

1 SB67
2 165408-6
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 03-MAR-15
6 PFD: 03/02/2015

2
3
4 ENGROSSED

5
6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to crimes and offenses and supervision; to
12 amend Sections 12-15-208, 12-25-32 and 12-25-33, Code of
13 Alabama 1975, relating to juvenile detention and to the
14 Alabama Sentencing Commission; to amend Sections 13A-5-3,
15 13A-5-6, 13A-5-9, 13A-5-11, 13A-5-13, 13A-7-7, 13A-8-3,
16 13A-8-4, 13A-8-5, 13A-8-8, 13A-8-9, 13A-8-10.2, 13A-8-10.3,
17 13A-8-18, 13A-8-19, 13A-9-3, 13A-9-4, 13A-9-6, 13A-9-7,
18 13A-9-14, 13A-12-211, 13A-12-212, 13A-12-213, and 13A-12-291,
19 Code of Alabama 1975, relating to crimes and offenses to
20 create a Class D felony offense classification and to
21 reclassify certain crimes and offenses based on such Class D
22 classification, to create the crime of unlawful possession
23 with intent to distribute marihuana, and to revise certain
24 driver license suspension provisions for drug related
25 offenses; to amend Sections 14-14-2, 14-14-4, 14-14-5,
26 14-14-7, 15-12-21, 15-18-8, 15-18-171, 15-18-172, 15-18-174,
27 15-18-176, 15-18-180, 15-18-182, 15-22-24, 15-22-26, 15-22-28,

1 15-22-29, 15-22-31, 15-22-32, 15-22-33, 15-22-36, 15-22-36.2,
2 15-22-51, 15-22-52, 15-22-53, and 15-22-54, Code of Alabama
3 1975, relating to sentences and punishment to provide for
4 split sentencing provisions for Class C and D felonies, to
5 provide for supervision and treatment requirements and
6 guidelines for community corrections programs, to provide for
7 supervision and treatment requirements and guidelines for
8 parolees and probationers, to provide for parole release
9 guidelines, to provide for sanctions for parole and probation
10 violations, to provide guidelines for early release from
11 supervision for parolees and probationers, and to expand the
12 automated victim notification system; to amend Section
13 29-2-20, Code of Alabama 1975, relating to the Joint Prison
14 Oversight Committee; to amend Section 36-18-25, Code of
15 Alabama 1975, relating to DNA samples; to add Sections
16 13A-7-7.1, 13A-8-3.1, 13A-8-4.1, 13A-8-8.1, 13A-8-18.1,
17 13A-8-24, 13A-9-3.1, and 13A-9-6.1 to the Code of Alabama 1975
18 to add certain crimes and offenses based on new crime
19 classifications established; to provide for the crime of theft
20 of services third degree; to add Sections 15-22-26.1,
21 15-22-36.3, and 15-22-57 to the Code of Alabama 1975 relating
22 to the Board of Pardons and Paroles; to provide for a
23 mandatory supervision period on a straight sentence; to
24 provide that the court shall retain jurisdiction of a person
25 for purposes of collecting court-ordered fines, fees, costs,
26 or restitution; and in connection therewith would have as its
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds within the meaning of Amendment 621
2 of the Constitution of Alabama of 1901, now appearing as
3 Section 111.05 of the Official ReCompilation of the
4 Constitution of Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 12-15-208, 12-25-32 and
7 12-25-33, Code of Alabama 1975, are hereby amended to read as
8 follows:

9 "§12-15-208.

10 (a) Persons who shall not be detained or confined in
11 secure custody include all of the following:

12 (1) STATUS OFFENDERS. Effective October 1, 2009,
13 status offenders, as defined in this article, shall not be
14 detained or confined in secure custody, except that a status
15 offender who is charged with or who commits a violation of a
16 valid court order may be detained in secure custody in a
17 juvenile detention facility for up to 72 hours in any
18 six-month period, provided that all conditions set forth in
19 subdivision (3) of subsection (b) are satisfied. Short-term
20 secure custody of accused status offenders may be necessary,
21 such as detention in a juvenile detention facility for a brief
22 period, not exceeding 24 hours, prior to formal juvenile court
23 action, for investigative purposes, for identification
24 purposes, or for the purpose of allowing return of a status
25 offender to the parent, legal guardian, or legal custodian.
26 Detention for a brief period of time pursuant to juvenile
27 court authority may also be necessary in order to arrange for

1 appropriate shelter care placement. If a petition regarding an
2 alleged status offender is filed in juvenile court and if it
3 is determined that the alleged status offender is at imminent
4 risk of being placed in the legal or physical custody of the
5 Department of Human Resources, the case shall be referred to
6 the county children's services facilitation team, and the
7 procedures in Article 5 shall be followed. Upon referral to
8 the county children's services facilitation team, the juvenile
9 probation officer shall continue to provide case management to
10 the status offender unless the county children's services
11 facilitation team appoints another person to act as case
12 manager. The juvenile probation officer shall participate in
13 county children's services facilitation team meetings and
14 share records information and reports on the status offender
15 with the county children's services facilitation team.

16 (2) FEDERAL WARDS. Federal wards held beyond 24
17 hours in secure custody in state and local juvenile detention
18 facilities pursuant to a written contract or agreement with a
19 federal agency and for the specific purpose of affecting a
20 jurisdictional transfer or appearance as a material witness or
21 for return to their lawful residence or country of citizenship
22 shall be reported as violations of the deinstitutionalization
23 of status offender requirement.

24 (3) NONOFFENDERS. Nonoffenders, as defined in this
25 article, shall not be detained or confined in secure custody.

26 (4) CHILDREN 10 YEARS OF AGE AND YOUNGER. Children
27 10 years of age and younger shall not be detained or confined

1 in secure custody, unless the children are charged with
2 offenses causing death or serious bodily injury to persons or
3 offenses that would be classified as Class A felonies if
4 committed by adults. Children 11 or 12 years of age may only
5 be detained or confined in secure custody by orders of
6 juvenile courts, unless the children are charged with offenses
7 causing death or serious bodily injury to persons or offenses
8 that would be classified as Class A felonies if committed by
9 adults.

10 (b) Persons who may be detained or confined in
11 secure custody include all of the following:

12 (1) Persons who violate the federal law, which
13 prohibits possession of a handgun by a child under the age of
14 18 years, or who violate a similar state or municipal law, may
15 be placed in secure custody in juvenile detention facilities.

16 (2) Persons in custody pursuant to the Interstate
17 Compact on Juveniles, contained in Section 44-2-1, et seq.,
18 may be placed in secure custody in juvenile detention
19 facilities.

20 (3) Status offenders who violate a valid court
21 order. A status offender who is charged with or has committed
22 a violation of a valid court order may be detained in secure
23 custody in a juvenile detention facility for up to 72 hours in
24 any six-month period. Status offenders who violate valid court
25 orders shall not be committed to the Department of Youth
26 Services, nor shall they be held in jails or lockups for adult
27 offenders. For this valid court order exception to apply, the

1 following actions must occur whenever a status offender is
2 taken into custody for violating a valid court order:

3 a. The juvenile detention facility shall immediately
4 notify the juvenile court intake or probation officer that the
5 child is being held in secure custody for violating a valid
6 court order. The notice shall include the date and time the
7 child entered the juvenile detention facility.

8 b. Within the first 24 hours during which a status
9 offender is held in secure custody for violating a valid court
10 order, not including weekends or holidays, a juvenile court
11 intake or probation officer, or an authorized representative
12 of the department or agency having custody or supervision of
13 the child, shall interview the child, in person.

14 c. Within 48 hours of the admission of the status
15 offender to secure custody for violating a valid court order,
16 not including weekends or holidays:

17 1. The individual who interviewed the child shall
18 submit a written assessment report to the juvenile court
19 regarding the immediate needs of the child; and

20 2. If the juvenile court has not yet determined
21 whether the child has, in fact, violated the order, the
22 juvenile court shall conduct a hearing to determine whether
23 there is reasonable cause to believe that the child violated
24 the order and the appropriate placement of the child pending
25 disposition of the alleged violation.

1 (c) ~~Compliance with jail removal. No person under~~
2 ~~the age of 18 years shall be detained or confined in any jail~~
3 ~~or lockup for adults except for the following exceptions:~~

4 (1) ~~A child may be detained in a jail or lockup for~~
5 ~~adults for up to six hours while processing the case of the~~
6 ~~child.~~

7 (2) ~~A child transferred for criminal prosecution~~
8 ~~pursuant to Section 12-15-203 may be detained in a jail or~~
9 ~~lockup for adults.~~

10 (3) ~~A person charged pursuant to Section 12-15-204~~
11 ~~may be detained in a jail or lockup for adults.~~

12 ~~When a case is transferred to another court for~~
13 ~~criminal prosecution, the person shall be transferred to the~~
14 ~~appropriate officer or jail or lockup in accordance with the~~
15 ~~law governing the detention of the person charged with the~~
16 ~~crime. Prohibition on detaining juveniles in adult facilities.~~

17 No person under the age of 18 years, including one who has
18 been transferred for criminal prosecution pursuant to Section
19 12-15-203 or charged pursuant to Section 12-15-204, shall be
20 detained or confined in any jail or lockup for adults unless
21 the facility is fully compliant with the sight and sound
22 separation requirements in subsection (d) of Section
23 12-15-208. The use of solitary confinement or other practice
24 resulting in extended isolation as a method of complying with
25 subsection (d) of Section 12-15-208 shall be prohibited.

26 Jails and lockups used for holding adults shall not hold
27 status offenders in secure custody at any time. An accused

1 status offender may be detained in a nonsecure area of a jail
2 or lockup for processing while waiting transportation to a
3 nonsecure shelter care facility or a juvenile detention
4 facility or while waiting for release to a parent, legal
5 guardian, or legal custodian.

6 ~~Nothing in this subsection shall prohibit a circuit~~
7 ~~court judge exercising criminal jurisdiction from recommending~~
8 ~~that a child described in subdivision (2) or (3) should be~~
9 ~~placed in a juvenile detention center instead of an adult jail~~
10 ~~or lockup.~~

11 (d) Compliance with separation. ~~Accused or~~
12 ~~adjudicated delinquent children or status offenders~~ No person
13 under the age of 18 years shall ~~not~~ have contact with adult
14 inmates, including trustees. Contact is defined to include any
15 physical or sustained sight and sound contact. Sight contact
16 is defined as clear visual contact between adult inmates and
17 accused or adjudicated delinquent children or status offenders
18 within close proximity to each other. Sound contact is defined
19 as direct verbal communication between adult inmates and
20 accused or adjudicated delinquent children or status
21 offenders.

22 No child shall enter pursuant to public authority,
23 for any amount of time, in secure custody in a secure section
24 of a jail, lockup, or correctional facility for adults as a
25 disposition of an offense or as a means of modifying his or
26 her behavior (e.g., Shock Incarceration or Scared Straight).

1 (e) ~~Except as provided above, in~~ In providing
2 detention and shelter or other care for ~~children referred to~~
3 ~~or coming under the jurisdiction of the juvenile court~~ persons
4 under the age of 18 years, the juvenile and criminal court
5 courts shall utilize only those facilities as have been
6 established, licensed, or approved by the Department of Youth
7 Services or Department of Human Resources for those purposes.

8 (f) After October 1, 1991, the Department of Youth
9 Services shall accept all children committed to it within
10 seven days of notice of disposition.

11 (g) ~~Except as provided above, the~~ The official in
12 charge of a jail or lockup for the detention of adult
13 offenders or persons charged with crimes shall inform the
14 juvenile court immediately when a child, who is or appears to
15 be a child as defined by this chapter, is received at the jail
16 or lockup. Upon request, the official shall deliver the child
17 to the juvenile court or transfer him or her to a juvenile
18 detention facility designated by the juvenile court.

19 (h) The Department of Youth Services shall continue
20 to develop and implement a statewide system of juvenile
21 detention facilities which shall be licensed by the Department
22 of Youth Services for the detention of children.

23 (i) The Department of Youth Services shall subsidize
24 the detention of children in the juvenile detention facilities
25 in an amount up to one half the average cost of detention,
26 which term is defined in this article, the amount depending on
27 the provision of funds by the Legislature to the Department of

1 Youth Services. Juvenile detention facilities may contract
2 with the Department of Youth Services or other counties for
3 the detention of children.

4 (j) When a case is transferred to another court for
5 criminal prosecution, the child shall be transferred to the
6 appropriate officer or jail or lockup in accordance with the
7 law governing the detention of the person charged with
8 criminal offenses and subsections (c) and (d) of Section
9 12-15-208.

10 (k) Any law enforcement officer, at the direction of
11 the juvenile or criminal court, shall provide security and
12 transportation services for the juvenile court in transporting
13 children to and from juvenile detention facilities.

14 "§12-25-32.

15 "For the purposes of this article, the following
16 terms have the following meanings:

17 "(1) COMMISSION. The Alabama Sentencing Commission,
18 established as a state agency under the Supreme Court by this
19 chapter.

20 "(2) CONTINUUM OF PUNISHMENTS. An array of
21 punishment options, from probation to incarceration, graduated
22 in restrictiveness according to the degree of supervision of
23 the offender including, but not limited to, all of the
24 following:

25 "a. Active incarceration. A sentence, other than an
26 intermediate punishment or unsupervised probation, that
27 requires an offender to serve a sentence of imprisonment. The

1 term includes time served in a work release program operated
2 as a custody option by the Alabama Department of Corrections
3 or in the Supervised Intensive Restitution program of the
4 Department of Corrections pursuant to Article 7, commencing
5 with Section 15-18-110, of Chapter 18 of Title 15.

6 "b. Intermediate punishment. A sentence that may
7 include assignment to any community based punishment program
8 or may include probation with conditions or probation in
9 conjunction with a period of confinement. Intermediate
10 punishments include, but are not limited to, all of the
11 following options:

12 "1. A split sentence pursuant to Section 15-18-8.

13 "2. Assignment to a community punishment and
14 corrections program pursuant to the Alabama Community
15 Punishment and Corrections Act or local acts.

16 "3. Assignment to a community based manual labor
17 work program pursuant to Sections 14-5-30 to 14-5-37,
18 inclusive.

19 "4. Intensive probation supervision pursuant to
20 Section 15-22-56.

21 "5. Cognitive and behavioral training.

22 "6. Community service work.

23 "7. County probation.

24 "8. Day fines or means-based fines.

25 "9. Day reporting.

26 "10. Drug or alcohol testing.

27 "11. Drug court programs.

