

**SB143 ENGROSSED**



1    KMIX5A-2  
2    By Senators Barfoot, Elliott, Givhan, Livingston, Williams,  
3    Price, Scofield, Chesteen, Shelnut, Sessions, Chambliss,  
4    Allen, Butler, Stutts, Melson, Gudger, Weaver  
5    RFD: Judiciary  
6    First Read: 23-Mar-23  
7    2023 Regular Session



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to crimes and offenses; to add Article 12, commencing with Section 13A-6-260, to Chapter 6 of Title 13A to the Code of Alabama 1975, to identify criminal enterprise members, to enhance penalties for any criminal activity that benefits, promotes, or furthers the interest of a criminal enterprise, and to establish mandatory consecutive penalties for any firearm possession in certain circumstances; to amend Section 12-15-204, Code of Alabama 1975, to require any juvenile 16 years of age or older to be tried as an adult for any criminal enterprise related criminal activity; 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. Article 12, commencing with Section 13A-6-260, is added to Chapter 6 of Title 13A, Code of Alabama 1975, to read as follows:

§13A-6-260



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29 For the purposes of this article, the following terms  
30 have the following meanings:

31 (3) DESTRUCTIVE DEVICE. The same meaning as in Section  
32 13A-10-190.

33 (4) FIREARM. Any of the following:

34 a. Any weapon which will, is designed to, or may  
35 readily be converted to expel a projectile by the action of an  
36 explosive or the frame or receiver of any such weapon.

37 b. A firearm silencer.

38 c. A destructive device.

39 (5) FIREARMS SILENCER. Any device for silencing,  
40 muffling, or diminishing the report of a portable firearm,  
41 including any combination of parts, designated or  
42 redesignated, and intended for use in assembling or  
43 fabricating a firearm silencer, and any part intended only for  
44 use in such assembly or fabrication.

45 (1) CRIMINAL ENTERPRISE. Any combination,  
46 confederation, alliance, network, conspiracy, understanding,  
47 or other similar arrangement in law or in fact, including a  
48 streetgang as defined in Section 13A-6-26, of three or more  
49 persons, through its membership or through the agency of any  
50 member, that engages in a course or pattern of criminal  
51 activity.

52 (2) CRIMINAL ENTERPRISE MEMBER. An individual who meets  
53 three or more of the following at the time of the planning or  
54 commission of the underlying offense:

55 a. Admits to criminal enterprise membership.

56 b. Is voluntarily identified as a criminal enterprise



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57 member by a parent or guardian.

58 c. Is identified as a criminal enterprise member by a  
59 reliable informant.

60 d. Adopts the style of dress of a criminal enterprise.

61 e. Adopts the use of a hand sign identified as used by  
62 a criminal enterprise.

63 f. Has a tattoo identified as used by a criminal  
64 enterprise.

65 g. Associates with one or more known criminal  
66 enterprise members.

67 h. Is identified as a criminal enterprise member by  
68 physical evidence.

69 i. Has been observed in the company of one or more  
70 known criminal enterprise members four or more times.  
71 Observation in a custodial setting requires a willful  
72 association. This paragraph may be used to identify criminal  
73 enterprise members who recruit and organize in jails, prisons,  
74 and other detention settings.

75 j. Has authored any communication indicating  
76 responsibility for the commission of any crime by a criminal  
77 enterprise. Where a single act or factual transaction  
78 satisfied the requirements of more than one of the criteria in  
79 this subdivision, each of those criteria has been satisfied  
80 for the purposes of this subdivision.

81 (6) MACHINE GUN. Any weapon that shoots, is designed to  
82 shoot, or can be readily restored to shoot automatically more  
83 than one shot, without manual reloading, by a single function  
84 of the trigger. The term shall also include the frame receiver



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85 of any such weapon, any part designed and intended solely and  
86 exclusively, or combination of parts designed and intended,  
87 for use in converting a weapon into a machine gun, and any  
88 combination of parts from which a machine gun can be assembled  
89 if such parts are in the possession or under the control of a  
90 person.

91 (7) SHORT-BARRELED RIFLE. The same meaning as in  
92 Section 13A-11-62.

93 (8) SHORT-BARRELED SHOTGUN. The same meaning as in  
94 Section 13A-11-62.

95 §13A-6-261

96 Upon a finding, beyond a reasonable doubt, that a  
97 criminal enterprise member has committed the charged offense  
98 for the purpose of benefiting, promoting, or furthering the  
99 interest of a criminal enterprise, the following sentencing  
100 enhancements shall apply:

101 (1) On conviction of a Class A felony, he or she shall  
102 be punished not less than 25 years.

103 (2) On conviction of a Class B felony, he or she shall  
104 be punished for a Class A felony.

105 (3) On conviction of a Class C felony, he or she shall  
106 be punished for a Class B felony.

107 §13A-6-262

108 (a) Any individual who knowingly possesses, uses, or  
109 carries a firearm during the commission of any criminal act  
110 intended to benefit, promote, or further the interest of a  
111 criminal enterprise shall be punished as follows:

112 (1) To a term of imprisonment of not less than five



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113 years.

114 (2) If the firearm is brandished, to a term of  
115 imprisonment of not less than seven years.

