

**House Judiciary Reported Substitute for HB228**

1

2

3

4

5 A BILL

6 TO BE ENTITLED

7 AN ACT

8

9 Relating to criminal procedure; to amend Sections
10 15-11-1 and 15-13-3, Code of Alabama 1975; to further provide
11 for preliminary hearings and further provide for pretrial
12 detention hearings; and to repeal Section 15-13-3.1, Code of
13 Alabama 1975, relating to pretrial detention.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§15-11-1

18 (a) Every ~~person~~individual charged with and arrested
19 for a felony before his or her indictment shall have an
20 absolute right to a preliminary hearing on ~~said~~the charge
21 upon ~~such person's~~his or her demand within ~~30~~45 days
22 following ~~said~~the arrest~~, provided, that such person's~~his
23 or her failure or refusal to appear for ~~such~~the preliminary
24 hearing or his or her absence from the state at the time of
25 the setting for the preliminary hearing shall not delay or
26 invalidate an indictment pursuant to ~~said~~the charge.

27 (b) A pretrial detention hearing held pursuant to
28 Section 15-13-3 shall satisfy a defendant's rights under this

**House Judiciary Reported Substitute for HB228**

29 section unless otherwise ordered by the court for good cause
30 shown."

31 "§15-13-3

32 (a) A defendant is not eligible for bail when he or she
33 is charged with capital murder pursuant to Section 13A-5-40,
34 if the court is of the opinion, on the evidence adduced, that
35 he or she is guilty of the offense.

36 (b) (1) A defendant charged with an offense listed in
37 subsection (c) shall be held without bail prior to a pretrial
38 detention hearing, unless the court is notified that there is
39 an agreement between the parties regarding conditions of bail.

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

42 (c) (1) The court, after After a pretrial detention
43 hearing as provided in this subsection, for an offense
44 enumerated in this subsection and after the presentment of an
45 indictment or a showing of probable cause in the charged
46 offense, and if the court may deny a defendant bail if both of
47 the following apply:

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

53 (2) The defendant is charged with any of the following
54 offenses:

- 55 a. Murder, as provided in Section 13A-6-2.
56 b. Kidnapping in the first degree, as provided in

**House Judiciary Reported Substitute for HB228**

57 Section 13A-6-43.

58 c. Rape in the first degree, as provided in Section
59 13A-6-61.

60 d. Sodomy in the first degree, as provided in Section
61 13A-6-63.

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

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

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

67 h. Burglary in the first degree, as provided in Section
68 13A-7-5.

69 i. Arson in the first degree, as provided in Section
70 13A-7-41.

71 j. Robbery in the first degree, as provided in Section
72 13A-8-41.

73 k. Terrorism, as provided in subdivision (b) (2) of
74 Section 13A-10-152 (b) (2).

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

77 ~~(2) A court shall order that a defendant charged with~~
78 ~~an offense listed in this subsection be held without bail~~
79 ~~prior to a pretrial detention hearing.~~

80 ~~(3) (d) (1) The court shall hold a pretrial detention~~
81 ~~hearing immediately,~~ upon the defendant's first appearance
82 before the court, shall set a pretrial detention hearing
83 within 10 days of the arrest of a defendant for an offense
84 listed in subsection (c) unless the prosecuting attorney or the

**House Judiciary Reported Substitute for HB228**

85 ~~defendant requests a continuance. Except for good cause, a~~
86 ~~continuance on a motion of the defendant may not exceed five~~
87 ~~days, excluding Saturdays, Sundays, and state holidays, and a~~
88 ~~continuance on motion by the prosecuting attorney may not~~
89 ~~exceed three days, excluding Saturdays, Sundays, and state~~
90 ~~holidays.~~

91 (2) A pretrial detention hearing may be continued for
92 up to 21 days following an arrest upon a determination of good
93 cause.

