

**House Public Safety and Homeland Security Reported
Substitute for HB301**



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A BILL
TO BE ENTITLED
AN ACT

Relating to firearms; to amend Section 13A-11-84, Code of Alabama 1975; to establish a list of criminal offenses deemed felonies dangerous to human life; to provide enhanced criminal penalties for the possession, brandishing, or discharge of a firearm during the commission of a felony dangerous to human life; to provide prohibitions on the possession of a firearm by certain individuals released on bond or personal recognizance for certain underlying criminal offenses; to prohibit the possession of a firearm by certain individuals convicted of a felony dangerous to human life under certain conditions; to provide criminal penalties for a violation; to make; 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. As used in this act, the term "felony dangerous to human life" shall include any of the following offenses



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29 (1) Capital murder pursuant to Sections 13A-6-2 and
30 13A-5-40, Code of Alabama 1975.

31 (2) Murder pursuant to Section 13A-6-2, Code of Alabama
32 1975.

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

36 (4) A sex offense that is enumerated under Section
37 15-20A-5, Code of Alabama 1975, which involves any of the
38 following:

39 a. Force.

40 b. Incapacitation.

41 c. A child under 12 years of age.

42 (5) Assault I pursuant to Section 13A-6-20, Code of
43 Alabama 1975.

44 (6) Assault II pursuant to Section 13A-6-21, Code of
45 Alabama 1975.

46 (7) Kidnapping I pursuant to Section 13A-6-43, Code of
47 Alabama 1975.

48 (8) Kidnapping II pursuant to Section 13A-6-44, Code of
49 Alabama 1975.

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

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

54 (11) Domestic violence I pursuant to Section 13A-6-130,
55 Code of Alabama 1975.

56 (12) Domestic violence II pursuant to Section



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57 13A-6-131, Code of Alabama 1975.

58 (13) Burglary I pursuant to Section 13A-7-5, Code of
59 Alabama 1975.

60 (14) Burglary II pursuant to Section 13A-7-6, Code of
61 Alabama 1975.

62 (15) Arson I pursuant to Section 13A-7-41, Code of
63 Alabama 1975.

64 (16) Arson II pursuant to Section 13A-7-42, Code of
65 Alabama 1975.

66 (17) Robbery I pursuant to Section 13A-8-41, Code of
67 Alabama 1975.

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

70 (19) Escape I pursuant to Section 13A-10-31, Code of
71 Alabama 1975.

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

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

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

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

80 (24) Human trafficking I pursuant to Section 13A-6-152,
81 Code of Alabama 1975.

82 (25) Human trafficking II pursuant to Section
83 13A-6-153, Code of Alabama 1975.

84 (26) An offense involving the use of a deadly weapon



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85 fired or otherwise used from outside a dwelling while the
86 victim is inside a dwelling.

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

89 (28) Any substantially similar offense for which an
90 Alabama offender has been convicted under prior Alabama law or
91 the law of any other state, the District of Columbia, the
92 United States, or any of the territories of the United States.

93 Section 2. (a) (1) Any person who knowingly possesses or
94 ~~brandishes, as provided in Section 13A-11-7(e),~~ uses a firearm
95 during the commission or attempted commission of a felony
96 dangerous to human life, in addition to any other term of
97 imprisonment, shall be sentenced to a term of imprisonment of
98 not less than 10 years.

99 (2) Any person who knowingly discharges a firearm
100 during the commission or attempted commission of a felony
101 dangerous to human life, in addition to any other term of
102 imprisonment, shall be sentenced to a term of imprisonment of
103 not less than 15 years.

104 (b) A person who commits a second or subsequent
105 violation of subdivision (1) or (2) of subsection (a) shall be
106 sentenced to an additional term of imprisonment of not less
107 than 20 years.

108 (c) Notwithstanding any other provision of law, any
109 term of imprisonment imposed pursuant to this section shall
110 run consecutive with any other term of imprisonment for any
111 other offense and shall not be eligible for any of the
112 following:



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113 (1) Probation.

114 (2) Community corrections.

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

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

120 (5) Any sentencing schedule or worksheet adopted,
121 created, or otherwise released by the Alabama Sentencing
122 Commission.

123 Section 3. (a) It shall be unlawful for any person
124 charged with the commission or attempted commission of any
125 felony dangerous to human life, and thereafter released on
126 bond or personal recognizance, to knowingly have a firearm in
127 his or her possession or under his or her control.

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

134 (c) (1) Any person who violates subsection (a) shall be
135 guilty of a Class B felony and imprisoned for not less than 5
136 years.

137 (2) Upon a second or subsequent violation of subsection
138 (a), the person shall be guilty of a Class A felony and
139 sentenced to a term of imprisonment of not less than 10 years.

