

**HB72 ENGROSSED**



1 YMYD6N-2

2 By Representative Starnes

3 RFD: Public Safety and Homeland Security

4 First Read: 07-Mar-23

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A BILL  
TO BE ENTITLED  
AN ACT

Relating to pardons and paroles; to amend Section 15-22-32, as last corrected by Act 2022-371, the Codification Act, 2022 Regular Session, and Sections 15-22-51 and 15-22-53, Code of Alabama 1975, to prevent a parolee in custody from being released to parole supervision in certain circumstances; to provide that a specialist, in addition to a parole officer, may conduct an investigation and provide a report to the court regarding a defendant; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-22-32, as last corrected by Act 2022-371, the Codification Act, 2022 Regular Session, and Sections 15-22-51 and 15-22-53, Code of Alabama 1975, are amended to read as follows:

"§15-22-32

(a) Whenever there is reasonable cause to believe that a prisoner who has been paroled has violated his or her parole, the Board of Pardons and Paroles, at its next meeting, may declare the parolee to be delinquent, and time owed shall



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29 date from the delinquency. The Department of Corrections,  
30 after receiving notice from the sheriff of the county jail  
31 where the parolee is being held, shall promptly notify the  
32 board of the return of a parolee charged with violation of his  
33 or her parole. The board, a single member of the board, a  
34 parole revocation hearing officer, or a designated parole  
35 officer shall hold a parole court at the prison or at another  
36 place as it may determine within 20 business days and consider  
37 the case of the parole violator. If the parole court  
38 determines that exigent circumstances exist that preclude  
39 holding the hearing within 20 business days, the case shall be  
40 considered within 40 business days. The parolee shall be given  
41 an opportunity to appear personally or by counsel before the  
42 parole court and to produce witnesses, and explain the charges  
43 made against him or her. The parole court shall determine  
44 whether sufficient evidence supports the violation charges. If  
45 a hearing is not held within 20 business days, or within 40  
46 business days if exigent circumstances exist, the parolee  
47 shall be released back to parole supervision ~~unless the parole~~  
48 ~~court determines exigent circumstances exist that preclude~~  
49 ~~holding the hearing within 20 business days.~~

50 (b) Upon finding sufficient evidence to support a  
51 parole violation, the parole court may recommend to the board  
52 revocation or reinstatement of parole, and the board may take  
53 any of the following actions:

54 (1)a. If the underlying offense was a violent offense  
55 as defined in Section 12-25-32 and classified as a Class A  
56 felony, a sex offense pursuant to Section 15-20A-5, or



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57 aggravated theft by deception pursuant to Section 13A-8-2.1,  
58 the board shall revoke parole and require the parolee to serve  
59 the balance of the term for which he or she was originally  
60 sentenced, or any portion thereof, in a state prison facility,  
61 calculated from the date of his or her rearrest as a  
62 delinquent parolee.

63           b. If the parole violation was for being arrested or  
64 convicted of a new offense or absconding, the board may revoke  
65 parole and require the parolee to serve the balance of the  
66 term for which he or she was originally sentenced, or any  
67 portion thereof, in a state prison facility, calculated from  
68 the date of his or her rearrest as a delinquent parolee.

69           c. For all other parolees, the board may impose a  
70 period of confinement of no more than 45 consecutive days to  
71 be served in a residential transition center established  
72 pursuant to Section 15-22-30.1 or a consenting county jail  
73 designated for this purpose as provided in Section 14-1-23.  
74 The parolee shall be held in the county jail of the county in  
75 which the violation occurred while awaiting the revocation  
76 hearing. The Department of Corrections shall reimburse the  
77 state mileage rate to the county, as determined by the Alabama  
78 Comptroller's Office, for any state inmate charged with, or  
79 sanctioned or revoked for, a parole violation and who is  
80 transferred to or from a Department of Corrections facility or  
81 to or from a consenting county jail by the county.

82           (2) Upon completion of the confinement period and  
83 release from confinement, the parolee shall automatically  
84 continue on parole for the remaining term of the sentence



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85 without further action from the board. The parole court may  
86 not recommend and the board may not revoke parole unless the  
87 parolee has previously received a total of three periods of  
88 confinement under this subsection. A parolee shall receive  
89 only three total periods of confinement pursuant to this  
90 subsection. The maximum 45-day term of confinement ordered  
91 pursuant to this subsection shall be reduced by any time  
92 served in custody prior to the imposition of the period of  
93 confinement and shall be credited to the balance of the  
94 incarceration term for which the parolee was originally  
95 sentenced. In the event the time remaining on parole  
96 supervision is 45 days or less, the term of confinement may  
97 not exceed the remainder of the parolee's sentence.