116 (3) If the firearm is discharged, to a term of  
117 imprisonment of not less than 10 years.

118 (4) If the firearm possessed is a short-barreled rifle  
119 or short-barreled shotgun, to a term of imprisonment of not  
120 less than 10 years.

121 (5) If the firearm possessed is a machine gun, a  
122 destructive device, or is equipped with a firearm silencer, to  
123 a term of imprisonment of not less than 30 years.

124 (b) The term of imprisonment imposed under subsection  
125 (a) shall be served day for day and shall not be reduced or  
126 suspended by any provision of law.

127 (c) No term of imprisonment imposed on a person  
128 pursuant to this section shall run concurrently with any term  
129 of imprisonment, including any term of imprisonment imposed  
130 pursuant to Section 13A-6-261.

131 (d) An offender sentenced pursuant to Section  
132 13A-6-261, who is also convicted of a violation under this  
133 section, shall serve the term of imprisonment imposed pursuant  
134 to this section before serving the term of imprisonment  
135 imposed pursuant to Section 13A-6-261.

136 §13A-6-263

137 The Attorney General, in coordination with the district  
138 attorneys, shall annually report to the Legislature the number  
139 of convictions secured under this article.

140 Section 2. Section 12-15-204, Code of Alabama 1975, is



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141 amended to read as follows:

142 "§12-15-204

143 (a) Notwithstanding any other provision of law, any  
144 person who has attained the age of 16 years at the time of the  
145 conduct charged and who is charged with the commission of any  
146 act or conduct, which if committed by an adult would  
147 constitute any of the following, shall not be subject to the  
148 jurisdiction of juvenile court but shall be charged, arrested,  
149 and tried as an adult:

150 (1) A capital offense.

151 (2) A Class A felony.

152 (3) A felony which has as an element thereof the use of  
153 a deadly weapon.

154 (4) A felony which has as an element thereof the  
155 causing of death or serious physical injury.

156 (5) A felony which has as an element thereof the use of  
157 a dangerous instrument against any person who is one of the  
158 following:

159 a. A law enforcement officer or official.

160 b. A correctional officer or official.

161 c. A parole or probation officer or official.

162 d. A juvenile court probation officer or official.

163 e. A district attorney or other prosecuting officer or  
164 official.

165 f. A judge or judicial official.

166 g. A court officer or official.

167 h. A person who is a grand juror, juror, or witness in  
168 any legal proceeding of whatever nature when the offense stems



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169 from, is caused by, or is related to the role of the person as  
170 a juror, grand juror, or witness.

171 i. A teacher, principal, or employee of the public  
172 education system of Alabama.

173 (6) Trafficking in drugs in violation of Section  
174 13A-12-231, or as the same may be amended.

175 (7) A violation of Article 12 of Chapter 6 of Title  
176 13A.

177 ~~(7)~~ (8) Any lesser included offense of the above  
178 offenses charged or any lesser felony offense charged arising  
179 from the same facts and circumstances and committed at the  
180 same time as the offenses listed above. Provided, however,  
181 that the juvenile court shall maintain original jurisdiction  
182 over these lesser included offenses if the grand jury fails to  
183 indict for any of the offenses enumerated in subsections  
184 (a) (1) to (a) ~~(6)~~ (7), inclusive. The juvenile court shall also  
185 maintain original jurisdiction over these lesser included  
186 offenses, subject to double jeopardy limitations, if the court  
187 handling criminal offenses dismisses all charges for offenses  
188 enumerated in subsections (a) (1) to (a) ~~(6)~~ (7), inclusive.

189 (b) Notwithstanding any other provision of law, any  
190 person who has been convicted or adjudicated a youthful  
191 offender in a court handling criminal offenses pursuant to the  
192 provisions of this section shall not thereafter be subject to  
193 the jurisdiction of juvenile court for any pending or  
194 subsequent offense. Provided, however, pursuant to Section  
195 12-15-117, the juvenile court shall retain jurisdiction over  
196 an individual of any age for the enforcement of any prior





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197 orders of the juvenile court requiring the payment of fines,  
198 court costs, restitution, or other money ordered by the  
199 juvenile court until paid in full.

200 (c) This section shall apply to all cases in which the  
201 alleged criminal conduct occurred after April 14, 1994. All  
202 conduct occurring before April 14, 1994, shall be governed by  
203 pre-existing law."

204 Section 3. Although this bill would have as its purpose  
205 or effect the requirement of a new or increased expenditure of  
206 local funds, the bill is excluded from further requirements  
207 and application under Section 111.05 of the Constitution of  
208 Alabama of 2022, because the bill defines a new crime or  
209 amends the definition of an existing crime.

210 Section 4. This act shall become effective on the first  
211 day of the third month following its passage and approval by  
212 the Governor, or its otherwise becoming law.

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213  
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215 Senate

216 Read for the first time and referred .....23-Mar-23  
217 to the Senate committee on Judiciary  
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219 Read for the second time and placed .....19-Apr-23  
220 on the calendar:  
221 0 amendments  
222  
223 Read for the third time and passed .....24-May-23  
224 as amended  
225 Yeas 32  
226 Nays 0  
227 Abstains 0  
228  
229

230 Patrick Harris,  
231 Secretary.  
232