



HB271 INTRODUCED

1177 "§28-1-8

1178 (a) For purposes of this section, "powdered alcohol" is
1179 alcohol sold in a powder or crystalline form, for either
1180 direct use or reconstituted with any liquid or food.

1181 (b) It shall be unlawful for any person or business
1182 establishment to possess, purchase, sell, offer to sell, or
1183 use powdered alcohol.

1184 (c) This section shall not apply to a hospital that
1185 operates primarily for the purpose of conducting scientific
1186 research, a state institution, a pharmaceutical company, or a
1187 biotechnology company conducting bona fide research.

1188 (d) A person or business establishment who unlawfully
1189 possesses, purchases, or uses a powdered alcohol product shall
1190 be fined as provided in a Class A misdemeanor for the first
1191 offense.

1192 (e) A person or business establishment who unlawfully
1193 sells or offers to sell a powdered alcohol product shall be
1194 guilty of a Class A misdemeanor, and on a second or subsequent
1195 conviction, shall be guilty of a Class ~~D~~C felony."

1196 Section 7. Sections 13A-8-4.1, 13A-8-8.1, 13A-8-10.25,
1197 13A-8-18.1, 13A-9-3.1, and 13A-9-6.1 of the Code of Alabama
1198 1975, relating to various theft, receiving stolen property,
1199 forgery, and criminal possession of a forged instrument
1200 offenses are specifically repealed.

1201 Section 8. Although this bill would have as its purpose
1202 or effect the requirement of a new or increased expenditure of
1203 local funds, the bill is excluded from further requirements
1204 and application under Section 111.05 of the Constitution of



HB271 INTRODUCED

1205 Alabama of 2022, because the bill defines a new crime or
1206 amends the definition of an existing crime.

1207 Section 9. This act shall take effect on the first day
1208 of the third month, following its passage and approval by the
1209 Governor, or its otherwise becoming law.