

SB176 INTRODUCED



1 SB176
2 6VRP313-1
3 By Senator Barfoot
4 RFD: Judiciary
5 First Read: 18-Feb-25



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SYNOPSIS:

Under existing law, unlawful distribution of a controlled substance is a nonviolent offense and is subject to the presumptive sentencing guidelines.

Under existing law, unlawful distribution of a controlled substance includes selling, furnishing, giving away, delivering, or otherwise distributing a controlled substance in an unauthorized manner.

This bill would differentiate between: (i) the unlawful selling of a controlled substance (ii) the unlawful furnishing, giving away, or delivering of a controlled substance.

This bill would establish that the unlawful sale of a controlled substance is a violent offense and therefore not subject to the presumptive sentencing guidelines.

Under existing law, unlawful distribution of a controlled substance includes the distribution of any controlled substance enumerated in Schedules I through V.

This bill would exclude marijuana from the unlawful distribution of a controlled substance statute.

This bill would create the crime of unlawful distribution of marijuana and would provide for



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29 penalties for a violation.

30 Under existing law, if a person is convicted of
31 unlawful distribution of a controlled substance that
32 occurred on or near a school campus or within a
33 three-mile radius of a public housing project, the
34 sentencing judge shall impose an additional penalty of
35 five years to be run consecutive with the sentence for
36 the underlying conviction.

37 This bill would provide that a judge may impose
38 an additional five-year penalty if the distribution of
39 the controlled substance occurred on or near a school
40 campus or within a three-mile radius of a public
41 housing project.

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

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A BILL

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TO BE ENTITLED

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AN ACT

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51 Relating to crimes and offenses; to amend Sections
52 12-25-32 and 13A-12-211, Code of Alabama 1975, to further
53 provide for unlawful distribution of a controlled substance;
54 to establish that the unlawful sale of a controlled substance
55 is a violent offense and not subject to the presumptive
56 sentencing guidelines; to amend Sections 13A-12-250 and



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57 13A-12-270, Code of Alabama 1975, to further provide for
58 sentencing enhancements relating to the unlawful distribution
59 of a controlled substance on or near a school campus and
60 within a three-mile radius of a public housing project; to add
61 Section 13A-12-211.1 to the Code of Alabama 1975, to create
62 the crime of unlawful distribution of marijuana and to provide
63 for penalties; and to make nonsubstantive, technical revisions
64 to update the existing code language to current style.

65 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

66 Section 1. Sections 12-25-32 and 13A-12-211, Code of
67 Alabama 1975, are amended to read as follows:

68 "§12-25-32

69 For the purposes of this article, the following terms
70 have the following meanings:

71 (1) COMMISSION. The Alabama Sentencing Commission,
72 established as a state agency under the Supreme Court by this
73 chapter.

74 (2) CONTINUUM OF PUNISHMENTS. An array of punishment
75 options, from probation to incarceration, graduated in
76 restrictiveness according to the degree of supervision of the
77 offender including, but not limited to, all of the following:

78 a. Active Incarceration. A sentence, other than an
79 intermediate punishment or unsupervised probation, that
80 requires an offender to serve a sentence of imprisonment. The
81 term includes time served in a work release program operated
82 as a custody option by the Alabama Department of Corrections
83 or in the Supervised Intensive Restitution program of the
84 Department of Corrections pursuant to Article 7, ~~commencing~~



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85 ~~with Section 15-18-110,~~ of Chapter 18 of Title 15.

86 b. Intermediate Punishment. A sentence that may include
87 assignment to any community based punishment program or may
88 include probation with conditions or probation in conjunction
89 with a period of confinement. Intermediate punishments
90 include, but are not limited to, all of the following options:

91 1. A split sentence pursuant to Section 15-18-8.

92 2. Assignment to a community punishment and corrections
93 program pursuant to the Alabama Community Punishment and
94 Corrections Act, Article 9 of Chapter 18 of Title 15 or local
95 acts.

