

SB143 ENROLLED



1 KMIX5A-3
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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1 Enrolled, An Act,

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5 Relating to crimes and offenses; to add Article 12,
6 commencing with Section 13A-6-260, to Chapter 6 of Title 13A
7 to the Code of Alabama 1975, to identify criminal enterprise
8 members, to enhance penalties for any criminal activity that
9 benefits, promotes, or furthers the interest of a criminal
10 enterprise, and to establish mandatory consecutive penalties
11 for any firearm possession in certain circumstances; to amend
12 Section 12-15-204, Code of Alabama 1975, to require any
13 juvenile 16 years of age or older to be tried as an adult for
14 any criminal enterprise related criminal activity; and in
15 connection therewith would have as its purpose or effect the
16 requirement of a new or increased expenditure of local funds
17 within the meaning of Section 111.05 of the Constitution of
18 Alabama of 2022.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Article 12, commencing with Section
21 13A-6-260, is added to Chapter 6 of Title 13A, Code of Alabama
22 1975, to read as follows:

23 §13A-6-260

24 For the purposes of this article, the following terms
25 have the following meanings:

26 (3) DESTRUCTIVE DEVICE. The same meaning as in Section
27 13A-10-190.

28 (4) FIREARM. Any of the following:



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

32 b. A firearm silencer.

33 c. A destructive device.

34 (5) FIREARMS SILENCER. Any device for silencing,
35 muffling, or diminishing the report of a portable firearm,
36 including any combination of parts, designed or redesigned,
37 and intended for use in assembling or fabricating a firearm
38 silencer, and any part intended only for use in such assembly
39 or fabrication.

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

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

50 a. Admits to criminal enterprise membership.

51 b. Is voluntarily identified as a criminal enterprise
52 member by a parent or guardian.

53 c. Is identified as a criminal enterprise member by a
54 reliable informant.

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

56 e. Adopts the use of a hand sign identified as used by



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57 a criminal enterprise.

58 f. Has a tattoo identified as used by a criminal
59 enterprise.

60 g. Associates with one or more known criminal
61 enterprise members.

62 h. Is identified as a criminal enterprise member by
63 physical evidence.

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

70 j. Has authored any communication indicating
71 responsibility for the commission of any crime by a criminal
72 enterprise. Where a single act or factual transaction
73 satisfied the requirements of more than one of the criteria in
74 this subdivision, each of those criteria has been satisfied
75 for the purposes of this subdivision.

76 (6) MACHINE GUN. Any weapon that shoots, is designed to
77 shoot, or can be readily restored to shoot automatically more
78 than one shot, without manual reloading, by a single function
79 of the trigger. The term shall also include the frame receiver
80 of any such weapon, any part designed and intended solely and
81 exclusively, or combination of parts designed and intended,
82 for use in converting a weapon into a machine gun, and any
83 combination of parts from which a machine gun can be assembled
84 if such parts are in the possession or under the control of a



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85 person.

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

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

90 §13A-6-261

91 Upon a finding, beyond a reasonable doubt, that a
92 criminal enterprise member has committed the charged offense
93 for the purpose of benefiting, promoting, or furthering the
94 interest of a criminal enterprise, the following sentencing
95 enhancements shall apply:

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

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

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

102 §13A-6-262

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

107 (1) To a term of imprisonment of not less than five
108 years.

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

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



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

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

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

122 (c) No term of imprisonment imposed on a person
123 pursuant to this section shall run concurrently with any term
124 of imprisonment, including any term of imprisonment imposed
125 pursuant to Section 13A-6-261.

126 (d) An offender sentenced pursuant to Section
127 13A-6-261, who is also convicted of a violation under this
128 section, shall serve the term of imprisonment imposed pursuant
129 to this section before serving the term of imprisonment
130 imposed pursuant to Section 13A-6-261.

131 §13A-6-263

132 The Attorney General, in coordination with the district
133 attorneys, shall annually report to the Legislature the number
134 of convictions secured under this article.

135 Section 2. Section 12-15-204, Code of Alabama 1975, is
136 amended to read as follows:

137 "§12-15-204

138 (a) Notwithstanding any other provision of law, any
139 person who has attained the age of 16 years at the time of the
140 conduct charged and who is charged with the commission of any



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141 act or conduct, which if committed by an adult would
142 constitute any of the following, shall not be subject to the
143 jurisdiction of juvenile court but shall be charged, arrested,
144 and tried as an adult:

145 (1) A capital offense.

146 (2) A Class A felony.

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

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

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

154 a. A law enforcement officer or official.

155 b. A correctional officer or official.

156 c. A parole or probation officer or official.

157 d. A juvenile court probation officer or official.

158 e. A district attorney or other prosecuting officer or
159 official.

160 f. A judge or judicial official.

161 g. A court officer or official.

162 h. A person who is a grand juror, juror, or witness in
163 any legal proceeding of whatever nature when the offense stems
164 from, is caused by, or is related to the role of the person as
165 a juror, grand juror, or witness.

166 i. A teacher, principal, or employee of the public
167 education system of Alabama.

168 (6) Trafficking in drugs in violation of Section



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169 13A-12-231, or as the same may be amended.

170 (7) A violation of Article 12 of Chapter 6 of Title
171 13A.

172 ~~(7)~~ (8) Any lesser included offense of the above
173 offenses charged or any lesser felony offense charged arising
174 from the same facts and circumstances and committed at the
175 same time as the offenses listed above. Provided, however,
176 that the juvenile court shall maintain original jurisdiction
177 over these lesser included offenses if the grand jury fails to
178 indict for any of the offenses enumerated in subsections
179 (a) (1) to (a) ~~(6)~~ (7), inclusive. The juvenile court shall also
180 maintain original jurisdiction over these lesser included
181 offenses, subject to double jeopardy limitations, if the court
182 handling criminal offenses dismisses all charges for offenses
183 enumerated in subsections (a) (1) to (a) ~~(6)~~ (7), inclusive.

184 (b) Notwithstanding any other provision of law, any
185 person who has been convicted or adjudicated a youthful
186 offender in a court handling criminal offenses pursuant to the
187 provisions of this section shall not thereafter be subject to
188 the jurisdiction of juvenile court for any pending or
189 subsequent offense. Provided, however, pursuant to Section
190 12-15-117, the juvenile court shall retain jurisdiction over
191 an individual of any age for the enforcement of any prior
192 orders of the juvenile court requiring the payment of fines,
193 court costs, restitution, or other money ordered by the
194 juvenile court until paid in full.

195 (c) This section shall apply to all cases in which the
196 alleged criminal conduct occurred after April 14, 1994. All



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197 conduct occurring before April 14, 1994, shall be governed by
198 pre-existing law."

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

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



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB143

Senate 24-May-23

I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 01-Jun-23

Senate concurred in House amendment 01-Jun-23

By: Senator Barfoot