

1 SB382  
2 199291-1  
3 By Senator Ward  
4 RFD: Judiciary  
5 First Read: 07-MAY-19

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7  
8 SYNOPSIS: Under existing law, theft of property  
9 offenses have threshold amounts established for  
10 each offense.

11 This bill would revise the threshold amounts  
12 for theft of property offenses.

13 Under existing law, receiving stolen  
14 property offenses have threshold amounts  
15 established for each offense.

16 This bill would revise the threshold amounts  
17 for receiving stolen property offenses.

18 This bill would revise the penalty for  
19 obstructing justice using a false identity.

20 This bill would also modify the criminal  
21 penalties for criminal solicitation, attempt, and  
22 criminal conspiracy for consistency with Class D  
23 felony offenses.

24 Under existing law, unlawful distribution of  
25 a controlled substance is a Class B felony.

26 This bill would create the crime of unlawful  
27 distribution of marijuana and provide penalties.

1           Under existing law, unlawful possession of a  
2 controlled substance is a Class D felony.

3           This bill would create the crime of unlawful  
4 possession of a controlled substance in the second  
5 degree and provide penalties.

6           Under existing law, a person commits the  
7 crime of unlawful possession of marijuana in the  
8 first degree if he or she possesses marijuana for  
9 other than personal use or possesses marijuana for  
10 personal use only after having been previously  
11 convicted of unlawful possession of marijuana in  
12 the second degree or in the first degree.

13           This bill would revise the elements of  
14 unlawful possession of marijuana in the first  
15 degree or provide that a person commits the crime  
16 if he or she possesses two or more ounces of  
17 marijuana and would prescribe new criminal  
18 penalties based on the number of prior violations.

19           Under existing law, a person commits the  
20 crime of unlawful possession of marijuana in the  
21 second degree if he or she possesses marijuana for  
22 personal use.

23           This bill would revise the crime of unlawful  
24 possession of marijuana in the second degree to  
25 provide that a person commits the crime if he or  
26 she possesses less than two ounces of marijuana and  
27 would change the criminal penalty to a fine only.

1           This bill would also provide that a person  
2 who is charged with, found not guilty of, or  
3 convicted of unlawful possession of marijuana in  
4 the first or second degree may have that charge,  
5 finding, or conviction expunged under certain  
6 circumstances.

7           Under existing law, unlawful manufacture of  
8 a controlled substance in the first degree is a  
9 Class A felony.

10           This bill would revise the circumstances  
11 that would constitute unlawful manufacture of a  
12 controlled substance in the first degree.

13           This bill would revise the penalty for a  
14 violation of failing to affix a tax stamp.

15           Under existing law, there are certain  
16 circumstances where an officer may arrest a person  
17 without a warrant.

18           This bill would provide that an officer may  
19 issue a summons, without an arrest warrant, in  
20 certain circumstances.

21           This bill would revise the criminal  
22 penalties for a violation of the Alabama Sex  
23 Offender Registration and Community Notification  
24 Act.

25           Under the existing habitual felony offender  
26 law, enhanced penalties are established for certain  
27 criminal offenses.

1                   This bill would repeal the habitual felony  
2 offender laws.

3                   This bill would also repeal enhancements for  
4 certain criminal offenses.

5                   This bill would also revise the  
6 implementation date for truth-in-sentencing.

7                   This bill would provide early parole of  
8 certain inmates in certain circumstances.

9                   This bill would clarify the phrase  
10 "consenting community corrections programs" for  
11 Class D felony offenses.

12                   Amendment 621 of the Constitution of Alabama  
13 of 1901, now appearing as Section 111.05 of the  
14 Official Recompilation of the Constitution of  
15 Alabama of 1901, as amended, prohibits a general  
16 law whose purpose or effect would be to require a  
17 new or increased expenditure of local funds from  
18 becoming effective with regard to a local  
19 governmental entity without enactment by a 2/3 vote  
20 unless: it comes within one of a number of  
21 specified exceptions; it is approved by the  
22 affected entity; or the Legislature appropriates  
23 funds, or provides a local source of revenue, to  
24 the entity for the purpose.

25                   The purpose or effect of this bill would be  
26 to require a new or increased expenditure of local  
27 funds within the meaning of the amendment.

1           However, the bill does not require approval of a  
2           local governmental entity or enactment by a 2/3  
3           vote to become effective because it comes within  
4           one of the specified exceptions contained in the  
5           amendment.

6  
7                                   A BILL  
8                                   TO BE ENTITLED  
9                                   AN ACT

10  
11                   Relating to crimes and offenses; to amend Sections  
12           12-25-34, 12-25-34.2, 12-25-36, 13A-5-6, and 13A-5-8.1, Code  
13           of Alabama 1975, Section 13A-12-231, as last amended by Act  
14           2018-552, 2018 Regular Session, Code of Alabama 1975, and  
15           Section 15-22-54, Code of Alabama 1975, relating to crimes and  
16           offenses, to repeal sentencing enhancements in certain  
17           circumstances, to revise the implementation date of  
18           truth-in-sentencing, and to clarify use of the phrase  
19           "consenting community corrections programs" for Class D felony  
20           offenses; to amend Sections 13A-4-1, 13A-4-2, 13A-4-3,  
21           13A-8-1, 13A-8-3, 13A-8-4, 13A-8-5, 13A-8-7, 13A-8-8, 13A-8-9,  
22           13A-8-10, 13A-8-10.1, 13A-8-10.2, 13A-8-10.3, 13A-8-16,  
23           13A-8-17, 13A-8-18, 13A-8-19, 13A-8-144, and 13A-8-194, Code  
24           of Alabama 1975, to revise the threshold amounts for theft of  
25           property offenses and receiving stolen property offenses, to  
26           modify the criminal penalties for criminal solicitation,  
27           attempt, and criminal conspiracy for consistency with Class D

1 felony offenses; to amend Sections 13A-12-211, as last amended  
2 by Act 2018-552, 2018 Regular Session, Code of Alabama 1975,  
3 13A-12-212, 13A-12-213, 13A-12-214, and 13A-12-218, Code of  
4 Alabama 1975, relating to drug offenses, to revise certain  
5 drug offenses and provide penalties; to amend Section  
6 40-17A-9, Code of Alabama 1975, relating to drugs, to revise  
7 the penalty for a violation; to amend Section 15-10-1, Code of  
8 Alabama 1975, relating to criminal procedure, to revise the  
9 procedure for when an officer may make an arrest; to amend  
10 Sections 15-20A-7, 15-20A-9, 15-20A-10, 15-20A-11, 15-20A-12,  
11 15-20A-13, 15-20A-14, 15-20A-15, 15-20A-16, 15-20A-17,  
12 15-20A-18, 15-20A-20, 15-20A-23, 15-20A-24, and 15-20A-25,  
13 Code of Alabama 1975, Section 15-20A-27, as last amended by  
14 Act 2018-528, 2018 Regular Session, Code of Alabama 1975,  
15 Section 15-20A-29, Code of Alabama 1975, Section 15-20A-30, as  
16 last amended by Act 2018-528, 2018 Regular Session, Code of  
17 Alabama 1975, Sections 15-20A-31, 15-20A-32, 15-20A-34,  
18 15-20A-36, 15-20A-37, and 15-20A-39, Code of Alabama 1975, to  
19 revise the criminal penalties for a violation of the Alabama  
20 Sex Offender Registration and Community Notification Act; to  
21 add Sections 13A-12-211.1 and 13A-12-212.1 to the Code of  
22 Alabama 1975, to provide for the crime of unlawful  
23 distribution of marijuana, to provide for the crime of  
24 unlawful possession of a controlled substance in the second  
25 degree; to add Section 15-10-3.1 to the Code of Alabama 1975,  
26 to provide that an officer may issue a summons, without an  
27 arrest warrant, in certain circumstances; to repeal Sections

1 13A-5-9, 13A-5-10, 13A-5-10.1, 13A-8-4.1, 13A-8-8.1,  
2 13A-8-10.25, 13A-8-18.1, 13A-12-215, 13A-12-232, 13A-12-250,  
3 and 13A-12-270, Code of Alabama 1975, to repeal the habitual  
4 felony offender laws, and to provide for parole consideration  
5 in certain circumstances; and in connection therewith would  
6 have as its purpose or effect the requirement of a new or  
7 increased expenditure of local funds within the meaning of  
8 Amendment 621 of the Constitution of Alabama of 1901, now  
9 appearing as Section 111.05 of the Official Recompilation of  
10 the Constitution of Alabama of 1901, as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 12-25-34, 12-25-34.2, 12-25-36,  
13 13A-5-6, 13A-5-8.1, Code of Alabama 1975, Section 13A-12-231,  
14 as last amended by Act 2018-552, 2018 Regular Session, Code of  
15 Alabama 1975, and Section 15-22-54, Code of Alabama 1975, are  
16 amended to read as follows:

17 "§12-25-34.

18 "(a) Statewide voluntary sentencing standards shall  
19 be developed and presented to the Legislature in stages over a  
20 three-year period as follows:

21 "(1) By July 31, 2003, the commission shall develop  
22 and distribute to all sentencing judges a reference manual  
23 analyzing historical sentencing practices by duration of  
24 sentence and disposition of felony offenders in Alabama. The  
25 reference manual shall indicate those types of offenders  
26 historically most likely to be sentenced to punishments other



1 than active incarceration where alternatives to active  
2 incarceration are available.

3 "(2) Concurrently with the development and  
4 distribution of the reference manual, the commission shall  
5 develop and begin testing worksheets and voluntary sentencing  
6 standards in selected circuits for selected felony offenses.

7 "(3) The commission shall develop and present the  
8 initial voluntary sentencing standards to the Legislature  
9 before or during the 2006 Regular Session. These standards  
10 shall be introduced in the 2006 Regular Session and shall  
11 become effective on October 1 following the 2006 Regular  
12 Session, if approved by an act of the Legislature passed  
13 during that session. The initial voluntary sentencing  
14 standards based on sentences imposed shall apply to  
15 convictions for felony offenses sentenced on or after October  
16 1, 2006, and committed before the effective date of the  
17 voluntary truth-in-sentencing standards.

18 "(4) The commission shall develop and present  
19 truth-in-sentencing standards to the Legislature before or  
20 during the ~~2020~~ 2025 Regular Session. These standards shall be  
21 introduced in the ~~2020~~ 2025 Regular Session and shall become  
22 effective on October 1 following the ~~2020~~ 2025 Regular  
23 Session, if approved by an act of the Legislature. The  
24 voluntary truth-in-sentencing standards shall apply only to  
25 felony offenses committed on or after the effective date of  
26 these standards.

1           "(b) Recommended sentence ranges shall be  
2 established by standards that are based on historical  
3 sentencing practices, adjusted to achieve sentencing goals as  
4 established in Rule 26 of the Alabama Rules of Criminal  
5 Procedure, this chapter, and Section 12-25-31.

6           "(c) Voluntary sentencing standards shall take into  
7 account and include statewide historically based sentence  
8 ranges, including all applicable statutory minimums and  
9 sentence enhancement provisions, including the Habitual Felony  
10 Offender Act, with adjustments made to reflect current  
11 sentencing policies. No additional penalties pursuant to any  
12 sentence enhancement statute shall apply to sentences imposed  
13 based on the voluntary sentencing standards.

14           "(d) Commencing with the 2013 Regular Session, any  
15 modifications to the initial voluntary sentencing standards  
16 made by the commission shall be contained in the annual report  
17 presented to the Governor, the Legislature, the Chief Justice,  
18 and the Attorney General. An annual report containing proposed  
19 modifications shall be presented to the Governor, the  
20 Legislature, the Chief Justice, and the Attorney General at  
21 least forty-five days prior to each regular session of the  
22 Legislature. The modifications presented for nonviolent  
23 offenses shall become effective on October 1 following the  
24 legislative session in which the modifications were presented  
25 unless rejected by an act of the Legislature enacted by bill  
26 during the legislative session. The modifications presented  
27 for violent offenses shall become effective on October 1

1 following the legislative session in which the modifications  
2 were presented, if approved by an act of the Legislature  
3 enacted by bill during the legislative session in which the  
4 modifications were presented.

5 "§12-25-34.2.

6 "(a) For the purposes of this section, the following  
7 words shall have the following meanings:

8 "(1) AGGRAVATING FACTORS. Substantial and compelling  
9 reasons justifying an exceptional sentence whereby the  
10 sentencing court may impose a departure sentence above the  
11 presumptive sentence recommendation for an offense.

12 Aggravating factors may result in dispositional or sentence  
13 range departures, or both, and shall be stated on the record  
14 by the court.

15 "(2) DEPARTURE. A sentence which departs from the  
16 presumptive sentence recommendation for an offender.

17 "(3) DISPOSITION. The part of the sentencing courts  
18 presumptive sentence recommendation other than sentence  
19 length.

20 "(4) DISPOSITIONAL DEPARTURE. A sentence which  
21 departs from the presumptive sentence recommendation for  
22 disposition of sentence.

23 "(5) MITIGATING FACTORS. Substantial and compelling  
24 reasons justifying an exceptional sentence whereby the  
25 sentencing court may impose a departure sentence below the  
26 presumptive sentence recommendation for an offense. Mitigating  
27 factors may result in disposition or sentence range

1 departures, or both, and shall be stated on the record by the  
2 court.

3 "(6) NONVIOLENT OFFENSES. As defined in Section  
4 12-25-32.

5 "(7) PRESUMPTIVE SENTENCE RECOMMENDATION. The  
6 recommended sentence range and disposition provided in the  
7 sentencing standards.

8 "(8) SENTENCE RANGE. The sentencing court's  
9 discretionary range of length of sentence as provided and  
10 recommended in the presumptive sentencing recommendation.

11 "(9) SENTENCE RANGE DEPARTURE. A sentence which  
12 departs from the presumptive sentence recommendation as to the  
13 sentence range.

14 "(10) VIOLENT OFFENSES. As defined in Section  
15 12-25-32.

16 "(b) The voluntary sentencing standards as provided  
17 for in Section 12-25-34, as applied to nonviolent offenses  
18 shall become presumptive sentencing standards effective  
19 October 1, 2013, to the extent the modification adopted by the  
20 Alabama Sentencing Commission become effective October 1,  
21 2013. The standards shall be applied by the courts in  
22 sentencing subject to departures as provided herein. To  
23 accomplish this purpose as to the existing initial voluntary  
24 sentencing standards, the Alabama Sentencing Commission shall  
25 adopt modifications to the standards, worksheets, and  
26 instructions to the extent necessary to implement this  
27 provision including, but not limited to, defining aggravating

1 and mitigating factors that allow for departure from the  
2 presumptive sentencing recommendations. The commission's  
3 modifications shall be presented to the Legislature in the  
4 commission's annual report within the first five legislative  
5 days of the 2013 Regular Session.

6 "(c) The voluntary sentencing standards as provided  
7 for in Section 12-25-34, as applied to the offenses of Robbery  
8 III pursuant to Section 13A-8-43 and Assault II pursuant to  
9 Section 13A-6-21, shall become presumptive sentencing  
10 standards offenses effective October 1, 2020, to the extent  
11 the modifications adopted by the Alabama Sentencing Commission  
12 become effective October 1, 2020. The standards shall be  
13 applied by the courts in sentencing subject to departures as  
14 provided herein. To accomplish this purpose as to the existing  
15 initial voluntary sentencing standards, the Alabama Sentencing  
16 Commission shall adopt modifications to the standards,  
17 worksheets, and instructions to the extent necessary to  
18 implement this provision including, but not limited to,  
19 defining aggravating and mitigating factors that allow for  
20 departure from the presumptive sentencing recommendations. The  
21 commission's modifications shall be presented to the  
22 Legislature in the commission's annual report at least 45 days  
23 prior to the 2020 Regular Session.

24 ~~"(c)~~ (d) Durational and dispositional departures  
25 from the presumptive sentencing standards shall be subject to  
26 appellate review. Along with the modifications provided for in  
27 subsection (b), the Alabama Sentencing Commission shall

1 recommend a narrowly defined scope of appellate review  
2 applicable to departures from presumptive sentencing  
3 recommendations. The scope of appellate review shall become  
4 effective upon approval by an act of the Legislature enacted  
5 by bill.

6 "§12-25-36.

7 "This section and Sections 12-25-37 and 12-25-38  
8 shall apply only after development and legislative approval of  
9 the proposed truth-in-sentencing standards submitted in ~~2020~~  
10 2025. When a judge sentences based on the voluntary  
11 truth-in-sentencing standards, all of the following rules  
12 shall apply:

13 "(1) Sentences imposed based on voluntary  
14 truth-in-sentencing standards pursuant to this article shall  
15 not be subject to any other provision of law concerning the  
16 duration of sentence.

17 "(2) Sentences imposed based on the voluntary  
18 truth-in-sentencing standards shall include both a minimum and  
19 an extended term of sentence including a period of  
20 post-release supervision. The minimum sentence and the  
21 extended sentence shall be specified in the judgment of the  
22 court for those sentences that are imposed in compliance with  
23 the voluntary truth-in-sentencing standards. Sentence  
24 dispositions may include active incarceration, intermediate  
25 punishment, unsupervised probation, or a minimum punishment as  
26 specified in the voluntary truth-in-sentencing standards.

1           "(3) The minimum term of sentence shall be  
2 consistent with the sentence range recommended in the  
3 voluntary truth-in-sentencing standards for the worksheet  
4 score of an offender. No offender sentenced to incarceration  
5 may be released from incarceration before the expiration date  
6 of the minimum term of sentence.

7           "(4) The extended term of sentence shall be a period  
8 of time equal to 120 percent of the minimum term, rounded to  
9 the next highest month, plus a one-year period of post-release  
10 supervision.

11           "(5) The amount of time an offender shall be  
12 incarcerated on the extended term of sentence shall be  
13 determined by the Department of Corrections pursuant to rules  
14 and regulations established by the Department of Corrections  
15 governing an offender's conduct after conviction and sentence.

16           "(6) No sentence of active incarceration may be  
17 suspended.

18           "(7) For any disposition of sentence less than  
19 active incarceration as defined in paragraph a. of subdivision  
20 (2) of Section 12-25-32, the court shall retain jurisdiction  
21 to modify sentence disposition of sentence.

22           "§13A-5-6.

23           "(a) Sentences for felonies shall be for a definite  
24 term of imprisonment, which imprisonment includes hard labor,  
25 within the following limitations:

26           "(1) For a Class A felony, for life or not more than  
27 99 years or less than 10 years.

1           "(2) For a Class B felony, not more than 20 years or  
2 less than 2 years.

3           "(3) For a Class C felony, not more than 10 years or  
4 less than 1 year and 1 day and must be in accordance with  
5 subsection (b) of Section 15-18-8 ~~unless sentencing is~~  
6 ~~pursuant to Section 13A-5-9.~~

7           "(4) For a Class D felony, not more than 5 years or  
8 less than 1 year and 1 day and must be in accordance with  
9 subsection (b) of Section 15-18-8.

10           "~~(5) For a Class A felony in which a firearm or~~  
11 ~~deadly weapon was used or attempted to be used in the~~  
12 ~~commission of the felony, or a Class A felony sex offense~~  
13 involving a child as defined in Section 15-20A-4(26), not less  
14 than 20 years.

15           "~~(6) For a Class B or C felony in which a firearm or~~  
16 ~~deadly weapon was used or attempted to be used in the~~  
17 ~~commission of the felony, or a Class B felony sex offense~~  
18 involving a child as defined in Section 15-20A-4(26), not less  
19 than 10 years.

20           "(b) The actual time of release within the  
21 limitations established by subsection (a) of this section  
22 shall be determined under procedures established elsewhere by  
23 law.

24           "(c) In addition to any penalties heretofore or  
25 hereafter provided by law, in all cases where an offender is  
26 designated as a sexually violent predator pursuant to Section  
27 15-20A-19, or where an offender is convicted of a Class A



1 felony sex offense involving a child as defined in Section  
2 15-20A-4(26), and is sentenced to a county jail or the Alabama  
3 Department of Corrections, the sentencing judge shall impose  
4 an additional penalty of not less than 10 years of  
5 post-release supervision to be served upon the defendant's  
6 release from incarceration.

7 "(d) In addition to any penalties heretofore or  
8 hereafter provided by law, in all cases where an offender is  
9 convicted of a sex offense pursuant to Section 13A-6-61,  
10 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of  
11 age or older and the victim was six years of age or less at  
12 the time the offense was committed, the defendant shall be  
13 sentenced to life imprisonment without the possibility of  
14 parole.

15 "§13A-5-8.1.