96 3. Assignment to a community based manual labor work
97 program pursuant to ~~Sections 14-5-30 to 14-5-37,~~
98 ~~inclusive~~Article 2 of Chapter 5 of Title 14.

99 4. Intensive probation supervision pursuant to Section
100 15-22-56.

101 5. Cognitive and behavioral training.

102 6. Community service work.

103 7. County probation.

104 8. Day fines or means-based fines.

105 9. Day reporting.

106 10. Drug or alcohol testing.

107 11. Drug court programs.

108 12. Educational programs.

109 13. Electronic monitoring.

110 14. Home confinement or house arrest.

111 15. Ignition interlock.

112 16. Intermittent confinement.



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- 113 17. Jail and prison diversion programs.
- 114 18. Job readiness and work.
- 115 19. Literacy and basic learning.
- 116 20. Pretrial diversion programs.
- 117 21. Residential drug treatment.
- 118 22. Residential community based punishment programs in
- 119 which the offender is required to spend at least eight hours
- 120 per day, or overnight, within a facility and is required to
- 121 participate in activities such as counseling, treatment,
- 122 social skills training, or employment training, conducted at
- 123 the residential facility or at another specified location.
- 124 23. Restorative justice as established in Section
- 125 12-17-226.6.
- 126 ~~(i) Victim impact panels.~~
- 127 ~~(ii) Voluntary victim offender conferencing.~~
- 128 ~~(iii) Voluntary victim offender mediation.~~
- 129 24. Self-help groups.
- 130 25. Sobriety or breath alcohol remote monitoring.
- 131 26. Substance abuse education and treatment.
- 132 27. Treatment alternatives to street crime (TASC).
- 133 28. Voice recognition, curfew restriction, or
- 134 employment monitoring.
- 135 29. Work release, other than those work release
- 136 programs operated by the Alabama Department of Corrections, as
- 137 a custody option.
- 138 c. Unsupervised Probation. A sentence in a criminal
- 139 case that includes a period of probation but does not include
- 140 supervision, active incarceration, or an intermediate



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141 punishment.

142 d. Post-release Supervision. A mandatory period of
143 supervision following sentences of active incarceration as
144 defined in paragraph a. that may include one or more
145 intermediate punishment options.

146 (3) COURT. Unless otherwise stated, a district or
147 circuit court exercising jurisdiction to sentence felony
148 offenders.

149 (4) EVIDENCE-BASED PRACTICES. Policies, procedures,
150 programs, and practices proven by widely accepted and
151 published research to reliably produce reductions in
152 recidivism.

153 (5) FELONY OFFENSE. A noncapital felony offense.

154 (6) INITIAL VOLUNTARY STANDARDS. The voluntary
155 sentencing standards effective on October 1, 2006. These
156 standards were based on statewide historic sentences imposed
157 with normative adjustments designed to reflect current
158 sentencing policies.

159 (7) NONVIOLENT OFFENSE. All offenses which are not
160 violent offenses.

161 (8) NONVIOLENT OFFENDER. Any offender who does not
162 qualify as a violent offender pursuant to subdivision (14).

163 (9) OFFENDER. A person convicted of a noncapital felony
164 offense.

165 (10) RELEASE AUTHORITY. Any public official, agency, or
166 other entity authorized by law to release a sentenced offender
167 from incarceration or other conditions of a sentence.

168 (11) VALIDATED RISK AND NEEDS ASSESSMENT. An actuarial



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169 tool that has been validated and established by administrative
170 rule in ~~Alabama~~this state to determine the likelihood of an
171 offender engaging in future criminal behavior. The Board of
172 Pardons and Paroles and the Department of Corrections shall
173 adopt compatible tools to conduct a validated risk and needs
174 assessment upon offenders within the jurisdiction of the
175 state. A validated risk and needs assessment shall include,
176 but not be limited to, an offender's prior criminal history,
177 the nature and severity of the present offense, and potential
178 for future violence.