- 1 "12. Educational programs.
- 2 "13. Electronic monitoring.
- 3 "14. Home confinement or house arrest.
- 4 "15. Ignition interlock.
- 5 "16. Intermittent confinement.
- 6 "17. Jail and prison diversion programs.
- 7 "18. Job readiness and work.
- 8 "19. Literacy and basic learning.
- 9 "20. Pretrial diversion programs.
- 10 "21. Residential drug treatment.
- 11 "22. Residential community based punishment programs
- 12 in which the offender is required to spend at least eight
- 13 hours per day, or overnight, within a facility and is required
- 14 to participate in activities such as counseling, treatment,
- 15 social skills training, or employment training, conducted at
- 16 the residential facility or at another specified location.
- 17 "23. Restorative justice as established in Section
- 18 12-17-226.6.
- 19 "(i) Victim impact panels.
- 20 "(ii) Voluntary victim offender conferencing.
- 21 "(iii) Voluntary victim offender mediation.
- 22 "24. Self-help groups.
- 23 "25. Sobriety or breath alcohol remote monitoring.
- 24 "26. Substance abuse education and treatment.
- 25 "27. Treatment alternatives to street crime (TASC).
- 26 "28. Voice recognition, curfew restriction, or
- 27 employment monitoring.

1 "29. Work release, other than those work release
2 programs operated by the Alabama Department of Corrections, as
3 a custody option.

4 "c. Unsupervised probation. A sentence in a criminal
5 case that includes a period of probation but does not include
6 supervision, active incarceration, or an intermediate
7 punishment.

8 "d. Post-release supervision. A mandatory period of
9 supervision following sentences of active incarceration as
10 defined in paragraph a. that may include one or more
11 intermediate punishment options.

12 "(3) COURT. Unless otherwise stated, a district or
13 circuit court exercising jurisdiction to sentence felony
14 offenders.

15 "(4) EVIDENCE-BASED PRACTICES. Policies, procedures,
16 programs, and practices proven by widely accepted and
17 published research to reliably produce reductions in
18 recidivism.

19 "~~(4)~~ (5) FELONY OFFENSE. A noncapital felony
20 offense.

21 "~~(5)~~ (6) INITIAL VOLUNTARY STANDARDS. The voluntary
22 sentencing standards effective on October 1, 2006. These
23 standards were based on statewide historic sentences imposed
24 with normative adjustments designed to reflect current
25 sentencing policies.

26 "~~(6)~~ (7) NONVIOLENT OFFENSE. All offenses which are
27 not violent offenses.

1 "~~(7)~~ (8) NONVIOLENT OFFENDER. Any offender who does
2 not qualify as a violent offender pursuant to subdivision ~~(13)~~
3 (14).

4 "~~(8)~~ (9) OFFENDER. A person convicted of a
5 noncapital felony offense.

6 "~~(9)~~ (10) RELEASE AUTHORITY. Any public official,
7 agency, or other entity authorized by law to release a
8 sentenced offender from incarceration or other conditions of a
9 sentence.

10 "~~(10)~~ (11) VALIDATED RISK AND NEEDS ASSESSMENT. An
11 ~~instrument designed to assess an offender's relative risk for~~
12 ~~reoffending~~ actuarial tool that has been validated and
13 established by administrative rule in Alabama to determine the
14 likelihood of an offender engaging in future criminal
15 behavior. The Board of Pardons and Paroles, the Department of
16 Corrections, and the Sentencing Commission shall adopt
17 compatible tools to conduct a validated risk and needs
18 assessment upon offenders within the jurisdiction of the
19 state.

20 "~~(11)~~ (12) TRUTH-IN-SENTENCING STANDARDS. ~~The Truth~~
21 ~~in sentencing is~~ sentencing standards that are scheduled to
22 become effective October 1, 2020. ~~These standards shall be~~
23 ~~based on statewide historic time served for offenses with~~
24 ~~adjustments designed by the commission to reflect current~~
25 ~~sentencing policies.~~

1 "~~(12)~~ (13) UNDER SUPERVISION. All offenders under
2 the supervision of any criminal justice agency or program
3 including, but not limited to, any of the following entities:

4 "a. The Alabama Department of Corrections.

5 "b. State or county probation offices.

6 "c. Community corrections programs pursuant to
7 Alabama Community Corrections Act.

8 "d. Jails.

9 "e. State or local law enforcement agencies.

10 "f. Any court.

11 "~~(13)~~ (14) VIOLENT OFFENDER. A violent offender is
12 an offender who has been convicted of a violent offense, or
13 who is determined by the trial court judge or a release
14 authority to have demonstrated a propensity for violence,
15 aggression, or weapons related behavior based on the criminal
16 history or behavior of the offender while under supervision of
17 any criminal justice system agency or entity.

18 "~~(14)~~ (15) VIOLENT OFFENSE.

19 "a. For the purposes of this article, a violent
20 offense includes each of the following offenses, or any
21 substantially similar offense to those listed in this
22 subdivision created after June 20, 2003:

23 "1. Capital murder pursuant to Sections 13A-6-2 and
24 13A-5-40.

25 "2. Murder pursuant to Section 13A-6-2.

26 "3. Manslaughter pursuant to Section 13A-6-3.

- 1 "4. Criminally negligent homicide pursuant to
2 Section 13A-6-4.
- 3 "5. Assault I pursuant to Section 13A-6-20.
- 4 "6. Assault II pursuant to Section 13A-6-21.
- 5 "7. Compelling street gang membership pursuant to
6 Section 13A-6-26.
- 7 "8. Kidnapping I pursuant to Section 13A-6-43.
- 8 "9. Kidnapping II pursuant to Section 13A-6-44.
- 9 "10. Rape I pursuant to Section 13A-6-61.
- 10 "11. Rape II pursuant to Section 13A-6-62.
- 11 "12. Sodomy I pursuant to Section 13A-6-63.
- 12 "13. Sodomy II pursuant to Section 13A-6-64.
- 13 "14. Sexual torture pursuant to Section 13A-6-65.1.
- 14 "15. Sexual abuse I pursuant to Section 13A-6-66.
- 15 "16. Enticing a child to enter a vehicle for immoral
16 purposes pursuant to Section 13A-6-69.
- 17 "17. Stalking pursuant to Section 13A-6-90.
- 18 "18. Aggravated stalking pursuant to Section
19 13A-6-91.
- 20 "19. Soliciting a child by computer pursuant to
21 Section 13A-6-110.
- 22 "20. Domestic violence I pursuant to Section
23 13A-6-130.
- 24 "21. Domestic violence II pursuant to Section
25 13A-6-131.
- 26 "22. Burglary I pursuant to Section 13A-7-5.
- 27 "23. Burglary II pursuant to Section 13A-7-6.

- 1 "24. Burglary III pursuant to Section 13A-7-7.
- 2 "25. Arson I pursuant to Section 13A-7-41.
- 3 "26. Criminal possession of explosives pursuant to
4 Section 13A-7-44.
- 5 "27. Extortion I pursuant to Section 13A-8-14.
- 6 "28. Robbery I pursuant to Section 13A-8-41.
- 7 "29. Robbery II pursuant to Section 13A-8-42.
- 8 "30. Robbery III pursuant to Section 13A-8-43.
- 9 "31. Pharmacy robbery pursuant to Section 13A-8-51.
- 10 "32. Terrorist threats pursuant to Section
11 13A-10-15.
- 12 "33. Escape I pursuant to Section 13A-10-31.
- 13 "34. Promoting prison contraband I pursuant to
14 Section 13A-10-36, involving a deadly weapon or dangerous
15 instrument.
- 16 "35. Intimidating a witness pursuant to Section
17 13A-10-123.
- 18 "36. Intimidating a juror pursuant to Section
19 13A-10-127.
- 20 "37. Treason pursuant to Section 13A-11-2.
- 21 "38. Discharging a weapon into an occupied building,
22 dwelling, automobile, etc., pursuant to Section 13A-11-61.
- 23 "39. Promoting prostitution I pursuant to Section
24 13A-12-111.
- 25 "40. Production of obscene matter involving a minor
26 pursuant to Section 13A-12-197.
- 27 "41. Trafficking pursuant to Section 13A-12-231.

1 "42. Child abuse pursuant to Section 26-15-3.

2 "43. Elder abuse pursuant to Section 38-9-7.

3 "44. Terrorism pursuant to Section 13A-10-152.

4 "45. Hindering prosecution for terrorism pursuant to
5 Section 13A-10-154.

6 "46. Domestic violence III pursuant to subsection
7 (d) of Section 13A-6-132.

8 "47. Domestic violence by strangulation or
9 suffocation pursuant to Section 13A-6-138.

10 "48. Human trafficking I pursuant to Section
11 13A-6-152.

12 "49. Human trafficking II pursuant to Section
13 13A-6-153.

14 "50. Hindering prosecution in the first degree
15 pursuant to Section 13A-10-43.

16 "~~46.~~ 51. Any substantially similar offense for which
17 an Alabama offender has been convicted under prior Alabama law
18 or the law of any other state, the District of Columbia, the
19 United States, or any of the territories of the United States.

20 "b. The basis for defining these offenses as violent
21 is that each offense meets at least one of the following
22 criteria:

23 "1. Has as an element, the use, attempted use, or
24 threatened use of a deadly weapon or dangerous instrument or
25 physical force against the person of another.

26 "2. Involves a substantial risk of physical injury
27 against the person of another.

1 "3. Is a nonconsensual sex offense.

2 "4. Is particularly reprehensible.

3 "c. Any attempt, conspiracy, or solicitation to
4 commit a violent offense shall be considered a violent offense
5 for the purposes of this article.

6 "d. Any criminal offense which meets the criteria
7 provided in paragraph b. enacted after 2003.

8 "§12-25-33.

9 "To achieve the goals recognized by the Legislature
10 in Chapter 25 and Section 12-25-31, the commission shall:

11 "(1) Develop, maintain, and modify as necessary a
12 system of statewide voluntary sentencing standards for use in
13 felony cases which shall take into account historical
14 sentencing data, concerning time actually served for various
15 felony offenses, sentences imposed for various felony
16 offenses, and such other factors as appear historically
17 relevant to determining both the duration and disposition of
18 sentences in felony cases. The standards shall recognize a
19 continuum of punishments in recommending the disposition of
20 sentences.

21 "(2) Educate judges, prosecutors, defense attorneys,
22 victim's service officers, community corrections officials,
23 probation officers, and other personnel, where appropriate, in
24 the use of the voluntary sentencing standards and worksheets.

25 "(3) Develop, distribute, and periodically update
26 sentencing worksheets for the use of courts in determining

1 both the duration and disposition of sentences in felony
2 cases.

3 "(4) Prepare, distribute, and periodically update a
4 form for sentencing courts to record the sentence of the
5 offender and the reason or reasons for any departure from the
6 voluntary sentencing standards.

7 "(5) Develop and distribute voluntary standards for
8 sentencing courts that include recommended intermediate
9 punishment options.

10 "(6) Evaluate validated risk and needs assessment
11 instruments used by the Board of Pardons and Paroles, the
12 Department of Corrections, and other agencies and entities and
13 assist in developing an offender risk and needs assessment
14 instrument for use in felony cases, based on a study of
15 Alabama felons, that is intended to be predictive of the
16 relative risk that a felon will become a threat to public
17 safety.

18 "(7) Collect, analyze, and maintain data regarding
19 sentencing practices in felony cases, including the use of the
20 voluntary sentencing standards, and recommend changes or
21 modifications of the standards and worksheets as the
22 commission deems appropriate.

23 "(8) Collect and analyze information including
24 sentencing data, crime trends, and existing correctional
25 resources to enable the commission to make recommendations
26 regarding projected correctional resource needs and to make
27 recommendations to the Governor, the Legislature, the Chief

1 Justice, and the Attorney General in the annual report of the
2 commission. This annual report should also include data
3 showing the impact of the initial voluntary standards and the
4 truth-in-sentencing standards by race, gender, and location of
5 the offender.

6 "(9) Study felony statutes in the context of
7 sentencing patterns as they evolve and make recommendations
8 for the revision of criminal offense statutes to provide more
9 specific offense definitions and more narrowly prescribed
10 ranges of punishment.

11 "(10) Study bills introduced in the Legislature
12 affecting criminal laws and procedure and prepare impact
13 statements of proposed legislation on Alabama's criminal
14 justice system, including the prison population.

15 "(11) Report upon its work and recommendations
16 annually to the Governor, the Legislature, the Chief Justice,
17 and the Attorney General, to include the number of
18 incarcerated inmates that are currently only serving a
19 sentence for a nonviolent offense and who also have a violent
20 offense in their criminal history. The Department of
21 Corrections shall provide to the commission any information
22 necessary to complete such report.

23 "(12) Conduct the research necessary to determine
24 the appropriate point values for offenses classified as Class
25 D felonies, as well as for the offense of burglary in the
26 fourth degree pursuant to Section 13A-7-7.1, for purposes of

1 the sentencing guidelines and establish such point values
2 within the sentencing range set forth in Section 13A-5-6.

3 "~~(12)~~ (13) Perform such other functions as may be
4 required by law or necessary to carry out the duties of the
5 commission prescribed in this chapter and this article.

6 Section 2. Sections 13A-5-3, 13A-5-6, 13A-5-9,
7 13A-5-11, 13A-5-13, 13A-7-7, 13A-8-3, 13A-8-4, 13A-8-5,
8 13A-8-8, 13A-8-9, 13A-8-10.2, 13A-8-10.3, 13A-8-18, 13A-8-19,
9 13A-9-3, 13A-9-4, 13A-9-6, 13A-9-7, 13A-9-14, 13A-12-211,
10 13A-12-212, 13A-12-213, and 13A-12-291 Code of Alabama 1975,
11 are hereby amended to read as follows:

12 "§13A-5-3.

13 "(a) Offenses are designated as felonies,
14 misdemeanors or violations.

15 "(b) Felonies are classified according to the
16 relative seriousness of the offense into ~~three~~ four
17 categories:

18 "(1) Class A felonies;

19 "(2) Class B felonies; ~~and~~

20 "(3) Class C felonies; ~~;~~ and

21 "(4) Class D felonies.

22 "(c) Misdemeanors are classified according to the
23 relative seriousness of the offense into three categories:

24 "(1) Class A misdemeanors;

25 "(2) Class B misdemeanors; and

26 "(3) Class C misdemeanors.

27 "(d) Violations are not classified.

1 "§13A-5-6.

2 "(a) Sentences for felonies shall be for a definite
3 term of imprisonment, which imprisonment includes hard labor,
4 within the following limitations:

5 "(1) For a Class A felony, for life or not more than
6 99 years or less than 10 years.

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

9 "(3) For a Class C felony, not more than 10 years or
10 less than 1 year and 1 day.

11 "(4) For a Class D felony, not more than 5 years or
12 less than 1 year and 1 day.