16 "If a defendant is participating in a court  
17 supervised evidence-based treatment program, as that term is  
18 defined in Section 12-25-32, a court ordered faith-based  
19 program, or any other court ordered rehabilitative program and  
20 is subsequently terminated from that program, the court may  
21 then order that the defendant be confined in either a prison,  
22 jail-type institution, treatment institution, or a ~~consenting~~  
23 community corrections program. The court shall impose a  
24 sentence length that complies with either Section 13A-5-6,  
25 Section 13A-5-9, or the sentencing guidelines, whichever is  
26 applicable. Nothing in this section shall preclude the court  
27 from imposing a split sentence under Section 15-18-8 or from

1 suspending a sentence under Section 15-22-50. Nothing in this  
2 section shall limit the court's discretion with regard to any  
3 defendant ordered to participate in a court supervised  
4 evidence-based treatment program, as that term is defined in  
5 Section 12-25-32, a court ordered faith-based program, or any  
6 other court ordered rehabilitative program, whether pre-trial,  
7 pre-trial adjudication, or as a condition of bond.

8 "§13A-12-231.

9 "Except as authorized in Chapter 2, Title 20:

10 "(1) Any person who knowingly sells, manufactures,  
11 delivers, or brings into this state, or who is knowingly in  
12 actual or constructive possession of, in excess of one kilo or  
13 2.2 pounds of any part of the plant of the genus Cannabis,  
14 whether growing or not, the seeds thereof, the resin extracted  
15 from any part of the plant, and every compound, manufacture,  
16 salt, derivative, mixture, or preparation of the plant, its  
17 seeds, or resin including the completely defoliated mature  
18 stalks of the plant, fiber produced from the stalks, oil, or  
19 cake, or the completely sterilized samples of seeds of the  
20 plant which are incapable of germination is guilty of a  
21 felony, which felony shall be known as "trafficking in  
22 cannabis." Nothing in this subdivision shall apply to samples  
23 of tetrahydrocannabinols including, but not limited to, all  
24 synthetic or naturally produced samples of  
25 tetrahydrocannabinols which contain more than 15 percent by  
26 weight of tetrahydrocannabinols and which do not contain plant

1 material exhibiting the external morphological features of the  
2 plant cannabis. If the quantity of cannabis involved:

3 "a. Is in excess of one kilo or 2.2 pounds, but less  
4 than 100 pounds, the person shall be sentenced to a mandatory  
5 minimum term of imprisonment of three calendar years and to  
6 pay a fine of twenty-five thousand dollars (\$25,000).

7 "b. Is 100 pounds or more, but less than 500 pounds,  
8 the person shall be sentenced to a mandatory minimum term of  
9 imprisonment of five calendar years and to pay a fine of fifty  
10 thousand dollars (\$50,000).

11 "c. Is 500 pounds or more, but less than 1,000  
12 pounds, the person shall be sentenced to a mandatory minimum  
13 term of imprisonment of 15 calendar years and to pay a fine of  
14 two hundred thousand dollars (\$200,000).

15 "d. Is 1,000 pounds or more, the person shall be  
16 sentenced to a mandatory term of imprisonment of life.

17 "(2) Any person who knowingly sells, manufactures,  
18 delivers, or brings into this state, or who is knowingly in  
19 actual or constructive possession of, 28 grams or more of  
20 cocaine or of any mixture containing cocaine, described in  
21 Section 20-2-25(1), is guilty of a felony, which felony shall  
22 be known as "trafficking in cocaine." If the quantity  
23 involved:

24 "a. Is 28 grams or more, but less than 500 grams,  
25 the person shall be sentenced to a mandatory minimum term of  
26 imprisonment of three calendar years and to pay a fine of  
27 fifty thousand dollars (\$50,000).

1            "b. Is 500 grams or more, but less than one kilo,  
2 the person shall be sentenced to a mandatory minimum term of  
3 imprisonment of five calendar years and to pay a fine of one  
4 hundred thousand dollars (\$100,000).

5            "c. Is one kilo, but less than 10 kilos, then the  
6 person shall be sentenced to a mandatory minimum term of  
7 imprisonment of 15 calendar years and to pay a fine of two  
8 hundred fifty thousand dollars (\$250,000).

9            "d. Is 10 kilos or more, the person shall be  
10 sentenced to a mandatory term of imprisonment of life.

11           " (3) Any person, except as otherwise authorized by  
12 law, who knowingly sells, manufactures, delivers, or brings  
13 into this state, or who is knowingly in actual or constructive  
14 possession of, four grams or more of any morphine, opium, or  
15 any salt, isomer, or salt of an isomer thereof, including  
16 heroin, as described in Section 20-2-23(b) (2) or Section  
17 20-2-25(1)a., or four grams or more of any mixture containing  
18 any such substance, or any mixture containing Fentanyl or any  
19 synthetic controlled substance Fentanyl analogue, as described  
20 in Sections 20-2-23 and 20-2-25, is guilty of a felony, which  
21 felony shall be known as "trafficking in illegal drugs." If  
22 the quantity involved:

23           "a. Is four grams or more, but less than 14 grams,  
24 the person shall be sentenced to a mandatory minimum term of  
25 imprisonment of three calendar years and to pay a fine of  
26 fifty thousand dollars (\$50,000).

1            "b. Is 14 grams or more, but less than 28 grams, the  
2 person shall be sentenced to a mandatory minimum term of  
3 imprisonment of 10 calendar years and to pay a fine of one  
4 hundred thousand dollars (\$100,000).

5            "c. Is 28 grams or more, but less than 56 grams, the  
6 person shall be sentenced to a mandatory minimum term of  
7 imprisonment of 25 calendar years and to pay a fine of five  
8 hundred thousand dollars (\$500,000).

9            "d. Is 56 grams or more, the person shall be  
10 sentenced to a mandatory term of imprisonment of life.

11           " (4) Any person who knowingly sells, manufactures,  
12 delivers, or brings into this state, or who is knowingly in  
13 actual or constructive possession of 1,000 or more pills or  
14 capsules of methaqualone, as described in Section 20-2-1, et  
15 seq., is guilty of a felony, which felony shall be known as  
16 "trafficking in illegal drugs." If the quantity involved:

17           "a. Is 1,000 pills or capsules, but less than 5,000  
18 pills or capsules, the person shall be sentenced to a  
19 mandatory minimum term of imprisonment of three calendar years  
20 and pay a fine of fifty thousand dollars (\$50,000).

21           "b. Is 5,000 capsules or more, but less than 25,000  
22 capsules, that person shall be imprisoned to a mandatory  
23 minimum term of imprisonment of 10 calendar years and pay a  
24 fine of one hundred thousand dollars (\$100,000).

25           "c. Is 25,000 pills or more, but less than 100,000  
26 pills or capsules, the person shall be sentenced to a

1 mandatory minimum term of imprisonment of 25 calendar years  
2 and pay a fine of five hundred thousand dollars (\$500,000).

3 "d. Is 100,000 capsules or more, the person shall be  
4 sentenced to a mandatory term of imprisonment of life.

5 "(5) Any person who knowingly sells, manufactures,  
6 delivers, or brings into this state, or who is knowingly in  
7 actual or constructive possession of 500 or more pills or  
8 capsules of hydromorphone as is described in Section 20-2-1,  
9 et seq., is guilty of a felony which shall be known as  
10 "trafficking in illegal drugs." If the quantity involved:

11 "a. Is 500 pills or capsules or more but less than  
12 1,000 pills or capsules, the person shall be sentenced to a  
13 mandatory term of imprisonment of three calendar years and to  
14 pay a fine of fifty thousand dollars (\$50,000).

15 "b. Is 1,000 pills or capsules or more, but less  
16 than 4,000 pills or capsules, the person shall be sentenced to  
17 a mandatory term of imprisonment of 10 calendar years and to  
18 pay a fine of one hundred thousand dollars (\$100,000).

19 "c. Is 4,000 pills or capsules or more but less than  
20 10,000 pills or capsules, the person shall be sentenced to a  
21 mandatory term of imprisonment of 25 calendar years and to pay  
22 a fine of one hundred thousand dollars (\$100,000).

23 "d. Is more than 10,000 pills or capsules, the  
24 person shall be sentenced to a mandatory term of life.

25 "(6) Any person who knowingly sells, manufactures,  
26 delivers, or brings into this state, or who is knowingly in  
27 actual or constructive possession of, 28 grams or more of

1 3,4-methylenedioxy amphetamine, or of any mixture containing  
2 3,4-methylenedioxy amphetamine, is guilty of a felony, which  
3 felony shall be known as "trafficking in illegal drugs." If  
4 the quantity involved:

5 "a. Is 28 grams or more, but less than 500 grams,  
6 the person shall be sentenced to a mandatory minimum term of  
7 imprisonment of three calendar years and to pay a fine of  
8 fifty thousand dollars (\$50,000).

9 "b. Is 500 grams or more, but less than one kilo,  
10 the person shall be sentenced to a mandatory minimum term of  
11 imprisonment of five calendar years and to pay a fine of one  
12 hundred thousand dollars (\$100,000).

13 "c. Is one kilo, but less than 10 kilos, then the  
14 person shall be sentenced to a mandatory minimum term of  
15 imprisonment of 15 calendar years and to pay a fine of two  
16 hundred fifty thousand dollars (\$250,000).

17 "d. Is 10 kilos or more, the person shall be  
18 sentenced to a mandatory term of imprisonment of life.

19 "(7) Any person who knowingly sells, manufactures,  
20 delivers, or brings into this state, or who is knowingly in  
21 actual or constructive possession of, 28 grams or more of  
22 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture  
23 containing 5-methoxy-3, 4-methylenedioxy amphetamine is guilty  
24 of a felony, which felony shall be known as "trafficking in  
25 illegal drugs" if the quantity involved:

26 "a. Is 28 grams or more, but less than 500 grams,  
27 the person shall be sentenced to a mandatory minimum term of

1 imprisonment of three calendar years and to pay a fine of  
2 fifty thousand dollars (\$50,000).

3 "b. Is 500 grams or more, but less than one kilo,  
4 the person shall be sentenced to a mandatory minimum term of  
5 imprisonment of five calendar years and to pay a fine of one  
6 hundred thousand dollars (\$100,000).

7 "c. Is one kilo, but less than 10 kilos, then the  
8 person shall be sentenced to a mandatory minimum term of  
9 imprisonment of 15 calendar years and to pay a fine of two  
10 hundred fifty thousand dollars (\$250,000).

11 "d. Is 10 kilos or more, the person shall be  
12 sentenced to a mandatory term of imprisonment of life.

13 "(8) Any person who knowingly sells, manufactures,  
14 delivers, or brings into this state, or who is knowingly in  
15 actual or constructive possession of, four grams or more of  
16 phencyclidine, or any mixture containing phencyclidine, is  
17 guilty of a felony, which felony shall be known as  
18 "trafficking in illegal drugs." If the quantity involved:

19 "a. Is four grams or more, but less than 14 grams,  
20 the person shall be sentenced to a mandatory minimum term of  
21 imprisonment of three calendar years and to pay a fine of  
22 fifty thousand dollars (\$50,000).

23 "b. Is 14 grams or more, but less than 28 grams, the  
24 person shall be sentenced to a mandatory minimum term of  
25 imprisonment of five calendar years and to pay a fine of one  
26 hundred thousand dollars (\$100,000).



1            "c. Is 28 grams or more, but less than 56 grams,  
2 then the person shall be sentenced to a mandatory minimum term  
3 of imprisonment of 15 calendar years and to pay a fine of two  
4 hundred fifty thousand dollars (\$250,000).

5            "d. Is 56 grams or more, the person shall be  
6 sentenced to a mandatory term of imprisonment of life.

7            "(9) Any person who knowingly sells, manufactures,  
8 delivers, or brings into this state, or who is knowingly in  
9 actual or constructive possession of, four grams or more of  
10 lysergic acid diethylamide, of four grams or more of any  
11 mixture containing lysergic acid diethylamide, is guilty of a  
12 felony, which felony shall be known as "trafficking in illegal  
13 drugs." If the quantity involved:

14            "a. Is four grams or more, but less than 14 grams,  
15 the person shall be sentenced to a mandatory minimum term of  
16 imprisonment of three calendar years and to pay a fine of  
17 fifty thousand dollars (\$50,000).

18            "b. Is 14 grams or more, but less than 28 grams, the  
19 person shall be sentenced to a mandatory minimum term of  
20 imprisonment of 10 calendar years and to pay a fine of one  
21 hundred thousand dollars (\$100,000).

22            "c. Is 28 grams or more, but less than 56 grams, the  
23 person shall be sentenced to a mandatory minimum term of  
24 imprisonment of 25 calendar years and to pay a fine of five  
25 hundred thousand dollars (\$500,000).

26            "d. Is 56 grams or more, the person shall be  
27 sentenced to a mandatory term of imprisonment of life.

1           "(10) Any person who knowingly sells, manufactures,  
2 delivers, or brings into this state, or who is knowingly in  
3 actual or constructive possession of, 28 grams or more of  
4 amphetamine or any mixture containing amphetamine, its salt,  
5 optical isomer, or salt of its optical isomer thereof, is  
6 guilty of a felony, which felony shall be known as  
7 "trafficking in amphetamine." If the quantity involved:

8           "a. Is 28 grams or more but less than 500 grams, the  
9 person shall be sentenced to a mandatory minimum term of  
10 imprisonment of three calendar years and to pay a fine of  
11 fifty thousand dollars (\$50,000).

12           "b. Is 500 grams or more, but less than one kilo,  
13 the person shall be sentenced to a mandatory minimum term of  
14 imprisonment of five calendar years and to pay a fine of one  
15 hundred thousand dollars (\$100,000).

16           "c. Is one kilo but less than 10 kilos, then the  
17 person shall be sentenced to a mandatory minimum term of  
18 imprisonment of 15 calendar years and to pay a fine of two  
19 hundred fifty thousand dollars (\$250,000).

20           "d. Is 10 kilos or more, the person shall be  
21 sentenced to a mandatory term of imprisonment of life.

22           "(11) Any person who knowingly sells, manufactures,  
23 delivers, or brings into this state, or who is knowingly in  
24 actual or constructive possession of, 28 grams or more of  
25 methamphetamine or any mixture containing methamphetamine, its  
26 salts, optical isomers, or salt of its optical isomers

1       thereof, is guilty of a felony, which felony shall be known as  
2       "trafficking in methamphetamine." If the quantity involved:

3               "a. Is 28 grams or more but less than 500 grams, the  
4       person shall be sentenced to a mandatory minimum term of  
5       imprisonment of three calendar years and to pay a fine of  
6       fifty thousand dollars (\$50,000).

7               "b. Is 500 grams or more, but less than one kilo,  
8       the person shall be sentenced to a mandatory minimum term of  
9       imprisonment of five calendar years and to pay a fine of one  
10       hundred thousand dollars (\$100,000).

11              "c. Is one kilo but less than 10 kilos, then the  
12       person shall be sentenced to a mandatory minimum term of  
13       imprisonment of 15 calendar years and to pay a fine of two  
14       hundred fifty thousand dollars (\$250,000).

15              "d. Is 10 kilos or more, the person shall be  
16       sentenced to a mandatory term of imprisonment of life.

17              "(12) Any person who knowingly sells, manufactures,  
18       delivers, or brings into this state, or who is knowingly in  
19       actual or constructive possession of 56 or more grams of a  
20       synthetic controlled substance or a synthetic controlled  
21       substance analogue, as described in subdivision (4) or (5) of  
22       subsection (a) of Section 20-2-23, except for any synthetic  
23       controlled substance Fentanyl analogue referenced in  
24       subdivision (13), is guilty of a felony, which felony shall be  
25       known as "trafficking in synthetic controlled substances." If  
26       the quantity involved:

1           "a. Is 56 grams or more, but less than 500 grams,  
2 the person shall be sentenced to a mandatory minimum term of  
3 imprisonment of three calendar years and to pay a fine of  
4 fifty thousand dollars (\$50,000).

5           "b. Is 500 grams or more, but less than 1 kilo, the  
6 person shall be sentenced to a mandatory minimum term of  
7 imprisonment of 10 calendar years and to pay a fine of one  
8 hundred thousand dollars (\$100,000).

9           "c. Is one kilo, but less than 10 kilos, then the  
10 person shall be sentenced to a mandatory minimum term of  
11 imprisonment of 15 calendar years and to pay a fine of two  
12 hundred fifty thousand dollars (\$250,000).

13           "d. Is 10 kilos or more, the person shall be  
14 sentenced to a mandatory term of imprisonment of life.

15           "(13) Any person, unless otherwise authorized by  
16 law, who knowingly sells, manufactures, delivers, or brings  
17 into this state, or who is knowingly in actual or constructive  
18 possession of, one gram or more of Fentanyl or any synthetic  
19 controlled substance Fentanyl analogue, as a single component  
20 as described in Sections 20-2-23 and 20-2-25, is guilty of a  
21 felony, which felony shall be known as "trafficking in illegal  
22 drugs." If the quantity involved:

23           "a. Is one gram or more, but less than two grams,  
24 the person shall be ordered to pay a minimum fine of fifty  
25 thousand dollars (\$50,000).

1            "b. Is two grams or more, but less than four grams,  
2 the person shall be ordered to pay a minimum fine of one  
3 hundred thousand dollars (\$100,000).

4            "c. Is four grams or more, but less than eight  
5 grams, the person shall be ordered to pay a minimum fine of  
6 five hundred thousand dollars (\$500,000).

7            "d. Is eight grams or more, the person shall be  
8 ordered to pay a minimum fine of seven hundred fifty thousand  
9 dollars (\$750,000).

10           " (14) In lieu of the weight ranges listed in  
11 subdivision (12), a person may instead be charged with  
12 trafficking any substance listed in subdivisions (3) and (12)  
13 if that person possesses 50 or more individual packages of  
14 that substance. The person shall only be sentenced according  
15 to the sentence range provision listed in paragraph a. of each  
16 subdivision for the specific substance contained in the 50 or  
17 more individual packages if charged pursuant to this  
18 subdivision, subdivision (15), or subdivision (16), if  
19 applicable. In order to charge a person pursuant to this  
20 subdivision, the same substance must be contained in each of  
21 the 50 or more individual packages.

22           " (15) The felonies of "trafficking in cannabis,"  
23 "trafficking in cocaine," "trafficking in illegal drugs,"  
24 "trafficking in amphetamine," "trafficking in  
25 methamphetamine," and "trafficking in synthetic controlled  
26 substances" as defined in subdivisions (1) through (14),  
27 above, shall be treated as Class A felonies for purposes of

1 this title, ~~including sentencing under Section 13A-5-9.~~  
2 ~~Provided, however, that the sentence of imprisonment for a~~  
3 ~~defendant with one or more prior felony convictions who~~  
4 ~~violates subdivisions (1) through (14) of this section shall~~  
5 ~~be the sentence provided therein, or the sentence provided~~  
6 ~~under Section 13A-5-9, whichever is greater.~~ Provided further,  
7 that the fine for a defendant with one or more prior felony  
8 convictions who violates subdivisions (1) through (14) of this  
9 section shall be the fine provided therein, ~~or the fine~~  
10 ~~provided under Section 13A-5-9, whichever is greater.~~

11 ~~"(16) Notwithstanding any provision of law to the~~  
12 ~~contrary, any person who has possession of a firearm during~~  
13 ~~the commission of any act proscribed by this section shall be~~  
14 ~~punished by a term of imprisonment of five calendar years~~  
15 ~~which shall be in addition to, and not in lieu of, the~~  
16 ~~punishment otherwise provided, and a fine of twenty-five~~  
17 ~~thousand dollars (\$25,000); the court shall not suspend the~~  
18 ~~five-year additional sentence of the person or give the person~~  
19 ~~a probationary sentence.~~

20 "§15-22-54.

21 "(a) The period of probation or suspension of  
22 execution of sentence shall be determined by the court and  
23 shall not be waived by the defendant, and the period of  
24 probation or suspension may be continued, extended, or  
25 terminated. However, except as provided in Section 32-5A-191  
26 relating to ignition interlock requirements, in no case shall  
27 the maximum probation period of a defendant guilty of a

1 misdemeanor exceed two years, nor shall the maximum probation  
2 period of a defendant guilty of a felony exceed five years.  
3 When the conditions of probation or suspension of sentence are  
4 fulfilled, the court shall, by order duly entered on its  
5 minutes, discharge the defendant.