179 (12) TRUTH-IN-SENTENCING STANDARDS. Truth in sentencing
180 is scheduled to become effective October 1, 2020.

181 (13) UNDER SUPERVISION. ~~All offenders~~Offenders under
182 the supervision of any criminal justice agency or program
183 including, but not limited to, any of the following entities:

- 184 a. The Alabama Department of Corrections.
- 185 b. State or county probation offices.
- 186 c. Community corrections programs pursuant to Alabama
187 Community Corrections Act.
- 188 d. Jails.
- 189 e. State or local law enforcement agencies.
- 190 f. Any court.

191 (14) VIOLENT OFFENDER. ~~A violent offender is an~~An
192 offender who has been convicted of a violent offense, or who
193 is determined by the trial court judge or a release authority
194 to have demonstrated a propensity for violence, aggression, or
195 weapons related behavior based on the criminal history or
196 behavior of the offender while under supervision of any



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197 criminal justice system agency or entity.

198 (15) VIOLENT OFFENSE.

199 a. For the purposes of this article, a violent offense
200 includes each of the following offenses, or any substantially
201 similar offense to those listed in this subdivision created
202 after June 20, 2003:

203 1. Capital murder pursuant to Sections 13A-6-2 and
204 13A-5-40.

205 2. Murder pursuant to Section 13A-6-2.

206 3. Manslaughter pursuant to Section 13A-6-3.

207 4. Criminally negligent homicide pursuant to Section
208 13A-6-4.

209 5. Assault ~~in~~ in the first degree pursuant to Section
210 13A-6-20.

211 6. Assault ~~in~~ in the second degree pursuant to Section
212 13A-6-21.

213 7. Compelling street gang membership pursuant to
214 Section 13A-6-26.

215 8. Kidnapping ~~in~~ in the first degree pursuant to Section
216 13A-6-43.

217 9. Kidnapping ~~in~~ in the second degree pursuant to
218 Section 13A-6-44.

219 10. Rape ~~in~~ in the first degree pursuant to Section
220 13A-6-61.

221 11. Rape ~~in~~ in the second degree pursuant to Section
222 13A-6-62.

223 12. Sodomy ~~in~~ in the first degree pursuant to Section
224 13A-6-63.



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225 13. Sodomy ~~in~~in the second degree pursuant to Section
226 13A-6-64.

227 14. Sexual torture pursuant to Section 13A-6-65.1.

228 15. Sexual abuse ~~in~~in the first degree pursuant to
229 Section 13A-6-66.

230 16. Enticing a child to enter a vehicle for immoral
231 purposes pursuant to Section 13A-6-69.

232 17. Stalking in the first degree pursuant to Section
233 13A-6-90.

234 18. Aggravated stalking in the first degree pursuant to
235 Section 13A-6-91.

236 19. Soliciting a child by computer pursuant to Section
237 13A-6-110.

238 20. Domestic violence ~~in~~in the first degree pursuant to
239 Section 13A-6-130.

240 21. Domestic violence ~~in~~in the second degree pursuant
241 to Section 13A-6-131.

242 ~~22-26.~~ Burglary ~~in~~in the first degree pursuant to
243 Section 13A-7-5.

244 ~~23-27.~~ Burglary ~~in~~in the second degree pursuant to
245 Section 13A-7-6.

246 ~~24-28.~~ Burglary ~~in~~in the third degree pursuant to
247 ~~subdivision (1) or subdivision (2) of subsection (a) of~~
248 Section 13A-7-7 (a) (1) or (2).

249 ~~25-29.~~ Arson ~~in~~in the first degree pursuant to Section
250 13A-7-41.

251 ~~26-30.~~ Criminal possession of explosives pursuant to
252 Section 13A-7-44.



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253 ~~27.~~31. Extortion ~~in~~ in the first degree pursuant to
254 Section 13A-8-14.

