

**SB157 ENROLLED**



1 5R1B36-3  
2 By Senator Elliott  
3 RFD: Judiciary  
4 First Read: 04-Apr-23  
5 2023 Regular Session



## SB157 Enrolled

1 Enrolled, An Act,

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4 Relating to parolees and probationers; to amend  
5 Sections 15-22-31 and 15-22-54, Code of Alabama 1975, to allow  
6 a law enforcement officer to arrest a parolee or probationer  
7 without a warrant in certain circumstances; to require the  
8 Board of Pardons and Paroles to send the Alabama State Law  
9 Enforcement Agency the conditions of parole for an individual  
10 released on parole; to require a court to provide to the  
11 Alabama State Law Enforcement Agency the conditions of  
12 probation for an individual released on probation; and to  
13 require the Alabama State Law Enforcement Agency to make the  
14 conditions of parole or probation available to law enforcement  
15 officers and other authorized persons through the Law  
16 Enforcement Tactical System.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 15-22-31 and 15-22-54, Code of  
19 Alabama 1975, are amended to read as follows:

20 "§15-22-31

21 (a) ~~If~~ When the parole officer ~~having charge of a~~  
22 ~~paroled prisoner supervising a parolee~~ or any member of the  
23 Board of Pardons and Paroles ~~shall have~~ has reasonable cause  
24 to believe that ~~such prisoner~~ the parolee has ~~lapsed, or is~~  
25 ~~probably about to lapse, into criminal ways or company or has~~  
26 violated the conditions of his or her parole ~~in an important~~  
27 ~~respect, such, the parole~~ officer or board member may report  
28 ~~such fact~~ the violation to the Department of Corrections,



29 ~~which shall thereupon issue a warrant for the retaking of such~~  
30 ~~prisoner and his return to the prison designated~~ and request  
31 the department to issue a warrant to arrest the parolee. Upon  
32 request, the department shall issue an arrest warrant, and the  
33 parolee shall be returned to the prison designated on the  
34 warrant.

35 (b) Any parole officer, ~~police officer, sheriff, or~~  
36 ~~other a law enforcement~~ officer with power of arrest, ~~upon the~~  
37 ~~request of the parole officer,~~ may arrest a parolee without a  
38 warrant; ~~but, in case of an arrest without a warrant,~~ if the  
39 ~~arresting officer shall have a written statement by the parole~~  
40 ~~officer setting forth that the parolee has, in his or her~~  
41 ~~judgment, violated~~ parolee violates the conditions of parole  
42 in the presence of the arresting officer, ~~in which case such~~  
43 ~~statement shall be sufficient warrant for the detention of~~  
44 ~~the.~~ The arresting officer, or his or her agency, as soon as  
45 practicable, but no later than 24 hours following the arrest,  
46 shall notify the Board of Pardons and Paroles of the parolee's  
47 arrest. The parolee may be detained in the county jail or  
48 other appropriate place of detention until the warrant issued  
49 by the Department of Corrections has been received at the  
50 place of his or her detention; ~~provided, however, that in no~~  
51 ~~case shall a~~. A parolee shall not be held longer than 20 days  
52 ~~on the order of the parole officer~~ awaiting the arrival of the  
53 warrant ~~as provided for in this section~~ issued by the  
54 department. If a warrant is not issued within ~~the period~~  
55 ~~prescribed herein~~ 20 days, the parolee shall be released from  
56 custody.



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57           (c) If the parolee is presented to the county jail with  
58 a serious medical condition, if the admittance of the parolee  
59 would create a security risk to the county jail, or if the  
60 jail is near, at, or over capacity, the sheriff may refuse to  
61 admit the parolee. If while in custody of the county jail the  
62 parolee develops a serious medical condition, if the presence  
63 of the parolee creates a security risk to the county jail, or  
64 if the county jail reaches near, at, or over capacity, the  
65 sheriff may release the parolee upon notification to his or  
66 her the parole officer unless the Department of Corrections  
67 has issued an arrest warrant directing the return of the  
68 parolee to the ~~prison so designated~~ department's custody. A  
69 sheriff and his or her staff shall be immune from liability  
70 for exercising discretion pursuant to Section 36-1-12 in  
71 refusing to admit a parolee into the jail or releasing a  
72 parolee from jail ~~under the circumstances described above~~  
73 pursuant to this subsection.