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

96 (4) The defendant shall be detained until the pretrial
97 detention hearing is held and during any continuance unless
98 the court is notified of an agreement of the parties to
99 conditions of bail.

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

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

106 ~~1.~~a. To be represented by counsel. If the defendant is
107 financially unable to obtain counsel, he or she shall have
108 counsel appointed.

109 ~~2.~~b. To testify.

110 ~~3.~~c. To present witnesses.

111 ~~4.~~d. To present evidence.

112 ~~5.~~e. To cross-examine witnesses.

**House Judiciary Reported Substitute for HB228**

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

116 ~~(5)~~ (f) In considering whether there are any conditions
117 or combination of conditions that would reasonably ensure the
118 defendant's appearance in court or protect the safety of the
119 community and of any person, the court shall consider all of
120 the following factors:

121 ~~a. (1)~~ The nature and circumstances of the offenses
122 charged.

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

124 ~~c. (3)~~ The history and characteristics of the defendant,
125 including, but not limited to, the defendant's character,
126 physical and mental condition, family ties, employment,
127 financial resources, length of residence in the community,
128 community ties, past conduct, history relating to drug or
129 alcohol abuse, criminal history, ~~and the defendant's record~~
130 concerning appearance at court proceedings, and whether, at
131 the time of the current offense, the defendant was on
132 probation, parole, or on other release pending trial,
133 sentencing, appeal, or completion of sentence for an offense.

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

136 ~~(6)~~ (g) At any pretrial detention hearing, the rules
137 governing admissibility of evidence in criminal trials shall
138 not apply, and the court shall receive all relevant evidence.
139 ~~All evidence shall be recorded.~~ The testimony of a defendant
140 may not be admissible in any other criminal proceeding against

**House Judiciary Reported Substitute for HB228**

141 the defendant, except if being used for perjury based on the
142 testimony or for the purpose of impeachment in any subsequent
143 proceeding.

144 (h) A recording of a pretrial detention hearing shall
145 be kept by stenographic reporting, by mechanical or electronic
146 device or by some combination thereof, for the purpose of
147 creating an official record of the proceedings. The audio or
148 stenographic recording shall be preserved until the time for
149 making an appeal has expired. The trial court shall determine
150 whether there is an adequate record for purposes of appellate
151 review.

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

154 ~~b.~~ (2) A pretrial detention hearing may be reopened,
155 before or after a determination by the court, at any time
156 prior to trial if the court finds that information exists that
157 was not known by the movant at the time of the pretrial
158 detention hearing.

159 ~~(8)~~ (j) In an order denying bail, the judge shall make
160 written findings or state for the record findings of fact and
161 a statement of the reasons for denying bail. The judge shall
162 enter an order denying bail within 48 hours of the pretrial
163 detention hearing.

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

168 (l) (1) Notwithstanding any provision of law, a judge

**House Judiciary Reported Substitute for HB228**

169 may order, as a condition of bond, that a defendant charged
170 with any offense listed in subsection (c) be supervised by the
171 Board of Pardons and Paroles.

172 (2) The board shall adopt rules necessary to implement
173 this subsection."

174 Section 2. If Section 4 of Act 2025-273, which amends
175 Section 15-13-3, Code of Alabama 1975, becomes effective
176 pursuant to the ratification of the constitutional amendment
177 proposed by Act 2025-227, the Code Commissioner shall give
178 effect to both this act and Section 4 of Act 2025-273 to the
179 extent that the language is not in substantive conflict and in
180 a manner that will make the code section intelligible.

181 Section 3. It is the intent of the Legislature that
182 pursuant to Section 150 of the Constitution of Alabama of
183 2022, the Supreme Court of Alabama shall amend its rules to
184 conform with this act.

185 Section 4. Section 15-13-3.1, Code of Alabama 1975,
186 relating to pretrial supervision of certain offenders, is
187 repealed.

188 Section 5. This act shall become effective on May 15,
189 2026.