255 ~~28.~~32. Robbery ~~in~~ in the first degree pursuant to
256 Section 13A-8-41.

257 ~~29.~~33. Robbery ~~in~~ in the second degree pursuant to
258 Section 13A-8-42.

259 ~~30.~~34. Robbery ~~in~~ in the third degree pursuant to
260 Section 13A-8-43.

261 ~~31.~~35. Pharmacy robbery pursuant to Section 13A-8-51.

262 ~~32.~~36. Terrorist threats pursuant to Section 13A-10-15.

263 ~~33.~~37. Escape ~~in~~ in the first degree pursuant to Section
264 13A-10-31.

265 ~~34.~~38. Promoting prison contraband ~~in~~ in the first degree
266 pursuant to Section 13A-10-36, involving a deadly weapon or
267 dangerous instrument.

268 ~~35.~~40. Intimidating a witness pursuant to Section
269 13A-10-123.

270 ~~36.~~41. Intimidating a juror pursuant to Section
271 13A-10-127.

272 ~~37.~~44. Treason pursuant to Section 13A-11-2.

273 ~~38.~~45. Discharging a weapon into an occupied building,
274 dwelling, automobile, etc., pursuant to Section 13A-11-61.

275 ~~39.~~46. Promoting prostitution ~~in~~ in the first degree
276 pursuant to Section 13A-12-111.

277 ~~40.~~47. Production of obscene matter involving a minor
278 pursuant to Section 13A-12-197.

279 48. Sale of a controlled substance pursuant to Section
280 13A-12-211(a)(1).



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281 ~~41.~~49. Trafficking pursuant to Section 13A-12-231.
282 ~~42.~~50. Child abuse pursuant to Section 26-15-3.
283 51. Aggravated child abuse pursuant to Section
284 26-15-3.1.
285 ~~43.~~52. Elder abuse pursuant to Section 38-9-7.
286 ~~44.~~42. Terrorism pursuant to Section 13A-10-152.
287 ~~45.~~43. Hindering prosecution for terrorism pursuant to
288 Section 13A-10-154.
289 ~~46.~~22. Domestic violence ~~III~~in the third degree
290 pursuant to ~~subsection (d) of~~ Section 13A-6-132 (d).
291 ~~47.~~23. Domestic violence by strangulation or
292 suffocation pursuant to Section 13A-6-138.
293 ~~48.~~24. Human trafficking ~~I~~in the first degree pursuant
294 to Section 13A-6-152.
295 ~~49.~~25. Human trafficking ~~II~~in the second degree
296 pursuant to Section 13A-6-153.
297 ~~50.~~39. Hindering prosecution in the first degree
298 pursuant to Section 13A-10-43.
299 ~~51.~~53. Any substantially similar offense for which an
300 Alabama offender has been convicted under prior Alabama law or
301 the law of any other state, the District of Columbia, the
302 United States, or any of the territories of the United States.
303 b. The basis for defining these offenses as violent is
304 that each offense meets at least one of the following
305 criteria:
306 1. Has as an element, the use, attempted use, or
307 threatened use of a deadly weapon or dangerous instrument or
308 physical force against the person of another.



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309 2. Involves a substantial risk of physical injury
310 against the person of another.

311 3. Is a nonconsensual sex offense.

312 4. Is particularly reprehensible.

313 c. Any attempt, conspiracy, or solicitation to commit a
314 violent offense shall be considered a violent offense for the
315 purposes of this article.

316 d. Any criminal offense ~~which~~that meets the criteria
317 provided in paragraph b. enacted after 2003."

318 "§13A-12-211

319 (a) A person commits the crime of unlawful distribution
320 of controlled substances if, except as otherwise authorized,
321 he or she ~~sells, furnishes, gives away, delivers, or~~
322 ~~distributes~~ does either of the following:

323 (1) Sells a controlled substance enumerated in
324 Schedules I through V, excluding marijuana. For the purpose of
325 this subdivision, "sells" means to exchange a controlled
326 substance enumerated in Schedules I through V, excluding
327 marijuana, for money or its equivalent.