74           ~~(e)~~ (d) Any parole officer, ~~any officer authorized to~~  
75 ~~serve criminal process or any peace officer to whom such~~ or  
76 law enforcement officer with power of arrest to whom the  
77 warrant, issued by the Department of Corrections pursuant to  
78 subsection (a), is delivered shall ~~be delivered is authorized~~  
79 ~~and required to~~ execute ~~such~~ the warrant by ~~taking such~~  
80 ~~prisoner~~ arresting the parolee and returning him or her to the  
81 prison designated by the Department of Corrections, ~~there to~~  
82 ~~be held to await~~. The parolee shall be held by the department  
83 awaiting the action of the Board of Pardons and Paroles.

84           ~~(d)~~ ~~Such~~ (e) An officer, other than an officer of the



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85 prison or parole officer, shall ~~be entitled to receive the~~  
86 ~~same fees therefor as upon~~ for the execution of ~~a~~ an arrest  
87 ~~warrant of arrest at the place where the prisoner shall be~~  
88 ~~retaken and as for transporting a convict.~~ An officer who  
89 transports the parolee from the place of arrest to the  
90 designated prison, ~~in case such officer also transports the~~  
91 ~~prisoner~~ shall receive fees for transporting the parolee to  
92 the prison. ~~Such~~ The fees shall be paid out of the funds  
93 standing to the credit of the Department of Corrections."

94 "§15-22-54

95 (a) The period of probation or suspension of execution  
96 of sentence shall be determined by the court and may not be  
97 waived by the defendant. The period of probation or suspension  
98 may be continued, extended, or terminated as determined by the  
99 court. Except as provided in Section 32-5A-191, relating to  
100 ignition interlock requirements, the maximum probation period  
101 of a defendant guilty of a misdemeanor may not exceed two  
102 years, nor shall the maximum probation period of a defendant  
103 guilty of a felony exceed five years, except as provided in  
104 Section 13A-8-2.1. When the conditions of probation or  
105 suspension of sentence are fulfilled, the court, by an order  
106 duly entered on its minutes, shall discharge the defendant.

107 (b) The court granting probation, upon the  
108 recommendation of the officer supervising the probationer, may  
109 terminate all authority and supervision over the probationer  
110 prior to the declared date of completion of probation upon  
111 showing a continued satisfactory compliance with the  
112 conditions of probation over a sufficient portion of the



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113 period of the probation. At least every two years, and after  
114 providing notice to the district attorney, the court shall  
115 review the probationer's suitability for discharge from  
116 probation supervision if the probationer has satisfied all  
117 financial obligations owed to the court, including  
118 restitution, and has not had his or her supervision revoked.

119 (c) At any time during the period of probation or  
120 suspension of execution of sentence, the court may issue a  
121 warrant and have the ~~defendant~~ probationer arrested for  
122 violating any of the conditions of probation or suspension of  
123 sentence, and the court shall hold a violation hearing. No  
124 probationer shall be held in jail awaiting the violation  
125 hearing for longer than 20 business days, unless new criminal  
126 charges are pending. If the hearing is not held within the  
127 specified time, the sheriff shall release the probation  
128 violator unless there are other pending criminal charges. A  
129 judge may issue a bond to a probationer for release from  
130 custody.

131 (d) Except as provided in Chapter 15 of Title 12, any  
132 probation officer, ~~police officer,~~ or ~~other~~ law enforcement  
133 officer with power of arrest, when requested by the probation  
134 officer, may arrest a probationer without a warrant if the  
135 probationer violates the conditions of probation in the  
136 presence of the arresting officer. ~~When an arrest is made~~  
137 ~~without a warrant, the arresting officer shall have a written~~  
138 ~~statement by the probation officer setting forth that the~~  
139 ~~probationer has, in his or her judgment, violated the~~  
140 ~~conditions of probation, and the statement shall be sufficient~~



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141 ~~warrant for the detention of the~~ The arresting officer, or his  
142 or her agency, as soon as practicable, but no later than 24  
143 hours following the arrest, shall notify the Board of Pardons  
144 and Paroles of the probationer's arrest. The probationer may  
145 be detained in the county jail or other appropriate place of  
146 detention until the probationer is brought before the court.  
147 The probation officer shall report the arrest and detention to  
148 the court and submit in writing a report showing in what  
149 manner the probationer has violated probation.