6 "(b) The court granting probation may, upon the  
7 recommendation of the officer supervising the probationer,  
8 terminate all authority and supervision over the probationer  
9 prior to the declared date of completion of probation upon  
10 showing a continued satisfactory compliance with the  
11 conditions of probation over a sufficient portion of the  
12 period of the probation. At least every two years, and after  
13 providing notice to the district attorney, the court shall  
14 review the probationer's suitability for discharge from  
15 probation supervision if the probationer has satisfied all  
16 financial obligations owed to the court, including  
17 restitution, and has not had his or her supervision revoked.

18 "(c) At any time during the period of probation or  
19 suspension of execution of sentence, the court may issue a  
20 warrant and cause the defendant to be arrested for violating  
21 any of the conditions of probation or suspension of sentence,  
22 upon which the court shall hold a violation hearing. No  
23 probationer shall be held in jail awaiting such violation  
24 hearing for longer than 20 business days, unless new criminal  
25 charges are pending. If the hearing is not held within the  
26 specified time, the sheriff shall release the probation  
27 violator unless there are other pending criminal charges. A

1 judge shall have authority to issue a bond to a probationer  
2 for release from custody.

3 "(d) Except as provided in Chapter 15 of Title 12,  
4 any probation officer, police officer, or other officer with  
5 power of arrest, when requested by the probation officer, may  
6 arrest a probationer without a warrant. In case of an arrest  
7 without a warrant, the arresting officer shall have a written  
8 statement by the probation officer setting forth that the  
9 probationer has, in his or her judgment, violated the  
10 conditions of probation, and the statement shall be sufficient  
11 warrant for the detention of the probationer in the county  
12 jail or other appropriate place of detention until the  
13 probationer is brought before the court. The probation officer  
14 shall forthwith report the arrest and detention to the court  
15 and submit in writing a report showing in what manner the  
16 probationer has violated probation.

17 "(e) After conducting a violation hearing and  
18 finding sufficient evidence to support a probation violation,  
19 the court may revoke probation to impose a sentence of  
20 imprisonment, and credit shall be given for all time spent in  
21 custody prior to revocation. If the probationer was convicted  
22 of a Class D felony and his or her probation is revoked, the  
23 incarceration portion of any split sentence imposed due to  
24 revocation shall be limited to two years or one-third of the  
25 original suspended prison sentence, whichever is less.  
26 However, in all cases, excluding violent offenses defined  
27 pursuant to Section 12-25-32 and classified as a Class A



1 felony, and sex offenses, defined pursuant to Section  
2 15-20A-5, the court may only revoke probation as provided  
3 below:

4 "(1) Unless the underlying offense is a violent  
5 offense as defined in Section 12-25-32 and classified as a  
6 Class A felony, when a defendant under supervision for a  
7 felony conviction has violated a condition of probation, other  
8 than arrest or conviction of a new offense or absconding, the  
9 court may impose a period of confinement of no more than 45  
10 consecutive days to be served in the custody population of the  
11 Department of Corrections or county jail. By April 29, 2016,  
12 the Department of Corrections shall develop and implement a  
13 streamlined process to transport and receive the probationer  
14 into its custody population and shall identify and, if  
15 possible, implement policies aimed at reducing the  
16 administrative delays, if any, in transferring to the  
17 Department of Corrections the physical custody of the  
18 probationer and those whose probation has been revoked. Such  
19 process shall be developed in cooperation with the Alabama  
20 Sheriffs' Association and the Association of County  
21 Commissions of Alabama. Such process shall include the most  
22 cost-effective method to process sanctioned probation  
23 violators for the maximum 45-day confinement period and shall  
24 provide that the Department of Corrections shall reimburse the  
25 state mileage rate, as determined by the Alabama Comptroller's  
26 Office, to the county for any state inmate sanctioned as a  
27 probation violator and transferred to or from a Department of

1 Corrections facility by the county. Upon completion of the  
2 confinement period, the remaining probation period or  
3 suspension of sentence shall automatically continue upon the  
4 defendant's release from confinement. The court shall not  
5 revoke probation unless the defendant has previously received  
6 a total of three periods of confinement under this subsection.  
7 For purposes of revocation, the court may take judicial notice  
8 of the three total periods of confinement under this  
9 subsection. A defendant shall only receive three total periods  
10 of confinement under this subsection. The maximum 45-day term  
11 of confinement ordered under this subsection for a felony  
12 shall not be reduced by credit for time already served in the  
13 case. Any such credit shall instead be applied to the  
14 suspended sentence. In the event the time remaining on the  
15 imposed sentence is 45 days or less, the term of confinement  
16 shall be for the remainder of the defendant's sentence.

17 "(2) The total time spent in confinement under this  
18 subsection shall not exceed the term of the defendant's  
19 original sentence.

20 "(3) Confinement shall be immediate. The court shall  
21 be responsible for ensuring that the circuit clerk receives  
22 the order revoking probation within five business days. The  
23 circuit clerk shall insure that the Department of Corrections  
24 receives necessary transcripts for imposing a period of  
25 confinement within five business days of its receipt of the  
26 court's order.

1           "(4) If a probation violator, as described in  
2 subdivision (1), is presented to the county jail for  
3 confinement and the probation violator has a serious medical  
4 condition, the confinement of the probation violator creates a  
5 security risk to the jail facility, or the jail is near, at,  
6 or over capacity, the sheriff may refuse to admit the  
7 probation violator. If while in custody of the county jail the  
8 probation violator develops a serious medical condition, the  
9 confinement of the probation violator creates a security risk  
10 to the facility, or the county jail reaches near, at, or  
11 overcapacity, the sheriff may release the probation violator  
12 upon notification to the probation officer and to the court  
13 who has jurisdiction over the probation violator. A sheriff  
14 and his or her staff shall be immune from liability for  
15 exercising discretion pursuant to Section 36-1-12 in refusing  
16 to admit a probation violator into the jail or releasing a  
17 probation violator from jail under the circumstances described  
18 above.

19           "(f) In lieu of the provisions of subsections (c)  
20 through (e), when a probationer violates his or her probation  
21 terms and conditions imposed by the court, his or her  
22 probation officer may, after administrative review and  
23 approval by the officer's supervisor, require the probationer  
24 to submit to behavioral treatment, substance abuse treatment,  
25 GPS monitoring, such other treatment as determined by the  
26 board or supervising officer, or a period of confinement in a

1 consenting jail facility as specified in subdivision (10) of  
2 Section 15-22-52.

3 "(g) Prior to imposing a sanction provided under  
4 subsection (f) and pursuant to subdivision (10) of Section  
5 15-22-52, the probationer must first be presented with a  
6 violation report, with the alleged probation violations and  
7 supporting evidence noted. The probationer may file a motion  
8 with the court to conduct a probation violation hearing within  
9 10 days. The probationer shall be given notice of the right to  
10 such hearing and advised of the right (i) to a hearing before  
11 the court on the alleged violation in person, with the right  
12 to present relevant witnesses and documentary evidence; (ii)  
13 to retain and have counsel at the hearing and that counsel  
14 will be appointed if the probationer is indigent; and (iii) to  
15 confront and cross examine any adverse witnesses. Upon the  
16 signing of a waiver of these rights by the probationer and the  
17 supervising probation officer, with approval of a supervisor,  
18 the probationer may be treated, monitored, or confined for the  
19 period recommended in the violation report and designated in  
20 the waiver. However, the probationer shall have no right of  
21 review if he or she has signed a written waiver of rights as  
22 provided in this subsection.

23 "(h) The board shall adopt guidelines and procedures  
24 to implement the requirements of this section, which shall  
25 include the requirement of a supervisor's approval prior to a  
26 supervising probation officer's exercise of the delegation of  
27 authority authorized by subsection (f)."

1                   Section 2. Sections 13A-4-1, 13A-4-2, 13A-4-3,  
2                   13A-8-1, 13A-8-3, 13A-8-4, 13A-8-5, 13A-8-7, 13A-8-8, 13A-8-9,  
3                   13A-8-10, 13A-8-10.1, 13A-8-10.2, 13A-8-10.3, 13A-8-16,  
4                   13A-8-17, 13A-8-18, 13A-8-19, 13A-8-144, 13A-8-194,  
5                   13A-12-211, as last amended by Act 2018-552, 2018 Regular  
6                   Session, 13A-12-212, 13A-12-213, 13A-12-214, 13A-12-218, and  
7                   40-17A-9, Code of Alabama 1975, are amended to read as  
8                   follows:

9                   "§13A-4-1.

10                  "(a) (1) A person is guilty of criminal solicitation  
11                  if, with the intent that another person engage in conduct  
12                  constituting a crime, he solicits, requests, commands or  
13                  importunes such other person to engage in such conduct.

14                  "(2) A person may not be convicted of criminal  
15                  solicitation upon the uncorroborated testimony of the person  
16                  allegedly solicited, and there must be proof of circumstances  
17                  corroborating both the solicitation and the defendant's  
18                  intent.

19                  "(b) A person is not liable under this section if,  
20                  under circumstances manifesting a voluntary and complete  
21                  renunciation of his criminal intent, he (1) notified the  
22                  person solicited of his renunciation and (2) gave timely and  
23                  adequate warning to the law enforcement authorities or  
24                  otherwise made a substantial effort to prevent the commission  
25                  of the criminal conduct solicited. The burden of injecting  
26                  this issue is on the defendant, but this does not shift the  
27                  burden of proof.

1           "(c) A person is not liable under this section when  
2 his solicitation constitutes conduct of a kind that is  
3 necessarily incidental to the commission of the offense  
4 solicited. When the solicitation constitutes an offense other  
5 than criminal solicitation which is related to but separate  
6 from the offense solicited, defendant is guilty of such  
7 related offense only and not of criminal solicitation.

8           "(d) It is no defense to a prosecution for criminal  
9 solicitation that the person solicited could not be guilty of  
10 the offense solicited because of:

11                 "(1) Criminal irresponsibility or other legal  
12 incapacity or exemption; or

13                 "(2) Unawareness of the criminal nature of the  
14 conduct solicited or of the defendant's criminal purpose; or

15                 "(3) Any other factor precluding the mental state  
16 required for the commission of the offense in question.

17           "(e) It is no defense to a prosecution for criminal  
18 solicitation that defendant belongs to a class of persons who  
19 by definition are legally incapable in an individual capacity  
20 of committing the offense that he solicited another to commit.

21                 "(f) Criminal solicitation is a:

22                         "(1) Class A felony if the offense solicited is  
23 murder.

24                         "(2) Class B felony if the offense solicited is a  
25 Class A felony.

26                         "(3) Class C felony if the offense solicited is a  
27 Class B felony.

1           "(4) Class D felony if the offense solicited is a  
2 Class C felony.

3           "~~(4)~~ (5) Class A misdemeanor if the offense  
4 solicited is a Class ~~C~~ D felony.

5           "~~(5)~~ (6) Class B misdemeanor if the offense  
6 solicited is a Class A misdemeanor.

7           "~~(6)~~ (7) Class C misdemeanor if the offense  
8 solicited is a Class B misdemeanor.

9           "~~(7)~~ (8) Violation if the offense solicited is a  
10 Class C misdemeanor.

11           "§13A-4-2.

12           "(a) A person is guilty of an attempt to commit a  
13 crime if, with the intent to commit a specific offense, he  
14 does any overt act towards the commission of such offense.

15           "(b) It is no defense under this section that the  
16 offense charged to have been attempted was, under the  
17 attendant circumstances, factually or legally impossible of  
18 commission, if such offense could have been committed had the  
19 attendant circumstances been as the defendant believed them to  
20 be.

21           "(c) A person is not liable under this section if,  
22 under circumstances manifesting a voluntary and complete  
23 renunciation of this criminal intent, he avoided the  
24 commission of the offense attempted by abandoning his criminal  
25 effort and, if mere abandonment is insufficient to accomplish  
26 such avoidance, by taking further and affirmative steps which  
27 prevented the commission thereof. The burden of injecting this

1 issue is on the defendant, but this does not shift the burden  
2 of proof.

3 "(d) An attempt is a:

4 "(1) Class A felony if the offense attempted is  
5 murder.

6 "(2) Class B felony if the offense attempted is a  
7 Class A felony.

8 "(3) Class C felony if the offense attempted is a  
9 Class B felony.

10 "(4) Class D felony if the offense attempted is a  
11 Class C felony.

12 "~~(4)~~ (5) Class A misdemeanor if the offense  
13 attempted is a Class ~~C~~ D felony.

14 "~~(5)~~ (6) Class B misdemeanor if the offense  
15 attempted is a Class A misdemeanor.

16 "~~(6)~~ (7) Class C misdemeanor if the offense  
17 attempted is a Class B misdemeanor.

18 "~~(7)~~ (8) Violation if the offense attempted is a  
19 Class C misdemeanor.

20 "§13A-4-3.

21 "(a) A person is guilty of criminal conspiracy if,  
22 with the intent that conduct constituting an offense be  
23 performed, he agrees with one or more persons to engage in or  
24 cause the performance of such conduct, and any one or more of  
25 such persons does an overt act to effect an objective of the  
26 agreement.



1           "(b) If a person knows or should know that one with  
2 whom he agrees has in turn agreed or will agree with another  
3 to effect the same criminal objective, he shall be deemed to  
4 have agreed with such other person, whether or not he knows  
5 the other's identity.

6           "(c) A person is not liable under this section if,  
7 under circumstances manifesting a voluntary and complete  
8 renunciation of his criminal purpose, he gave a timely and  
9 adequate warning to law enforcement authorities or made a  
10 substantial effort to prevent the enforcement of the criminal  
11 conduct contemplated by the conspiracy. Renunciation by one  
12 conspirator, however, does not affect the liability of another  
13 conspirator who does not join in the abandonment of the  
14 conspiratorial objective. The burden of injecting the issue of  
15 renunciation is on the defendant, but this does not shift the  
16 burden of proof.

17           "(d) It is no defense to a prosecution for criminal  
18 conspiracy that:

19           "(1) The person, or persons, with whom defendant is  
20 alleged to have conspired has been acquitted, has not been  
21 prosecuted or convicted, has been convicted of a different  
22 offense or is immune from prosecution, or

23           "(2) The person, or persons, with whom defendant  
24 conspired could not be guilty of the conspiracy or the object  
25 crime because of lack of mental responsibility or culpability,  
26 or other legal incapacity or defense, or

1           "(3) The defendant belongs to a class of persons who  
2 by definition are legally incapable in an individual capacity  
3 of committing the offense that is the object of the  
4 conspiracy.

5           "(e) A conspirator is not liable under this section  
6 if, had the criminal conduct contemplated by the conspiracy  
7 actually been performed, he would be immune from liability  
8 under the law defining the offense or as an accomplice under  
9 Section 13A-2-24.

10           "(f) Liability as accomplice. Accomplice liability  
11 for offenses committed in furtherance of a conspiracy is to be  
12 determined as provided in Section 13A-2-23.

13           "(g) Criminal conspiracy is a:

14           "(1) Class A felony if an object of the conspiracy  
15 is murder.

16           "(2) Class B felony if an object of the conspiracy  
17 is a Class A felony.

18           "(3) Class C felony if an object of the conspiracy  
19 is a Class B felony.

20           "(4) Class D felony if an object of the conspiracy  
21 is a Class C felony.

22           "~~(4)~~ (5) Class A misdemeanor if an object of the  
23 conspiracy is a Class ~~C~~ D felony.

24           "~~(5)~~ (6) Class B misdemeanor if an object of the  
25 conspiracy is a Class A misdemeanor.

26           "~~(6)~~ (7) Class C misdemeanor if an object of the  
27 conspiracy is a Class B misdemeanor.

1           "~~(7)~~ (8) Violation if an object of the conspiracy is  
2 a Class C misdemeanor.

3           "§13A-8-1.

4           "The following definitions are applicable in this  
5 article unless the context otherwise requires:

6           "(1) DECEPTION occurs when a person knowingly does  
7 any of the following:

8           "a. Creates or confirms another's impression which  
9 is false and which the defendant does not believe to be true~~;~~  
10 or.

11           "b. Fails to correct a false impression which the  
12 defendant previously has created or confirmed~~;~~or.

13           "c. Fails to correct a false impression when the  
14 defendant is under a duty to do so~~;~~or.

15           "d. Prevents another from acquiring information  
16 pertinent to the disposition of the property involved~~;~~or.

17           "e. Sells or otherwise transfers or encumbers  
18 property, failing to disclose a lien, adverse claim, or other  
19 legal impediment to the enjoyment of the property when the  
20 defendant is under a duty to do so, whether that impediment is  
21 or is not valid, or is not a matter of official record~~;~~or.

22           "f. Promises performance which the defendant does  
23 not intend to perform or knows will not be performed. Failure  
24 to perform, standing alone, however, is not proof that the  
25 defendant did not intend to perform.

26           "The term "deception" does not, however, include  
27 falsity as to matters having no pecuniary significance, or

1 puffing by statements unlikely to deceive ordinary persons.  
2 "Puffing" means an exaggerated commendation of wares or  
3 services.

4 "(2) To "DEPRIVE ..." means any of the following:

5 "a. To withhold property or cause it to be withheld  
6 from a person permanently or for such period or under such  
7 circumstances that all or a portion of its use or benefit  
8 would be lost to him or her;~~or.~~

9 "b. To dispose of the property so as to make it  
10 unlikely that the owner would recover it;~~or.~~

11 "c. To retain the property with intent to restore it  
12 to the owner only if the owner purchases or leases it back, or  
13 pays a reward or other compensation for its return;~~or.~~

14 "d. To sell, give, pledge, or otherwise transfer any  
15 interest in the property;~~or.~~

16 "e. To subject the property to the claim of a person  
17 other than the owner.

18 "(3) FIFTH WHEEL. Coupling between a trailer and a  
19 vehicle used for towing.

20 "(4) FINANCIAL INSTITUTION. A bank, insurance  
21 company, credit union, safety deposit company, savings and  
22 loan association, investment trust, or other organization held  
23 out to the public as a place of deposit of funds or medium of  
24 savings or collective investment.

25 "(5) FIREARM. A weapon from which a shot is  
26 discharged by gunpowder.

1           "(6) GOVERNMENT. The United States, any state or any  
2 county, municipality, or other political unit within territory  
3 belonging to the United States, or any department, agency, or  
4 subdivision of any of the foregoing, or any corporation or  
5 other association carrying out the functions of government, or  
6 any corporation or agency formed pursuant to interstate  
7 compact or international treaty.

8           "As used in this definition "state" includes any  
9 state, territory, or possession of the United States, the  
10 District of Columbia, and the Commonwealth of Puerto Rico.

11           "(7) OBTAINS. Such term means any of the following:

12           "a. In relation to property, to bring about a  
13 transfer or purported transfer of a legally recognized  
14 interest in the property, whether to the obtainer or another  
15 ~~or~~.

16           "b. In relation to labor or service, to secure  
17 performance thereof.

18           "(8) OBTAINS OR EXERTS CONTROL or OBTAINS OR EXERTS  
19 UNAUTHORIZED CONTROL over property includes but is not  
20 necessarily limited to the taking, carrying away, or the sale,  
21 conveyance, or transfer of title to, or interest in, or  
22 possession of, property, and includes but is not necessarily  
23 limited to conduct heretofore defined or known as common law  
24 larceny by trespassory taking, common law larceny by trick,  
25 larceny by conversion, embezzlement, extortion, or obtaining  
26 property by false pretenses.

1           "(9) OWNER. A person, other than the defendant, who  
2 has possession of or any other interest in the property  
3 involved, even though that interest or possession is unlawful,  
4 and without whose consent the defendant has no authority to  
5 exert control over the property.

6           "A secured party, as defined in Section  
7 7-9A-102~~(a)~~(72), is not an owner in relation to a defendant  
8 who is a debtor, as defined in Section 7-9A-102~~(a)~~(28), in  
9 respect of property in which the secured party has a security  
10 interest, as defined in Section 7-1-201~~(37)~~.

11           "(10) PROPELLED VEHICLE. Any propelled device in,  
12 upon, or by which any person or property is transported on  
13 land, water, or in the air, and such term includes motor  
14 vehicles, motorcycles, motorboats, aircraft, and any vessel  
15 propelled by machinery, whether or not that machinery is the  
16 principal source of propulsion.

17           "(11) PROPERTY. Any money, tangible or intangible  
18 personal property, property (whether real or personal) the  
19 location of which can be changed (including things growing on,  
20 affixed to, or found in land and documents, although the  
21 rights represented hereby have no physical location), contract  
22 right, chose-in-action, interest in a claim to wealth, credit,  
23 or any other article or thing of value of any kind.

24           "Commodities of a public utility nature, such as  
25 gas, electricity, steam, and water, constitute property, but  
26 the supplying of such a commodity to premises from an outside  
27 source by means of wires, pipes, conduits, or other equipment

1 shall be deemed a rendition of a service rather than a sale or  
2 delivery of property.