13 "~~(4)~~ (5) For a Class A felony in which a firearm or
14 deadly weapon was used or attempted to be used in the
15 commission of the felony, or a Class A felony ~~criminal~~ sex
16 offense involving a child as defined in Section ~~15-20-21(5)~~
17 15-20A-4, not less than 20 years.

18 "~~(5)~~ (6) For a Class B or C felony in which a
19 firearm or deadly weapon was used or attempted to be used in
20 the commission of the felony, or a Class B felony ~~criminal~~ sex
21 offense involving a child as defined in Section ~~15-20-21(5)~~
22 15-20A-4, not less than 10 years.

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

1 "(c) In addition to any penalties heretofore or
2 hereafter provided by law, in all cases where an offender is
3 designated as a sexually violent predator pursuant to Section
4 ~~15-20-25.3~~ 15-20A-19, or where an offender is convicted of a
5 Class A felony ~~criminal~~ sex offense involving a child as
6 defined in Section ~~15-20-21(5)~~ 15-20A-4, and is sentenced to a
7 county jail or the Alabama Department of Corrections, the
8 sentencing judge shall impose an additional penalty of not
9 less than 10 years of post-release supervision to be served
10 upon the defendant's release from incarceration.

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

19 "§13A-5-9.

20 "(a) In all cases when it is shown that a criminal
21 defendant has been previously convicted of a Class A, Class B,
22 or Class C felony and after the conviction has committed
23 another Class A, Class B, or Class C felony, he or she must be
24 punished as follows:

25 "(1) On conviction of a Class C felony, he or she
26 must be punished for a Class B felony.

1 "(2) On conviction of a Class B felony, he or she
2 must be punished for a Class A felony.

3 "(3) On conviction of a Class A felony, he or she
4 must be punished by imprisonment for life or for any term of
5 not more than 99 years but not less than 15 years.

6 "(b) In all cases when it is shown that a criminal
7 defendant has been previously convicted of any two felonies
8 that are Class A, Class B, or Class C felonies and after such
9 convictions has committed another Class A, Class B, or Class C
10 felony, he or she must be punished as follows:

11 "(1) On conviction of a Class C felony, he or she
12 must be punished for a Class A felony.

13 "(2) On conviction of a Class B felony, he or she
14 must be punished by imprisonment for life or for any term of
15 not more than 99 years but not less than 15 years.

16 "(3) On conviction of a Class A felony, he or she
17 must be punished by imprisonment for life or for any term of
18 not less than 99 years.

19 "(c) In all cases when it is shown that a criminal
20 defendant has been previously convicted of any three felonies
21 that are Class A, Class B, or Class C felonies and after such
22 convictions has committed another Class A, Class B, or Class C
23 felony, he or she must be punished as follows:

24 "(1) On conviction of a Class C felony, he or she
25 must be punished by imprisonment for life or for any term of
26 not more than 99 years but not less than 15 years.

1 "(2) On conviction of a Class B felony, he or she
2 must be punished by imprisonment for life or any term of not
3 less than 20 years.

4 "(3) On conviction of a Class A felony, where the
5 defendant has no prior convictions for any Class A felony, he
6 or she must be punished by imprisonment for life or life
7 without the possibility of parole, in the discretion of the
8 trial court.

9 "(4) On conviction of a Class A felony, where the
10 defendant has one or more prior convictions for any Class A
11 felony, he or she must be punished by imprisonment for life
12 without the possibility of parole.

13 "(d) In all cases when it is shown that a criminal
14 defendant has been previously convicted of any two or more
15 felonies that are Class A or Class B felonies and after such
16 convictions has committed a Class D felony, upon conviction,
17 he or she must be punished for a Class C felony.

18 "(e) In all cases when it is shown that a criminal
19 defendant has been previously convicted of any three or more
20 felonies and after such convictions has committed a Class D
21 felony, upon conviction, he or she must be punished for a
22 Class C felony.

23 "§13A-5-11.

24 "(a) A sentence to pay a fine for a felony shall be
25 for a definite amount, fixed by the court, within the
26 following limitations:

27 "(1) For a Class A felony, not more than \$60,000;

1 "(2) For a Class B felony, not more than \$30,000;
2 "(3) For a Class C felony, not more than \$15,000; ~~or~~
3 "(4) For a Class D felony, not more than \$7,500; or
4 "~~(4)~~ (5) Any amount not exceeding double the
5 pecuniary gain to the defendant or loss to the victim caused
6 by the commission of the offense.

7 "(b) As used in this section, "gain" means the
8 amount of money or the value of property derived from the
9 commission of the crime, less the amount of money or the value
10 of property returned to the victim of the crime or seized or
11 surrendered to lawful authority prior to the time sentence is
12 imposed. "Value" shall be determined by the standards
13 established in subdivision (14) of Section 13A-8-1.

14 "(c) The court may conduct a hearing upon the issue
15 of defendant's gain or the victim's loss from the crime
16 according to procedures established by rule of court.

17 "(d) This section shall not apply if a higher fine
18 is otherwise authorized by law for a specific crime.

19 "§13A-5-13.

20 "(a) The Legislature finds and declares the
21 following:

22 "(1) It is the right of every person, regardless of
23 race, color, religion, national origin, ethnicity, or physical
24 or mental disability, to be secure and protected from threats
25 of reasonable fear, intimidation, harassment, and physical
26 harm caused by activities of groups and individuals.

1 "(2) It is not the intent, by enactment of this
2 section, to interfere with the exercise of rights protected by
3 the Constitution of the State of Alabama or the United States.

4 "(3) The intentional advocacy of unlawful acts by
5 groups or individuals against other persons or groups and
6 bodily injury or death to persons is not constitutionally
7 protected when violence or civil disorder is imminent, and
8 poses a threat to public order and safety, and such conduct
9 should be subjected to criminal sanctions.

10 "(b) The purpose of this section is to impose
11 additional penalties where it is shown that a perpetrator
12 committing the underlying offense was motivated by the
13 victim's actual or perceived race, color, religion, national
14 origin, ethnicity, or physical or mental disability.

15 "(c) A person who has been found guilty of a crime,
16 the commission of which was shown beyond a reasonable doubt to
17 have been motivated by the victim's actual or perceived race,
18 color, religion, national origin, ethnicity, or physical or
19 mental disability, shall be punished as follows:

20 "(1) Felonies:

21 "a. On conviction of a Class A felony that was found
22 to have been motivated by the victim's actual or perceived
23 race, color, religion, national origin, ethnicity, or physical
24 or mental disability, the sentence shall not be less than 15
25 years.

26 "b. On conviction of a Class B felony that was found
27 to have been motivated by the victim's actual or perceived

1 race, color, religion, national origin, ethnicity, or physical
2 or mental disability, the sentence shall not be less than 10
3 years.

4 "c. On conviction of a Class C felony that was found
5 to have been motivated by the victim's actual or perceived
6 race, color, religion, national origin, ethnicity, or physical
7 or mental disability, the sentence shall not be less than two
8 years.

9 "d. On conviction of a Class D felony that was found
10 to have been motivated by the victim's actual or perceived
11 race, color, religion, national origin, ethnicity, or physical
12 or mental disability, the sentence shall not be less than 18
13 months.

14 ~~"d.~~ e. For purposes of this subdivision, a criminal
15 defendant who has been previously convicted of any felony and
16 receives an enhanced sentence pursuant to this section is also
17 subject to enhanced punishment under the Alabama Habitual
18 Felony Offender Act, Section 13A-5-9.

19 "(2) Misdemeanors:

20 "On conviction of a misdemeanor which was found
21 beyond a reasonable doubt to have been motivated by the
22 victim's actual or perceived race, color, religion, national
23 origin, ethnicity, or physical or mental disability, the
24 defendant shall be sentenced for a Class A misdemeanor, except
25 that the defendant shall be sentenced to a minimum of three
26 months.

27 "§13A-7-7.

1 "(a) A person commits the crime of burglary in the
2 third degree ~~if he knowingly enters or remains unlawfully in a~~
3 ~~building with intent to commit a crime therein.~~ if any of the
4 following occur:

5 "(1) He or she knowingly enters or remains
6 unlawfully in a dwelling with the intent to commit a crime
7 therein;

8 "(2) He or she knowingly enters or remains
9 unlawfully in an occupied building with the intent to commit a
10 crime therein; or

11 "(3) He or she knowingly enters or remains
12 unlawfully in an unoccupied building within 100 feet of a
13 dwelling with the intent to commit a crime therein.

14 "(b) Burglary in the third degree is a Class C
15 felony.

16 "§13A-8-3.

17 "(a) The theft of property which exceeds two
18 thousand five hundred dollars (\$2,500) in value, except as
19 provided in Section 13A-8-3.1, or property of any value taken
20 from the person of another, constitutes theft of property in
21 the first degree.

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

24 "(c) (1) The theft of property which involves all of
25 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 thousand dollars (\$1,000) within a 180-day period.

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

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

15 "§13A-8-4.

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

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

24 "~~(c) The theft of a credit card or a debit card,~~
25 ~~regardless of its value, constitutes theft of property in the~~
26 ~~second degree.~~

1 "~~(d)~~ (c) The theft of a firearm, rifle, or shotgun,
2 regardless of its value, constitutes theft of property in the
3 second degree.

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

7 "~~(f)~~ (e) The theft of any livestock which includes
8 cattle, swine, equine or equidae, or sheep, regardless of
9 their value, constitutes theft of property in the second
10 degree.

11 "~~(g) Notwithstanding subsection (a), the theft of~~
12 ~~property which exceeds two hundred fifty dollars (\$250) in~~
13 ~~value but does not exceed two thousand five hundred dollars~~
14 ~~(\$2,500) in value, and which is not taken from the person of~~
15 ~~another, where the defendant has previously been convicted of~~
16 ~~a theft of property in the first or second degree or receiving~~
17 ~~stolen property in the first or second degree, constitutes~~
18 ~~theft of property in the second degree.~~

19 "§13A-8-5.

20 "(a) The theft of property which does not exceed
21 five hundred dollars (\$500) in value and which is not taken
22 from the person of another constitutes theft of property in
23 the ~~third~~ fourth degree.

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

26 "§13A-8-8.

1 "(a) The theft of lost property ~~which exceeds five~~
2 ~~hundred dollars (\$500)~~ between one thousand five hundred
3 dollars (\$1,500) in value ~~but does not exceed~~ and two thousand
4 five hundred dollars (\$2,500) in value constitutes theft of
5 lost property in the second degree.

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

8 "§13A-8-9.

9 "(a) The theft of lost property which does not
10 exceed five hundred dollars (\$500) in value constitutes theft
11 of lost property in the ~~third~~ fourth degree.

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

14 "§13A-8-10.2.

15 "(a) The theft of services ~~which exceeds five~~
16 ~~hundred dollars (\$500)~~ between one thousand five hundred
17 dollars (\$1,500) in value ~~but does not exceed~~ and two thousand
18 five hundred dollars (\$2,500) in value constitutes theft of
19 services in the second degree.

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

22 "§13A-8-10.3.

23 "(a) The theft of services which does not exceed
24 five hundred dollars (\$500) in value constitutes theft of
25 services in the ~~third~~ fourth degree.

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

1 "§13A-8-18.

2 "(a) Receiving stolen property:

3 "~~(1) Which exceeds five hundred dollars (\$500) is~~
4 between one thousand five hundred dollars (\$1,500) in value
5 ~~but does not exceed~~ and two thousand five hundred dollars
6 (\$2,500) in value; or

7 "(2) Of any value under the circumstances described
8 in subdivision (b) (3) of Section 13A-8-16; constitutes
9 receiving stolen property in the second degree; ~~or.~~

10 "~~(3) Notwithstanding subdivision (1) of subsection~~
11 ~~(a), receiving stolen property which exceeds two hundred fifty~~
12 ~~dollars (\$250) in value but does not exceed two thousand five~~
13 ~~hundred dollars (\$2,500) in value where the defendant has~~
14 ~~previously been convicted of theft of property in the first or~~
15 ~~second degree or receiving stolen property in the first or~~
16 ~~second degree, constitutes receiving stolen property in the~~
17 ~~second degree.~~

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

20 "§13A-8-19.

21 "(a) Receiving stolen property which does not exceed
22 five hundred dollars (\$500) in value constitutes receiving
23 stolen property in the ~~third~~ fourth degree.

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

26 "§13A-9-3.

1 "(a) A person commits the crime of forgery in the
2 second degree if, with intent to defraud, he or she falsely
3 makes, completes or alters a written instrument which is or
4 purports to be, or which is calculated to become or to
5 represent if completed:

6 "(1) A deed, will, codicil, or contract, ~~assignment~~
7 ~~or a check, draft, note or other commercial instrument~~ which
8 does or may evidence, create, transfer, terminate or otherwise
9 affect a legal right, interest, obligation or status; or

10 "(2) A public record, or an instrument filed or
11 required or authorized by law to be filed in a public office
12 or with a public employee; or

13 "(3) A written instrument officially issued or
14 created by a public office, public employees or government
15 agency.

16 "(b) Forgery in the second degree is a Class C B
17 felony.

18 "§13A-9-4.

19 (a) A person commits the crime of forgery in the
20 ~~third~~ fourth degree if, with intent to defraud, he or she
21 falsely makes, completes or alters a written instrument.

22 (b) Forgery in the ~~third~~ fourth degree is a Class A
23 misdemeanor.

24 "§13A-9-6.

25 "(a) A person commits the crime of criminal
26 possession of a forged instrument in the second degree if he
27 or she possesses or utters any forged instrument of a kind

1 specified in Section 13A-9-3 with knowledge that it is forged
2 and with intent to defraud.

3 "(b) Criminal possession of a forged instrument in
4 the second degree is a Class C B felony.

5 "§13A-9-7.

6 "(a) A person commits the crime of criminal
7 possession of a forged instrument in the ~~third~~ fourth degree
8 if he or she possesses or utters a forged instrument of a kind
9 covered in Section 13A-9-4 with knowledge that it is forged
10 and with intent to defraud.

11 "(b) Criminal possession of a forged instrument in
12 the ~~third~~ fourth degree is a Class A misdemeanor.

13 "§13A-9-14.

14 "(a) A person commits the crime of illegal
15 possession of a credit or debit card if, knowing that he or
16 she does not have the consent of the owner, he or she takes,
17 exercises control over, or otherwise uses the card.

18 "(b) A person commits the crime of fraudulent use of
19 a credit card or debit card if he or she uses, attempts to
20 use, or allows to be used, a credit card or debit card for the
21 purpose of obtaining property, services, or anything else of
22 value with knowledge that:

23 "(1) The card is stolen; or

24 "(2) The card has been revoked or cancelled; or

25 "(3) For any other reason the use of the card is
26 unauthorized by either the issuer or the person to whom the
27 credit card or debit card is issued. The mere use by the

1 original issuee of a credit card or debit card which has
2 expired is not within the provisions of subdivision (b) (3) of
3 this section.