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

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

158 b. If the underlying offense was a violent offense as  
159 defined in Section 12-25-32 and classified as a Class A  
160 felony, a sex offense pursuant to Section 15-20A-5, or  
161 aggravated theft by deception pursuant to Section 13A-8-2.1,  
162 the court shall revoke probation and require the probationer  
163 to serve the balance of the term for which he or she was  
164 originally sentenced, or any portion thereof, in a state  
165 prison facility, calculated from the date of his or her  
166 rearrest as a delinquent probationer.

167 c. If the probation violation was for being arrested or  
168 convicted of a new offense or absconding, the court may revoke



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169 probation and require the probationer to serve the balance of  
170 the term for which he or she was originally sentenced, or any  
171 portion thereof, in a state prison facility, calculated from  
172 the date of his or her rearrest as a delinquent probationer.

173         d. For all other probationers, the court may impose a  
174 period of confinement of no more than 45 consecutive days to  
175 be served in a residential transition center established  
176 pursuant to Section 15-22-30.1 or a consenting county jail  
177 designated for this purpose as provided in Section 14-1-23.  
178 The probationer shall be held in the county jail of the county  
179 in which the violation occurred while awaiting the revocation  
180 hearing. The Department of Corrections shall reimburse the  
181 state mileage rate to the county, as determined by the Alabama  
182 Comptroller's Office, for any probationer charged with, or  
183 sanctioned or revoked for, a probation violation and who is  
184 transferred to or from a Department of Corrections facility or  
185 to or from a consenting county jail by the county.

186         (2) Upon completion of the confinement period, the  
187 remaining probation period or suspension of sentence shall  
188 automatically continue upon the defendant's release from  
189 confinement. The court may not revoke probation unless the  
190 defendant has previously received a total of three periods of  
191 confinement pursuant to this subsection. For purposes of  
192 revocation, the court may take judicial notice of the three  
193 total periods of confinement under this subsection. A  
194 defendant shall only receive three total periods of  
195 confinement pursuant to this subsection. The maximum 45 day  
196 term of confinement ordered pursuant to this subsection for a





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197 felony shall be reduced by any time served in custody prior to  
198 the imposition of the period of confinement and shall be  
199 credited to the suspended sentence. If the time remaining on  
200 the imposed sentence is 45 days or less, the term of  
201 confinement may not exceed the remainder of the defendant's  
202 sentence.

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

206 (4) Confinement shall be immediate. The court shall  
207 ensure that the circuit clerk receives the order revoking  
208 probation within five business days. The circuit clerk shall  
209 ensure that the Department of Corrections, a county jail, a  
210 residential transition center, or a consenting county jail  
211 receives necessary transcripts for imposing a period of  
212 confinement within five business days of its receipt of the  
213 court's order.

214 (5) If a probation violator with a serious health  
215 condition is presented to a county jail, excluding a  
216 consenting county jail designated for this purpose, as  
217 provided in Section 14-1-23, for any period of confinement  
218 ~~with a serious health condition~~, if the confinement of the  
219 probation violator would create a security risk to the county  
220 jail, or if the county jail is near, at, or over capacity, the  
221 sheriff may refuse to admit the probation violator. If, while  
222 in custody of the county jail, ~~the~~ a probation violator  
223 develops a serious health condition, if ~~the~~ a confinement of  
224 the probation violator creates a security risk to the county



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225 jail, or if the county jail reaches near, at, or over  
226 capacity, the sheriff may release the probation violator upon  
227 notification to the probation officer and to the court who has  
228 jurisdiction over the probation violator. A sheriff and his or  
229 her employees ~~in the county jail~~ shall be immune from  
230 liability for exercising discretion pursuant to Section  
231 36-1-12 in refusing to admit a probation violator into the  
232 jail or releasing a probation violator from jail pursuant to  
233 this subdivision.

