

1 HB71  
2 181447-1  
3 By Representative Poole  
4 RFD: Public Safety and Homeland Security  
5 First Read: 07-FEB-17  
6 PFD: 01/27/2017

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8 SYNOPSIS: Under existing law, a law enforcement  
9 officer may arrest a person without a warrant in  
10 various specified instances.

11 This bill would authorize a law enforcement  
12 officer to arrest a person without a warrant under  
13 certain conditions for trespassing on the property  
14 of an educational institution.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 To amend Section 13A-7-1, Code of Alabama 1975, as  
21 last amended by Act 2016-402, 2016 Regular Session, and  
22 Section 15-10-3, Code of Alabama 1975, relating to warrantless  
23 arrests, to authorize a law enforcement officer to arrest a  
24 person without a warrant under certain conditions for  
25 trespassing on the property of an educational institution and  
26 to further provide for the definition of "building".

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 13A-7-1, Code of Alabama 1975, as  
2 last amended by Act 2016-402, 2016 Regular Session, and  
3 Section 15-10-3, Code of Alabama 1975, are amended to read as  
4 follows:

5           "§13A-7-1.

6           "The following definitions are applicable to this  
7 article:

8           "(1) BUILDING. Any structure which may be entered  
9 and utilized by persons for business, public use, lodging or  
10 the storage of goods, and such term includes any vehicle,  
11 aircraft or watercraft used for the lodging of persons or  
12 carrying on business therein, and such term includes any  
13 railroad box car or other rail equipment or trailer or tractor  
14 trailer or combination thereof. The term also includes any  
15 structure used for any purpose by an educational institution,  
16 as defined in Section 15-10-3. Where a building consists of  
17 two or more units separately occupied or secure, each shall be  
18 deemed both a separate building and a part of the main  
19 building.

20           "(2) DWELLING. A building which is used or normally  
21 used by a person for sleeping, living or lodging therein.

22           "(3) ENTER OR REMAIN UNLAWFULLY. A person "enters or  
23 remains unlawfully" in or upon premises when he is not  
24 licensed, invited or privileged to do so. A person who,  
25 regardless of his intent, enters or remains in or upon  
26 premises which are at the time open to the public does so with  
27 license and privilege unless he defies a lawful order not to

1 enter or remain, personally communicated to him by the owner  
2 of such premises or other authorized person. A license or  
3 privilege to enter or remain in a building which is partly  
4 open to the public is not a license or privilege to enter or  
5 remain in that part of the building which is not open to the  
6 public. A person who enters or remains upon unimproved and  
7 apparently unused land, which is neither fenced nor otherwise  
8 enclosed in a manner designed to exclude intruders, does so  
9 with license and privileges unless notice against trespass is  
10 personally communicated to him by the owner of such land or  
11 other authorized person, or unless such notice is given by  
12 posting in a conspicuous manner.

13 "(4) POSTING IN A CONSPICUOUS MANNER. A sign or  
14 signs posted on the property, reasonably likely to come to the  
15 attention of intruders, indicating that entry is forbidden or  
16 the placement of identifying purple paint marks on trees or  
17 posts on the property, provided that the marks satisfy all of  
18 the following:

19 "a. Are vertical lines of not less than eight inches  
20 in length and not less than one inch in width.

21 "b. Are placed so that the bottom of the mark is not  
22 less than three feet from the ground or more than five feet  
23 from the ground.

24 "c. Are placed at locations that are readily visible  
25 to any person approaching the property and are no more than  
26 100 feet apart on forest land or 1,000 feet apart on land  
27 other than forest land.

1           "(5) PREMISES. Such term includes any "building," as  
2 herein defined, and any real property.

3           "§15-10-3.

4           "(a) An officer may arrest a person without a  
5 warrant, on any day and at any time in any of the following  
6 instances:

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

9           "(2) When a felony has been committed, though not in  
10 the presence of the officer, by the person arrested.

11           "(3) When a felony has been committed and the  
12 officer has reasonable cause to believe that the person  
13 arrested committed the felony.

14           "(4) When the officer has reasonable cause to  
15 believe that the person arrested has committed a felony,  
16 although it may afterwards appear that a felony had not in  
17 fact been committed.

18           "(5) When a charge has been made, upon reasonable  
19 cause, that the person arrested has committed a felony.

20           "(6) When the officer has actual knowledge that a  
21 warrant for the person's arrest for the commission of a felony  
22 or misdemeanor has been issued, provided the warrant was  
23 issued in accordance with this chapter. However, upon request  
24 the officer shall show the warrant to the arrested person as  
25 soon as possible. If the officer does not have the warrant in  
26 his or her possession at the time of arrest the officer shall

1 inform the defendant of the offense charged and of the fact  
2 that a warrant has been issued.

3 "(7) When the officer has reasonable cause to  
4 believe that a felony or misdemeanor has been committed by the  
5 person arrested in violation of a protection order, including  
6 a domestic violence protection order, issued by a court of  
7 competent jurisdiction.

8 "(8) When an offense involves domestic violence as  
9 defined in Section 13A-6-139.1, and the arrest is based on  
10 probable cause, regardless of whether the offense is a felony  
11 or misdemeanor.

12 "(9) a. When the officer has reasonable cause to  
13 believe that a person has committed a trespass on the  
14 premises, as defined in Section 13A-7-1, of an educational  
15 institution.

16 "b. For the purposes of this subdivision, the term  
17 "educational institution" means a public or private college,  
18 university, graduate school, professional school, junior  
19 college, trade school, elementary school, secondary school,  
20 and every institution for education and training of the deaf,  
21 blind, or individuals with developmental disabilities.

22 "(b) When a law enforcement officer investigates an  
23 allegation of domestic violence, whether or not an arrest is  
24 made, the officer shall make a written report of the alleged  
25 incident, including a statement of the complaint, and the  
26 disposition of the case.

1                   "(c) If the defendant is arrested under this section  
2 for committing an act of domestic violence in violation of a  
3 protection order, the defendant shall be held in custody until  
4 brought before the court as expeditiously as possible for the  
5 purpose of enforcing the protection order and for  
6 consideration of bail in accordance with Section 15-13-190 and  
7 the applicable rules of criminal procedure, pending a  
8 hearing."

9                   Section 2. This act shall become effective  
10 immediately following its passage and approval by the  
11 Governor, or its otherwise becoming law.