4 "(c) "Credit card" means any instrument or device,
5 including a card to obtain telecommunication services, whether
6 known as a credit card, credit plate, bank service card,
7 banking card, check guarantee card, welfare card, a card used
8 to facilitate the transfer of government benefits such as an
9 electronic benefit transfer card (EBT card) or similar card,
10 or a debit card, or by any other name, including an account
11 number, issued with or without fee by an issuer for the use of
12 the cardholder in obtaining money, goods, services, or
13 anything else of value, including telecommunication services,
14 on credit or for use in an automated banking device to obtain
15 any of the services offered through the device.

16 "(d) "Debit card" means any instrument or writing or
17 other evidence known by any name issued with or without fee by
18 an issuer for the use of a depositor in obtaining money,
19 goods, services, or anything else of value, payment of which
20 is made against funds previously deposited in an account with
21 the issuer.

22 "(e) Illegal possession of or fraudulent use of a
23 credit card or debit card is a Class C D felony.

24 "§13A-12-211.

25 "(a) A person commits the crime of unlawful
26 distribution of controlled substances if, except as otherwise
27 authorized, he or she sells, furnishes, gives away, delivers,

1 or distributes a controlled substance enumerated in Schedules
2 I through V.

3 "(b) Unlawful distribution of controlled substances
4 is a Class B felony.

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

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

12 "(2) More than two grams, but less than four grams,
13 of any morphine, opium, or any salt, isomer, or salt of an
14 isomer thereof, including heroin.

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

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

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

24 "(6) More than eight grams, but less than 28 grams,
25 of methamphetamine or any mixture containing methamphetamine,
26 its salts, optical isomers, or salt of its optical isomers
27 thereof.

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

3 "§13A-12-212.

4 "(a) A person commits the crime of unlawful
5 possession of controlled substance if:

6 "(1) Except as otherwise authorized, he or she
7 possesses a controlled substance enumerated in Schedules I
8 through V.

9 "(2) He or she obtains by fraud, deceit,
10 misrepresentation, or subterfuge or by the alteration of a
11 prescription or written order or by the concealment of a
12 material fact or by the use of a false name or giving a false
13 address, a controlled substance enumerated in Schedules I
14 through V or a precursor chemical enumerated in Section
15 20-2-181.

16 "(b) Unlawful possession of a controlled substance
17 is a Class C D felony.

18 "§13A-12-213.

19 "(a) A person commits the crime of unlawful
20 possession of marihuana in the first degree if, except as
21 otherwise authorized:

22 "(1) He or she possesses marihuana for other than
23 personal use, which may be inferred from the quantity of
24 marihuana in the person's possession, the way in which the
25 marihuana is packaged, and other circumstances surrounding the
26 arrest; or

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

6 "(b) Unlawful possession of marihuana in the first
7 degree pursuant to subdivision (1) of subsection (a) is a
8 Class C felony."

9 "(c) Unlawful possession of marihuana in the first
10 degree pursuant to subdivision (2) of subsection (a) is a
11 Class D felony.

12 "§13A-12-291.

13 "(a) A driver's license shall be suspended pursuant
14 to Section 13A-12-290 for conviction of, adjudication of, or a
15 finding of delinquency based on, the following crimes:

16 "(1) Criminal solicitation to commit ~~a controlled~~
17 ~~substance crime under Section 13A-12-202~~ the crime of
18 trafficking in specified substances under Section 13A-12-231
19 or unlawful possession with intent to distribute a controlled
20 substance under subsections (c) and (d) of Section 13A-12-211.

21 "(2) Attempt to commit ~~a controlled substance crime~~
22 ~~under Section 13A-12-203~~ the crime of trafficking in specified
23 substances under Section 13A-12-231 or unlawful possession
24 with intent to distribute a controlled substance under
25 subsections (c) and (d) of Section 13A-12-211.

1 "~~(3) Criminal conspiracy to commit a controlled~~
2 ~~substance crime under Section 13A-12-204~~ the crime of
3 trafficking in specified substances in Section 13A-12-231.

4 "~~(4) Unlawful distribution of controlled substances~~
5 ~~under Section 13A-12-211.~~

6 "~~(5) Unlawful possession or receipt of controlled~~
7 ~~substances under Section 13A-12-212.~~

8 "~~(6) Unlawful possession of marihuana in the first~~
9 ~~degree under Section 13A-12-213.~~

10 "~~(7) Unlawful possession of marihuana in the second~~
11 ~~degree under Section 13A-12-214.~~

12 "~~(8) Sale or furnishing of controlled substances by~~
13 ~~persons over age 18 to persons under age 18 under Section~~
14 ~~13A-12-215.~~

15 "~~(9)~~ (4) Trafficking in specified substances under
16 Section 13A-12-231.

17 "(5) Unlawful possession with intent to distribute a
18 controlled substance under subsections (c) and (d) of Section
19 13A-12-211.

20 "~~(10)~~ (b) Driving The suspension of a driver's
21 license for driving under the influence of a controlled
22 substance, or under the combined influence of a controlled
23 substance and alcohol ~~under Sections 32-5A-191(a)(3) and~~
24 ~~32-5A-191(a)(4)~~ pursuant to Section 32-5A-191 shall be
25 governed by that section.

26 Section 3. Sections 14-14-2, 14-14-4, 14-14-5,
27 14-14-7, 15-12-21, 15-18-8, 15-18-171, 15-18-172, 15-18-174,

1 15-18-176, 15-18-180, 15-18-182, 15-22-24, 15-22-26, 15-22-28,
2 15-22-29, 15-22-31, 15-22-32, 15-22-33, 15-22-36, 15-22-36.2,
3 15-22-37, 15-22-51, 15-22-52, 15-22-53, and 15-22-54, Code of
4 Alabama 1975, are hereby amended to read as follows:

5 "§14-14-2.

6 "For purposes of this chapter, the following words
7 shall have the following meanings:

8 "(1) COMMISSIONER. The Commissioner of the
9 Department of Corrections.

10 "(2) DEPARTMENT. The Department of Corrections.

11 "(3) GERIATRIC INMATE. A person 55 years of age or
12 older convicted in this state of a non-capital felony offense
13 and sentenced to the penitentiary, who suffers from a chronic
14 life-threatening infirmity, life-threatening illness, or
15 chronic debilitating disease related to aging, who poses a low
16 risk to the community, and who does not constitute a danger to
17 himself or herself or society.

18 "(4) PERMANENTLY INCAPACITATED INMATE. A state
19 inmate~~convicted of a non-capital felony offense and sentenced~~
20 ~~to the penitentiary who does not constitute a danger to~~
21 ~~himself or herself or society, and who, by reason of an~~
22 ~~existing medical condition which is not terminal, is~~
23 ~~permanently and irreversibly incapacitated, and as a result of~~
24 ~~the medical or mental condition requires immediate and~~
25 ~~long-term residential care. who: (a) requires assistance in~~
26 ~~order to perform two or more necessary daily life functions or~~
27 ~~is completely immobile; and (b) has such limited physical or~~

1 mental ability, strength, or capacity that he or she poses an
2 extremely low risk of physical threat to others in the
3 community and poses a low risk of participating in a criminal
4 act. Necessary daily life function means eating, breathing,
5 toileting, walking, or bathing.

6 "(5) TERMINALLY ILL INMATE. A person convicted of a
7 non-capital felony offense who is sentenced to the
8 penitentiary and who has an incurable condition caused by
9 illness or disease which would, with reasonable medical
10 judgment, produce death within 12 months, and who does not
11 constitute a danger to himself or herself or society.

12 "§14-14-4.

13 "(a) The department shall establish a medical
14 furlough program. The commissioner shall adopt the rules and
15 regulations for implementation of the medical furlough
16 program. For each person considered for medical furlough, the
17 commissioner shall determine whether the person is a geriatric
18 inmate, permanently incapacitated inmate, or terminally ill
19 inmate.

20 "(b) Notwithstanding any other law to the contrary,
21 an inmate who has not served his or her minimum sentence shall
22 be considered eligible for consideration for furlough under
23 this chapter.

24 "(c) This chapter shall not apply to inmates
25 convicted of capital murder or a sexual offense.

1 "(d) Medical furlough consideration shall be in
2 addition to any other release for which an inmate may be
3 eligible.

4 "(e) The commissioner shall determine the conditions
5 of release of any inmate pursuant to this chapter, including
6 the appropriate level of supervision of the inmate, and shall
7 develop a discharge plan for each inmate released under this
8 chapter. Prior to the commissioner granting any release based
9 on the appropriate medical documentation pursuant to
10 subsection (b) of Section 14-14-5, employees of the department
11 shall contact appropriate departments and agencies, which may
12 include, but shall not be limited to, the Department of Public
13 Health, the Department of Human Resources, Medicare, Medicaid,
14 hospice organizations, or other public and nonprofit community
15 service agencies as the commissioner may deem necessary for
16 consultation in developing an appropriate discharge plan, and
17 to confirm that required care and resources are available to
18 meet the inmate's needs. This chapter is not intended to
19 expand or create new responsibilities for public agencies for
20 arranging and providing care.

21 "(f) In considering an inmate for medical furlough,
22 the department may request that additional medical evidence be
23 produced, or that additional medical examinations be
24 conducted.

25 "(g) Except as provided herein, the furlough of an
26 inmate on medical furlough shall be for the remainder of the
27 inmate's sentence. In addition to terms and conditions

1 prescribed by the department, supervision of an inmate on
2 medical furlough shall at a minimum consist of biannual
3 medical evaluations by a medical care provider at intervals to
4 be determined by the commissioner at the time of release.

5 "(h) If the medical condition of an inmate released
6 pursuant to this chapter should improve to the extent that he
7 or she no longer meets the criteria by which he or she was
8 released, or if he or she violates a condition of release or
9 becomes a danger to himself or herself or others, the
10 commissioner shall revoke the furlough.

11 (i) The commissioner shall report annually to the
12 Joint Legislative Interim Prison Committee, House Judiciary
13 Sentencing Commission Subcommittee, and the Alabama Sentencing
14 Commission on the number of applications for medical furlough,
15 the nature of the illnesses, diseases, and conditions of the
16 applicants, the number of inmates granted and denied release,
17 and the number of persons on medical furlough who have been
18 returned to the custody of the department. The commissioner
19 shall further report on the condition of all inmates who are
20 eligible for medical furlough and who have spent more than 30
21 days in an infirmary or under medical supervision or who are
22 on dialysis and the steps taken to evaluate the
23 appropriateness of granting medical furloughs to those
24 prisoners. The report shall be made in a manner that does not
25 disclose any individual identifying information on any
26 particular inmate and shall be compliant in all respects with
27 the Health Insurance Portability and Accountability Act.

1 "§14-14-5.

2 "(a) An inmate, or any concerned person, including,
3 but not limited to, the inmate's attorney, family, physician,
4 or an employee or official of the department may initiate
5 consideration for medical furlough by submitting to the
6 department an initial medical release application form along
7 with supporting documentation.

8 (b) The commissioner shall implement a program
9 whereby they department shall annually evaluate all prisoners
10 who have spent 30 or more days in an infirmary or under a
11 physician's care to determine if such prisoners should be
12 considered for medical furlough.

13 "(b) (1) The initial application form shall include
14 the report of a physician or physicians employed by the
15 department or its health care provider and a notarized report
16 of at least one other duly licensed physician who is board
17 certified in the field of medicine for which the inmate is
18 seeking a medical furlough and who is not an employee of the
19 department. These reports shall each be of the opinion that
20 the inmate is either terminally ill, permanently
21 incapacitated, or that the inmate suffers from a chronic
22 infirmity, illness, or disease related to aging.

23 "(2) The commissioner shall provide the initial
24 application and medical authorization forms to all department
25 medical care providers, and the forms shall be available at
26 every correctional facility for distribution to inmates.

1 "(c) Consideration for medical furlough shall be
2 initiated by the submission of an application from the
3 department, the inmate, or the inmate's representative, along
4 with the department's supporting documentation to the
5 commissioner.

6 "(d) If the appropriate medical documentation
7 pursuant to subsection (b) has indicated that the inmate is
8 permanently incapacitated or terminally ill, the commissioner,
9 within 30 days of receipt of an initial application form,
10 shall make a decision. The initial application form and
11 supporting document of inmates, who have been diagnosed by a
12 physician as suffering from a chronic illness or disease
13 related to aging, shall be submitted to the commissioner
14 within 60 days of receipt of the application by the
15 department. Supporting documentation shall include information
16 concerning the inmate's medical history and prognosis, age,
17 and institutional behavior. At the inmate's request, the
18 department shall also provide a copy of all supporting
19 documentation to the inmate.

20 "(e) In determining eligibility factors for a
21 medical furlough, the commissioner shall take into
22 consideration all of the following factors:

23 "(1) Risk for violence.

24 "(2) Criminal history.

25 "(3) Institutional behavior.

26 "(4) Age of the inmate, currently and at the time of
27 the offense.

1 "(5) Severity of the illness, disease, or
2 infirmities.

3 "(6) All available medical and mental health
4 records.

5 "(7) Release plans, which include alternatives to
6 caring for terminally ill or permanently incapacitated inmates
7 in traditional prison settings.

8 "(f) The commissioner shall notify the district
9 attorney of the jurisdiction where the inmate was last
10 sentenced of the consideration of an inmate for a medical
11 furlough and afford the district attorney where the crime was
12 prosecuted a reasonable opportunity to object. The
13 commissioner ~~shall also notify the victim or victims of the~~
14 ~~crimes listed in paragraphs a. to i., inclusive, of~~
15 ~~subdivision (1) of subsection (e) of Section 15-22-36, for~~
16 ~~which the defendant is currently incarcerated, of the review~~
17 ~~to consider a medical furlough. Notice shall be sent by~~
18 ~~certified mail, return receipt requested, to the victim or~~
19 ~~victims named in the indictment, when a furlough is being~~
20 considered, shall also provide notification to the victim,
21 victim's representative, and other interested individual via
22 certified mail, return receipt requested, or by using the
23 automated victim notification system as provided in Section
24 15-22-36 and Section 15-22-36.2 and shall give the victim,
25 victim's representative, or other interested party a
26 reasonable opportunity to object.

1 "(g) The commissioner shall make a determination
2 whether to grant medical furlough for terminally ill inmates
3 within ~~30~~ 60 days of receipt of an initial application and
4 supporting documentation.