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



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

144 (e) Notwithstanding any other provision of law, the
145 term of imprisonment provided in subsection (c) shall run
146 consecutive with any other term of imprisonment for any other
147 offense and the person shall not be eligible for any of the
148 following:

149 (1) Probation.

150 (2) Community corrections.

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

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

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

159 Section 4. (a) It shall be unlawful for any person to
160 knowingly have a firearm in his or her possession or under his
161 or her control when the person, within the preceding 25 year
162 period, has been convicted of committing or attempting to
163 commit a felony dangerous to human life.

164 (b) (1) Any person who knowingly violates subsection (a)
165 shall be guilty of a Class B felony ~~and imprisoned for not~~
166 ~~less than 5 years.~~

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



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169 ~~sentenced to a term of imprisonment of not less than 10 years.~~

170 (c) Notwithstanding any other provision of law, the
171 term of imprisonment provided in subsection (b) shall run
172 consecutive with any other term of imprisonment for any other
173 offense and the person shall not be eligible for any of the
174 following:

175 (1) Probation.

176 (2) Community corrections.

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

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

182 (5) Any sentencing schedule or worksheet adopted,
183 created, or otherwise released by the Alabama Sentencing
184 Commission.

185 Section 5. Section 13A-11-84, Code of Alabama 1975, is
186 amended to read as follows:

187 "§13A-11-84

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

192 (b) Every violation of ~~subsection (b) of Section~~
193 ~~Sections~~ 13A-11-72 (b), ~~or Sections 13A-11-73,~~ 13A-11-74,
194 13A-11-76, and 13A-11-77 through 13A-11-80 shall be a Class A
195 misdemeanor. The punishment for violating Section 13A-11-78 or
196 13A-11-79 may include revocation of license.



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197 ~~(b)~~ (c) (1) It shall be the duty of any ~~sheriff,~~
198 ~~policeman, or other peace officer of the State of Alabama,~~ law
199 enforcement officer in this state arresting any person charged
200 with violating Sections 13A-11-71 ~~through 13A-11-73, or any~~
201 ~~one or more of those sections,~~ or 13A-11-72 to seize the
202 pistol or pistols in the possession or under the control of
203 the person or persons charged with violating the section or
204 sections, and to deliver the pistol or pistols to one of the
205 following named persons:

206 a. ~~if~~If a municipal officer makes the arrest, to the
207 city clerk or custodian of stolen property of the municipality
208 employing the arresting officer; ~~if.~~

209 b. If a county, state, or other peace officer makes the
210 arrest, to the sheriff of the county in which the arrest is
211 made.

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

216 (3) Within five days after the final conviction of any
217 person arrested for violating ~~any of the above-numbered~~
218 ~~sections~~ Section 13A-11-71 or 13A-11-72, the person receiving
219 possession of the pistol or pistols, seized as provided in
220 this section, shall report the seizure and detention of the
221 pistol or pistols to the district attorney within the county
222 where the pistol or pistols are were seized, giving a full
223 description thereof, including the number, make, and model
224 thereof, the name of the person in whose possession it was



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225 found when seized, the person making claim to same or any
226 interest therein, if the name can be ascertained or is known,
227 and the date of the seizure.

228 (4) Upon receipt of the report from the person
229 receiving possession of the pistol or pistols, ~~it shall be the~~
230 ~~duty of the district attorney within the county wherein the~~
231 ~~pistol or pistols were seized to forthwith~~ the district
232 attorney shall file a complaint in the circuit court of the
233 proper county, ~~praying~~ requesting that the seized pistol or
234 pistols be declared contraband, ~~be~~ forfeited to the state, and
235 ~~be~~ destroyed or used for law enforcement purposes.

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

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

251 (7) Notwithstanding subdivision (6), if the court is of
252 the opinion that the nondestruction ~~thereof~~ of the pistol or



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253 pistols is necessary or proper in the ends of justice, ~~in~~
254 ~~which event and~~ upon recommendation of the district attorney,
255 the ~~judge~~ court shall award the pistol or pistols to the
256 sheriff of the county or to the chief of police of the
257 municipality to be used exclusively by the sheriff or the
258 chief of police ~~in the enforcement of law, and the~~ for law
259 enforcement purposes. The sheriff of the county and the chiefs
260 of police of the municipalities shall keep a permanent record
261 of all pistols awarded to them, as provided for in this
262 section, to be accounted for as other public property, ~~and the~~
263 ~~order, in.~~

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

273 Section 6. Although this bill would have as its purpose
274 or effect the requirement of a new or increased expenditure of
275 local funds, the bill is excluded from further requirements
276 and application under Section 111.05 of the Constitution of
277 Alabama of 2022, because the bill defines a new crime or
278 amends the definition of an existing crime.

279 Section 7. This act shall become effective on the first
280 day of the third month following its passage and approval by



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281 the Governor, or its otherwise becoming law.