3 "(12) RECEIVING. Such term includes, but is not  
4 limited to, acquiring possession, control, or title and taking  
5 a security interest in the property.

6 "(13) STOLEN. Obtained by theft, theft by  
7 appropriating lost property, robbery, or extortion.

8 "(14) THREAT. A menace, however communicated, ~~to~~  
9 that has the intent to do any of the following:

10 "a. Cause physical harm to the person threatened or  
11 to any other person;~~or.~~

12 "b. Cause damage to property;~~or.~~

13 "c. Subject the person threatened or any other  
14 person to physical confinement or restraint;~~or.~~

15 "d. Engage in other conduct constituting a crime;  
16 ~~or.~~

17 "e. Accuse any person of a crime or cause criminal  
18 charges to be instituted against any person;~~or.~~

19 "f. Expose a secret or publicize an asserted fact,  
20 whether true or false, tending to subject any person to  
21 hatred, contempt, or ridicule;~~or.~~

22 "g. Reveal any information sought to be concealed by  
23 the person threatened;~~or.~~

24 "h. Testify or provide information or withhold  
25 testimony or information with respect to another's legal claim  
26 or defense;~~or.~~

1            "i. Take action as an official against anyone or  
2 anything, or withhold official action, or cause such action or  
3 withholding;~~or.~~

4            "j. Bring about or continue a strike, boycott, or  
5 other similar collective action to obtain property which is  
6 not demanded or received for the benefit of the group which  
7 the actor purports to represent;~~or.~~

8            "k. Do any other act which would not in itself  
9 substantially benefit the actor but which is calculated to  
10 harm substantially another person with respect to his or her  
11 health, safety, business, calling, career, financial  
12 condition, reputation, or personal relationships.

13            "(15) VALUE. The market value of the property at the  
14 time and place of the criminal act.

15            "Whether or not they have been issued or delivered,  
16 certain written instruments, not including those having a  
17 readily ascertainable market value such as some public and  
18 corporate bonds and securities shall be evaluated as follows:

19            "a. The value of an instrument constituting an  
20 evidence of debt, such as a check, draft, or promissory note,  
21 shall be deemed the amount due or collectible thereon or  
22 thereby, that figure ordinarily being the face amount of the  
23 indebtedness less any portion thereof which has been  
24 satisfied.

25            "b. The value of any other instrument that creates,  
26 releases, discharges, or otherwise affects any valuable legal  
27 right, privilege, or obligation shall be deemed the greatest



1 amount of economic loss which the owner of the instrument  
2 might reasonably suffer by virtue of the loss of the  
3 instrument.

4 "When the value of property cannot be ascertained  
5 pursuant to the standards set forth above, its value shall be  
6 deemed to be an amount not exceeding five hundred dollars  
7 (\$500).

8 "Amounts involved in thefts committed pursuant to  
9 one scheme or course of conduct, whether from the same person  
10 or several persons, may be aggregated in determining the grade  
11 of the offense; provided, that only one conviction may be had  
12 and only one sentence enforced for all thefts included in such  
13 aggregate.

14 "§13A-8-3.

15 "(a) The theft of property ~~which that~~ exceeds ~~two~~  
16 three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in  
17 value, ~~or property of any value taken from the person of~~  
18 ~~another,~~ constitutes theft of property in the first degree.

19 "(b) The theft of property of any value taken from  
20 the person of another constitutes theft of property in the  
21 first degree.

22 "~~(b)~~ (c) The theft of a motor vehicle, regardless of  
23 its value, constitutes theft of property in the first degree.

24 "~~(c)~~ (d) (1) The theft of property which involves all  
25 of the following constitutes theft of property in the first  
26 degree:

1           "a. The theft is a common plan or scheme by one or  
2 more persons;~~and.~~

3           "b. The object of the common plan or scheme is to  
4 sell or transfer the property to another person or business  
5 that buys the property with knowledge or reasonable belief  
6 that the property is stolen;~~and.~~

7           "c. The aggregate value of the property stolen is at  
8 least ~~one~~ two thousand dollars ~~(\$1,000)~~ (\$2,000) within a  
9 180-day period.

10           "(2) If the offense under this subsection involves  
11 two or more counties, prosecution may be commenced in any one  
12 of those counties in which the offense occurred or in which  
13 the property was disposed.

14           "~~(d)~~ (e) Theft of property in the first degree is a  
15 Class B felony."

16           "§13A-8-4.

17           "(a) The theft of property ~~between one~~ that exceeds  
18 two thousand ~~five hundred~~ dollars ~~(\$1,500)~~ (\$2,000) in value  
19 ~~and two~~ but does not exceed three thousand five hundred  
20 dollars ~~(\$2,500)~~ (\$3,500) in value, and which is not taken  
21 from the person of another, constitutes theft of property in  
22 the second degree.

23           "~~(b) Theft of property in the second degree is a~~  
24 ~~Class C felony.~~

25           "~~(c)~~ (b) The theft of a firearm, rifle, or shotgun,  
26 regardless of its value, constitutes theft of property in the  
27 second degree.

1           "~~(d)~~ (c) The theft of any substance controlled by  
2 Chapter 2 of Title 20 or any amendments thereto, regardless of  
3 value, constitutes theft of property in the second degree.

4           "~~(e)~~ (d) The theft of any livestock which includes  
5 cattle, swine, equine or equidae, or sheep, regardless of  
6 their value, constitutes theft of property in the second  
7 degree.

8           "(e) Theft of property in the second degree is a  
9 Class C felony.

10           "§13A-8-5.

11           "(a) The theft of property ~~which~~ that does not  
12 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in  
13 value and which is not taken from the person of another  
14 constitutes theft of property in the ~~fourth~~ third degree.

15           "(b) Theft of property in the ~~fourth~~ third degree is  
16 a Class A misdemeanor.

17           "§13A-8-7.

18           "(a) The theft of lost property ~~which~~ that exceeds  
19 ~~two~~ three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in  
20 value constitutes theft of lost property in the first degree.

21           "(b) Theft of lost property in the first degree is a  
22 Class B felony.

23           "§13A-8-8.

24           "(a) The theft of lost property ~~between one~~ that  
25 exceeds two thousand ~~five hundred~~ dollars ~~(\$1,500)~~ (\$2,000) in  
26 value ~~and two~~ but does not exceed three thousand five hundred

1 dollars ~~(\$2,500)~~ (\$3,500) in value constitutes theft of lost  
2 property in the second degree.

3 "(b) Theft of lost property in the second degree is  
4 a Class C felony.

5 "§13A-8-9.

6 "(a) The theft of lost property ~~which~~ that does not  
7 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in  
8 value constitutes theft of lost property in the ~~fourth~~ third  
9 degree.

10 "(b) Theft of lost property in the ~~fourth~~ third  
11 degree is a Class A misdemeanor.

12 "§13A-8-10.

13 "(a) A person commits the crime of theft of services  
14 if he or she does either of the following:

15 "(1) ~~He intentionally~~ Intentionally obtains services  
16 known by him to be available only for compensation by  
17 deception, threat, false token, or other means to avoid  
18 payment for the services; ~~or.~~

19 "(2) Having control over the disposition of services  
20 of others to which he or she is not entitled, he or she  
21 knowingly diverts those services to his or her own benefit or  
22 to the benefit of another not entitled thereto.

23 "(b) "Services" includes, but is not necessarily  
24 limited to, labor, professional services, transportation,  
25 telephone, or other public services, accommodation in motels,  
26 hotels, restaurants or elsewhere, admission to exhibitions,  
27 computer services, and the supplying of equipment for use.

1           "(c) Where compensation for services is ordinarily  
2 paid immediately upon the rendering of them, as in the case of  
3 motels, hotels, restaurants and the like, absconding without  
4 payment or bona fide offer to pay is prima facie evidence  
5 under subsection (a) that the services were obtained by  
6 deception.

7           "(d) If services are obtained under subdivision (a)  
8 (1) from a hotel, motel, inn, restaurant or cafe, no  
9 prosecution can be commenced after 120 days from the time of  
10 the offense.

11           "§13A-8-10.1.

12           "(a) The theft of services ~~which that~~ exceeds ~~two~~  
13 three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in value  
14 constitutes theft of services in the first degree.

15           "(b) Theft of services in the first degree is a  
16 Class B felony.

17           "§13A-8-10.2.

18           "(a) The theft of services ~~between one~~ that exceeds  
19 two thousand ~~five hundred~~ dollars ~~(\$1,500)~~ (\$2,000) ~~in value~~  
20 but does not exceed three ~~and two~~ thousand five hundred  
21 dollars ~~(\$2,500)~~ (\$3,500) in value constitutes theft of  
22 services in the second degree.

23           "(b) Theft of services in the second degree is a  
24 Class C felony.

25           "§13A-8-10.3.

26           "(a) The theft of services ~~which that~~ does not  
27 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in

1 value constitutes theft of services in the ~~fourth~~ third  
2 degree.

3 "(b) Theft of services in the ~~fourth~~ third degree is  
4 a Class A misdemeanor.

5 "§13A-8-16.

6 "(a) A person commits the crime of receiving stolen  
7 property if he or she intentionally receives, retains, or  
8 disposes of stolen property knowing that it has been stolen or  
9 having reasonable grounds to believe it has been stolen,  
10 unless the property is received, retained, or disposed of with  
11 intent to restore it to the owner.

12 "(b) If a person does any of the following, it shall  
13 be prima facie evidence that he or she has the requisite  
14 knowledge or belief:

15 "(1) On two separate occasions within a year prior  
16 to the commission of the instant offense of receiving stolen  
17 property is found in possession or control of stolen property,  
18 ~~or.~~

19 "(2) Possesses goods or property which have been  
20 recently stolen, ~~or.~~

21 "(3) Regularly buys, sells, uses or handles in the  
22 course of business property of the sort received, and acquired  
23 the property without making reasonable inquiry whether the  
24 person selling or delivering the property to him had a legal  
25 right to do so, ~~this shall be prima facie evidence that he has~~  
26 ~~the requisite knowledge or belief.~~

1           "(c) The fact that the person who stole the property  
2 has not been convicted, apprehended or identified is not a  
3 defense to a charge of receiving stolen property.

4           "§13A-8-17.

5           "(a) Receiving stolen property ~~which~~ that exceeds  
6 ~~two~~ three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in  
7 value constitutes receiving stolen property in the first  
8 degree.

9           "(b) Receiving stolen property in the first degree  
10 is a Class B felony.

11          "§13A-8-18.

12          "(a) Receiving stolen property: ~~(1) Which is between~~  
13 ~~one~~ that exceed two thousand ~~five hundred~~ dollars ~~(\$1,500)~~  
14 (\$2,000) in value ~~and two~~ but does not exceed three thousand  
15 five hundred dollars ~~(\$2,500)~~ (\$3,500) in value; ~~or,~~  
16 constitutes receiving stolen property in the second degree.

17          ~~(2) Of~~ (b) Receiving stolen property any value under  
18 the circumstances described in subdivision (b) (3) of Section  
19 13A-8-16~~7~~, L constitutes receiving stolen property in the second  
20 degree.

21          "(b) Receiving stolen property in the second degree  
22 is a Class C felony.

23          "§13A-8-19.

24          "(a) Receiving stolen property ~~which~~ that does not  
25 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in  
26 value constitutes receiving stolen property in the ~~fourth~~  
27 third degree.

1           "(b) Receiving stolen property in the ~~fourth~~ third  
2 degree is a Class A misdemeanor.

3           "§13A-8-144.

4           "(a) The crime of theft by fraudulent leasing or  
5 rental of property shall be a Class A misdemeanor if the  
6 subject matter of the lease or rental agreement had a value of  
7 ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) or less; ~~if.~~  
8 ~~the value of such property was in excess of five hundred~~  
9 ~~dollars (\$500), the crime shall be a Class C felony.~~

10           "(b) The crime of theft by fraudulent leasing or  
11 rental of property shall be a Class C felony if the value of  
12 such property was in excess of ~~five hundred~~ two thousand  
13 ~~dollars (\$500), the crime shall be a Class C felony~~ (\$2,000).

14           "§13A-8-194.

15           "(a) A person commits the crime of obstructing  
16 justice using a false identity if he or she uses  
17 identification documents or identifying information of another  
18 person or a fictitious person to avoid summons, arrest,  
19 prosecution, or to impede a criminal investigation.

20           "(b) Obstructing justice using a false identity is a  
21 Class ~~C~~ A misdemeanor.

22           "§13A-12-211.

23           "(a) ~~A~~ Except as provided in Section 13A-12-211.1, a  
24 person commits the crime of unlawful distribution of  
25 controlled substances if, except as otherwise authorized, he  
26 or she sells, furnishes, gives away, delivers, or distributes  
27 a controlled substance enumerated in Schedules I through V.



1           "(b) Unlawful distribution of controlled substances  
2 is a Class B felony.

3           "(c) A person commits the crime of unlawful  
4 possession with intent to distribute a controlled substance  
5 if, except as otherwise authorized by law, he or she knowingly  
6 possesses any of the following quantities of a controlled  
7 substance:

8           "(1) More than eight grams, but less than 28 grams,  
9 of cocaine or of any mixture containing cocaine.

10           "(2) More than two grams, but less than four grams,  
11 of any mixture of morphine, opium, or any salt, isomer, or  
12 salt of an isomer thereof, including heroin or any mixture  
13 containing Fentanyl or any synthetic controlled substance  
14 Fentanyl or any synthetic controlled substance Fentanyl  
15 analogue, as described in Sections 20-2-23 and 20-2-25.

16           "(3) More than eight grams, but less than 28 grams,  
17 of 3,4-methylenedioxy amphetamine, or of any mixture  
18 containing 3,4-methylenedioxy amphetamine.

19           "(4) More than eight grams, but less than 28 grams,  
20 of 5-methoxy-3, 4-methylenedioxy amphetamine, or of any  
21 mixture containing 5-methoxy-3, 4-methylenedioxy amphetamine.

22           "(5) More than eight grams, but less than 28 grams,  
23 of amphetamine or any mixture containing amphetamine, its  
24 salt, optical isomer, or salt of its optical isomer thereof.

25           "(6) More than eight grams, but less than 28 grams,  
26 of methamphetamine or any mixture containing methamphetamine,

1 its salts, optical isomers, or salt of its optical isomers  
2 thereof.

3 "(7) More than one-half gram, but less than one  
4 gram, of Fentanyl or any synthetic controlled substance  
5 Fentanyl analogue, as a single component.

6 "(d) Unlawful possession with intent to distribute a  
7 controlled substance is a Class B felony.

8 "§13A-12-212.

9 "(a) A person commits the crime of unlawful  
10 possession of controlled substance in the first degree if he  
11 or she does either of the following:

12 "(1) Except as ~~otherwise authorized, he or she~~  
13 provided in Section 13A-12-212.1, possesses a controlled  
14 substance enumerated in Schedules I through V.

15 "(2) ~~He or she obtains~~ Obtains by fraud, deceit,  
16 misrepresentation, or subterfuge or by the alteration of a  
17 prescription or written order or by the concealment of a  
18 material fact or by the use of a false name or giving a false  
19 address, a controlled substance enumerated in Schedules I  
20 through V or a precursor chemical enumerated in Section  
21 20-2-181.

22 "(b) Unlawful possession of a controlled substance  
23 is a Class D felony.

24 "§13A-12-213.

25 "(a) A person commits the crime of unlawful  
26 possession of ~~marihuana~~ marijuana in the first degree if,

1       except as otherwise authorized: he or she possesses two or  
2       more ounces of marijuana.

3               ~~"(1) He or she possesses marihuana for other than~~  
4       ~~personal use; or~~

5               ~~"(2) He or she possesses marihuana for his or her~~  
6       ~~personal use only after having been previously convicted of~~  
7       ~~unlawful possession of in the second degree or unlawful~~  
8       ~~possession of marihuana for his or her personal use only.~~

9               "(b) Unlawful possession of ~~marihuana~~ marijuana in  
10       the first degree ~~pursuant to subdivision (1) of subsection (a)~~  
11       is punishable as follows:

12               "(1) Upon a first conviction of this section within  
13       the preceding five years, the person is guilty of a Class C  
14       misdemeanor, punishable only by a fine not to exceed two  
15       hundred fifty dollars (\$250).

16               "(2) Upon a second conviction of this section within  
17       the preceding five years, the person is guilty of a Class C  
18       misdemeanor, punishable only by a fine not to exceed five  
19       hundred dollars (\$500).

20               "(3) Upon a third or subsequent conviction of this  
21       section within the preceding five years, the person is guilty  
22       of a Class C D felony, punishable only by a fine not to exceed  
23       seven hundred fifty dollars (\$750).

24               ~~"(c) Unlawful possession of marihuana in the first~~  
25       ~~degree pursuant to subdivision (2) of subsection (a) is a~~  
26       ~~Class D felony. All fines and forfeitures collected upon~~  
27       ~~conviction or upon forfeiture of bail of any person charged~~

1 with a violation of this section shall be deposited into the  
2 State Treasury to the credit of the State General Fund.

3 "(d) (1) Notwithstanding Chapter 27 of Title 15, a  
4 person who has been charged with, found not guilty of, or  
5 convicted of violating this section may file a petition in the  
6 criminal division of any circuit court to expunge records  
7 related to the charge, finding, or conviction when the person  
8 has not been convicted of any other felony, misdemeanor, or  
9 violation, excluding minor traffic violations, during the  
10 previous five years.

11 "(2) A petition filed under this section shall  
12 include a certified official criminal record obtained from the  
13 Alabama Criminal Justice Information Center. The petitioner  
14 shall specify what criminal charges from the record are to be  
15 considered, specify the agency or department that made the  
16 arrest, and specify the court of conviction, if applicable.

17 "(3) The court shall grant the petition if it is  
18 reasonably satisfied from the evidence that the petitioner has  
19 not been convicted of any other felony, misdemeanor, or  
20 violation, excluding minor traffic violations, during the  
21 previous five years.

22 "(4) Upon the granting of a petition, the court  
23 shall order the expungement of the requested records of the  
24 person as provided in Section 15-27-6.

25 "§13A-12-214.

26 "(a) A person commits the crime of unlawful  
27 possession of ~~marihuana~~ marijuana in the second degree if,

1       except as otherwise authorized, he or she possesses less than  
2       two ounces of marijuana ~~marihuana for his personal use only.~~

3               "(b) Unlawful possession of ~~marihuana~~ marijuana in  
4       the second degree is a ~~Class A misdemeanor~~ violation  
5       punishable only by a fine not to exceed two hundred fifty  
6       dollars (\$250).

7               "(c) A violation of this section alone shall not be  
8       accompanied by a charge pursuant to Section 13A-12-260.

9               "(d) All fines and forfeitures collected upon  
10       conviction or upon forfeiture of bail of any person charged  
11       with a violation of this section shall be deposited into the  
12       State Treasury to the credit of the State General Fund.

13               "(e) (1) Notwithstanding Chapter 27 of Title 15, a  
14       person who has been charged with, found not guilty of, or  
15       convicted of violating this section may file a petition in the  
16       criminal division of any circuit court to expunge records  
17       related to the charge, finding, or conviction when the person  
18       has not been convicted of any other felony, misdemeanor, or  
19       violation, excluding minor traffic violations, during the  
20       previous five years.

21               "(2) A petition filed under this section shall  
22       include a certified official criminal record obtained from the  
23       Alabama Criminal Justice Information Center. The petitioner  
24       shall specify what criminal charges from the record are to be  
25       considered, specify the agency or department that made the  
26       arrest, and specify the court of conviction, if applicable.

1           "(3) The court shall grant the petition if it is  
2 reasonably satisfied from the evidence that the petitioner has  
3 not been convicted of any other felony, misdemeanor, or  
4 violation, excluding minor traffic violations, during the  
5 previous five years.

6           "(4) Upon the granting of a petition, the court  
7 shall order the expungement of the requested records of the  
8 person as provided in Section 15-27-6.

9           "§13A-12-218.

10           "(a) A person commits the crime of unlawful  
11 manufacture of a controlled substance in the first degree if  
12 he or she violates Section 13A-12-217 and two or more of the  
13 following conditions occurred in conjunction with that  
14 violation:

15           ~~"(1) Possession of a firearm.~~

16           ~~"(2) Use of a booby trap.~~

17           ~~"(3)~~ (1) Illegal possession, transportation, or  
18 disposal of hazardous or dangerous materials or while  
19 transporting or causing to be transported materials in  
20 furtherance of a clandestine laboratory operation, there was  
21 created a substantial risk to human health or safety or a  
22 danger to the environment.