5 "(h) The commissioner shall make a determination
6 whether to grant medical furlough for permanently
7 incapacitated inmates within ~~30~~ 60 days of receipt of an
8 initial application and supporting documentation.

9 "(i) The commissioner shall make a determination on
10 whether to grant medical furlough for geriatric inmates within
11 ~~30~~ 60 days of receipt of the application and supporting
12 documentation from the department.

13 "§14-14-7.

14 "The commissioner may revoke a medical furlough
15 granted pursuant to this chapter ~~at his or her discretion for~~
16 any reason that would be deemed a violation of the inmate's or
17 his or her sponsor's Medical Furlough Assignment contract, as
18 reported by the supervising field officer.

19 "§15-12-21.

20 "(a) If it appears to the trial court that an
21 indigent defendant is entitled to counsel, that the indigent
22 defendant does not expressly waive the right to assistance of
23 counsel, and that the indigent defendant is not able
24 financially or otherwise to obtain the assistance of counsel
25 through another indigent defense system for the circuit, the
26 court shall appoint counsel to represent and assist the
27 defendant. It shall be the duty of the appointed counsel, as

1 an officer of the court and as a member of the bar, to
2 represent and assist the indigent defendant to the best of his
3 or her ability.

4 "(b) If it appears to the trial court in a
5 delinquency case, need of supervision case, or other judicial
6 proceeding in which a juvenile is a party, that the juvenile
7 is entitled to counsel and that the juvenile is not able
8 financially or otherwise to obtain the assistance of counsel
9 or that appointed counsel is otherwise required by law, the
10 court shall appoint counsel to represent and assist the
11 juvenile or act in the capacity of guardian ad litem for the
12 juvenile. It shall be the duty of the appointed counsel, as an
13 officer of the court and as a member of the bar, to represent
14 and assist the juvenile to the best of his or her ability.

15 "(c) If it appears to the trial court that the
16 parents, guardian, or custodian of a juvenile who is a party
17 in a judicial proceeding, are entitled to counsel and the
18 parties are unable to afford counsel, upon request, the court
19 shall appoint counsel to represent and assist the parents,
20 guardian, or custodian. It shall be the duty of the appointed
21 counsel, as an officer of the court and as a member of the
22 bar, to represent and assist the parties to the best of his or
23 her ability.

24 "(d) If the appropriate method for providing
25 indigent defense services is by appointed counsel in a case
26 described in subsections (a), (b), and (c), including cases
27 tried de novo in circuit court on appeal from a juvenile

1 proceeding, appointed counsel shall be entitled to receive for
2 their services a fee to be approved by the trial court. The
3 amount of the fee shall be based on the number of hours spent
4 by the attorney in working on the case. The amount of the fee
5 shall be based on the number of hours spent by the attorney in
6 working on the case and shall be computed at the rate of
7 seventy dollars (\$70) per hour for time reasonably expended on
8 the case. The total fees paid to any one attorney in any one
9 case, from the time of appointment through the trial of the
10 case, including motions for new trial, shall not exceed the
11 following:

12 "(1) In cases where the original charge is a capital
13 offense or a charge which carries a possible sentence of life
14 without parole, there shall be no limit on the total fee.

15 "(2) Except for cases covered by subdivision (1), in
16 cases where the original charge is a Class A felony, the total
17 fee shall not exceed four thousand dollars (\$4,000).

18 "(3) In cases where the original charge is a Class B
19 felony, the total fee shall not exceed three thousand dollars
20 (\$3,000).

21 "(4) In cases where the original charge is a Class C
22 or Class D felony, the total fee shall not exceed two thousand
23 dollars (\$2,000).

24 "(5) In juvenile cases, the total fee shall not
25 exceed two thousand five hundred dollars (\$2,500).

26 "(6) In all other cases, the total fee shall not
27 exceed one thousand five hundred dollars (\$1,500).

1 Notwithstanding the foregoing, the maximum amounts set forth
2 above may be waived by the appropriate court and by the
3 Director for good cause shown. Counsel shall also be entitled
4 to be reimbursed for any nonoverhead expenses reasonably
5 incurred in the representation of his or her client, with any
6 expense in excess of three hundred dollars (\$300) subject to
7 advance approval by the trial court as necessary for the
8 indigent defense services and as a reasonable cost or expense.
9 Reimbursable expenses shall not include overhead expenses.
10 Fees and expenses of all experts, investigators, and others
11 rendering indigent defense services to be used by counsel for
12 an indigent defendant shall be approved in advance by the
13 trial court as necessary for the indigent defense services and
14 as a reasonable cost or expense. Retrials of any case shall be
15 considered a new case for billing purposes. Upon review, the
16 director may authorize interim payment of the attorney fees or
17 expenses, or both.

18 "(e) Within a reasonable time after the conclusion
19 of the trial or ruling on a motion for a new trial or after an
20 acquittal or other judgment disposing of the case, not to
21 exceed 90 days, counsel shall submit a bill for services
22 rendered to the office. The bill shall be accompanied by a
23 certification by the trial court that counsel provided
24 representation to the indigent defendant, that the matter has
25 been concluded, and that to the best of his or her knowledge
26 the bill is reasonable based on the defense provided. The
27 trial court need not approve the items included on the bill or

1 the amount of the bill, but may provide any information
2 requested by the office or the indigent defense advisory board
3 relating to the representation. The bill for compensation of
4 appointed counsel shall be submitted to the office. After
5 review and approval, the office shall recommend to the
6 Comptroller that the bill be paid. The office may forward the
7 bill to the indigent defense advisory board for review and
8 comment prior to approval. The Comptroller shall remit payment
9 in a timely manner not to exceed ninety (90) days from
10 submission. In the event that payment is not made within
11 ninety (90) days of submission, counsel shall be entitled to
12 receive interest at a rate of 6% until such payment is issued.

13 "§15-18-8.

14 "(a) When a defendant is convicted of an offense
15 that constitutes a Class A or B felony offense, other than a
16 ~~criminal~~ sex offense involving a child as defined in Section
17 ~~15-20-21(5)~~ 15-20A-4, ~~which constitutes a Class A or B felony~~
18 and receives a sentence of 20 years or less in any court
19 having jurisdiction to try offenses against the State of
20 Alabama and the judge presiding over the case is satisfied
21 that the ends of justice and the best interests of the public
22 as well as the defendant will be served thereby, he or she may
23 order:

24 "(1) That the convicted defendant be confined in a
25 prison, jail-type institution, or treatment institution for a
26 period not exceeding three years in cases where the imposed
27 sentence is not more than 15 years, and that the execution of

1 the remainder of the sentence be suspended notwithstanding any
2 provision of the law to the contrary and that the defendant be
3 placed on probation for such period and upon such terms as the
4 court deems best. In cases involving an imposed sentence of
5 greater than 15 years, but not more than 20 years, the
6 sentencing judge may order that the convicted defendant be
7 confined in a prison, jail-type institution, or treatment
8 institution for a period not exceeding five years, but not
9 less than three years, during which the offender shall not be
10 eligible for parole or release because of deduction from
11 sentence for good behavior under the Alabama Correctional
12 Incentive Time Act, and that the remainder of the sentence be
13 suspended notwithstanding any provision of the law to the
14 contrary and that the defendant be placed on probation for the
15 period upon the terms as the court deems best. This
16 subdivision shall not be construed to impose the
17 responsibility for offenders sentenced to a Department of
18 Corrections facility upon a local confinement facility not
19 operated by the Department of Corrections.

20 "(2) That the convicted defendant may be confined,
21 upon consultation with the Commissioner of the Alabama
22 Department of Corrections (hereinafter called department) in a
23 disciplinary, rehabilitation, conservation camp program
24 (hereinafter called program) of the department. The convicted
25 defendant shall be received into the department in accordance
26 with applicable department rules and regulations and may be
27 placed in the program after completion of this initial

1 reception. The program shall be not less than 90 days nor more
2 than 180 days in duration and shall be operated in accordance
3 with department rules and regulations and as otherwise
4 provided for by law. The commissioner of the department or his
5 or her designee shall report to the district attorney and the
6 sentencing court of each convicted defendant whether or not
7 the convicted defendant completes or does not complete the
8 program with any additional information that the commissioner
9 or his or her designee shall wish to provide the court. Upon
10 receipt of this report, the sentencing court may, upon its own
11 order, suspend the remainder of the sentence and place the
12 convicted defendant on probation as provided herein or order
13 the convicted defendant to be confined to a prison, jail-type
14 institution, or treatment institution for a period not to
15 exceed three years and that the execution of the remainder of
16 the sentence be suspended and the defendant be placed on
17 probation for such period and upon such terms as the court
18 deems best. If the sentencing court imposes additional
19 confinement, as outlined above, credit shall be given for the
20 actual time spent by the convicted defendant in the program.
21 This subdivision shall not be construed to impose the
22 responsibility for offenders sentenced to a Department of
23 Corrections facility upon a local confinement facility not
24 operated by the Department of Corrections. Conviction of an
25 offense or prior offense of murder, manslaughter, rape first
26 degree, kidnapping first degree, sodomy first degree, enticing
27 a child to enter vehicle, house, etc., for immoral purposes, a

1 sex offense involving a child as defined in Section 15-20A-4,
2 arson first degree, robbery first degree, burglary first
3 degree, any other Class A felony, any other violent offense as
4 defined in Section 12-25-32, and sentencing of life or life
5 without parole will not be eligible for this program. It shall
6 be the duty of the Joint Prison Committee as established by
7 Sections 29-2-20 to 29-2-22, inclusive, to annually review the
8 operation of the program and report their findings to the
9 Alabama Legislature.

10 "(b) Except as provided in subsections (d) and (e)
11 of Section 13A-5-9, unless a defendant is sentenced to
12 probation, drug court, or a pretrial diversion program, when a
13 defendant is convicted of an offense that constitutes a Class
14 C or D felony offense, the judge presiding over the case shall
15 order either of the following:

16 "(1) That the convicted defendant be confined in a
17 prison, jail-type institution, treatment institution, or
18 community corrections program for a Class C felony offense or
19 in a consenting community corrections program for a Class D
20 felony offense, except as provided in subsection (d), for a
21 period not exceeding two years in cases where the imposed
22 sentence is not more than 15 years, and that the execution of
23 the remainder of the sentence be suspended notwithstanding any
24 provision of the law to the contrary and that the defendant be
25 placed on probation for a period not exceeding three years and
26 upon such terms as the court deems best. This subdivision
27 shall not be construed to impose the responsibility for

1 offenders sentenced to a Department of Corrections facility
2 upon a local confinement facility not operated by the
3 Department of Corrections.

4 "(2) That the convicted defendant shall be confined,
5 upon consultation with the department, in a program, as
6 defined in subdivision (2) of subsection (a), of the
7 department. The convicted defendant shall be received into the
8 department in accordance with applicable department rules and
9 regulations and shall be placed in the program after
10 completion of this initial reception. The program shall be not
11 less than 90 days nor more than 180 days in duration and shall
12 be operated in accordance with department rules and
13 regulations and as otherwise provided for by law. The
14 commissioner of the department or his or her designee shall
15 report to the district attorney and the sentencing court of
16 each convicted defendant whether or not the convicted
17 defendant completes or does not complete the program with any
18 additional information that the commissioner or his or her
19 designee shall wish to provide the court. Upon receipt of this
20 report, the sentencing court may, upon its own order, suspend
21 the remainder of the sentence and place the convicted
22 defendant on probation not exceeding three years or order the
23 convicted defendant to be confined to a prison, jail-type
24 institution, treatment institution or community corrections
25 program for a Class C felony offense or a consenting community
26 corrections program for a Class D felony offense, except as
27 provided in subsection (d), for a period not to exceed two

1 years in cases where the imposed sentence is not more than 15
2 years and the execution of the remainder of the sentence be
3 suspended and the defendant be placed on probation for a
4 period not exceeding three years. If the sentencing court
5 imposes additional confinement, as outlined above, credit
6 shall be given for the actual time spent by the convicted
7 defendant in the program. This subdivision shall not be
8 construed to impose the responsibility for offenders sentenced
9 to a Department of Corrections facility upon a local
10 confinement facility not operated by the Department of
11 Corrections. Conviction of a prior offense of murder,
12 manslaughter, rape first degree, kidnapping first degree,
13 sodomy first degree, enticing a child to enter vehicle, house,
14 etc., for immoral purposes, a sex offense involving a child as
15 defined in Section 15-20A-4, arson first degree, robbery first
16 degree, burglary first degree, any other Class A felony, any
17 other violent offense as defined in Section 12-25-32, and
18 sentencing of life or life without parole will not be eligible
19 for this program. It shall be the duty of the Joint Prison
20 Committee as established by Sections 29-2-20 to 29-2-22,
21 inclusive, to annually review the operation of the program and
22 report their findings to the Alabama Legislature.

23 "(c) In counties or jurisdictions where no community
24 corrections program exists or resources from a community
25 investment are not complete, a county or jurisdiction may
26 enter into a compact or contract with another county or other
27 counties to create a multi-jurisdiction community corrections

1 facility that meets the needs and resources of each county or
2 jurisdiction or enter into a compact or contract with a county
3 or jurisdiction that has a community corrections program to
4 provide services, as provided in and pursuant to Article 9 of
5 Chapter 18 of Title 15.

6 "(d) If no community corrections program exists
7 within a county or jurisdiction and no alternative program
8 options are available under subsection (e) of Section
9 15-18-172, a defendant convicted of an offense that
10 constitutes a Class D felony may be sentenced to
11 high-intensity probation under the supervision of the Board of
12 Pardons and Paroles in lieu of community corrections.

13 "~~(b)~~ (e) Probation may not be granted for a ~~criminal~~
14 sex offense involving a child as defined in ~~Section~~
15 ~~15-20-21(5)~~ Section 15-20A-4, which constitutes a Class A or B
16 felony. Otherwise, probation may be granted whether the
17 offense is punishable by fine or imprisonment or both. If an
18 offense is punishable by both fine and imprisonment, the court
19 may impose a fine and place the defendant on probation as to
20 imprisonment. Probation may be limited to one or more counts
21 or indictments, but, in the absence of express limitation,
22 shall extend to the entire sentence and judgment.

23 "~~(c)~~ (f) Regardless of whether the defendant has
24 begun serving the minimum period of confinement ordered under
25 the provisions of ~~subsection~~ subsections (a) or (b), if the
26 imposed sentence is not more than 20 years, the court shall
27 retain jurisdiction and authority throughout that period to

1 suspend that portion of the minimum sentence that remains and
2 place the defendant on probation, notwithstanding any
3 provision of the law to the contrary and the court may revoke
4 or modify any condition of probation or may change the period
5 of probation.

