

HB228 INTRODUCED



1 HB228
2 DGX7LNT-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 14-Jan-26



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4 SYNOPSIS:

5 Under existing law, every person charged with
6 and arrested for a felony has an absolute right to a
7 preliminary hearing.

8 This bill would provide that a pretrial
9 detention hearing may satisfy the right to a
10 preliminary hearing.

11 Under existing law, a defendant may be denied
12 bail for certain enumerated offenses following a
13 pretrial detention hearing.

14 This bill would provide that a pretrial
15 detention hearing must be set within 10 days of the
16 defendant's arrest.

17 This bill would provide that a continuance of a
18 pretrial detention hearing may not exceed 21 days
19 unless a joint motion is filed by the parties.

20 This bill would require a court to make a record
21 of all pretrial detention hearings.

22 This bill would also provide that an appeal of a
23 pretrial detention order shall be made to the Court of
24 Criminal Appeals.

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 A BILL
 TO BE ENTITLED



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AN ACT

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31 Relating to criminal procedure; to amend Sections
32 15-11-1 and 15-13-3, Code of Alabama 1975; to further provide
33 for preliminary hearings and further provide for pretrial
34 detention hearings; and to repeal Section 15-13-3.1, Code of
35 Alabama 1975, relating to pretrial detention.

36 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

37 Section 1. Sections 15-11-1 and 15-13-3, Code of
38 Alabama 1975, are amended to read as follows:

39 "§15-11-1

53 "§15-13-3

54 (a) A defendant is not eligible for bail when he or she
55 is charged with capital murder pursuant to Section 13A-5-40,
56 if the court is of the opinion, on the evidence adduced, that



57 he or she is guilty of the offense.

58 (b) ~~(1) The court, after~~ After a pretrial detention
59 hearing as provided in this subsection, ~~for an offense~~
60 enumerated in this subsection and after the presentment of an
61 indictment or a showing of probable cause in the charged
62 offense, ~~and if~~ the court may deny a defendant bail if both of
63 the following apply:

64 (1) The prosecuting attorney proves by clear and
65 convincing evidence that no condition or combination of
66 conditions of release will reasonably ensure the defendant's
67 appearance in court or protect the safety of the community or
68 any person, ~~may deny a defendant's bail, if he or she.~~

69 (2) The defendant is charged with any of the following
70 offenses:

71 a. Murder, as provided in Section 13A-6-2.

72 b. Kidnapping in the first degree, as provided in
73 Section 13A-6-43.

74 c. Rape in the first degree, as provided in Section
75 13A-6-61.

76 d. Sodomy in the first degree, as provided in Section
77 13A-6-63.

78 e. Sexual torture, as provided in Section 13A-6-65.1.

79 f. Domestic violence in the first degree, as provided
80 in Section 13A-6-130.

81 g. Human trafficking in the first degree, as provided
82 in Section 13A-6-152.

83 h. Burglary in the first degree, as provided in Section
84 13A-7-5.



HB228 INTRODUCED

85 i. Arson in the first degree, as provided in Section
86 13A-7-41.

87 j. Robbery in the first degree, as provided in Section
88 13A-8-41.

89 k. Terrorism, as provided in ~~subdivision (b) (2) of~~
90 Section 13A-10-152 (b) (2).

91 l. Aggravated child abuse, as provided in ~~subsection~~
92 ~~(b) of~~ Section 26-15-3.1 (b).

93 (2) (c) (1) A court shall order that a defendant charged
94 with an offense listed in ~~this~~ subsection (b) be held without
95 bail prior to a pretrial detention hearing, unless the court
96 is notified that there is an agreement between the parties
97 regarding conditions of bail.

98 (2) If there is an agreement regarding bail, no
99 pretrial detention hearing shall be held.

100 (3) (d) (1) The court ~~shall hold a pretrial detention~~
101 ~~hearing immediately~~, upon the defendant's first appearance
102 before the court, shall set a pretrial detention hearing
103 within 10 days of the arrest of a defendant for an offense
104 listed in subsection (b) unless the prosecuting attorney or the
105 defendant requests a continuance. Except for good cause, a
106 continuance on a motion of the defendant may not exceed five
107 days, excluding Saturdays, Sundays, and state holidays, and a
108 continuance on motion by the prosecuting attorney may not
109 exceed three days, excluding Saturdays, Sundays, and state
110 holidays.

111 (2) A pretrial detention hearing may be continued for
112 up to 21 days upon a determination of good cause.



113 (3) A pretrial detention hearing may be continued
114 beyond 21 days on a joint motion of the parties.

