

1 SB154
2 188707-2
3 By Senators Melson and Ward
4 RFD: Judiciary
5 First Read: 11-JAN-18

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to municipalities; to amend Section
12 11-45-9.1, Code of Alabama 1975, to provide that a
13 municipality may authorize a law enforcement officer to issue
14 a summons and complaint in lieu of custodial arrest for all
15 misdemeanors and violations, with exceptions; and in
16 connection therewith would have as its purpose or effect the
17 requirement of a new or increased expenditure of local funds
18 within the meaning of Amendment 621 of the Constitution of
19 Alabama of 1901, now appearing as Section 111.05 of the
20 Official Recompilation of the Constitution of Alabama of 1901,
21 as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 11-45-9.1, Code of Alabama 1975,
24 is amended to read as follows:

25 "§11-45-9.1.

26 "(a) (1) By ordinance, Except as provided in
27 subdivision (2), the governing body of any municipality may,

1 by ordinance, authorize any law enforcement officer of a
2 municipality or any law enforcement officer of the state, in
3 lieu of placing persons under custodial arrest, to issue a
4 summons and complaint to any person charged with violating any
5 municipal littering ordinance; municipal ordinance which
6 prohibits animals from running at large, which shall include
7 leash laws and rabies control laws; or any ~~Class C~~ misdemeanor
8 or violation ~~not involving violence, threat of violence, or~~
9 ~~alcohol or drugs.~~

10 "(2) Subdivision (1) does not apply to any
11 misdemeanor or violation that includes any of the following:

12 "a. Violence, threat of violence, or domestic
13 violence, as defined in Section 13A-6-139.1.

14 "b. The possession or use of alcohol which, in the
15 opinion of the law enforcement officer, creates a risk to
16 public safety.

17 "c. A victim who is a minor.

18 "d. Any violation of Section 32-5A-191.

19 "(b) ~~Such~~ The summons and complaint shall be on a
20 form approved by the governing body of the municipality and
21 shall contain the name of the court; the name of the
22 defendant; a description of the offense, including the
23 municipal ordinance number; the date and time of the offense;
24 the place of the offense; signature of the officer issuing the
25 citation; the scheduled court date and time; an explanation to
26 the person cited of the ways in which he or she may settle his

1 or her case; and a signature block for the magistrate to sign
2 upon the officer's oath and affirmation given prior to trial.

3 "(c) Whenever any person is arrested for a violation
4 of any of the enumerated offenses, the arresting officer shall
5 take the name and address of ~~such~~ the person and any other
6 identifying information and issue a summons and complaint to
7 the person charged. ~~Such~~ The officer shall release the person
8 from custody upon his or her written promise to appear in
9 court at the designated time and place as evidenced by his or
10 her signature on the summons and complaint, without any
11 condition relating to the deposit of security.

12 "(d) If any person refuses to give a written
13 recognizance to appear by placing his or her signature on the
14 summons and complaint, the officer shall take that person into
15 custody and bring him or her before any officer or official
16 who is authorized to approve bond.

17 "(e) Before implementation of the summons and
18 complaint procedure, the governing body shall adopt a schedule
19 of fines for first, second, and subsequent offenders of the
20 alleged violation of ~~such~~ the ordinances who wish to plead
21 guilty before a magistrate, which shall be posted in a place
22 conspicuous to the public within the court clerk's office and
23 the police department.

24 "(f) (1) When a person is charged with one of the
25 enumerated ordinance violations, he or she may elect to appear
26 before the municipal court magistrate, or where the municipal
27 court has been abolished, the district court magistrate,

1 within the time specified in the summons and complaint, and
2 upon entering a plea of guilty, pay the fine and court costs.
3 A plea of guilty shall only be accepted by the magistrate
4 after the defendant has executed a notice and waiver of rights
5 form.

6 "(2) In the alternative, the defendant shall have
7 the option of depositing the required bail, and upon a plea of
8 not guilty, shall be entitled to a trial as authorized by law.

9 "(g) The court clerk or magistrate shall receive and
10 issue receipts for cash bail from persons who wish to be heard
11 in court; enter the time of their appearance on the court
12 docket; and notify the arresting officer and witnesses, if
13 any, to be present.

14 "(h) If the defendant fails to appear as specified
15 in the summons and complaint, the judge or magistrate having
16 jurisdiction of the offense may issue a warrant for his or her
17 arrest commanding that he or she be brought before the court
18 to answer the charge contained on the summons and complaint.
19 In addition, any person who willfully violates his or her
20 written promise or bond to appear, given in accordance with
21 this section, shall be guilty of the separate offense of
22 failing to appear, a misdemeanor, regardless of the
23 disposition of the charge upon which he or she was originally
24 arrested.

25 "(i) All fines and forfeitures collected upon a
26 conviction or upon the forfeiture of bail of any person
27 charged with a violation of ~~such~~ the ordinances, shall be

1 remitted to the general fund of the municipality; provided,
2 however, fines, forfeitures, and court costs assessed and
3 collected in district court shall be distributed as now
4 provided by law."

5 Section 2. Although this bill would have as its
6 purpose or effect the requirement of a new or increased
7 expenditure of local funds, the bill is excluded from further
8 requirements and application under Amendment 621, now
9 appearing as Section 111.05 of the Official Recompilation of
10 the Constitution of Alabama of 1901, as amended, because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

13 Section 3. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Judiciary.....	11-JAN-18
Read for the second time and placed on the calen- dar 1 amendment.....	18-JAN-18
Read for the third time and passed as amended	06-FEB-18

Yeas 23
Nays 0

Patrick Harris,
Secretary.