6 ~~"(d)~~ (g) While incarcerated or on probation and
7 among the conditions thereof, the defendant may be required:

8 "(1) To pay a fine in one or several sums;

9 "(2) To make restitution or reparation to aggrieved
10 parties for actual damages or loss caused by the offense for
11 which conviction was had; and

12 "(3) To provide for the support of any persons for
13 whose support he or she is legally responsible.

14 ~~"(e)~~ (h) Except as otherwise provided pursuant to
15 Section 10, the defendant's liability for any fine or other
16 punishment imposed as to which probation is granted shall be
17 fully discharged by the fulfillment of the terms and
18 conditions of probation.

19 ~~"(f)~~ (i) During any term of probation, the defendant
20 shall report to the probation authorities at such time and
21 place as directed by the judge imposing sentence.

22 ~~"(g)~~ (j) No defendant serving a minimum period of
23 confinement ordered under the provisions of ~~subsection~~
24 subsections (a) or (b) shall be entitled to parole or to
25 deductions from his or her sentence under the Alabama
26 Correctional Incentive Time Act, during the minimum period of
27 confinement so ordered; provided, however, that this

1 subsection shall not be construed to prohibit application of
2 the Alabama Correctional Incentive Time Act to any period of
3 confinement which may be required after the defendant has
4 served such minimum period.

5 "§15-18-171.

6 "As used in this article, the following terms shall
7 have the following meanings, respectively, unless the context
8 otherwise requires:

9 "(1) APPLICATION PROCESS AND PROCEDURES. The
10 criteria and guidelines developed by the Department of
11 Corrections for the establishment of community punishment and
12 corrections programs, the granting of funds for programs
13 authorized herein, and the monitoring, evaluation, and review
14 of programs funded herein.

15 "(2) BOARD. The board of directors of the authority
16 or the board of directors of a nonprofit entity.

17 "(3) COMMISSIONER. The Commissioner of the
18 Department of Corrections.

19 "(4) COMMUNITY. The county or counties comprising
20 one or more judicial circuits.

21 "(5) COMMUNITY PUNISHMENT AND CORRECTIONS AUTHORITY.
22 A public corporation organized pursuant to the provisions of
23 this article.

24 "(6) COMMUNITY PUNISHMENT AND CORRECTIONS PROGRAM.
25 Any program designed as an alternative to incarceration and
26 maintained by a county commission or an authority or nonprofit
27 entity for the purpose of punishing and for correcting a

1 person convicted of a felony or misdemeanor or adjudicated a
2 youthful offender and which may be imposed as part of a
3 sanction, including, but not limited to confinement, work
4 release, day reporting, home detention, restitution programs,
5 community service, education and intervention programs, and
6 substance abuse programs.

7 "(7) COMMUNITY PUNISHMENT AND CORRECTIONS PLAN. A
8 document prepared by the county commission or an authority, or
9 nonprofit entity, and submitted to the Department of
10 Corrections in accordance with the requirements set forth in
11 the application process and procedure, which identifies
12 proposed community-based programs to be implemented within the
13 county in accordance with the terms of this article and
14 justifies the funding of such programs with regard to local
15 need and community support.

16 "(8) COUNTY COMMISSION CHAIRPERSON. The chair of the
17 county commission or his or her representative.

18 "(9) COUNTY INMATE. A person convicted of a
19 misdemeanor.

20 "(10) COURT. The trial judge exercising sentencing
21 jurisdiction over an eligible offender under this article and
22 includes any successor of the trial judge.

23 "(11) DEPARTMENT. The Department of Corrections.

24 "(12) DIVISION. The Community Corrections Division
25 of the department.

1 "(13) ELIGIBLE. A person who has committed an
2 offense not excluded by subdivision (14) and who meets the
3 criteria of Section 15-18-175.

4 "(14) EXCLUDED FELONY OFFENDERS. One who is
5 convicted of any of the following felony offenses: Murder,
6 kidnapping in the first degree, rape in the first degree,
7 sodomy in the first degree, arson in the first degree,
8 trafficking in controlled substances, robbery in the first
9 degree, burglary in the first degree, sexual abuse in the
10 first degree, forcible sex crimes, ~~lewd and lascivious acts~~
11 sex offenses upon involving a child as defined in Section
12 15-20A-4, or ~~assault in the first degree if the assault leaves~~
13 ~~the victim permanently disfigured or disabled~~ any other
14 violent offense as defined in Section 12-25-32.

15 "(15) GOVERNING BODY. With respect to a county, its
16 county commission or other like governing body exercising the
17 legislative functions of a county.

18 "(16) INCORPORATORS. The persons forming a public
19 corporation pursuant to this article.

20 "(17) NONPROFIT ENTITY. Any not-for-profit
21 organization, agency, or other entity other than a community
22 punishment and corrections authority that provides treatment,
23 guidance, training, or other rehabilitation services to
24 individuals, families, or groups in such areas as health,
25 education, vocational training, special education, social
26 services, psychological counseling, and alcohol and drug
27 treatment.

1 "(18) PLAN. The community punishment and corrections
2 plan defined in subdivision (7).

3 "(19) RECIPIENT. Any entity receiving directly or
4 indirectly any financial grant or contractual remuneration
5 under this article.

6 "(20) RENOVATION. The repair, remodeling,
7 alteration, or expansion of existing buildings or structures
8 to make them habitable or suitable for community punishment
9 and corrections program operations, and includes the
10 acquisition and installation of necessary equipment.

11 "(21) RESTITUTION. Payment to the victim who has
12 suffered financial losses as a result of a crime. Restitution
13 shall include, but not be limited to, payment in cash or in
14 kind for the value of stolen or damaged property; for medical
15 expenses due to physical, emotional, or psychological trauma;
16 wages lost as a result of time absent from work; and value of
17 property lost or transferred through theft or exercise of
18 control by deception or fraud.

19 "(22) STATE INMATE. A person convicted of a felony.

20 "(23) USER FEES. Fees assessed against an offender
21 under a community punishment and corrections program to help
22 defray the costs of such programs.

23 "(24) VICTIM SERVICE OFFICER. A person employed to
24 directly assist crime victims and their families with court
25 attendance, restitution, compensation, property return, victim
26 impact statements, and other needs expressed.

1 "(25) YOUTHFUL OFFENDER. A person adjudicated as a
2 youthful offender.

3 "§15-18-172.

4 "(a) A county or group of counties may establish a
5 community punishment and corrections program for state and
6 county inmates or youthful offenders in custody of the county.
7 The program shall be established by a county by resolution
8 adopted by the county commission or by community punishment
9 and corrections authorities or other nonprofit entities as
10 provided herein. The program shall establish the maximum
11 number of offenders who may participate in the program and
12 participation shall be limited to space availability. No
13 offenders may be sentenced or assigned to the program in
14 excess of the maximum number established for the program. No
15 county is obligated to fund any activities of a community
16 corrections program established under this article without an
17 affirmative vote of the affected county commission.

18 "(b) The department may contract with such counties,
19 authorities, or other nonprofit entities as provided herein
20 concerning start-up costs and the costs of maintenance,
21 including medical expenses, of state inmates participating in
22 any program authorized under this article or under any county
23 program functioning pursuant to any state or local act.

24 "(c) The department shall promulgate rules and
25 regulations pursuant to the Alabama Administrative Procedure
26 Act establishing conditions for state inmates' participation

1 in the community punishment and corrections program, the
2 observance of which may be a condition to such participation.

3 "(d) A state inmate incarcerated in a state facility
4 may be approved by the department for participation in a
5 community punishment and corrections program established under
6 this article and be assigned to a program in the county from
7 which the inmate was sentenced if a community punishment and
8 corrections program under this article has been established in
9 that county and if the sentencing judge of the county
10 authorizes the inmate to participate in the program. An inmate
11 may be assigned to a community punishment and corrections
12 program in another county if the presiding judge of the other
13 county and the sentencing judge agree to the assignment and if
14 the county has agreed in the contract to accept inmates
15 originally sentenced in other counties. In the event the
16 sentencing judge is unavailable due to death, retirement, or
17 any other reason, the presiding judge from the sentencing
18 circuit shall act in the sentencing judge's stead. An inmate
19 assigned to a community punishment and corrections program
20 pursuant to this article shall not be eligible for parole
21 consideration.

22 "(e) The department shall annually identify
23 alternatives to community punishment and corrections programs
24 for those counties which have not established a community
25 punishment and corrections program under this article. The
26 department shall publish a list of such alternatives on its

1 website and shall provide a list of such alternatives to each
2 district and circuit court annually.

3 The department shall include a list of referral
4 services available for veterans and servicemen, and when
5 available and appropriate, shall include any Veteran's
6 Treatment Court in operation in the appropriate county or
7 circuit, as an alternative.

8 "§15-18-174.

9 "In addition to those otherwise provided by law, the
10 department shall have the following powers, duties, and
11 authority:

12 "(1) Monitor the community punishment and
13 corrections program within the goals and mandates established
14 herein.

15 "(2) Conduct statewide public education programs
16 concerning the purposes and goals as established herein and
17 make an annual report to the Prison Oversight Committee of the
18 Legislature and the Alabama Sentencing Commission regarding
19 the effectiveness of diversion of offenders from state and
20 local correctional institutions. This annual report should
21 also include data showing the impact of diversion of offenders
22 by race, gender, and location of the offender.

23 "(3) Provide technical assistance to local
24 governments, authorities and other nonprofit entities and
25 agencies, and local community punishment and corrections
26 advisory boards regarding development of a community
27 punishment and corrections program.

1 "(4) Develop minimum standards, policies, and
2 administrative rules for the statewide implementation of this
3 article.

4 "(5) Develop and implement by rule an application
5 process and procedure.

6 "(6) Review community punishment and corrections
7 plans and award contracts or grants.

8 "(7) Conduct an audit and annual program evaluation
9 of programs receiving contracts or grants to ensure program
10 accountability.

11 "(8) Require community punishment and corrections
12 plans and programs to incorporate uniform statewide
13 evidence-based practices as defined in Section 12-25-32,
14 subject to available resources, when supervising, treating, or
15 providing for the treatment of offenders.

16 "(9) Provide training for community punishment and
17 corrections programs and employees relating to offender
18 supervision and the utilization of evidence-based practices as
19 defined in Section 12-25-32 in the supervision and treatment
20 of offenders.

21 "(10) Require community punishment and corrections
22 programs to provide particular treatment and supervision based
23 on the offender's risk of reoffending through use of a
24 validated risk and needs assessment, as defined in Section
25 12-25-32, conducted by the program and, to the extent
26 practicable, to prioritize treatment and supervision
27 resources, as well as behavioral health assessment and

1 treatment referral services, on those offenders which have the
2 highest risk of reoffending as determined by a validated risk
3 and needs assessment.

4 The department shall utilize services available for
5 veterans and servicemen, and shall annually collaborate with
6 the Department of Veterans Affairs to confirm what behavioral
7 and treatment services are appropriate for referral.

8 "§15-18-176.

9 "(a) A community punishment and corrections plan
10 shall be developed and submitted to the department which
11 sufficiently documents the local need and support for the
12 proposed program. The community punishment and corrections
13 plan shall have the approval of the county commission in the
14 affected counties prior to submission to the department. Any
15 plan shall specifically state the maximum number of inmates
16 eligible to participate in the program.

17 "(b) The format for any community punishment and
18 corrections plan shall be specified by the division in its
19 application process and procedures. Funding and grant
20 evaluation criteria shall be outlined in the application
21 process and procedures to be developed by the division in
22 order that each applicant may know the basis upon which funds
23 will be granted. The department shall adopt rules pursuant to
24 the Administrative Procedure Act outlining the application
25 process and procedures.

26 "(c) The application process and procedures should
27 include a performance-based reimbursement funding plan,

1 developed by the department, for funding community punishment
2 and corrections plans that utilize evidence-based practices as
3 defined in Section 12-25-32 in the treatment and supervision
4 of community punishment and corrections program participants
5 and that meet specified treatment and supervision targets as
6 outlined in the application. The performance-based
7 reimbursement plan outlined in the application process and
8 procedures should also include higher reimbursement rates for
9 community punishment and corrections plans that include
10 behavioral health assessment and treatment referral, to
11 include behavioral and substance abuse treatment, for
12 community punishment and corrections program participants, as
13 well as for local probationers and parolees under the
14 supervision of the Board of Pardons and Paroles. The
15 Department of Corrections, along with the Board of Pardons and
16 Paroles, the Department of Public Health, and the Department
17 of Mental Health, shall collaborate with the Office of the
18 Governor to implement the provisions of this subsection
19 relating to behavioral health treatment and substance abuse
20 treatment services, which may be certified or faith-based
21 services. The Office of the Governor shall ensure that
22 treatment services that receive funding from the state or
23 through court-ordered monies utilize such funding and monies
24 for programs reasonably expected to reduce recidivism among
25 community corrections offenders.

26 The Department of Veterans Affairs shall be included
27 in this collaboration so that a list of services available for

1 veterans and servicemen may be included for referral and
2 utilization.

3 "(d) The application process and procedures should
4 include a requirement that each community punishment and
5 corrections plan establish guidelines to ensure that the
6 supervision and treatment of offenders participating in a
7 community punishment and corrections program is, to the extent
8 practicable, individualized based on the offender's risk of
9 reoffending, as determined through a validated risk and needs
10 assessment as defined in Section 12-25-32, administered by the
11 community punishment and corrections program, and that
12 treatment and supervision resources, as well as behavioral
13 health assessment and treatment referral services, are, within
14 the resources available, prioritized based on those offenders
15 which have the highest risk of reoffending.

16 The plan shall include a list of services available
17 for veterans and servicemen, and when appropriate, shall
18 include any Veteran's Treatment Court in operation in the
19 appropriate county or circuit, as a possible alternative for
20 mentoring and supervision.

21 "(c) (e) Participation in the programs set forth in
22 this article is voluntary. Any participating authority, county
23 commission, or other nonprofit entity may notify the director
24 of the division of its intention to withdraw from
25 participation in the community punishment and corrections
26 program contract. The withdrawal will become effective on the
27 last day of the grant year.

1 "§15-18-180.

2 "(a) Community punishment and corrections funds may
3 be used to develop or expand the range of community
4 punishments and services at the local level. Community-based
5 programs should utilize evidence-based practices, as defined
6 in Section 12-25-32, in the treatment and supervision of
7 program participants. The supervision and treatment of each
8 program participant is expected to be based on the
9 participant's anticipated risk of reoffending, as determined
10 through a validated risk and needs assessment as defined in
11 Section 12-25-32, administered by the program. Supervision and
12 treatment of program participants should include the
13 following:

14 "(1) Use of a validated risk and needs assessment;

15 "(2) Use of assessment results to provide guidance
16 for determining the appropriate level of supervision responses
17 consistent with the levels of supervision and evidence-based
18 practices reasonably anticipated to reduce recidivism; and

19 "(3) Use of practical and suitable methods that are
20 consistent with evidence-based practices to aid and encourage
21 the offender to improve his or her conduct and circumstances
22 so as to reduce the offender's risk of recidivism.