115 (4) The defendant shall be detained until the pretrial
116 detention hearing is held and during any continuance unless
117 the court is notified of an agreement of the parties to
118 conditions of bail.

119 (5) If the last day to hold a pretrial detention
120 hearing falls on a Saturday, Sunday, legal holiday, or any
121 other day a court is closed, the hearing shall be set on the
122 following business day.

123 ~~(4)a.~~ (e) (1) A defendant shall have all of the following
124 rights at a pretrial detention hearing:

125 1.a. To be represented by counsel. If the defendant is
126 financially unable to obtain counsel, he or she shall have
127 counsel appointed.

128 2.b. To testify.

129 3.c. To present witnesses.

130 4.d. To present evidence.

131 5.e. To cross-examine witnesses.

132 b. (2) The judge shall have discretion as to who the
133 defendant may call as a witness ~~as provided in this~~
134 ~~subdivision~~ at the pretrial detention hearing.

135 ~~(5) (f)~~ In considering whether there are any conditions
136 or combination of conditions that would reasonably ensure the
137 defendant's appearance in court or protect the safety of the
138 community and of any person, the court shall consider all of
139 the following factors:

140 a. (1) The nature and circumstances of the offenses



141 charged.

142 ~~b.~~ (2) The weight of the evidence against the defendant.

143 ~~c.~~ (3) The history and characteristics of the defendant,
144 including, but not limited to, the defendant's character,
145 physical and mental condition, family ties, employment,
146 financial resources, length of residence in the community,
147 community ties, past conduct, history relating to drug or
148 alcohol abuse, criminal history, ~~and the defendant's record~~
149 concerning appearance at court proceedings, and whether, at
150 the time of the current offense, the defendant was on
151 probation, parole, or on other release pending trial,
152 sentencing, appeal, or completion of sentence for an offense.

153 ~~d.~~ (4) The nature and seriousness of the danger to any
154 person or the community if the defendant is released.

155 ~~(6)~~ (g) At any pretrial detention hearing, the rules
156 governing admissibility of evidence in criminal trials shall
157 not apply, and the court shall receive all relevant evidence.
158 ~~All evidence shall be recorded.~~ The testimony of a defendant
159 may not be admissible in any other criminal proceeding against
160 the defendant, except if being used for perjury based on the
161 testimony or for the purpose of impeachment in any subsequent
162 proceeding.

163 (h) A recording of a pretrial detention hearing shall
164 be kept by stenographic reporting, by mechanical or electronic
165 device or by some combination thereof, for the purpose of
166 creating an official record of the proceedings. The audio or
167 stenographic recording shall be preserved until the time for
168 making an appeal has expired. The trial court shall determine



169 whether there is an adequate record for purposes of appellate
170 review.

171 ~~(7)a.~~ (i) (1) A prosecuting attorney may file a motion
172 for a pretrial detention hearing at any time.

173 ~~b.~~ (2) A pretrial detention hearing may be reopened,
174 before or after a determination by the court, at any time
175 prior to trial if the court finds that information exists that
176 was not known by the movant at the time of the pretrial
177 detention hearing.

178 ~~(8)~~ (j) In an order denying bail, the judge shall make
179 written findings or state for the record findings of fact and
180 a statement of the reasons for denying bail. The judge shall
181 enter an order denying bail within 48 hours of the pretrial
182 detention hearing.

183 (k) An appeal of a pretrial detention order shall be
184 made to the Court of Criminal Appeals unless there is not an
185 adequate record, in which case the appeal shall be made to the
186 circuit court de novo.

187 (l) (1) Notwithstanding any provision of law, a judge
188 may order, as a condition of bond, that a defendant charged
189 with any offense listed in subsection (b) be supervised by the
190 Board of Pardons and Paroles.

191 (2) The board shall adopt rules necessary to implement
192 this subsection."

193 Section 2. If Section 4 of Act 2025-273, which amends
194 Section 15-13-3, Code of Alabama 1975, becomes effective
195 pursuant to the ratification of the constitutional amendment
196 proposed by Act 2025-227, the Code Commissioner shall give

HB228 INTRODUCED



197 effect to both this act and Section 4 of Act 2025-273 to the
198 extent that the language is not in substantive conflict and in
199 a manner that will make the code section intelligible.

200 Section 3. It is the intent of the Legislature that
201 pursuant to Section 150 of the Constitution of Alabama of
202 2022, the Supreme Court of Alabama shall amend its rules to
203 conform with this act.

204 Section 4. Section 15-13-3.1, Code of Alabama 1975,
205 relating to pretrial supervision of certain offenders, is
206 repealed.

207 Section 5. This act shall become effective on May 15,
208 2026.