98 (3) The total time spent in confinement under this  
99 subsection may not exceed the term of the parolee's original  
100 sentence.

101 (4) Confinement shall be immediate. The board shall  
102 ensure that the Department of Corrections, a county jail, a  
103 residential transition center, or a consenting county jail  
104 receives necessary documentation for imposing a period of  
105 confinement within five business days of the board's action.

106 (5) If the parolee is presented to a county jail,  
107 excluding a consenting county jail designated for this  
108 purpose, as provided in Section 14-1-23, for any period of  
109 confinement with a serious health condition, if the admittance  
110 of the parolee would create a security risk to the county  
111 jail, or if the county jail is near, at, or over capacity, the  
112 sheriff may refuse to admit the parolee. If, while in custody



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113 of the county jail, the parolee develops a serious health  
114 condition, if the presence of the parolee creates a security  
115 risk to the county jail, or if the county jail reaches near,  
116 at, or over capacity, the sheriff may release the parolee upon  
117 notification to the parole officer. A sheriff and employees in  
118 the county jail shall be immune from liability for exercising  
119 discretion pursuant to Section 36-1-12 in refusing to admit a  
120 parolee into the jail or releasing a parolee from jail  
121 pursuant to this subdivision.

122 (c) The position of Parole Revocation Hearing Officer  
123 is created and established, subject to the state Merit System.

124 (d) The board may appoint or employ hearing officers  
125 who shall conduct a parole court. The hearing officers shall  
126 determine the sufficiency of evidence to support parole  
127 violation charges and recommend to the board revocation of  
128 parole pursuant to subsection (b) or reinstatement of parole.

129 (e) In lieu of subsections (a) and (b), when a parolee  
130 violates his or her parole terms and conditions, his or her  
131 parole officer, after an administrative review and approval by  
132 the parole officer's supervisor, may impose any of the  
133 following sanctions:

134 (1) Mandatory behavior treatment.

135 (2) Mandatory substance abuse treatment.

136 (3) GPS monitoring.

137 (4) Any other treatment as determined by the board or  
138 supervising officer.

139 (5)a. A short period of confinement in the county jail  
140 of the county in which the violation occurred. Periods of



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141 confinement under this subdivision may not exceed six days per  
142 month during any three separate months during the period of  
143 parole. The six days per month confinement periods may only be  
144 imposed as two-day or three-day consecutive periods at any  
145 single time. The total periods of confinement may not exceed  
146 nine total days.

147 b. Confinement pursuant to this subdivision does not  
148 limit the board's ability to directly impose sanctions,  
149 periods of confinement, or revoke parole.

150 (f) (1) Prior to imposing a sanction pursuant to  
151 subsection (e), the parolee must first be presented with a  
152 violation report setting forth the alleged parole violations  
153 and supporting evidence. The parolee shall be advised that he  
154 or she has all of the following rights:

155 a. The right to have a parole court, in person or by  
156 electronic means, on the alleged violation or violations. If a  
157 parole court is requested, no parolee shall be held beyond 20  
158 business days of the request unless the parole court  
159 determines exigent circumstances exist that preclude holding  
160 the hearing within 20 business days, no parolee shall be held  
161 beyond 40 business days of the request. Only requesting  
162 parolees posing a threat to public safety or a flight risk  
163 shall be arrested while awaiting parole court.

164 b. The right to present relevant witnesses and  
165 documentary evidence.

166 c. The right to retain and have counsel at the hearing  
167 if he or she so desires.

168 d. The right to confront and cross examine any adverse



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169 witnesses.

170 (2) Upon the signing of a waiver of these rights by the  
171 parolee and the supervising parole officer, with approval of a  
172 supervisor, the parolee may be treated, monitored, or confined  
173 for the period recommended in the violation report and  
174 designated on the waiver. The parolee may not request a review  
175 if he or she has signed a written waiver of rights as provided  
176 in this subsection.

177 (g) The board shall adopt guidelines and procedures to  
178 implement the requirements of this section, which shall  
179 include the requirement of a supervisor's approval prior to  
180 exercise of the delegation of authority authorized by  
181 subsection (e)."

182 "§15-22-51

183 (a) (1) When directed by the court, a probation officer  
184 or specialist shall ~~fully investigate and conduct an~~  
185 investigation, using a validated risk and needs assessment as  
186 defined in Section 12-25-32, and provide a written report to  
187 the court ~~in writing the~~ containing all of the following  
188 information:

189 a. The circumstances of the offense~~.~~.

190 b. The defendant's criminal record~~.~~.

191 c. The defendant's social history ~~and.~~.