328 (2) Furnishes, gives away, delivers, or otherwise
329 distributes a controlled substance enumerated in Schedules I
330 through V, excluding marijuana.

331 (b) Unlawful distribution of controlled substances is a
332 Class B felony.

333 (c) A person commits the crime of unlawful possession
334 with intent to distribute a controlled substance if, except as
335 otherwise authorized by law, he or she knowingly possesses any
336 of the following quantities of a controlled substance:



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337 (1) More than eight grams, but less than 28 grams, of
338 cocaine or of any mixture containing cocaine.

339 (2) More than two grams, but less than four grams, of
340 any mixture of morphine, opium, or any salt, isomer, or salt
341 of an isomer thereof, including heroin or any mixture
342 containing Fentanyl or any synthetic controlled substance
343 Fentanyl or any synthetic controlled substance Fentanyl
344 analogue, as described in Sections 20-2-23 and 20-2-25.

345 (3) More than eight grams, but less than 28 grams, of
346 ~~3,4-methylenedioxy amphetamine~~3,4-methylenedioxyamphetamine,
347 or of any mixture containing ~~3,4-methylenedioxy~~
348 ~~amphetamine~~3,4-methylenedioxyamphetamine.

349 (4) More than eight grams, but less than 28 grams, of
350 ~~5-methoxy-3,4-methylenedioxy~~
351 ~~amphetamine~~5-methoxy-3,4-methylenedioxyamphetamine, or of any
352 mixture containing ~~5-methoxy-3,4-methylenedioxy~~
353 ~~amphetamine~~5-methoxy-3,4-methylenedioxyamphetamine.

354 (5) More than eight grams, but less than 28 grams, of
355 amphetamine or any mixture containing amphetamine, its salt,
356 optical isomer, or salt of its optical isomer thereof.

357 (6) More than eight grams, but less than 28 grams, of
358 methamphetamine or any mixture containing methamphetamine, its
359 salts, optical isomers, or salt of its optical isomers
360 thereof.

361 (7) More than one-half gram, but less than one gram, of
362 Fentanyl or any synthetic controlled substance Fentanyl
363 analogue, as a single component.

364 (d) Unlawful possession with intent to distribute a



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365 controlled substance is a Class B felony."

366 "§13A-12-250

367 In addition to any penalties ~~heretofore or hereafter~~
368 provided by law for any person convicted of ~~an-unlawful sale~~
369 distribution of a controlled substance, ~~there is hereby~~
370 ~~imposed~~ pursuant to Section 13A-12-211(a) (1), the court may
371 impose a penalty of five years incarceration in a state
372 corrections facility with no provision for probation if the
373 situs of ~~such~~the unlawful sale was on the campus or within a
374 three-mile radius of the campus boundaries of any public or
375 private school, college, university, or other educational
376 institution in this state."

377 "§13A-12-270

378 In addition to any penalties ~~heretofore or hereafter~~
379 provided by law for any person convicted of ~~an-unlawful sale~~
380 distribution of a controlled substance, ~~there is hereby~~
381 ~~imposed~~ pursuant to Section 13A-12-211(a) (1), the court may
382 impose a penalty of five years incarceration in a state
383 corrections facility with no provision for probation if the
384 situs of ~~such~~the unlawful sale was within a three-mile radius
385 of a public housing project owned by a housing authority."

386 Section 2. Section 13A-12-211.1 is added to the Code of
387 Alabama 1975, to read as follows:

388 §13A-12-211.1

389 (a) A person commits the crime of unlawful distribution
390 of marijuana if, except as otherwise authorized, he or she
391 sells, furnishes, gives away, delivers, or distributes
392 marijuana.



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393 (b) Unlawful distribution of marijuana is a Class B
394 felony.

395 Section 3. This act shall become effective on October
396 1, 2025.