23           ~~"(4)~~ (2) A clandestine laboratory operation was to  
24 take place or did take place within 500 feet of a residence,  
25 place of business, church, or school.

26           ~~"(5) A clandestine laboratory operation actually~~  
27 ~~produced any amount of a specified controlled substance.~~

1           "~~(6) A clandestine laboratory operation was for the~~  
2 ~~production of controlled substances listed in Schedule I or~~  
3 ~~Schedule II.~~

4           "~~(7)~~ (3) A person under the age of 17 was present  
5 during the manufacturing process.

6           "(b) Unlawful manufacture of a controlled substance  
7 in the first degree is a Class A felony.

8           "§40-17A-9.

9           "(a) Any dealer violating this chapter is subject to  
10 a penalty of 100 percent of the tax in addition to the tax  
11 imposed by Section 40-17A-8. In addition to the tax and  
12 penalty imposed, a dealer failing to affix the appropriate  
13 stamps, labels, or other indicia is guilty of a Class ~~C~~ felony  
14 A misdemeanor, and, upon conviction, may be punished as  
15 provided in the Alabama Criminal Code. Such penalty shall be  
16 cumulative to any other penalty or crime.

17           "(b) Notwithstanding any other provision of the  
18 criminal laws of this state, an indictment may be found and  
19 filed upon any criminal offense specified in this section, in  
20 the proper court within six years after the commission of this  
21 offense."

22           Section 3. Section 15-10-1, Code of Alabama 1975, is  
23 amended to read as follows:

24           "§15-10-1.

25           "An arrest may be made, under a warrant ~~or~~, without  
26 a warrant , or by issuance of a summons, by any sheriff or  
27 other officer acting as sheriff or his or her deputy, or by

1 any constable, acting within ~~their~~ his or her respective  
2 counties, or by any marshal, deputy marshal, or policeman of  
3 any incorporated city or town within the limits of the  
4 county."

5 Section 4. Sections 15-20A-7, 15-20A-9, 15-20A-10,  
6 15-20A-11, 15-20A-12, 15-20A-13, 15-20A-14, 15-20A-15,  
7 15-20A-16, 15-20A-17, 15-20A-18, 15-20A-20, 15-20A-23,  
8 15-20A-24, 15-20A-25, 15-20A-27, as last amended by Act  
9 2018-528, 2018 Regular Session, Code of Alabama 1975, Section  
10 15-20A-29, Code of Alabama 1975, Section 15-20A-30, as last  
11 amended by Act 2018-528, 2018 Regular Session, Code of Alabama  
12 1975, Sections 15-20A-31, 15-20A-32, 15-20A-34, 15-20A-36,  
13 15-20A-37, and 15-20A-39, Code of Alabama 1975, are amended to  
14 read as follows:

15 "§15-20A-7.

16 "(a) The following registration information, unless  
17 otherwise indicated, shall be provided by the sex offender  
18 when registering:

19 "(1) Name, including any aliases, nicknames, ethnic,  
20 or tribal names.

21 "(2) Date of birth.

22 "(3) Social Security number.

23 "(4) Address of each residence.

24 "(5) Name and address of any school the sex offender  
25 attends or will attend. For purposes of this subdivision, a  
26 school includes an educational institution, public or private,



1 including a secondary school, a trade or professional school,  
2 or an institution of higher education.

3 "(6) Name and address of any employer where the sex  
4 offender works or will work, including any transient or day  
5 laborer information.

6 "(7) The license plate number, registration number  
7 or identifier, description, and permanent or frequent location  
8 where all vehicles are kept for any vehicle used for work or  
9 personal use, including land vehicles, aircraft, and  
10 watercraft.

11 "(8) Any telephone number used, including land line  
12 and cell phone numbers.

13 "(9) Any email addresses or instant message address  
14 or identifiers used, including any designations or monikers  
15 used for self-identification in Internet communications or  
16 postings other than those used exclusively in connection with  
17 a lawful commercial transaction.

18 "(10) A current photograph.

19 "(11) A physical description of the sex offender  
20 including physical appearance, physical characteristics, and  
21 identifying marks such as scars and tattoos.

22 "(12) Fingerprints and palm prints.

23 "(13) A DNA sample. The DNA sample may be collected  
24 by the probation officer, sheriff, chief of police, or other  
25 responsible agency. Prior to collecting a DNA sample, the  
26 responsible agency shall determine if a DNA sample has already  
27 been collected for the sex offender by checking the Dru Sjodin

1 National Sex Offender Public Registry website, the Alabama  
2 Department of Forensic Sciences DNATracker site, or with the  
3 Alabama State Law Enforcement Agency. If a DNA sample has not  
4 been previously collected for the sex offender, the  
5 responsible agency shall coordinate for the collection of a  
6 DNA sample with the sheriff of the county in which the  
7 registration is occurring. The collection of a DNA sample  
8 should be performed using materials recommended or provided by  
9 the Alabama Department of Forensic Sciences. The DNA sample  
10 shall be immediately forwarded by the entity collecting the  
11 sample to the Department of Forensic Sciences.

12 "(14) A photocopy of the valid driver license or  
13 identification card.

14 "(15) A photocopy of any and all passport and  
15 immigration documents.

16 "(16) Any professional licensing information that  
17 authorizes the sex offender to engage in an occupation or  
18 carry out a trade or business.

19 "(17) A full criminal history of the sex offender,  
20 including dates of all arrests and convictions, status of  
21 parole, probation, or supervised release, registration status,  
22 and outstanding arrest warrants.

23 "(18) A list of any and all Internet service  
24 providers used by the sex offender.

25 "(19) Any other information deemed necessary by the  
26 Secretary of the Alabama State Law Enforcement Agency.

1           "(b) The registering agency is not required to  
2 obtain any of the following information each time the sex  
3 offender verifies his or her required registration information  
4 if the registering agency verifies the information has already  
5 been collected and has not been changed or altered:

6           "(1) A current photograph.

7           "(2) Fingerprints or palm prints.

8           "(3) A DNA sample.

9           "(4) A photocopy of the valid driver license or  
10 identification card.

11           "(5) A photocopy of any and all passport and  
12 immigration documents.

13           "(c) The registration information shall be  
14 transmitted to the Alabama State Law Enforcement Agency in a  
15 manner determined by the secretary of the department and  
16 promulgated in rule by the secretary upon recommendation of an  
17 advisory board consisting of representatives of the office of  
18 the Attorney General, District Attorneys Association, Chiefs  
19 of Police Association, Sheriffs Association, and the Alabama  
20 State Law Enforcement Agency. The advisory board members shall  
21 not receive any compensation or reimbursement for serving on  
22 the advisory board.

23           "(d) The required registration information shall  
24 include a form explaining all registration and notification  
25 duties, including any requirements and restrictions placed on  
26 the sex offender. This form shall be signed and dated by the  
27 sex offender. If the sex offender fails to sign the form, the

1       designee of the registering agency shall sign the form stating  
2       that the requirements have been explained to the sex offender  
3       and that the sex offender refused to sign.

4               "(e) All required registration information shall be  
5       stored electronically in a manner determined by the Secretary  
6       of the Alabama State Law Enforcement Agency and shall be  
7       available in a digitized format by the Alabama State Law  
8       Enforcement Agency to anyone entitled to receive the  
9       information as provided in Section 15-20A-42.

10              "(f) Any person who knowingly fails to provide the  
11       required registration information, or who knowingly provides  
12       false information, pursuant to this section shall be guilty of  
13       a Class ~~C~~ A misdemeanor.

14              "§15-20A-9.

15              "(a) At least 30 days prior to release, or  
16       immediately upon notice of release if release is less than 30  
17       days, of an adult sex offender from the county jail, municipal  
18       jail, Department of Corrections, or any other facility that  
19       has incarcerated the adult sex offender, or immediately upon  
20       conviction, if the adult sex offender is not incarcerated:

21              "(1) The responsible agency shall inform the adult  
22       sex offender of his or her duty to register and, instruct the  
23       adult sex offender to read and sign a form stating that the  
24       duty to register has been explained. The adult sex offender  
25       shall sign the form stating that the duty to register has been  
26       explained and shall provide the required registration  
27       information. If the adult sex offender refuses to sign the

1 form, the designee of the responsible agency shall sign the  
2 form stating that the requirements have been explained to the  
3 adult sex offender and that the adult sex offender refused to  
4 sign.

5 "(2) If the adult sex offender declares his or her  
6 intent to reside within this state, the responsible agency  
7 shall immediately notify and provide the required registration  
8 information to the Alabama State Law Enforcement Agency, the  
9 Attorney General, the district attorney in the county of  
10 conviction, and local law enforcement where the adult sex  
11 offender intends to reside. The notification shall also  
12 include any other information available to the responsible  
13 agency which would be necessary to identify and trace the  
14 adult sex offender, including, but not limited to, each sex  
15 offense history or a copy of the pre-sentence investigation of  
16 the sex offense and the release date of the adult sex  
17 offender.

18 "(3) If the adult sex offender declares his or her  
19 intent to reside outside of the state, the responsible agency  
20 shall immediately notify and provide the required registration  
21 information to the Alabama State Law Enforcement Agency, the  
22 Attorney General, the district attorney in the county of  
23 conviction, and the designated state law enforcement agency of  
24 the state to which the adult sex offender has declared his or  
25 her intent to reside. The notification shall also include any  
26 other information available to the responsible agency which  
27 would be necessary to identify and trace the adult sex

1 offender, including, but not limited to, each sex offense  
2 history or a copy of the pre-sentence investigation of the sex  
3 offense and the release date of the sex offender.

4 "(4) If an adult sex offender is not able to provide  
5 a residence prior to the time of release, then the responsible  
6 agency shall notify the sheriff of the county where the last  
7 conviction for a sex offense or violation of this chapter took  
8 place at least five days prior to the release of the adult sex  
9 offender. Upon notice of the release date from the responsible  
10 agency, the sheriff of the county of the last conviction for a  
11 sex offense or a violation of this chapter shall make  
12 arrangements to have the adult sex offender immediately  
13 remanded to his or her custody to register in accordance with  
14 Section 15-20A-10 at the time of release.

15 "(5) Any adult sex offender who is due to be  
16 released due to the expiration of his or her sentence and who  
17 refuses to provide the required registration information shall  
18 be treated as follows:

19 "a. If the adult sex offender has not accumulated  
20 any incentive time pursuant to Section 14-9-41 or any other  
21 law, he or she shall be charged with violating this section.  
22 At least five days prior to his or her release date, the  
23 Department of Corrections shall notify the sheriff in the  
24 county where the last conviction for a sex offense or  
25 violation of this chapter took place, which county shall be  
26 the proper venue for arrest and prosecution of violation of  
27 this section. Upon notice of the release date, the sheriff

1 from the county of the last conviction for a sex offense or  
2 violation of this chapter shall make arrangements to have the  
3 adult sex offender immediately remanded to his or her custody  
4 at the time of release. Any adult sex offender charged with  
5 violating this section may only be released on bond on the  
6 condition that the adult sex offender is in compliance with  
7 this section before being released.

8 "b. If the adult sex offender has accumulated  
9 correctional incentive time pursuant to Section 14-9-41 or any  
10 other law, the adult sex offender shall be charged with  
11 non-compliance with this section and shall not be allowed  
12 early release, but instead shall forfeit all correctional  
13 incentive time that has accrued pursuant to Section 14-9-41,  
14 or other good time allowed by law.

15 "(b) An adult sex offender who knowingly fails to  
16 comply with this section by failing to provide the required  
17 registration information shall be guilty of a Class ~~C~~ felony A  
18 misdemeanor.

19 "§15-20A-10.

20 "(a) (1) Immediately upon release from incarceration,  
21 or immediately upon conviction if the adult sex offender is  
22 not incarcerated, the adult sex offender shall appear in  
23 person and register all required registration information with  
24 local law enforcement in each county in which the adult sex  
25 offender resides or intends to reside, accepts or intends to  
26 accept employment, accepts or intends to accept a volunteer  
27 position, and begins or intends to begin school attendance.

1           "(2) An adult sex offender who registers pursuant to  
2 subdivision (1) shall have seven days from release to comply  
3 with the residence restrictions pursuant to subsection (a) of  
4 Section 15-20A-11.

5           "(b) Immediately upon establishing a new residence,  
6 accepting employment, accepting a volunteer position, or  
7 beginning school attendance, the adult sex offender shall  
8 appear in person to register with local law enforcement in  
9 each county in which the adult sex offender establishes a  
10 residence, accepts employment, accepts a volunteer position,  
11 or begins school attendance.

12           "(c) (1) Immediately upon transferring or terminating  
13 any residence, employment, or school attendance, the adult sex  
14 offender shall appear in person to notify local law  
15 enforcement in each county in which the adult sex offender is  
16 transferring or terminating residence, employment, or school  
17 attendance.

18           "(2) Whenever a sex offender transfers his or her  
19 residence, as provided in subdivision (1) from one county to  
20 another county, the sheriff of the county from which the sex  
21 offender is transferring his or her residence shall  
22 immediately notify local law enforcement in the county in  
23 which the sex offender intends to reside. If a sex offender  
24 transfers his or her residence, as provided in subdivision (1)  
25 from one county to another jurisdiction, the sheriff of the  
26 county from which the sex offender is transferring his or her  
27 residence shall immediately notify the chief law enforcement



1 agency in the jurisdiction in which the sex offender intends  
2 to reside.

3 "(d) Immediately upon any name change, the adult sex  
4 offender shall immediately appear in person to update the  
5 information with local law enforcement in each county in which  
6 the adult sex offender is required to register.

7 "(e) (1) Upon changing any required registration  
8 information, including by transferring or terminating a  
9 residence the adult sex offender shall immediately appear in  
10 person and update the information with local law enforcement  
11 in each county in which the adult sex offender resides.

12 Provided, however, any changes in telephone numbers, email  
13 addresses, instant message addresses, or other on-line  
14 identifiers or Internet service providers may be reported to  
15 local law enforcement in person, electronically, or  
16 telephonically as required by the local law enforcement  
17 agency.

18 "(2) Notwithstanding any other provision of law  
19 regarding the establishment of residence, an adult sex  
20 offender has transferred or terminated his or her residence  
21 for purposes of subdivision (1) whenever the adult sex  
22 offender vacates his or her residence or fails to spend three  
23 or more consecutive days at his or her residence without  
24 previously notifying local law enforcement or completing a  
25 travel notification document pursuant to Section 15-20A-15.

26 "(f) An adult sex offender shall appear in person to  
27 verify all required registration information during the adult

1 sex offender's birth month and every three months thereafter,  
2 regardless of the month of conviction, for the duration of the  
3 adult sex offender's life with local law enforcement in each  
4 county in which the adult sex offender resides.

5 "(g) At the time of registration, the adult sex  
6 offender shall be provided a form explaining any and all  
7 duties and restrictions placed on the adult sex offender. The  
8 adult sex offender shall read and sign this form stating that  
9 he or she understands the duties and restrictions imposed by  
10 this chapter. If the adult sex offender refuses to sign the  
11 form, the designee of the registering agency shall sign the  
12 form stating that the requirements have been explained to the  
13 adult sex offender and that the adult sex offender refused to  
14 sign.

15 "(h) For purposes of this section, a school includes  
16 an educational institution, public or private, including a  
17 secondary school, a trade or professional school, or an  
18 institution of higher education.

19 "(i) If an adult sex offender was convicted and  
20 required to register prior to July 1, 2011, then the adult sex  
21 offender shall begin quarterly registration after his or her  
22 next biannual required registration date.

23 "(j) Any person who knowingly violates this section  
24 shall be guilty of a Class ~~C~~ A misdemeanor.

25 "§15-20A-11.

26 "(a) No adult sex offender shall establish a  
27 residence or maintain a residence after release or conviction

1 within 2,000 feet of the property on which any school,  
2 childcare facility, or resident camp facility is located  
3 unless otherwise exempted pursuant to Sections 15-20A-23 and  
4 15-20A-24. For the purposes of this section, a resident camp  
5 facility includes any place, area, parcel, or tract of land  
6 which contains permanent or semi-permanent facilities for  
7 sleeping owned by a business, church, or nonprofit  
8 organization used primarily for educational, recreational, or  
9 religious purposes for minors and the location of the resident  
10 camp has been provided to local law enforcement. Resident camp  
11 does not include a private residence, farm, or hunting or  
12 fishing camp.

13 "(b) No adult sex offender shall establish a  
14 residence or maintain a residence after release or conviction  
15 within 2,000 feet of the property on which his or her former  
16 victim, or an immediate family member of the victim, resides  
17 unless otherwise exempted pursuant to Section 15-20A-24 or  
18 Section 15-20A-16.

19 "(c) Changes to property within 2,000 feet of a  
20 registered address of an adult sex offender which occur after  
21 the adult sex offender establishes residency shall not form  
22 the basis for finding that the adult sex offender is in  
23 violation of this section unless the sex offender has been  
24 released or convicted of a new offense after establishing  
25 residency.

26 "(d) No adult sex offender shall reside or conduct  
27 an overnight visit with a minor. Notwithstanding the

1       foregoing, an adult sex offender may reside with a minor if  
2       the adult sex offender is the parent, grandparent, stepparent,  
3       sibling, or stepsibling of the minor, unless one of the  
4       following conditions applies:

5               "(1) Parental rights of the adult sex offender have  
6       been or are in the process of being terminated as provided by  
7       law.

8               "(2) The adult sex offender has been convicted of  
9       any sex offense in which any of the minor children,  
10      grandchildren, stepchildren, siblings, or stepsiblings of the  
11      adult sex offender was the victim.

12              "(3) The adult sex offender has been convicted of  
13      any sex offense in which a minor was the victim and the minor  
14      resided or lived with the adult sex offender at the time of  
15      the offense.

16              "(4) The adult sex offender has been convicted of  
17      any sex offense involving a child, regardless of whether the  
18      adult sex offender was related to or shared a residence with  
19      the child victim.

20              "(5) The adult sex offender has been convicted of  
21      any sex offense involving forcible compulsion in which the  
22      victim was a minor.

23              "(e) (1) Notwithstanding any other provision of law  
24      regarding establishment of residence, an adult sex offender  
25      shall be deemed to have established a residence wherever he or  
26      she resides following release, regardless of whether the adult

1 sex offender resided at the same location prior to the time of  
2 conviction.

3 "(2) Notwithstanding any other provision of law  
4 regarding establishment of residence, an adult sex offender  
5 has transferred his or her residence for purposes of Section  
6 15-20A-10(e)(1) whenever the adult sex offender vacates his or  
7 her residence or fails to spend three or more consecutive days  
8 at his or her residence without previously notifying local law  
9 enforcement or obtaining a travel notification document  
10 pursuant to Section 15-20A-15.

11 "(f) An adult sex offender is exempt from  
12 subsections (a) and (b) during the time the adult sex offender  
13 is in the facility of a licensed health care provider or is  
14 incarcerated in a jail, prison, mental health facility, or any  
15 other correctional placement facility wherein the adult sex  
16 offender is not allowed unsupervised access to the public.

17 "(g) An adult sex offender shall not be found in  
18 violation of subsection (a) on the basis of any address,  
19 street number, place, or parcel that has been approved in  
20 writing by local law enforcement prior to establishing a  
21 residence. Local law enforcement shall promulgate, publicize,  
22 and enforce a policy that affords sex offenders a reasonable  
23 opportunity to obtain preapproval of a proposed residence.

24 "(h) For the purposes of this section, the  
25 2,000-foot measurement shall be taken in a straight line from  
26 nearest property line to nearest property line.

1           "(i) Any person who knowingly violates this section  
2 shall be guilty of a Class ~~C felony~~ A misdemeanor.

3           "§15-20A-12.

4           "(a) An adult sex offender who no longer has a fixed  
5 residence shall be considered homeless and shall appear in  
6 person and report such change in fixed residence to local law  
7 enforcement where he or she is located immediately upon such  
8 change in fixed residence.

9           "(b) In addition to complying with the registration  
10 and verification requirements pursuant to Section 15-20A-10, a  
11 homeless adult sex offender who lacks a fixed residence, or  
12 who does not provide an address at a fixed residence at the  
13 time of release or registration, shall report in person once  
14 every seven days to law enforcement agency where he or she  
15 resides. If the sex offender resides within the city limits of  
16 a municipality, he or she shall report to the chief of police.  
17 If the adult sex offender resides outside of the city limits  
18 of a municipality he or she shall report to the sheriff of the  
19 county. The weekly report shall be on a day specified by local  
20 law enforcement and shall occur during normal business hours.

21           "(c) A homeless adult sex offender who lacks a fixed  
22 address shall comply with the residence restrictions set forth  
23 in Section 15-20A-11.