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

239 (1) Mandatory behavioral treatment.

240 (2) Mandatory substance abuse treatment.

241 (3) GPS monitoring.

242 (4) Any other treatment as determined by the court or  
243 supervising officer.

244 (5) A short period of confinement in the county jail of  
245 the county in which the violation occurred. Periods of  
246 confinement under this subdivision may not exceed six days per  
247 month during any three separate months during the period of  
248 probation. The six days per month confinement period may only  
249 be imposed as two-day or three-day consecutive periods at any  
250 single time. The total periods of confinement may not exceed  
251 nine total days.

252 (g) (1) Prior to imposing a sanction pursuant to



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253 subsection (f), the probationer must first be presented with a  
254 written violation report, ~~with~~ setting forth the alleged  
255 probation violations and supporting evidence. The probationer  
256 shall be ~~advised~~ provided a written notice that he or she has  
257 the right to all of the following:

258 a. ~~The right to have~~ Have a hearing before the court on  
259 the alleged violation or violations in person or by electronic  
260 means. If a hearing is requested, no probationer shall be held  
261 beyond 20 business days of the request. Only requesting  
262 probationers posing a threat to public safety or a flight risk  
263 shall be arrested while awaiting a hearing.

264 b. ~~The right to present~~ Present relevant witnesses and  
265 documentary evidence.

266 c. ~~The right to retain~~ Retain and have counsel at the  
267 hearing and that counsel ~~will~~ shall be appointed if the  
268 probationer is indigent.

269 d. ~~The right to confront~~ Confront and cross examine any  
270 adverse witnesses.

271 (2) The probationer may waive the right to have a  
272 hearing. Upon the signing of a waiver of these rights by the  
273 probationer and the supervising probation officer, with  
274 approval of ~~a~~ the probation officer's supervisor, the  
275 probationer may be treated, monitored, or confined for the  
276 period recommended in the violation report and designated ~~in~~  
277 on the waiver. The probationer may not request a review if he  
278 or she has signed a written waiver of rights as provided in  
279 this subsection.

280 (h) The board shall adopt guidelines and procedures to



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281 implement the requirements of this section, which shall  
282 include the requirement of a supervisor's approval prior to a  
283 supervising probation officer's exercise of the delegation of  
284 authority authorized by subsection (f)."

285           Section 2. (a) The Board of Pardons and Paroles shall  
286 report to the Alabama State Law Enforcement Agency, in a  
287 manner prescribed by the Alabama State Law Enforcement Agency,  
288 a parolee's conditions of parole ordered pursuant to Section  
289 15-22-31, Code of Alabama 1975.

290           (b) The Alabama State Law Enforcement Agency shall  
291 ensure that the conditions of parole received from the Board  
292 of Pardons and Paroles may be viewed by law enforcement  
293 officers and other authorized persons through the Law  
294 Enforcement Tactical System.

295           Section 3. (a) A sentencing court who places an  
296 individual on probation, pursuant to Section 15-22-50, Code of  
297 Alabama 1975, shall report to the Alabama State Law  
298 Enforcement Agency, in a manner prescribed by the Alabama  
299 State Law Enforcement Agency, a probationer's conditions of  
300 probation ordered pursuant to Section 15-22-52, Code of  
301 Alabama 1975.

302           (b) The Alabama State Law Enforcement Agency shall  
303 ensure that the conditions of probation received by a court  
304 may be viewed by law enforcement officers and other authorized  
305 persons through the Law Enforcement Tactical System.

306           Section 4. If a parolee is arrested for a new offense,  
307 before he or she may bond out on the new offense, the Board of  
308 Pardons and Paroles shall be notified of the parolee's arrest.



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309 The parolee may be held as long as necessary, but no longer  
310 than four hours after arrest, to give the board the  
311 opportunity to subject the parolee to the electronic  
312 monitoring required pursuant to Section 15-22-29, Code of  
313 Alabama 1975.

314 Section 5. This act shall become effective on the first  
315 day of the third month following its passage and approval by  
316 the Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB157  
Senate 18-May-23  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 06-Jun-23

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By: Senator Elliott