

SB323 INTRODUCED



1 SB323
2 PS27WER-1
3 By Senator Woods
4 RFD: Judiciary
5 First Read: 25-Feb-26



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SYNOPSIS:

Under existing law, the court may order a defendant with a mental illness committed to the custody of the Department of Mental Health upon finding that the defendant poses a real and present threat of substantial harm to himself, herself, or to others, and the court may modify a conditional release order upon finding that the defendant's condition has changed.

This bill would create a right of appeal for the department and the defendant for orders committing the defendant to the department's custody and orders modifying a conditional release order.

This bill would grant the Court of Criminal Appeals the jurisdiction to hear the appeals.

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

A BILL
TO BE ENTITLED
AN ACT

Relating to criminal defendants with mental illness; to amend Sections 15-16-43, 15-16-61, and 15-16-70, Code of



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29 Alabama 1975; to provide a right of appeal for the Department
30 of Mental Health and the defendant regarding orders of
31 commitment and orders of conditional release; to grant the
32 Court of Criminal Appeals jurisdiction to hear the appeals;
33 and to make nonsubstantive, technical revisions to update the
34 existing code language to current style.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. Sections 15-16-43, 15-16-61, and 15-16-70,
37 Code of Alabama 1975, are amended to read as follows:

38 "§15-16-43

39 (a) (1) If, at the final hearing, the court finds that
40 the defendant has a mental illness and as a consequence of the
41 mental illness poses a real and present threat of substantial
42 harm to himself, ~~or~~ herself, or to others, the court shall
43 order the defendant committed to the custody of the
44 ~~Commissioner of the Alabama State Department of~~ Mental Health
45 Commissioner or to another public facility as the court may
46 order.

47 (2) If the court does not make a finding that the
48 defendant has a mental illness and as a consequence of the
49 mental illness poses a real and present threat of substantial
50 harm to himself, ~~or~~ herself, or to others, then the defendant
51 shall be released from custody.

52 (b) In determining whether the defendant poses a real
53 and present threat of substantial harm to himself, ~~or~~ herself,
54 or to others, the court shall consider all available relevant
55 information, including any known relevant aspects of the
56 defendant's psychosocial, medical, and psychiatric history, in



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57 addition to the defendant's current behavior.

58 (c) The Department of Mental Health or the defendant
59 may appeal to the Court of Criminal Appeals the following
60 orders:

61 (1) Orders entered pursuant to subsection (a).

62 (2) Orders denying a petition for release concerning
63 that defendant."

64 "§15-16-61

65 ~~The following definitions shall apply to this~~
66 ~~article~~For the purposes of this article, the following terms
67 have the following meanings:

68 (1) COURT. The court ~~which~~that committed the defendant
69 pursuant to Section 15-16-43.

70 (2) DEFENDANT. A defendant in a criminal case who has
71 been found not guilty by reason of insanity, or not guilty by
72 reason of mental disease or defect, and has been committed to
73 the custody of the ~~Alabama State~~ Department of Mental Health
74 ~~and Mental Retardation~~ or another facility ~~as provided~~
75 ~~by~~pursuant to Section 15-16-43.

76 (3) DEPARTMENT. The ~~State~~ Department of Mental Health
77 ~~and Mental Retardation~~.

78 (4) DISTRICT ATTORNEY. The district attorney for the
79 judicial circuit of the court ~~which~~that committed the
80 defendant pursuant to Section 15-16-43.

81 (5) REGIONAL OR COMMUNITY MENTAL HEALTH FACILITY. Any
82 mental health facility providing mental health services
83 pursuant to ~~Sections 22-51-1 through 22-51-14~~Chapter 51 of
84 Title 22."



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85 "§15-16-70

86 (a) (1) If at any time it appears to the court that the
87 defendant has failed to comply with the conditions of release,
88 that the defendant's condition has deteriorated to the point
89 that inpatient care is required, or that the release
90 conditions should be modified, the court ~~may~~, after a hearing,
91 may either:

92 a. ~~modify~~Modify the release conditions; or

93 b. ~~order~~Order the defendant returned to the ~~Department~~
94 ~~of Mental Health and Mental Retardation~~department for further
95 treatment.

96 (2) All ~~such~~ hearings held pursuant to this section
97 shall be preceded by notice to the department and to the
98 parties required to be notified ~~in~~pursuant to Section
99 15-16-63.

100 (3) All ~~such~~ modifications and orders shall be guided
101 by the standard of whether ~~such~~the modifications and orders
102 are necessary to ensure that the defendant does not pose a
103 real and present threat of substantial harm to himself,
104 herself, or to others.

105 (b) The department or the defendant may appeal to the
106 Court of Criminal Appeals the following orders:

107 (1) Orders entered pursuant to subsection (a).

108 (2) Orders otherwise denying the release of a defendant
109 adjudicated not guilty by reason of insanity or by reason of
110 mental disease or defect pursuant to this article."

111 Section 2. This act shall become effective on October
112 1, 2026.