24           "(d) (1) Each time a homeless adult sex offender  
25 reports under this section, he or she shall provide all of the  
26 following information:

27           "a. Name.

1            "b. Date of birth.

2            "c. Social Security number.

3            "d. A detailed description of the location or  
4 locations where he or she has resided during the week.

5            "e. A list of the locations where he or she plans to  
6 reside in the upcoming week with as much specificity as  
7 possible.

8            "(2) The registering agency is not required to  
9 obtain the remaining required registration information from  
10 the homeless adult sex offender each time he or she reports to  
11 the registering agency unless the homeless adult sex offender  
12 has any changes to the remaining required registration  
13 information.

14            "(e) If an adult sex offender who was homeless  
15 obtains a fixed residence in compliance with the provisions of  
16 Section 15-20A-11, the adult sex offender shall immediately  
17 appear in person to update the information with local law  
18 enforcement in each county of residence.

19            "(f) Any person who knowingly violates this section  
20 shall be guilty of a Class ~~C~~ A misdemeanor.

21            "§15-20A-13.

22            "(a) No adult sex offender shall accept or maintain  
23 employment or a volunteer position at any school, childcare  
24 facility, mobile vending business that provides services  
25 primarily to children, or any other business or organization  
26 that provides services primarily to children, or any amusement  
27 or water park.

1           "(b) No adult sex offender shall accept or maintain  
2 employment or a volunteer position within 2,000 feet of the  
3 property on which a school or childcare facility is located  
4 unless otherwise exempted pursuant to Sections 15-20A-24 and  
5 15-20A-25.

6           "(c) No adult sex offender, after having been  
7 convicted of a sex offense involving a child, shall accept or  
8 maintain employment or a volunteer position within 500 feet of  
9 a playground, park, athletic field or facility, or any other  
10 business or facility having a principal purpose of caring for,  
11 educating, or entertaining minors.

12           "(d) Changes to property within 2,000 feet of an  
13 adult sex offender's place of employment which occur after an  
14 adult sex offender accepts employment shall not form the basis  
15 for finding that an adult sex offender is in violation of this  
16 section.

17           "(e) It shall be unlawful for the owner or operator  
18 of any childcare facility or any other organization that  
19 provides services primarily to children to knowingly provide  
20 employment or a volunteer position to an adult sex offender.

21           "(f) For purposes of this section, the 2,000-foot  
22 measurement shall be taken in a straight line from nearest  
23 property line to nearest property line.

24           "(g) Any person who knowingly violates this section  
25 shall be guilty of a Class ~~C~~-felony A misdemeanor.

26           "§15-20A-14.



1           "(a) Any adult sex offender who declares he or she  
2 is entering the state to establish a residence or who enters  
3 this state to establish a residence shall immediately appear  
4 in person and register all required registration information  
5 with local law enforcement in the county where the adult sex  
6 offender intends to establish or establishes a residence.

7           "(b) Any adult sex offender who enters this state to  
8 accept employment or a volunteer position or to become a  
9 student shall immediately appear in person and register all  
10 required registration information with local law enforcement  
11 in the county where the adult sex offender accepts employment  
12 or the volunteer position or becomes a student.

13           "(c) Whenever an adult sex offender registers  
14 pursuant to this section, he or she shall be subject to the  
15 requirements of this chapter.

16           "(d) Within 30 days of initial registration, the  
17 adult sex offender shall provide each registering agency with  
18 a certified copy of his or her sex offense conviction;  
19 however, an adult sex offender shall be exempt from this  
20 subsection if the adult sex offender provides adequate  
21 documentation that the certified record is no longer available  
22 or has been destroyed.

23           "(e) Any person who knowingly violates this section  
24 shall be guilty of a Class ~~C~~ A misdemeanor.

25           "§15-20A-15.

26           "(a) Immediately before an adult sex offender  
27 temporarily leaves his or her county of residence for a period

1 of three or more consecutive days, the adult sex offender  
2 shall report in person to the sheriff in each county of  
3 residence and complete and sign a travel notification  
4 document.

5 "(b) The travel notification document shall be a  
6 form prescribed by the Alabama State Law Enforcement Agency to  
7 collect dates of travel, the intended destination or  
8 destinations, temporary lodging information, and any other  
9 information reasonably necessary to monitor a sex offender who  
10 plans to travel.

11 "(c) If a sex offender intends to travel to another  
12 country, he or she shall report in person to the sheriff in  
13 each county of residence and complete a travel notification  
14 document at least 21 days prior to such travel. If the travel  
15 to another country is for a family or personal medical  
16 emergency or a death in the family, then the sex offender  
17 shall report in person to the sheriff in each county of  
18 residence immediately prior to travel. Any information  
19 reported to the sheriff in each county of residence shall  
20 immediately be reported to the United States Marshals Service  
21 and the Alabama State Law Enforcement Agency.

22 "(d) The travel notification document shall explain  
23 the duties of the adult sex offender regarding travel as  
24 prescribed by the Alabama State Law Enforcement Agency and a  
25 certification that the adult sex offender understands the  
26 duties required of him or her and that the information he or  
27 she provided on the travel notification document is true and

1 correct. No sex offender shall provide false information on  
2 the travel notification document.

3 "(e) The sheriff in each county of residence shall  
4 immediately notify local law enforcement in the county or the  
5 jurisdiction to which the adult sex offender will be  
6 traveling.

7 "(f) Upon return to the county of residence, the  
8 adult sex offender shall immediately report to the sheriff in  
9 each county of residence.

10 "(g) All completed travel notification documents  
11 shall be included with the adult sex offender's required  
12 registration information.

13 "(h) Any person who knowingly violates this section  
14 shall be guilty of a Class ~~C felony~~ A misdemeanor.

15 "§15-20A-16.

16 "(a) No adult sex offender shall contact, directly  
17 or indirectly, in person or through others, by phone, mail, or  
18 electronic means, any former victim.

19 "(b) No adult sex offender shall knowingly come  
20 within 100 feet of a former victim.

21 "(c) No sex offender shall make any harassing  
22 communication, directly or indirectly, in person or through  
23 others, by phone, mail, or electronic means to the victim or  
24 any immediate family member of the victim.

25 "(d) A petition to exclude an adult sex offender  
26 from the requirements of subsections (a) and (b) of this  
27 section and Section 15-20A-11(b) may be filed in accordance

1 with the requirements of Section 15-20A-24(c). The court shall  
2 conduct a hearing and shall exclude an adult sex offender from  
3 the provisions of this section provided that:

4 "(1) The victim appears in court at the time of the  
5 hearing and requests the exemption in writing in open court.

6 "(2) The court finds by clear and convincing  
7 evidence that the victim's court appearance and written  
8 request pursuant to subdivision (1) were made voluntarily.

9 "(3) The victim is over the age of 19 at the time of  
10 the request.

11 "(4) The district attorney or prosecuting attorney  
12 shall be notified of the hearing and shall have the right to  
13 be present and heard.

14 "(e) Notwithstanding any state or local law or rule  
15 assigning costs and fees for filing and processing civil and  
16 criminal cases a petition filed shall be assessed a filing fee  
17 in the amount of two hundred dollars (\$200) to be distributed  
18 as provided in Section 15-20A-46.

19 "(f) Any person who knowingly violates this section  
20 shall be guilty of a Class ~~C~~ A misdemeanor.

21 "§15-20A-17.

22 "(a) (1) No adult sex offender, after having been  
23 convicted of a sex offense involving a minor, shall loiter on  
24 or within 500 feet of the property line of any property on  
25 which there is a school, childcare facility, playground, park,  
26 athletic field or facility, school bus stop, college or  
27 university, or any other business or facility having a

1 principal purpose of caring for, educating, or entertaining  
2 minors.

3 "(2) Under this subsection, loiter means to enter or  
4 remain on property while having no legitimate purpose or, if a  
5 legitimate purpose exists, remaining on that property beyond  
6 the time necessary to fulfill that purpose. An adult sex  
7 offender does not violate this subsection unless he or she has  
8 first been asked to leave a prohibited location by a person  
9 authorized to exclude the adult sex offender from the  
10 premises. An authorized person includes, but is not limited  
11 to, any law enforcement officer, security officer, any owner  
12 or manager of the premises, a principal, teacher, or school  
13 bus driver if the premises is a school, childcare facility, or  
14 bus stop, a coach, if the premises is an athletic field or  
15 facility, or any person designated with that authority.

16 "(3) For purposes of this subsection, a school bus  
17 stop is any location where a motor vehicle owned or operated  
18 by or on behalf of a public or private school stops on a  
19 regular basis for the purpose of transporting children to and  
20 from school.

21 "(b) (1) No adult sex offender, after having been  
22 convicted of a sex offense involving a minor, shall enter onto  
23 the property of a K-12 school while school is in session or  
24 attend any K-12 school activity unless the adult sex offender  
25 does all of the following:

1           "a. Notifies the principal of the school, or his or  
2 her designee, before entering onto the property or attending  
3 the K-12 school activity.

4           "b. Immediately reports to the principal of the  
5 school, or his or her designee, upon entering the property or  
6 arriving at the K-12 school activity.

7           "c. Complies with any procedures established by the  
8 school to monitor the whereabouts of the sex offender for the  
9 duration of his or her presence on the school property or  
10 attendance at the K-12 school activity. For a public K-12  
11 school, the local school board shall adopt a policy to  
12 effectuate this section.

13           "(2) Procedures established to effectuate this  
14 subsection are limited to rules that allow the principal of  
15 the school, or his or her designee, to discreetly monitor the  
16 adult sex offender.

17           "(3) For the purposes of this subsection, a K-12  
18 school activity is an activity sponsored by a school in which  
19 students in grades K-12 are the primary intended participants  
20 or for whom students in grades K-12 are the primary intended  
21 audience including, but not limited to, school instructional  
22 time, after school care, after school tutoring, athletic  
23 events, field trips, school plays, or assemblies.

24           "(c) Any person who knowingly violates subsection  
25 (a) or subsection (b) shall be guilty of a Class ~~C~~ felony A  
26 misdemeanor.

27           "§15-20A-18.

1           "(a) Every adult sex offender who is a resident of  
2 this state shall obtain from the Alabama State Law Enforcement  
3 Agency, and always have in his or her possession, a valid  
4 driver license or identification card issued by the Alabama  
5 State Law Enforcement Agency. If any adult sex offender is  
6 ineligible to be issued a driver license or official  
7 identification card, the Alabama State Law Enforcement Agency  
8 shall provide the adult sex offender some other form of  
9 identification card or documentation that, if it is kept in  
10 the possession of the adult sex offender, shall satisfy the  
11 requirements of this section. If any adult sex offender is  
12 determined to be indigent, an identification card, or other  
13 form of identification or documentation that satisfies the  
14 requirements of this section, shall be issued to the adult sex  
15 offender at no cost. Indigence shall be determined by order of  
16 the court prior to each issuance of a driver license or  
17 identification card.

18           "(b) The adult sex offender shall obtain from the  
19 Alabama State Law Enforcement Agency a valid driver license or  
20 identification card bearing a designation that enables law  
21 enforcement officers to identify the licensee as a sex  
22 offender within 14 days of his or her initial registration  
23 following release, initial registration upon entering the  
24 state to become a resident, or immediately following his or  
25 her next registration after July 1, 2011.

26           "(c) Whenever the Alabama State Law Enforcement  
27 Agency issues or renews a driver license or identification

1 card to an adult sex offender, the driver license or  
2 identification card shall bear a designation that, at a  
3 minimum, enables law enforcement officers to identify the  
4 licensee as a sex offender.

5 "(d) Upon obtaining or renewing a driver license or  
6 identification card bearing a designation that enables law  
7 enforcement officers to identify the licensee as a sex  
8 offender, the adult sex offender shall relinquish to the  
9 Alabama State Law Enforcement Agency any other driver license  
10 or identification card previously issued to him or her by a  
11 state motor vehicle agency which does not bear any designation  
12 enabling law enforcement officers to identify the licensee as  
13 a sex offender. Nothing in this section shall require an adult  
14 sex offender to relinquish, or preclude an adult sex offender  
15 from possessing, any form of identification issued to him or  
16 her by an entity other than a state motor vehicle agency,  
17 including, but not limited to, the United States, a federal  
18 department or agency, a municipal or county government entity,  
19 an educational institution, or a private employer.

20 "(e) No adult sex offender shall mutilate, mar,  
21 change, reproduce, alter, deface, disfigure, or otherwise  
22 change the form of any driver license or identification card  
23 which is issued to the adult sex offender by the Alabama State  
24 Law Enforcement Agency and which bears any designation  
25 enabling law enforcement officers to identify the licensee as  
26 a sex offender. An adult sex offender having in his or her  
27 possession a driver license or identification card issued to



1 him or her by the Alabama State Law Enforcement Agency bearing  
2 any designation enabling law enforcement officers to identify  
3 the licensee as a sex offender which has been mutilated,  
4 marred, changed, reproduced, altered, defaced, disfigured, or  
5 otherwise changed shall be prima facie evidence that he or she  
6 has violated this section.

7 "(f) Any person who knowingly violates this section  
8 shall be guilty of a Class ~~C~~-felony A misdemeanor.

9 "§15-20A-20.

10 "(a) The Alabama State Law Enforcement Agency shall  
11 implement a system of active and passive electronic monitoring  
12 that identifies the location of a monitored person and that  
13 can produce upon request reports or records of the person's  
14 presence near or within a crime scene or prohibited area, the  
15 person's departure from specified geographic limitations, or  
16 curfew violations by the offender. The Director of the Alabama  
17 State Law Enforcement Agency may promulgate any rules as are  
18 necessary to implement and administer this system of active  
19 electronic monitoring including establishing policies and  
20 procedures to notify the person's probation and parole officer  
21 or other court-appointed supervising authority when a  
22 violation of his or her electronic monitoring restrictions has  
23 occurred.

24 "(b) The Board of Pardons and Paroles or a court may  
25 require, as a condition of release on parole, probation,  
26 community corrections, court referral officer supervision,  
27 pretrial release, or any other community-based punishment

1 option, that any person charged or convicted of a sex offense  
2 be subject to electronic monitoring as provided in subsection  
3 (a).

4 "(c) Any person designated a sexually violent  
5 predator pursuant to Section 15-20A-19, upon release from  
6 incarceration, shall be subject to electronic monitoring  
7 supervised by the Board of Pardons and Paroles, as provided in  
8 subsection (a), for a period of no less than 10 years from the  
9 date of the sexually violent predator's release. This  
10 requirement shall be imposed by the sentencing court as a part  
11 of the sentence of the sexually violent predator in accordance  
12 with subsection (c) of Section 13A-5-6.

13 "(d) Any person convicted of a Class A felony sex  
14 offense involving a child as defined in Section 15-20A-4, upon  
15 release from incarceration, shall be subject to electronic  
16 monitoring supervised by the Board of Pardons and Paroles, as  
17 provided in subsection (a), for a period of no less than 10  
18 years from the date of the sex offender's release. This  
19 requirement shall be imposed by the sentencing court as a part  
20 of the sex offender's sentence in accordance with subsection  
21 (c) of Section 13A-5-6.

22 "(e) Anyone subject to electronic monitoring  
23 pursuant to this section, unless he or she is indigent, shall  
24 be required to reimburse the supervising entity a reasonable  
25 fee to defray supervision costs. The Board of Pardons and  
26 Paroles, the sentencing court, or other supervising entity  
27 shall determine the amount to be paid based on the financial

1 means and ability to pay of the person, but such amount shall  
2 not exceed fifteen dollars (\$15) per day.

3 "(f) The supervising entity shall pay the Alabama  
4 State Law Enforcement Agency a fee, to be determined by the  
5 center, but not exceeding ten dollars (\$10) per day, to defray  
6 monitoring equipment and telecommunications costs.

7 "(g) It shall constitute a Class ~~C~~ A  
8 misdemeanor for any person to knowingly alter, disable,  
9 deactivate, tamper with, remove, damage, or destroy any device  
10 used to facilitate electronic monitoring under this section.

11 "(h) The procurement of any product or services  
12 necessary for compliance with Act 2005-301, including any  
13 system of electronic monitoring, any equipment, and the  
14 building of a website, shall be subject to the competitive bid  
15 process.

16 "§15-20A-23.

17 "(a) A sex offender required to register under this  
18 chapter may petition the court for relief from the residency  
19 restriction pursuant to subsection (a) of Section 15-20A-11  
20 during the time a sex offender is terminally ill or  
21 permanently immobile, or the sex offender has a debilitating  
22 medical condition requiring substantial care or supervision or  
23 requires placement in a residential health care facility.

24 "(b) A petition for relief pursuant to this section  
25 shall be filed in the civil division of the circuit court of  
26 the county in which the sex offender seeks relief from the  
27 residency restriction.

1           "(c) The sex offender shall serve a copy of the  
2 petition by certified mail on all of the following:

3           "(1) The prosecuting attorney in the county of  
4 adjudication or conviction, if the sex offender was  
5 adjudicated or convicted in this state.

6           "(2) The prosecuting attorney of the county where  
7 the sex offender seeks relief from the residency restriction.

8           "(3) Local law enforcement where the sex offender  
9 was adjudicated or convicted if the sex offender was  
10 adjudicated or convicted in this state.

11           "(4) Local law enforcement where the adult sex  
12 offender seeks relief from the residency restriction.

13           "(d) The petition and documentation to support the  
14 request for relief shall include all of the following:

15           "(1) A certified copy of the adjudication or  
16 conviction requiring registration, including a detailed  
17 description of the sex offense.

18           "(2) A list of each county, municipality, and  
19 jurisdiction where the sex offender is required to register or  
20 has ever been required to register.

21           "(3) The sex offender's criminal record and an  
22 affidavit stating that the sex offender has no pending  
23 criminal charges.

24           "(4) Notarized documentation of the sex offender's  
25 condition by his or her medical provider.

1           "(5) A release allowing the prosecuting attorney or  
2 the court to obtain any other medical records or documentation  
3 relevant to the petition.

4           "(6) Any other information requested by the court  
5 relevant to the petition.

6           "(e) Upon notification of the petition, the  
7 prosecuting attorney shall make reasonable efforts to notify  
8 the victim of the crime for which the sex offender is required  
9 to register of the petition and the dates and times of any  
10 hearings or other proceedings in connection with the petition.

11           "(f) The court shall hold a hearing within 30 days  
12 of the filing of the petition. Upon request of the prosecuting  
13 attorney, and for good cause shown, the hearing may be  
14 continued to allow the prosecuting attorney to obtain any  
15 relevant records pertinent to the hearing. At the hearing the  
16 prosecuting attorney and the victim shall have the opportunity  
17 to be heard.

18           "(g) The court shall issue an order releasing the  
19 sex offender from the residency restrictions pursuant to  
20 subsection (a) of Section 15-20A-11 if the court finds by  
21 clear and convincing evidence that the sex offender (1) is  
22 terminally ill, permanently immobile, has a debilitating  
23 medical condition requiring substantial care or supervision,  
24 or requires placement in a residential health care facility  
25 and (2) does not pose a substantial risk of perpetrating any  
26 future sexual offense. The court may relieve a sex offender

1 from any residency restrictions indefinitely or for a specific  
2 period of time.

3 "(h) The court shall send a copy of any order  
4 releasing a sex offender from residency restrictions pursuant  
5 to subsection (a) of Section 15-20A-11 to the prosecuting  
6 attorney and the Alabama State Law Enforcement Agency.

7 "(i) If the court finds that the sex offender still  
8 poses a risk, has provided false or misleading information in  
9 support of the petition, or failed to serve the petition and  
10 supporting documentation upon the parties as provided for in  
11 subsection (c), then the petition shall be denied.

12 "(j) If the petition for release is denied, the sex  
13 offender may not file a subsequent petition for at least 12  
14 months from the date of the final order on the previous  
15 petition unless good cause is shown and the sex offender's  
16 mental or physical condition has severely changed.

17 "(k) If at any time the sex offender is no longer  
18 terminally ill, permanently immobile, or no longer suffers  
19 from a debilitating medical condition requiring substantial  
20 care or supervision or no longer requires placement in a  
21 residential health care facility, the sex offender shall  
22 immediately register in person with local law enforcement in  
23 each county of residence, update all required registration  
24 information, and comply with the residency restriction  
25 pursuant to subsection (a) of Section 15-20A-11.

26 "(l) No sex offender petitioning the court under  
27 this section for an order terminating the sex offender's

1 obligation to comply with the residency restrictions is  
2 entitled to publicly funded experts or publicly funded  
3 witnesses.