23 "(b) Community-based programs options may include,
24 but are not limited to, the following:

25 "(1) Community service supervision; victim
26 restitution, community detention and restitution centers; day
27 reporting centers; victim-offender reconciliation programs;

1 home confinement/curfew; electronic surveillance; intensive
2 supervision probation; alcohol/drug outpatient treatment and
3 psychiatric counseling.

4 "(2) Short-term community residential treatment
5 options that involve close supervision in a residential
6 setting may include, but are not limited to, the following
7 options: Detoxification centers; community detention centers
8 for special needs offenders and probation and parole
9 violators; and inpatient drug/alcohol treatment.

10 "(3) Residential in-house drug and alcohol treatment
11 for detoxification and residential and nonresidential drug and
12 alcohol counseling.

13 "(4) Individualized services which provide
14 evaluation and treatment for special needs of the population
15 served under this article. The services may include the
16 purchase of psychological, medical, educational, vocational,
17 drug and alcohol urine screening, and client specific plan
18 diagnostic evaluations. Other services which may be pursued on
19 an individualized basis may include, but shall not be limited
20 to, job training, alcohol and drug counseling, individual and
21 family counseling, educational programs leading to a GED
22 certificate, or transportation subsidies.

23 "~~(b)~~ (c) Community punishment and corrections funds
24 may also be used to acquire, renovate, and operate community
25 facilities established to provide the options and services set
26 forth in ~~subsection~~ subsections (a) and (b).

1 "~~(c)~~ (d) Counties, authorities, and other nonprofit
2 entities receiving funding herein may provide or contract with
3 qualified proprietary, nonprofit, or governmental entities for
4 the provision of services under this article.

5 "~~(d)~~ (e) Any options or services established under
6 this article may serve offenders from any county ~~in the~~
7 ~~judicial circuit which has established a program.~~

8 "~~(e)~~ (f) As a part of a community punishment and
9 corrections plan, user fees may be assessed to help defray the
10 cost of the plan. User fees paid by an offender participating
11 in any option or service established under this article shall
12 not diminish the payment of restitution by the offender to the
13 victim of the crime for which he or she was sentenced and
14 shall not diminish fines, court costs, or other court fees
15 unless expressly reduced or remitted by the court.

16 "~~(f)~~ (g) In the event a defendant is assigned to a
17 work release or other residential punishment program operated
18 by a community corrections provider authorized under this
19 article, the defendant's employer shall send the inmate's
20 wages directly to the community corrections provider
21 responsible for housing the defendant. Of the inmate's
22 earnings, 25 percent of the gross wages shall be applied to
23 costs incident to the inmate's confinement, upkeep, and a
24 minimum of an additional 20 percent shall be applied, 10
25 percent to payment of court costs, fines, court-ordered
26 attorney fees, and other court-ordered fees or assessments,
27 and 10 percent to restitution. The remainder of the inmate's

1 wages may be credited to an account established for the
2 defendant with the community corrections provider and may be
3 paid out for dependent care, savings, and spending money.
4 Modes of accounting and disbursement of these funds shall be
5 addressed in the community punishment and corrections plan.
6 Upon release from a residential program, any balance remaining
7 in the defendant's account shall be returned to the defendant,
8 and the defendant shall remain responsible for paying for any
9 court-ordered monies owed. If the defendant remains under
10 community corrections supervision after his or her release
11 from a residential program, the community corrections provider
12 shall verify that the defendant is paying any remaining
13 court-ordered payments owed.

14 "§15-18-182.

15 "(a) In order to remain eligible for continued grant
16 funding, a recipient must substantially comply with the
17 requirements of this article and the standards and
18 administrative regulations of the department promulgated
19 pursuant to the Administrative Procedure Act defining program
20 effectiveness. Each recipient will participate in ~~an~~ a
21 substantive evaluation to determine local and state program
22 effectiveness. The form of this evaluation will be determined
23 ~~by the director of the division~~ in collaboration with the
24 Office of the Governor. The standards, regulations, and
25 evaluations of the department are public records and shall be
26 made available for inspection and copying upon request.

1 "(b) Continued grant funding shall be based on
2 demonstrated effectiveness in either reducing the number of
3 commitments of eligible offenders to state penal institutions
4 or local jails which would likely have occurred without the
5 programs funded under this article or maintaining and
6 operating the program in accordance with evidence-based
7 practices as defined in Section 12-25-32.

8 "(c) Subject to funding availability, each county,
9 participating authority, or other nonprofit entity is eligible
10 to receive additional incentive funding for extending programs
11 if such programs exceed the objectives of this article and the
12 approved community punishment and corrections plan based upon
13 criteria developed by the division and promulgated under its
14 rules pursuant to the Administrative Procedure Act.

15 "(d) If the director of the division determines that
16 there are reasonable grounds to believe that a participating
17 county, authority, or other nonprofit entity is not complying
18 with its plan, or the minimum standards, the director shall
19 give 30 days' written notice to the participating entity, as
20 well as to the county commission in the affected county. If
21 the director finds that such a participating entity is not
22 complying with its plan or the minimum standards established
23 in this article, the director shall require the entity to
24 provide a letter of intent as to how and when specific
25 deficiencies identified by the director will be corrected. If
26 no letter is submitted to the director within the time limit
27 specified, or if the deficiencies are not corrected within 45

1 days after a letter has been submitted to the entity, the
2 director, with the approval of the commissioner and the Office
3 of the Governor, may suspend any part or all of the funding
4 until compliance is achieved.

5 "§15-22-24.

6 "(a) The Board of Pardons and Paroles, hereinafter
7 referred to as "the board," shall be charged with the duty of
8 determining, through use of a validated risk and needs
9 assessment as defined in Section 12-25-32, what prisoners
10 serving sentences in the jails and prisons of the State of
11 Alabama may be released on parole and when and under what
12 conditions. Such board shall also be charged with the duty of
13 supervising all prisoners released on parole from the jails or
14 prisons of the state and of lending its assistance to the
15 courts in the supervision of all prisoners placed on probation
16 by courts exercising criminal jurisdiction and making such
17 investigations as may be necessary in connection therewith, of
18 implementing the use of validated risk and needs assessments
19 as defined in Section 12-25-32 by probation and parole
20 officers, of determining whether violation of parole or
21 probation conditions exist in specific cases, deciding, in the
22 case of parolees, what action should be taken with reference
23 thereto, causing, in the case of probationers, reports of such
24 investigations to be made to the judges of the courts having
25 jurisdiction of the probationers and of aiding parolees and
26 probationers to secure employment. ~~It shall also be the duty~~
27 ~~of the board to personally study the prisoners confined in the~~

1 ~~jails and prisons of the state so as to determine their~~
2 ~~ultimate fitness to be paroled.~~

3 "(b) Between October 1 and December 31 of each year,
4 the board shall make a full report of its activities and
5 functions during the preceding year, and such report shall be
6 prepared in quadruplicate, with one copy thereof lodged with
7 the Governor, one filed in the office of the Secretary of
8 State, one filed in the office of the Department of Archives
9 and History, and one copy retained in the permanent records of
10 the board.

11 "(c) The board may accept grants, devices, bequeaths
12 [bequests] or gifts and make expenditures therefrom for the
13 operations of the board and not individually as board members.

14 "(d) The board shall have the power and authority to
15 enter contracts to accomplish the objectives of the board.

16 "(e) The board ~~may~~ shall adopt policy and procedural
17 guidelines for establishing parole consideration eligibility
18 dockets based on its evaluation of a prisoner's prior record,
19 nature and severity of the present offense, potential for
20 future violence, and community attitude toward the offender to
21 include input from the victim or victims, the family of the
22 victim or victims, prosecutors, and law enforcement entities
23 or other criteria established by the board pursuant to Section
24 15-22-37.

25 "(f) Any person who, at the time of his retirement,
26 is employed by the Board of Pardons and Paroles as a probation

1 and parole officer, shall receive as part of his retirement
2 benefits, without cost to him, his badge, and pistol.

3 "(g) The board is hereby authorized and empowered to
4 promulgate rules and regulations to establish a program that
5 will authorize the board to expend state moneys not to exceed
6 \$250.00 per year for awarding recognition incentive awards for
7 outstanding employees.

8 "(h) No state official shall appear or otherwise
9 represent an applicant before the board for any consideration
10 or thing of value unless said official was counsel of record
11 for the applicant during a trial or hearing in the regular
12 judicial process that led to said applicant's present status;
13 however, no state official shall be prohibited from appearing
14 without consideration before the board or board panel on
15 behalf of an applicant.

16 "(i) The board shall have the power, authority, and
17 jurisdiction to conditionally transfer a prisoner to the
18 authorities of the federal government or any other
19 jurisdiction entitled to his custody to answer pending charges
20 or begin serving a sentence in response to a properly filed
21 detainer from the other jurisdiction. Such conditionally
22 transferred prisoner shall remain in the legal custody of the
23 warden of the institution from which he was transferred.
24 Should any such conditionally transferred prisoner satisfy all
25 detainers against him prior to completion of his Alabama
26 sentence, said prisoner shall not be released from custody
27 without further order of the Board of Pardons and Paroles.

1 "(j) The board and its agents shall have the power
2 and authority to administer oaths and affirmation, examine
3 witnesses and receive evidence on all matters to be considered
4 by the board.

5 "(k) The board shall develop and adopt guidelines
6 and policies to ensure that any treatment programs or
7 providers utilized by the board in the supervision of
8 probationers and parolees implement evidence-based practices,
9 as defined in Section 12-25-32, designed to reduce recidivism
10 among such probationers and parolees and shall cooperate with
11 the Office of the Governor in evaluating such programs and
12 providers. The Office of the Governor shall ensure that
13 treatment programs and providers that receive funding from the
14 state or through court-ordered monies utilize such funding and
15 monies for programs reasonably expected to reduce recidivism
16 among probationers and parolees.

17 "(l) The board shall develop and adopt guidelines
18 and policies to ensure that the supervision and treatment of
19 probationers and parolees shall be based on the individual
20 probationer's or parolee's risk of reoffending, as determined
21 through a validated risk and needs assessment as defined in
22 Section 12-25-32, and that supervision and treatment resources
23 of the board are prioritized to focus on those probationers
24 and parolees with the highest risk of reoffending. The board
25 shall include resources available to veterans and servicemen,
26 and shall annually coordinate with the Department of Veterans
27 Affairs to insure the most current benefits and services are

1 identified and available. To this end, the board shall
2 maximize case supervision practices such that no probation and
3 parole officer is assigned more than 20 active high-risk cases
4 at any one time. Supervision and treatment of probationers and
5 parolees shall include the following:

6 "(1) Use of a validated risk and needs assessment;

7 "(2) Use of assessment results to guide the
8 appropriate level of supervision responses consistent with the
9 level of supervision and evidence-based practices used to
10 reduce recidivism;

11 "(3) Collateral and personal contacts with the
12 probationer or parolee and community that may be unscheduled
13 and that shall occur as often as needed based on the
14 probationer's or parolee's supervision level, which, in turn,
15 should be based on risk of reoffense as determined through a
16 validated risk and needs assessment. Such contacts shall serve
17 the purpose of keeping supervising officers informed of the
18 probationer's or parolee's conduct, compliance with
19 conditions, and progress in community-based intervention;

20 "(4) Case planning for each probationer or parolee
21 based on risk of reoffense and needs identified and
22 prioritized based on associated risk; and

23 "(5) Use of practical and suitable methods that are
24 consistent with evidence-based practices to aid and encourage
25 the probationer or parolee to improve his or her conduct and
26 circumstances so as to reduce his or her level of risk.

1 "(m) The board shall require all probation and
2 parole officers employed on the effective date of this act to
3 complete the training requirements set forth in this
4 subsection on or before January 1, 2017. All probation and
5 parole officers hired after the effective date of this act
6 shall complete the training requirements set forth in this
7 subsection within two years of their hire date. The training
8 and professional development services shall include:

9 "(1) Assessment techniques;

10 "(2) Case planning;

11 "(3) Risk reduction strategies;

12 "(4) Effective communication skills;

13 "(5) Behavioral health needs;

14 "(6) Application of core correctional practices,
15 including motivational interviewing, basic principles of
16 cognitive therapy, structured skill building, problem solving,
17 reinforcement and use of authority;

18 "(7) Training for supervising officers to become
19 training capacity in the state; and

20 "(8) Other topics identified by the board as
21 evidence-based practices as defined in Section 12-25-32.

22 "(n) The board shall not have the power, authority,
23 or jurisdiction to regulate or exercise authority over, or
24 related to, the operation, management, regulations, policies,
25 or procedures of any local confinement facility, including,
26 but not limited to, county jails, community corrections, or
27 drug courts.

1 "§15-22-26.

2 "(a) No prisoner shall be released on parole merely
3 as a reward for good conduct or efficient performance of
4 duties assigned in prison, but only if the Board of Pardons
5 and Paroles is of the opinion that ~~there is reasonable~~
6 probability that, if such prisoner is released, he will live
7 and remain at liberty without violating the law and that his
8 release is not incompatible with the welfare of society. the
9 prisoner meets criteria and guidelines established by the
10 board to determine a prisoner's fitness for parole. The
11 guidelines shall serve as an aid in the parole decision
12 process and shall promote the use of prison space for the most
13 violent and greatest risk offenders. The guidelines shall be
14 structured, actuarially based, reviewed every three years by
15 the board, after a specified open comment period determined by
16 the board, and posted on the website of the board and include,
17 but not be limited to, the following:

18 "(1) The prisoner's risk to reoffend, based upon a
19 validated risk and needs assessment as defined in Section
20 12-25-32;

21 "(2) Progress by the prisoner and the Department of
22 Corrections to plan for reentry;

23 "(3) Input from the victim or victims, the family of
24 the victim or victims, prosecutors, and law enforcement
25 entities;

26 "(4) Participation in risk-reduction programs while
27 incarcerated;

1 "(5) Institutional behavior of the prisoner while
2 incarcerated; and

3 "(6) Severity of the underlying offense for which
4 the prisoner was sentenced to incarceration.

5 "(b) If the board shall so determine, such prisoner
6 shall be allowed to go upon parole outside of prison walls and
7 enclosure upon such terms and conditions as the board shall
8 prescribe, but to remain while thus on parole in the legal
9 custody of the warden of the prison from which he is paroled
10 until the expiration of the maximum term specified in his
11 sentence or until he is fully pardoned.