192 d. The defendant's present condition ~~of a defendant~~  
193 ~~through use of a validated risk and needs assessment, as~~  
194 ~~defined in Section 12-25-32.~~

195 e. If practicable, a physical and mental examination of  
196 the defendant.





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197           (2) No defendant, unless ~~the court shall~~ otherwise  
198 ~~direct~~ directed by the court, shall be placed on probation or  
199 released under suspension of sentence until the report of ~~such~~  
200 investigation ~~shall have been~~, as required in subdivision (1),  
201 is presented to and considered by the court; ~~provided,~~  
202 ~~however, that after.~~

203           (3)a. After conviction, the court may continue the case  
204 for ~~such any amount of~~ time ~~as may be~~ reasonably necessary to  
205 enable the probation officer or specialist to ~~make his~~ conduct  
206 the investigation and generate the written report of  
207 investigation.

208           b. ~~(b) Whenever practicable, such investigation shall~~  
209 ~~include physical and mental examinations of the defendant;~~  
210 ~~and, if such defendant is committed to an institution, a copy~~  
211 ~~of the report of such investigation shall be sent to the~~  
212 ~~Department of Corrections at the time of commitment; provided,~~  
213 ~~that in all cases where the~~ If a defendant was on bond prior  
214 to ~~the time of~~ the trial and an application for probation ~~is~~  
215 was made to the court, ~~then the judge of such court, in his~~  
216 ~~discretion,~~ may suspend the execution of the sentence pending  
217 the disposition of the application for probation and ~~continue~~  
218 may allow the defendant to remain under the same bond ~~that he~~  
219 ~~was under or, in his discretion,~~ or the judge may raise ~~the~~  
220 ~~bond or lower the same pending the disposition of the~~  
221 ~~application for probation, and such bond shall remain in full~~  
222 ~~force and effect until the application for probation is~~  
223 ~~finally disposed of~~ bond.

224           (b) If the defendant is sentenced to the custody of the



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225 Department of Corrections, a copy of the report of  
226 investigation shall be provided to the department when the  
227 department takes custody of the defendant."

228 "§15-22-53

229 (a) A probation officer, or a specialist, shall  
230 investigate all cases referred to him or her for investigation  
231 by any court or by the Board of Pardons and Paroles and shall  
232 report in writing thereon. ~~He or she~~ The probation officer  
233 shall furnish to persons released on probation under his or  
234 her supervision a written statement of the conditions of  
235 probation and shall instruct them regarding the same. ~~Such~~ The  
236 probation officer shall ~~keep informed concerning the~~ monitor  
237 the conduct and condition of each person on probation under  
238 his or her supervision by visiting, requiring reports, and in  
239 ~~other~~ ways necessary, based on the offender's measured risk of  
240 offending, ~~and he or she shall report thereon in writing.~~  
241 Additionally, the probation officer shall provide written  
242 reports as often as the court or the board may require. The  
243 probation officer shall use all practicable and suitable  
244 evidence-based practices as defined in Section 12-25-32, not  
245 inconsistent with the provisions imposed by the court, to aid  
246 and encourage persons on probation and to bring about  
247 improvements in their conduct and condition. The probation  
248 officer shall keep detailed records of his or her work and  
249 shall ~~make such~~ provide written reports ~~in writing~~ to the  
250 court and the board as often as they may require. A probation  
251 officer shall have, in the execution of his or her duties, the  
252 powers of arrest and the same right to execute process as is



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253 now given or may hereafter be given by law to the sheriffs of  
254 this state. Supervision and treatment of probationers shall be  
255 conducted pursuant to and consistent with the provisions of  
256 subsections (k) and (l) of Section 15-22-24 and Section  
257 15-22-57.

258 (b) All reports, records, and data assembled by any  
259 probation officer or specialist and referred to the court  
260 shall be privileged and shall not be available for public  
261 inspection except upon order of the court to which the same  
262 was referred.

263 (c) In no case shall the right to inspect the report be  
264 denied the defendant or his or her counsel after the report  
265 has been completed or filed."

266 Section 2. This act shall become effective on the first  
267 day of the third month following its passage and approval by  
268 the Governor, or its otherwise becoming law.



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### House of Representatives

272 Read for the first time and referred .....07-Mar-23  
273 to the House of Representatives  
274 committee on Public Safety and  
275 Homeland Security  
276  
277 Read for the second time and placed .....22-Mar-23  
278 on the calendar:  
279 1 amendment  
280  
281 Read for the third time and passed .....18-Apr-23  
282 as amended  
283 Yeas 89  
284 Nays 3  
285 Abstains 8  
286  
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John Treadwell  
Clerk