4 "(m) Upon request of the state, the court may  
5 reinstate the restrictions pursuant to subsection (a) of  
6 Section 15-20A-11 for good cause shown, including, but not  
7 limited to, whenever the grounds for a relief order issued  
8 pursuant to subsection (g) are revealed to be false or no  
9 longer true. No filing fee may be assessed for a petition  
10 filed under this subsection.

11 "(n) Notwithstanding any state or local rule  
12 assigning costs and fees for filing and processing civil and  
13 criminal cases, a sex offender's petition under this section  
14 shall be assessed a filing fee in the amount of two hundred  
15 dollars (\$200) to be distributed as provided in Section  
16 15-20A-46. The filing fee may be waived initially and taxed as  
17 costs at the conclusion of the case if the court finds that  
18 payment of the fee will constitute a substantial hardship. A  
19 verified statement of substantial hardship, signed by the sex  
20 offender and approved by the court, shall be filed with the  
21 clerk of court.

22 "(o) If a sex offender seeks relief from the court  
23 pursuant to this section, the enforcement of this chapter  
24 shall not be stayed pending a ruling of the court.

25 "(p) A person who knowingly provides false or  
26 misleading information pursuant to this section shall be  
27 guilty of a Class ~~C~~ A misdemeanor.

1           "§15-20A-24.

2           "(a) At disposition, sentencing, upon completion of  
3 probation, or upon completion of a term of registration  
4 ordered by the sentencing court, a sex offender may petition  
5 the court for relief from the requirements of this chapter  
6 resulting from any of the following offenses, provided that he  
7 or she meets the requirements set forth in subsection (b):

8           "(1) Rape in the second degree, as provided by  
9 subdivision (1) of subsection (a) of Section 13A-6-62.

10           "(2) Sodomy in the second degree, as provided by  
11 subdivision (1) of subsection (a) of Section 13A-6-64.

12           "(3) Sexual abuse in the second degree, as provided  
13 by subdivision (2) of subsection (a) of Section 13A-6-67.

14           "(4) Sexual misconduct, as provided by Section  
15 13A-6-65.

16           "(5) Any crime committed in this state or any other  
17 jurisdiction which, if had been committed in this state under  
18 the current provisions of law, would constitute an offense  
19 listed in subdivisions (1) to (4), inclusive.

20           "(6) Any solicitation, attempt, or conspiracy to  
21 commit any of the offenses listed in subdivisions (1) to (5),  
22 inclusive.

23           "(b) The sex offender shall prove by clear and  
24 convincing evidence all of the following to obtain relief  
25 under this section:

26           "(1) The sex offense did not involve force and was  
27 only a crime due to the age of the victim.



1           "(2) At the time of the commission of the sex  
2 offense, the victim was 13 years of age or older.

3           "(3) At the time of the commission of the sex  
4 offense, the sex offender was less than five years older than  
5 the victim.

6           "(c) If the petition for relief is filed after  
7 sentencing or disposition, the petition for relief shall be  
8 filed as follows:

9           "(1) If the adult or youthful offender sex offender  
10 was adjudicated or convicted in this state, the petition for  
11 relief shall be filed in the civil division of the circuit  
12 court where the adult or youthful offender sex offender was  
13 adjudicated or convicted.

14           "(2) If the adult or youthful offender sex offender  
15 was adjudicated or convicted in a jurisdiction outside of this  
16 state, the petition for relief shall be filed in the civil  
17 division of the circuit court in the county in which the adult  
18 or youthful offender sex offender resides.

19           "(3) If the juvenile sex offender was adjudicated in  
20 this state, the petition for relief shall be filed in the  
21 juvenile court.

22           "(4) If the juvenile sex offender was adjudicated in  
23 a jurisdiction outside of this state, the petition for relief  
24 shall be filed in the juvenile court in the county in which  
25 the juvenile sex offender resides.

26           "(d) (1) The sex offender shall serve a copy of the  
27 petition by certified mail on all of the following:

1           "a. The prosecuting attorney in the county of  
2 adjudication or conviction, if the sex offender was  
3 adjudicated or convicted in this state.

4           "b. The prosecuting attorney of the county where the  
5 sex offender resides.

6           "c. Local law enforcement where the sex offender was  
7 adjudicated or convicted, if the sex offender was adjudicated  
8 or convicted in this state.

9           "d. Local law enforcement where the adult sex  
10 offender resides.

11           "(2) Failure of the sex offender to serve a copy of  
12 the petition as required by this subsection shall result in an  
13 automatic denial of the petition.

14           "(e) The petition and documentation to support the  
15 request for relief shall include all of the following:

16           "(1) The offense that the sex offender was initially  
17 charged with and the offense that the sex offender was  
18 adjudicated or convicted of, if different.

19           "(2) A certified copy of the adjudication or  
20 conviction requiring registration including a detailed  
21 description of the sex offense, if the petition is filed upon  
22 completion of probation or a term of registration.

23           "(3) Proof of the age of the victim and the age of  
24 the sex offender at the time of the commission of the sex  
25 offense.

26           "(4) A list of each registering agency in each  
27 county and jurisdiction in which the sex offender is required

1 to or has ever been required to register, if the petition is  
2 filed upon completion of probation or a term of registration.

3 "(5) The sex offender's criminal record and an  
4 affidavit stating that the sex offender has no pending  
5 criminal charges.

6 "(6) Any other information requested by the court  
7 relevant to the request for relief.

8 "(f) Upon notification of the petition, the  
9 prosecuting attorney shall make reasonable efforts to notify  
10 the victim of the crime for which the sex offender is required  
11 to register of the petition and the dates and times of any  
12 hearings or other proceedings in connection with the petition.

13 "(g) The court shall hold a hearing prior to ruling  
14 on the petition. At the hearing, the prosecuting attorney and  
15 the victim shall have the opportunity to be heard.

16 "(h) The court shall issue an order releasing the  
17 sex offender from some or all requirements of this chapter  
18 pursuant to subsection (i) if the court finds by clear and  
19 convincing evidence that the sex offender does not pose a  
20 substantial risk of perpetrating any future sex offense. In  
21 determining whether to grant relief, the court may consider  
22 any of the following:

23 "(1) Recommendations from the sex offender's  
24 probation officer, including, but not limited to, the  
25 recommendations in the presentence investigation report and  
26 the sex offender's compliance with supervision requirements.

27 "(2) Recommendations from the prosecuting attorney.

1           "(3) Any written or oral testimony submitted by the  
2 victim or the parent, guardian, or custodian of the victim.

3           "(4) The facts and circumstances surrounding the  
4 offense.

5           "(5) The relationship of the parties.

6           "(6) The criminal history of the sex offender.

7           "(7) The protection of society.

8           "(8) Any other information deemed relevant by the  
9 court.

10           "(i) The court may grant full or partial relief from  
11 this chapter. If the court grants relief, the court shall  
12 enter an order detailing the relief granted and provide a copy  
13 of the order to the prosecuting attorney and the Alabama State  
14 Law Enforcement Agency.

15           "(j) If the court denies the petition, the sex  
16 offender may not petition the court again until 12 months  
17 after the date of the order denying the petition.

18           "(k) A sex offender is not eligible for relief under  
19 this section if he or she was adjudicated or convicted of a  
20 sex offense previous to or subsequent to the offense of which  
21 he or she is petitioning the court for relief or has any  
22 pending criminal charges for any sex offense.

23           "(l) In addition to sex offenders adjudicated or  
24 convicted of a sex offense on or after July 1, 2011, a sex  
25 offender adjudicated or convicted of any of the offenses  
26 specified in subsection (a) prior to July 1, 2011, who meets  
27 the eligibility requirements specified in subsection (b),

1       except as otherwise provided for in subsection (k), may  
2       petition the court for relief pursuant to this section.

3               "(m) Notwithstanding any state or local law or rule  
4       assigning costs and fees for filing and processing civil and  
5       criminal cases, except when this relief is sought at the time  
6       of sentencing or disposition, a sex offender's petition under  
7       this section shall be assessed a filing fee in the amount of  
8       two hundred dollars (\$200) to be distributed as provided in  
9       Section 15-20A-46. The filing fee may be waived initially and  
10      taxed as costs at the conclusion of the case if the court  
11      finds that payment of the fee will constitute a substantial  
12      hardship. A verified statement of substantial hardship, signed  
13      by the sex offender and approved by the court, shall be filed  
14      with the clerk of court.

15              "(n) If a sex offender seeks relief from the court  
16      pursuant to this section, the enforcement of this chapter  
17      shall not be stayed pending a ruling of the court.

18              "(o) Any person who knowingly provides false or  
19      misleading information pursuant to this section shall be  
20      guilty of a Class ~~C~~ felony A misdemeanor.

21              "§15-20A-25.

22              "(a) A sex offender may petition at sentencing, or  
23      if after sentencing, a sex offender may file a petition in the  
24      civil division of the circuit court in the county where the  
25      sex offender seeks to accept or maintain employment for relief  
26      from the employment restrictions pursuant to subsection (b) of  
27      Section 15-20A-13. A sex offender adjudicated or convicted of

1 any of the following sex offenses shall not be entitled to  
2 relief under this section:

3 "(1) Rape in the first degree, as provided by  
4 Section 13A-6-61.

5 "(2) Sodomy in the first degree, as provided by  
6 Section 13A-6-63.

7 "(3) Sexual abuse in the first degree, as provided  
8 by Section 13A-6-66.

9 "(4) Sex abuse of a child less than 12 years old, as  
10 provided by Section 13A-6-69.1.

11 "(5) Sexual torture, as provided by Section  
12 13A-6-65.1.

13 "(6) Any sex offense involving a child.

14 "(7) Any solicitation, attempt, or conspiracy to  
15 commit any of the offenses listed in subdivisions (1) to (6),  
16 inclusive.

17 "(8) Any offense committed in any other jurisdiction  
18 which, if it had been committed in this state under the  
19 current provisions of law, would constitute an offense listed  
20 in subdivisions (1) to (7), inclusive.

21 "(b) (1) The sex offender shall serve a copy of the  
22 petition by certified mail on all of the following:

23 "a. The prosecuting attorney in the county of  
24 adjudication or conviction, if the sex offender was  
25 adjudicated or convicted in this state.

26 "b. The prosecuting attorney of the county in which  
27 the sex offender seeks to accept or maintain employment.

1            "c. Local law enforcement where the sex offender was  
2 adjudicated or convicted, if the sex offender was adjudicated  
3 or convicted in this state.

4            "d. Local law enforcement where the sex offender  
5 seeks to accept or maintain employment.

6            "(2) Failure of the sex offender to serve a copy of  
7 the petition as required by this subsection shall result in an  
8 automatic denial of the petition.

9            "(c) The petition and documentation to support the  
10 petition shall include all of the following:

11            "(1) A certified copy of the adjudication or  
12 conviction requiring registration, including a detailed  
13 description of the sex offense, if the petition is filed after  
14 sentencing.

15            "(2) A list of each registering agency in each  
16 county and jurisdiction in which the sex offender is required  
17 to register or has ever been required to register, if the  
18 petition is filed after conviction.

19            "(3) The sex offender's criminal record and an  
20 affidavit stating that the sex offender has no pending  
21 criminal charges.

22            "(4) The location where the sex offender is employed  
23 or intends to obtain employment.

24            "(5) Justification as to why the court should grant  
25 relief.

26            "(6) Any other information requested by the court  
27 relevant to the petition.

1           "(d) Upon notification of the petition, the  
2 prosecuting attorney shall make reasonable efforts to notify  
3 the victim of the crime for which the sex offender is required  
4 to register of the petition and the dates and times of any  
5 hearings or other proceedings in connection with the petition.

6           "(e) The court shall hold a hearing prior to ruling  
7 on the petition. At the hearing, the prosecuting attorney and  
8 the victim shall have the opportunity to be heard.

9           "(f) The court shall issue an order releasing the  
10 sex offender from the requirements of the employment  
11 restrictions pursuant to subsection (b) of Section 15-20A-13  
12 if the court finds by clear and convincing evidence that the  
13 sex offender does not pose a substantial risk of perpetrating  
14 any future sex offense. The court may consider any of the  
15 following factors in determining whether to grant relief:

16           "(1) The nature of the offense.

17           "(2) Past criminal history of the sex offender.

18           "(3) The location where the sex offender is employed  
19 or intends to obtain employment.

20           "(4) Any other information deemed relevant by the  
21 court.

22           "(g) If the court grants the petition, the court  
23 shall enter an order detailing the relief granted and provide  
24 a copy of the order to the prosecuting attorney where the  
25 petition was filed and to the Alabama State Law Enforcement  
26 Agency.



1           "(h) A sex offender is not eligible for relief under  
2 this section if he or she was adjudicated or convicted of a  
3 sex offense previous to or subsequent to the offense of which  
4 he or she is petitioning the court for relief or has any  
5 pending criminal charges for any sex offense.

6           "(i) Upon request of the state, the court may  
7 reinstate the restrictions pursuant to subsection (b) of  
8 Section 15-20A-13 for good cause shown, including, but not  
9 limited to, whenever the grounds for a relief order issued  
10 pursuant to subsection (f) are revealed to be false or no  
11 longer true. No filing fee may be assessed for a petition  
12 filed under this subsection.

13           "(j) Notwithstanding any state or local law or rule  
14 assigning costs and fees for filing and processing civil and  
15 criminal cases, except when this relief is sought at the time  
16 of sentencing, a sex offender's petition under this section  
17 shall be assessed a filing fee in the amount of two hundred  
18 dollars (\$200) to be distributed as provided in Section  
19 15-20A-46. The filing fee may be waived initially and taxed as  
20 costs at the conclusion of the case if the court finds that  
21 payment of the fee will constitute a substantial hardship. A  
22 verified statement of substantial hardship, signed by the sex  
23 offender and approved by the court, shall be filed with the  
24 clerk of court.

25           "(k) If a sex offender seeks relief from the court  
26 pursuant to this section, the enforcement of this chapter  
27 shall not be stayed pending a ruling of the court.

1           "(1) A person who knowingly provides false or  
2 misleading information pursuant to this section shall be  
3 guilty of a Class ~~C~~-felony A misdemeanor.

4           "§15-20A-27.

5           "(a) In determining whether to apply notification  
6 requirements to a juvenile sex offender, the sentencing court  
7 shall consider any of the following factors relevant to the  
8 risk of re-offense:

9           "(1) Conditions of release that minimize the risk of  
10 re-offense, including, but not limited to, whether the  
11 juvenile sex offender is under supervision of probation,  
12 parole, or aftercare; receiving counseling, therapy, or  
13 treatment; or residing in a home situation that provides  
14 guidance and supervision.

15           "(2) Physical conditions that minimize the risk of  
16 re-offense, including, but not limited to, advanced age or  
17 debilitating illness.

18           "(3) Criminal history factors indicative of high  
19 risk of re-offense, including whether the conduct of the  
20 juvenile sex offender was found to be characterized by  
21 repetitive and compulsive behavior.

22           "(4) Whether psychological or psychiatric profiles  
23 indicate a risk of recidivism.

24           "(5) The relationship between the juvenile sex  
25 offender and the victim.

26           "(6) The particular facts and circumstances  
27 surrounding the offense.

1           "(7) The level of planning and participation in the  
2 offense.

3           "(8) Whether the offense involved the use of a  
4 weapon, violence, or infliction of serious bodily injury.

5           "(9) The number, date, and nature of prior offenses.

6           "(10) The response to treatment of the juvenile sex  
7 offender.

8           "(11) Recent behavior, including behavior while  
9 confined or while under supervision in the community.

10          "(12) Recent threats against persons or expressions  
11 of intent to commit additional crimes.

12          "(13) The protection of society.

13          "(14) Any other factors deemed relevant by the  
14 court.

15          "(b) If the sentencing court determines that the  
16 juvenile sex offender shall be subject to notification, the  
17 level of notification shall be applied as follows:

18                 "(1) If the risk of re-offense is low, notification  
19 that the juvenile sex offender will be establishing or has  
20 established a fixed residence shall be provided by local law  
21 enforcement to the principal of the public or nonpublic school  
22 where the juvenile sex offender will attend after release and,  
23 if a public school, to the local superintendent of education  
24 with jurisdiction over that school. This notification shall  
25 include the name, actual living address, date of birth of the  
26 juvenile sex offender, and a statement of the sex offense for  
27 which he or she has been adjudicated delinquent, including the

1 age and gender of the victim. This information shall be  
2 considered confidential by the school and the local  
3 superintendent of education and be shared only with the  
4 teachers and staff with supervision over the juvenile sex  
5 offender. Whoever, except as specifically provided herein,  
6 directly or indirectly discloses or makes use of or knowingly  
7 permits the use of information concerning a juvenile sex  
8 offender described in this section, upon conviction thereof,  
9 shall be guilty of a Class ~~C felony~~ A misdemeanor within the  
10 jurisdiction of the juvenile court.

11 "(2) If the risk of re-offense is moderate,  
12 notification that the juvenile sex offender will be  
13 establishing, or has established, a fixed residence shall be  
14 provided by local law enforcement to all schools and childcare  
15 facilities within three miles of the declared fixed residence  
16 of the juvenile sex offender. A community notification flyer  
17 shall be mailed by regular mail or hand delivered to all  
18 schools or childcare facilities as required by this  
19 subsection. No other method may be used to disseminate this  
20 information.

21 "(3) If the risk of re-offense is high, the public  
22 shall receive notification as though the juvenile sex offender  
23 were an adult sex offender in accordance with Section  
24 15-20A-21.

25 "(c) The sentencing court shall enter an order  
26 stating whether the juvenile sex offender shall be subject to  
27 notification and the level of notification that shall be

1 applied. The court shall provide a copy of the order to the  
2 prosecuting attorney and to the Alabama State Law Enforcement  
3 Agency.

4 "(d) The determination of notification by the  
5 sentencing court shall not be subject to appeal.

6 "§15-20A-29.

7 "(a) Prior to the release of a juvenile sex  
8 offender, the following shall apply:

9 "(1) The juvenile sex offender and the parent,  
10 custodian, or guardian of the juvenile sex offender shall  
11 provide the required registration information to the  
12 responsible agency.

13 "(2) If the juvenile sex offender or the parent,  
14 guardian, or custodian of the juvenile sex offender declares a  
15 residence outside of the state, the responsible agency shall  
16 immediately notify the Alabama State Law Enforcement Agency  
17 and the designated state law enforcement agency of the state  
18 to which the juvenile sex offender or the parent, guardian, or  
19 custodian of the juvenile sex offender has declared the  
20 residence. The notification shall include all information  
21 available to the responsible agency that would be necessary to  
22 identify and trace the juvenile sex offender, including, but  
23 not limited to, the risk assessment and a current photograph  
24 of the juvenile sex offender.

25 "(3) If the juvenile sex offender or the parent,  
26 guardian, or custodian of the juvenile sex offender declares a  
27 residence within this state, the responsible agency shall

1 immediately notify the Alabama State Law Enforcement Agency,  
2 and local law enforcement in each county, in which the  
3 juvenile sex offender or the parent, guardian, or custodian of  
4 the juvenile sex offender has declared the residence. The  
5 notification shall include all information available to the  
6 responsible agency that would be necessary to identify and  
7 trace the juvenile sex offender, including, but not limited  
8 to, the risk assessment and a current photograph of the  
9 juvenile sex offender.

10 "(b) When a juvenile sex offender becomes the age of  
11 majority, the parent, guardian, or custodian of the juvenile  
12 sex offender shall no longer be subject to this section and  
13 the juvenile sex offender shall instead be solely responsible  
14 for all requirements pursuant to this section.

15 "(c) Any person who knowingly violates this section  
16 shall be guilty of a Class ~~C~~ A misdemeanor.

17 "§15-20A-30.

18 "(a) Immediately upon release or immediately upon  
19 adjudication of delinquency if the juvenile sex offender is  
20 not committed, the juvenile sex offender and the parent,  
21 custodian, or guardian shall register all required  
22 registration information with local law enforcement in each  
23 county in which the juvenile sex offender resides or intends  
24 to reside.

25 "(b) Whenever a juvenile sex offender establishes a  
26 new residence, the juvenile sex offender and the parent,  
27 custodian, or guardian of the juvenile sex offender shall

1 immediately appear in person to register all required  
2 registration information with local law enforcement in each  
3 county of residence.

4 "(c) If the parent, custodian, or guardian of a  
5 juvenile sex offender transfers or terminates the residence of  
6 the juvenile sex offender, or the custody of the juvenile sex  
7 offender is changed to a different parent, custodian, or  
8 guardian resulting in a transfer of residence, the original  
9 parent, custodian, or guardian with custody shall immediately  
10 notify local law enforcement in each county of residence.

11 "(d) Whenever a juvenile sex offender changes any  
12 required registration information including, but not limited  
13 to, his or her school attendance status, the juvenile sex  
14 offender and the parent, custodian, or guardian of the  
15 juvenile sex offender shall immediately appear in person to  
16 update the required registration information with local law  
17 enforcement in each county in which the juvenile sex offender  
18 resides.

19 "(e) A juvenile sex offender required to register  
20 for life pursuant to Section 15-20A-28 shall appear in person  
21 with his or her parent, custodian, or guardian to verify all  
22 required registration information during the birth month of  
23 the juvenile sex offender and every three months thereafter  
24 with the local law enforcement in each county of residence  
25 unless the juvenile sex offender has been relieved from  
26 registration requirements pursuant to Section 15-20A-34.

1           "(f) A juvenile sex offender required to register  
2 for 10 years pursuant to Section 15-20A-28 shall appear in  
3 person with his or her parent, custodian, or guardian to  
4 verify all required registration information during the birth  
5 month of the juvenile sex offender and every year thereafter  
6 with local law enforcement in each county of residence unless  
7 the juvenile sex offender has been relieved from registration  
8 requirements pursuant to Section 15-20A-24.

9           "(g) At the time of registration, the juvenile sex  
10 offender shall be provided a form explaining all duties and  
11 any restrictions placed on the juvenile sex offender. The  
12 juvenile sex offender and the parent, custodian, or guardian  
13 of the juvenile sex offender shall read and sign this form  
14 stating that he or she understands the duties and restrictions  
15 placed on the juvenile sex offender and his or her parent,  
16 custodian, or guardian.

17           "(h) When a juvenile sex offender becomes the age of  
18 majority, the parent, custodian, or guardian of the juvenile  
19 sex offender shall no longer be subject to the requirements of  
20 this section, and the juvenile sex offender shall instead be  
21 solely responsible for the requirements in this section.

22           "(i) A person who knowingly violates this section  
23 shall be guilty of a Class ~~C~~-felony A misdemeanor.

24           "§15-20A-31.

25           "(a) During the time a juvenile sex offender is  
26 subject to the registration requirements of this chapter, the  
27 juvenile sex offender shall not accept or maintain employment



1 or a volunteer position at any school, childcare facility, or  
2 any other business or organization that provides services  
3 primarily to children.

4 "(b) It shall be unlawful for the owner or operator  
5 of any childcare facility or any other organization that  
6 provides services primarily to children to knowingly provide  
7 employment or a volunteer position to a juvenile sex offender.

8 "(c) Any person who knowingly violates this section  
9 shall be guilty of a Class ~~C felony~~ A misdemeanor.

10 "§15-20A-32.

11 "(a) A juvenile sex offender or youthful offender  
12 sex offender, or equivalent thereto, who is not currently a  
13 resident of this state, shall immediately appear in person and  
14 register all required registration information upon  
15 establishing a residence, accepting employment or a volunteer  
16 position, or beginning school attendance in this state with  
17 local law enforcement in each county where the juvenile sex  
18 offender or youthful offender sex offender resides or intends  
19 to reside, accepts employment or a volunteer position, or  
20 begins school attendance.

21 "(b) Within 30 days of initial registration, the  
22 juvenile sex offender or youthful offender sex offender shall  
23 provide each registering agency with a certified copy of his  
24 or her sex offense adjudication; however, a juvenile sex  
25 offender or youthful offender sex offender shall be exempt  
26 under this subsection if the court of adjudication seals the

1 records and refuses to provide a certified copy or the records  
2 have been destroyed by the court.

3 "(c) Whenever a juvenile sex offender enters this  
4 state to establish a residence, he or she shall be subject to  
5 the requirements of this chapter as it applies to juvenile sex  
6 offenders in this state.

7 "(d) Whenever a youthful offender sex offender, or  
8 equivalent thereto, enters this state to establish a  
9 residence, he or she shall be subject to the requirements of  
10 this chapter as it applies to youthful offender sex offenders  
11 in this state.

12 "(e) A juvenile sex offender or youthful offender  
13 sex offender entering this state to accept employment or a  
14 volunteer position or to begin school attendance, but not to  
15 establish a residence, must immediately appear in person and  
16 register any subsequent changes to the required registration  
17 information with local law enforcement in each county where he  
18 or she is required to register.

19 "(f) Any person who knowingly violates this section  
20 shall be guilty of a Class ~~C~~ A misdemeanor.

21 "§15-20A-34.

22 "(a) A juvenile sex offender subject to lifetime  
23 registration pursuant to Section 15-20A-28 may file a petition  
24 requesting the sentencing juvenile court to enter an order  
25 relieving the juvenile sex offender of the requirements  
26 pursuant to this chapter 25 years after the juvenile sex  
27 offender is released from the custody of the Department of

1 Youth Services or sentenced, if the juvenile sex offender was  
2 placed on probation, for the sex offense requiring  
3 registration pursuant to this chapter.

4 "(b) The petition shall be filed as follows:

5 "(1) If the juvenile sex offender was adjudicated  
6 delinquent of a sex offense in this state, the petition shall  
7 be filed in the juvenile court of the county in which the  
8 juvenile sex offender was adjudicated delinquent.

9 "(2) If the juvenile sex offender was adjudicated  
10 delinquent of a sex offense in a jurisdiction outside of this  
11 state, the petition shall be filed in the juvenile court of  
12 the county in which the juvenile sex offender resides.

13 "(c) (1) The juvenile sex offender shall serve a copy  
14 of the petition by certified mail on all of the following:

15 "a. The prosecuting attorney in the county of  
16 adjudication, if the juvenile sex offender was adjudicated  
17 delinquent in this state.

18 "b. The prosecuting attorney of the county in which  
19 the juvenile sex offender resides.

20 "c. Local law enforcement where the juvenile sex  
21 offender was adjudicated delinquent, if the juvenile sex  
22 offender was adjudicated delinquent in this state.

23 "d. Local law enforcement where the juvenile sex  
24 offender resides.

25 "(2) Failure of the juvenile sex offender to serve a  
26 copy of the petition as required by this subsection shall  
27 result in an automatic denial of the petition.

1           "(d) The petition and documentation to support the  
2 petition shall include all of the following:

3           "(1) A certified copy of the adjudication of  
4 delinquency requiring registration.

5           "(2) Documentation of the juvenile sex offender's  
6 release date or sentencing date if the juvenile sex offender  
7 was placed on probation.

8           "(3) Evidence that the juvenile sex offender has  
9 completed a treatment program approved by the Department of  
10 Youth Services.

11           "(4) A list of each county and jurisdiction in which  
12 the juvenile sex offender is required to register or has ever  
13 been required to register.

14           "(5) The juvenile sex offender's criminal record and  
15 an affidavit stating that the juvenile sex offender has no  
16 pending criminal charges.

17           "(6) Any other information requested by the court  
18 relevant to the petition.

19           "(e) Upon notification of the petition, the  
20 prosecuting attorney shall make reasonable efforts to notify  
21 the victim of the offense for which the juvenile sex offender  
22 is required to register of the petition and of the dates and  
23 times of any hearings or other proceedings in connection with  
24 the petition.

25           "(f) The court shall hold a hearing prior to ruling  
26 on the petition. At the hearing, the prosecuting attorney and  
27 the victim shall have the opportunity to be heard.

1           "(g) The court may consider any of the following  
2 factors to determine whether to grant relief:

3           "(1) Recommendations from the juvenile sex  
4 offender's probation officer, including, but not limited to,  
5 the recommendations in the predisposition report and the  
6 juvenile sex offender's compliance with supervision  
7 requirements.

8           "(2) Recommendations from the juvenile sex  
9 offender's treatment provider, including, but not limited to,  
10 whether the juvenile sex offender successfully completed a  
11 treatment program approved by the Department of Youth  
12 Services.

13           "(3) Recommendations from the prosecuting attorney.

14           "(4) Any written or oral testimony submitted by the  
15 victim or the parent, custodian, or guardian of the victim.

16           "(5) The facts and circumstances surrounding the  
17 offense including, but not limited to, the age and number of  
18 victims, whether the act was premeditated, and whether the  
19 offense involved the use of a weapon, violence, or infliction  
20 of serious bodily injury.

21           "(6) Any criminal behavior of the juvenile sex  
22 offender before and after the adjudication of delinquency that  
23 requires reporting.

24           "(7) The stability of the juvenile sex offender in  
25 employment and housing and his or her community and personal  
26 support system.

27           "(8) The protection of society.

1           "(9) Any other factors deemed relevant by the court.

2           "(h) If the court is satisfied by clear and  
3           convincing evidence that the juvenile sex offender is  
4           rehabilitated and does not pose a threat to the safety of the  
5           public, the court shall grant relief.

6           "(i) The court shall provide a copy of any order  
7           granting relief to the prosecuting attorney and to the Alabama  
8           State Law Enforcement Agency.

9           "(j) Upon receipt of a copy of an order granting  
10          relief as provided in this section, the Alabama State Law  
11          Enforcement Agency shall remove the juvenile sex offender from  
12          the public registry website. If the registering agencies  
13          maintain a local registry of sex offenders who are registered  
14          with their agencies, the registering agencies shall remove the  
15          registration information of the juvenile sex offender from the  
16          local sex offender public registry, if notification applied.

17          "(k) If the court denies the petition for relief,  
18          the juvenile sex offender shall wait at least 12 months from  
19          the date of the order denying the petition before petitioning  
20          the court again.

21          "(l) Notwithstanding any state or local law or rule  
22          assigning costs and fees for filing and processing civil and  
23          criminal cases, the fee for filing the petition for relief  
24          under this section shall be two hundred dollars (\$200) to be  
25          distributed as provided in Section 15-20A-46. The filing fee  
26          may be waived initially and taxed as costs at the conclusion  
27          of the case if the court finds that payment of the fee will

1 constitute a substantial hardship. A verified statement of  
2 substantial hardship, signed by the sex offender and approved  
3 by the court, shall be filed with the clerk of court.

4 "(m) If a sex offender seeks relief from the court  
5 pursuant to this section, the enforcement of this chapter  
6 shall not be stayed pending a ruling of the court.

7 "(n) A person who knowingly provides false or  
8 misleading information pursuant to this section shall be  
9 guilty of a Class ~~C-felony~~ A misdemeanor.

10 "§15-20A-36.

11 "(a) No sex offender shall change his or her name  
12 unless the change is incident to a change in the marital  
13 status of the sex offender or is necessary to effect the  
14 exercise of the religion of the sex offender. Such a change  
15 shall be immediately reported to local law enforcement in each  
16 county in which the sex offender is required to register. If  
17 the sex offender is subject to the notification provisions of  
18 this chapter, the reporting of a name change under this  
19 section shall invoke notification.

20 "(b) Any person who knowingly violates this section  
21 shall be guilty of a Class ~~C-felony~~ A misdemeanor.

22 "§15-20A-37.

23 "(a) When a sex offender declares, and the county is  
24 notified that a sex offender intends to reside, maintain  
25 employment or a volunteer position, or attend school in the  
26 county and the sex offender fails to appear for registration,  
27 the county that received the notice shall immediately inform

1 the sheriff of the county that provided the notice that the  
2 sex offender failed to appear for registration.

3 "(b) When a sex offender fails to register or cannot  
4 be located, an effort shall immediately be made by the sheriff  
5 in the county in which the sex offender failed to register or  
6 is unable to be located to determine whether the sex offender  
7 has absconded.

8 "(c) If no determination can be made as to whether  
9 the sex offender has absconded, the sheriff of the county in  
10 which the sex offender failed to appear for registration shall  
11 immediately notify the Alabama State Law Enforcement Agency  
12 and the United States Marshals Service that the sex offender  
13 cannot be located and provide any information available to  
14 determine whether the sex offender absconded to the United  
15 States Marshals Service.

16 "(d) Once a determination is made that the sex  
17 offender has absconded, the following shall occur:

18 "(1) The sheriff of the county in which the sex  
19 offender has absconded shall immediately obtain a warrant for  
20 the arrest of the sex offender.

21 "(2) The sheriff of the county in which the sex  
22 offender has absconded shall immediately notify the United  
23 States Marshals Service and the Alabama State Law Enforcement  
24 Agency.

25 "(3) The Alabama State Law Enforcement Agency shall  
26 immediately update its public registry website to reflect that  
27 the sex offender has absconded.



1           "(4) The Alabama State Law Enforcement Agency shall  
2 immediately notify the Criminal Justice Information Center,  
3 who shall immediately notify the National Criminal Information  
4 Center.

5           "(5) The Alabama State Law Enforcement Agency shall  
6 immediately notify the National Sex Offender Registry to  
7 reflect that the sex offender has absconded and enter the  
8 information into the National Crime Center Wanted Person File.

9           "(e) A sex offender who knowingly fails to appear  
10 for registration after declaring his or her intent to reside,  
11 be employed, or attend school in a county without notifying  
12 local law enforcement in that county that he or she will no  
13 longer establish a residence, maintain employment or a  
14 volunteer position, or attend school, shall be guilty of a  
15 Class ~~C~~ A ~~felony~~ misdemeanor.

16           "§15-20A-39.

17           "(a) A person is guilty of the crime of harboring,  
18 assisting, concealing, or withholding information about a sex  
19 offender if the person has knowledge or reason to believe that  
20 a sex offender is required to register and the person assists  
21 the sex offender in avoiding a law enforcement agency that is  
22 seeking to find the sex offender to question the sex offender  
23 about, or to arrest the sex offender for, noncompliance with  
24 the requirements of this chapter if the person does any of the  
25 following:

26           "(1) Harbors, attempts to harbor, or assists another  
27 person in harboring or attempting to harbor the sex offender.

1           "(2) Allows a sex offender to reside at his or her  
2 residence to avoid registration if the address is not the  
3 address the sex offender listed as his or her residence  
4 address.

5           "(3) Warns a sex offender that a law enforcement  
6 agency is attempting to locate the sex offender.

7           "(4) Provides the sex offender with money,  
8 transportation, weapon, disguise, or other means of avoiding  
9 discovery or apprehension.

10          "(5) Conceals, attempts to conceal, or assists  
11 another in concealing or attempting to conceal the sex  
12 offender.

13          "(6) Provides information to a law enforcement  
14 agency regarding a sex offender which the person knows to be  
15 false.

16          "(b) For the purposes of this section, the term law  
17 enforcement agency includes, but is not limited to, the Board  
18 of Pardons and Paroles.

19          "(c) Knowingly harboring, assisting, or concealing a  
20 sex offender is a Class ~~C~~ A misdemeanor."

21          Section 5. Sections 13A-12-211.1 and 13A-12-212.1  
22 are added to the Code of Alabama 1975, to read as follows:

23                 §13A-12-211.1.

24          (a) Except as provided in Section 13A-12-211, a  
25 person commits the crime of unlawful distribution of marijuana  
26 if he or she sells, furnishes, gives away, delivers, or  
27 distributes marijuana.

1 (b) Unlawful distribution of marijuana is a Class C  
2 felony.

3 §13A-12-212.1.

4 (a) Except as provided in Section 13A-12-212, a  
5 person commits the crime of unlawful possession of a  
6 controlled substance in the second degree if he or she  
7 possesses five or fewer pills of a controlled substance  
8 enumerated in Schedules II through V.

9 (b) Unlawful possession of a controlled substance in  
10 the second degree is a Class A misdemeanor.

11 Section 6. Section 15-10-3.1 is added to the Code of  
12 Alabama 1975, to read as follows:

13 §15-10-3.1.

14 (a) Except as provided in subsection (b), an officer  
15 may issue a summons to a person without an arrest warrant, on  
16 any day and at any time in any of the following instances:

17 (1) If a public offense has been committed or a  
18 breach of the peace threatened in the presence of the officer.

19 (2) When a misdemeanor has been committed, though  
20 not in the presence of the officer, by the person issued the  
21 summons, and the officer has reasonable cause to believe that  
22 the person issued the summons committed the misdemeanor.

23 (3) When the officer has reasonable cause to believe  
24 that the person issued the summons has committed a  
25 misdemeanor, although it may afterwards appear that a  
26 misdemeanor had not in fact been committed.

1           (4) When a charge has been made, upon reasonable  
2 cause, that the person issued the summons has committed a  
3 misdemeanor.

4           (b) An officer may not issue a summons to a person  
5 on any day and at any time in any of the following instances:

6           (1) If the public offense that has been committed is  
7 a felony.

8           (2) If the defendant currently has an outstanding  
9 warrant for his or her arrest.

10          (3) If the defendant is currently charged with an  
11 offense, whether by arrest warrant or arrest summons, and that  
12 charge, or those charges, remain pending.

13          (4) If the defendant is currently on probation or  
14 parole with any agency in the United States.

15          (5) If the public offense that has been committed is  
16 any of the following misdemeanor offenses:

17           a. Domestic violence.

18           b. Driving under the influence.

19           c. Assault in the third degree.

20           d. Leaving the scene of the accident.

21           e. Attempt, conspiracy, or solicitation to commit a  
22 burglary, the commission of which would be a felony.

23           f. Unlawful imprisonment.

24           g. Attempt, conspiracy, or solicitation to commit  
25 sexual abuse in the first degree.

26           h. Sexual abuse in the second degree.

27           i. Indecent exposure.

1           j. Failure to register as a sex offender.

2           k. Any offense under Section 13A-11-70 through  
3 13A-11-85, inclusive.

4           l. Any offense where the officer believes the  
5 individual to be a threat to society or unlikely to appear in  
6 court.

7           (c) The issuance of an arrest summons or an arrest  
8 warrant remains at the discretion of the arresting officer.  
9 The arresting officer shall consider the following factors  
10 when exercising that discretion:

11           a. Defendant's reputation and character.

12           b. Defendant's prior criminal record.

13           c. Violence or lack of violence in the alleged  
14 commission of the instant offense.

15           d. Threats made against a victim or victims.

16           e. Residence of the defendant.

17           f. Likelihood that the defendant will appear in  
18 court.

19           g. Reasonable belief that the defendant poses a real  
20 and present danger of harm to any other person, to include  
21 himself or herself, or to the public at large.

22           (d) A court of competent jurisdiction may issue  
23 warrants to a defendant who was previously issued a summons if  
24 the court believes, under any circumstance, that an arrest  
25 warrant and bond, to include a no bond, would be appropriate.  
26 The court need not develop new information from all known or

1 available information at the time of the summons to cause the  
2 warrants to issue.

3 (e) (1) The prosecuting authority of competent  
4 jurisdiction may seek an arrest warrant to be served on a  
5 defendant who was previously issued a summons if the  
6 prosecuting authority believes, under any circumstance, that  
7 an arrest warrant and bond, to include a request for no bond,  
8 would be appropriate. The prosecuting authority need not  
9 develop new information from all known or available  
10 information at the time of the summons to cause such warrants  
11 to issue.

12 (2) The term "prosecuting authority" shall include  
13 the district attorney, city attorney, municipal attorney,  
14 Alabama Attorney General, all assigns or designated personnel  
15 from any of those prosecuting authorities, or any other  
16 special prosecuting authority designated by a court.

17 Section 7. The following sections of the Code of  
18 Alabama 1975, are repealed:

19 (1) Sections 13A-5-9, 13A-5-10, and 13A-5-10.1,  
20 relating to additional penalties for habitual felony  
21 offenders.

22 (2) Sections 13A-8-4.1, 13A-8-8.1, 13A-8-10.25, and  
23 13A-8-18.1, relating to theft offenses.

24 (3) Sections 13A-12-215, 13A-12-232, 13A-12-250, and  
25 13A-12-270, relating to sentencing enhancements for drug  
26 offenses.

1           Section 8. (a) The provisions of Section 12-25-34.2,  
2 Code of Alabama 1975, relating to presumptive sentencing  
3 standards, shall be applied retroactively for any inmate  
4 sentenced prior to October 1, 2013.

5           (b) An inmate may petition the court to be  
6 resentenced pursuant to the presumptive sentencing standards  
7 by filing a petition in the circuit court in the county that  
8 imposed the conviction and sentence.

9           (c) An inmate shall be resentenced pursuant to the  
10 sentencing standards in place effective October 1, 2013.

11           (d) The Pardons and Parole Board shall make parole  
12 decisions based on the guidelines in place at the time of the  
13 parole consideration.

14           Section 9. Although this bill would have as its  
15 purpose or effect the requirement of a new or increased  
16 expenditure of local funds, the bill is excluded from further  
17 requirements and application under Amendment 621, now  
18 appearing as Section 111.05 of the Official Recompilation of  
19 the Constitution of Alabama of 1901, as amended, because the  
20 bill defines a new crime or amends the definition of an  
21 existing crime.

22           Section 10. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.