12 "(c) The board shall clearly articulate its reasons
13 for approval or denial of parole for each prisoner, based on
14 its established guidelines, and shall provide the reasons for
15 approval or denial to the prisoner, the victim, the Department
16 of Corrections, or any other interested party upon written
17 request submitted to the board. The use of established
18 guidelines for parole consideration shall not create a right
19 or expectation by a prisoner to parole release. Additionally,
20 the articulated reasons for denial of parole release shall not
21 create a right or expectation for parole release. The
22 guidelines shall serve as an aid in the parole decision making
23 process, and the decision concerning parole release shall be
24 at the complete discretion of the board.

25 "§15-22-28.

26 "(a) It shall be the duty of the Board of Pardons
27 and Paroles, upon its own initiative, to make an investigation

1 of any and all prisoners confined in the jails and prisons of
2 the state, through use of a validated risk and needs
3 assessment as defined in Section 12-25-32, with a view of
4 determining the feasibility of releasing the prisoners on
5 parole and effecting their reclamation. Reinvestigations shall
6 be made from time to time as the board may determine or as the
7 ~~Board~~ Department of Corrections may request. The
8 investigations shall include such reports and other
9 information as the board may require from the ~~Board~~ Department
10 of Corrections or any of its officers, agents or employees.

11 "(b) It shall be the duty of the ~~Board~~ Department of
12 Corrections to cooperate with the Board of Pardons and Paroles
13 for the purpose of carrying out the provisions of this
14 article.

15 "(c) Temporary leave from prison, including
16 Christmas furloughs, may be granted only by the Commissioner
17 of Corrections to a prisoner for good and sufficient reason
18 and may be granted within or without the state; provided, that
19 Christmas furloughs shall not be granted to any prisoner
20 convicted of drug peddling, child molesting or rape, or to any
21 maximum security prisoner. A permanent, written record of all
22 such temporary leaves, together with the reasons therefor,
23 shall be kept by such commissioner. He shall furnish the
24 Pardon and Parole Board with a record of each such leave
25 granted and the reasons therefor, and the same shall be placed
26 by the board in the prisoner's file.

1 "(d) No prisoner shall be released on parole except
2 by a majority vote of the board ~~, nor unless the board is~~
3 ~~satisfied that he will be suitably employed in self-sustaining~~
4 ~~employment or that he will not become a public charge if so~~
5 ~~released~~. The board shall not parole any prisoner for
6 employment by any official of the State of Alabama, nor shall
7 any parolee be employed by an official of the State of Alabama
8 and be allowed to remain on parole; provided, however, that
9 this provision shall not apply in the case of a parolee whose
10 employer, at the time of the parolee's original employment,
11 was not a state official.

12 "(e) The board shall not grant a parole to any
13 prisoner who has not served at least one third or 10 years of
14 his sentence, whichever is the lesser, except by a unanimous
15 affirmative vote of the board.

16 "§15-22-29.

17 "(a) The Board of Pardons and Paroles, in releasing
18 a prisoner on parole, shall specify in writing the conditions
19 of his parole, and a copy of such conditions shall be given to
20 the parolee. A violation of such conditions may render the
21 prisoner liable to arrest and reimprisonment.

22 "(b) The Board of Pardons and Paroles shall adopt
23 general rules with regard to conditions of parole and their
24 violation and may make special rules to govern particular
25 cases. Such rules, both general and special, ~~may~~ shall
26 include, among other things, a requirement that:

1 "(1) The parolee shall not leave the state without
2 the consent of the board;

3 "(2) He or she shall contribute to the support of
4 his or her dependents to the best of his or her ability;

5 "(3) He or she shall make reparation or restitution
6 for his or her crime;

7 "(4) He or she shall abandon evil associates and
8 ways; and

9 "(5) He or she shall carry out the instructions of
10 his or her parole officer and in general so comport himself or
11 herself as such officer shall determine; and

12 "(6) He or she shall submit to behavioral treatment,
13 substance abuse treatment, GPS monitoring, other treatment as
14 deemed necessary by the board or the supervising parole
15 officer, and/or a period or periods of confinement in a
16 consenting jail facility for a total of no more than six days
17 per month during any three separate months during the period
18 of parole. The six days per month confinement provided for in
19 this subsection shall only be imposed as two-day or three-day
20 consecutive periods at any single time. In no event shall the
21 total periods of confinement provided for in this subdivision
22 exceed 18 total days in a consenting jail facility.
23 Confinement provided herein shall be subject to the
24 limitations, provisions, and conditions provided in subsection
25 (b) of Section 15-22-31.

26 "§15-22-31.

1 "(a) If the parole officer having charge of a
2 paroled prisoner or any member of the Board of Pardons and
3 Paroles shall have reasonable cause to believe that such
4 prisoner has lapsed, or is probably about to lapse, into
5 criminal ways or company or has violated the conditions of his
6 parole in an important respect, such officer or board member
7 ~~shall~~ may report such fact to the Department of Corrections,
8 which shall thereupon issue a warrant for the retaking of such
9 prisoner and his return to the prison designated.

10 "(b) Any parole officer, police officer, sheriff or
11 other officer with power of arrest, upon the request of the
12 parole officer, may arrest a parolee without a warrant; but,
13 in case of an arrest without a warrant, the arresting officer
14 shall have a written statement by said parole officer setting
15 forth that the parolee has, in his judgment, violated the
16 conditions of parole, in which case such statement shall be
17 sufficient warrant for the detention of said parolee in the
18 county jail or other appropriate place of detention until the
19 warrant issued by the Department of Corrections has been
20 received at the place of his detention; provided, however,
21 that in no case shall a parolee be held longer than 20 days on
22 the order of the parole officer awaiting the arrival of the
23 warrant as provided for in this section. If a warrant is not
24 issued within the period prescribed herein, the parolee shall
25 be released from custody. The Department of Corrections shall
26 be financially responsible for any medical, dental, or mental
27 health conditions or needs of any parolee while detained in a

1 county jail. If the parolee is presented to the county jail
2 with a serious medical condition, the admittance of the
3 parolee would create a security risk to the county jail or if
4 the jail is near, at, or over capacity, the sheriff may refuse
5 to admit the parolee. If while in custody of the county jail,
6 the parolee develops a serious medical condition, the presence
7 of the parolee creates a security risk to the county jail, or
8 the county jail reaches near, at, or over capacity, the
9 sheriff may release the parolee upon notification to the
10 parole officer unless the Department of Corrections has issued
11 an arrest warrant directing the return of the parolee to the
12 prison so designated. A sheriff and his or her staff shall be
13 immune from liability for exercising discretion pursuant to
14 Section 36-1-12 in refusing to admit a parolee into the jail
15 or releasing a parolee from jail under the circumstances
16 described above.

17 "(c) Any parole officer, any officer authorized to
18 serve criminal process or any peace officer to whom such
19 warrant shall be delivered is authorized and required to
20 execute such warrant by taking such prisoner and returning him
21 to the prison designated by the Department of Corrections,
22 there to be held to await the action of the Board of Pardons
23 and Paroles.

24 "(d) Such officer, other than an officer of the
25 prison or parole officer, shall be entitled to receive the
26 same fees therefor as upon the execution of a warrant of
27 arrest at the place where said prisoner shall be retaken and

1 as for transporting a convict from the place of arrest to the
2 prison, in case such officer also transports the prisoner to
3 the prison. Such fees shall be paid out of the funds standing
4 to the credit of the Department of Corrections.

5 "§15-22-32.

6 "(a) Whenever there is reasonable cause to believe
7 that a prisoner who has been paroled has violated his or her
8 parole, the Board of Pardons and Paroles, at its next meeting,
9 ~~shall~~ may declare the prisoner to be delinquent, and time owed
10 shall date from the delinquency. The ~~warden of each prison~~
11 Department of Corrections, after receiving notice from the
12 sheriff of the county jail where the state prisoner is being
13 held, shall promptly notify the board of the return of a
14 paroled prisoner charged with violation of his or her parole.
15 Thereupon, the board, a single member of the board, a parole
16 revocation hearing officer, or a designated parole officer
17 shall, ~~as soon as practicable,~~ hold a parole court at the
18 prison or at another place as it may determine within 15
19 business days and consider the case of the parole violator,
20 who shall be given an opportunity to appear personally or by
21 counsel before the board or the parole court and produce
22 witnesses and explain the charges made against him or her. The
23 board member, parole revocation hearing officer, or a
24 designated parole officer, acting as a parole court, shall,
25 ~~within a reasonable time, conduct the parole revocation~~
26 ~~hearing to~~ determine whether sufficient evidence supports
27 ~~guilt or innocence of the~~ violation charges and ~~may recommend~~

1 to the board revocation or reinstatement of parole. Upon
2 revocation of parole, the board may require the prisoner to
3 serve out in prison the balance of the term for which he or
4 she was originally sentenced, calculated from the date of
5 delinquency or the part thereof as it may determine. The
6 delinquent parolee shall be deemed to have begun serving the
7 balance of the time required on the date of his or her
8 rearrest as a delinquent parolee. If a hearing is not held
9 within the specified 15 business days, the parolee shall be
10 released back to parole supervision.

11 "(b) Upon finding sufficient evidence to support a
12 parole violation, the parole court may recommend to the board
13 revocation or reinstatement of parole and the board may revoke
14 or reinstate parole. Upon revocation of parole, the board may
15 require the prisoner to serve in a state prison facility the
16 balance of the term for which he or she was originally
17 sentenced or any portion thereof, calculated from the date of
18 delinquency. The delinquent parolee shall be deemed to begin
19 servng the balance of the prison time required on the date of
20 his or her rearrest as a delinquent parolee. However, in all
21 cases, excluding sex offenses, defined pursuant to Section
22 15-20A-5, the parole court may only recommend revocation and
23 the board may only revoke parole as provided below:

24 "(1) When a parolee under supervision of the Board
25 of Pardons and Paroles has violated a condition of parole,
26 other than being arrested or convicted of a new offense or
27 absconding, the parole court may recommend and the board may

1 impose a period of confinement of no more than 45 consecutive
2 days to be served in the custody population of the Department
3 of Corrections. Within 90 days of the effective date of this
4 act, the Department of Corrections shall develop and implement
5 a streamlined process to transport and receive the parolee
6 into its custody population. Such process shall be developed
7 in cooperation with the Alabama Sheriffs' Association and the
8 Association of County Commissions of Alabama. Such process
9 shall include the most cost-effective method to process
10 sanctioned parole violators for the maximum 45 day confinement
11 period and shall provide that the Department of Corrections
12 shall reimburse the state mileage rate, as determined by the
13 Alabama Comptroller's Office, to the county for any state
14 inmate sanctioned as a parole violator and transferred to or
15 from a Department of Corrections facility by the county. Upon
16 completion of the confinement period and release from
17 confinement, the parolee shall automatically continue on
18 parole for the remaining term of the sentence without further
19 action from the board. The maximum 45 day term of confinement
20 ordered under this subsection shall not be reduced by credit
21 for incarceration time already served in the case. Confinement
22 under this subsection shall be credited to the balance of the
23 incarceration term for which the parolee was originally
24 sentenced. In the event the time remaining on parole
25 supervision is 45 days or less, the term of confinement shall
26 be for the remainder of the parolee's sentence.

1 "(2) The total time spent in confinement under this
2 subsection shall not exceed the term of the parolee's original
3 sentence.

4 "(3) Confinement shall be immediate. The board shall
5 be responsible for ensuring that the Department of Corrections
6 receives necessary documentation for imposing a period of
7 confinement within five business days of the board's action.

8 "(4) The Department of Corrections shall be
9 financially responsible for any medical, dental, or mental
10 health conditions or needs of any parolee while detained in a
11 county jail. If the parolee is presented to a county jail for
12 any period of confinement as contemplated herein above with a
13 serious medical condition, the admittance of the parolee would
14 create a security risk to the county jail or if the jail is
15 near, at, or over capacity, the sheriff may refuse to admit
16 the parolee. If while in custody of the county jail the
17 parolee develops a serious medical condition, the presence of
18 the parolee creates a security risk to the county jail, or the
19 county jail reaches near, at, or over capacity, the sheriff
20 may release the parolee upon notification to the parole
21 officer. A sheriff and his or her staff shall be immune from
22 liability for exercising discretion pursuant to Section
23 36-1-12 in refusing to admit a parolee into the jail or
24 releasing a parolee from jail under the circumstances
25 described above.

1 ~~"(b) (c)~~ The position of Parole Revocation Hearing
2 Officer is created and established, subject to provisions of
3 the state Merit System.

4 ~~"(c) (d)~~ The board may appoint or employ, as the
5 board deems necessary, ~~three~~ hearing officers who shall
6 conduct a parole court ~~with authority to determine guilt and~~
7 ~~recommend revocation of parole or reinstatement of parole to~~
8 ~~the board.~~ Such hearing officers shall have authority to
9 determine the sufficiency of evidence to support parole
10 violation charges and recommend to the board revocation of
11 parole pursuant to subsection (b) or reinstatement of parole.
12 ~~The first three appointments shall be provisional appointments~~
13 ~~made by the board pending job analysis and compilation of the~~
14 ~~examination for the state Merit System classification, or a~~
15 ~~licensed practicing attorney with a minimum of 3 years'~~
16 ~~experience practicing criminal law.~~

17 ~~"(d) A hearing officer shall receive an annual~~
18 ~~salary to be determined by the board but not exceeding the~~
19 ~~maximum salary now or hereafter established for Probation~~
20 ~~Officer V. The salary and expenses of the hearing officers~~
21 ~~shall be paid from the State Treasury in the same manner that~~
22 ~~the salary and expenses of the state Merit System employees~~
23 ~~are paid.~~

24 "(e) In lieu of the provisions of subsections (a)
25 and (b), when a parolee violates his or her parole terms and
26 conditions, his or her parole officer may require the parolee
27 to submit to behavioral treatment, substance abuse treatment,

1 GPS monitoring, such other treatment as determined by the
2 board or supervising officer, or a period of confinement in a
3 consenting jail facility as specified in subdivision (6) of
4 subsection (b) of Section 15-22-29. The parole officer may
5 exercise such authority after administrative review and
6 approval by the officer's supervisor.

7 "(f) Prior to imposing a sanction provided under
8 subsection (e) and pursuant to subdivision (6) of subsection
9 (b) of Section 15-22-29, the parolee must first be presented
10 with a violation report, putting forth the alleged parole
11 violations and supporting evidence. The parolee may request a
12 hearing before the parole court to be heard in person within
13 10 days. The parolee shall be given notice of the right to
14 seek such parole court review and advised of the right (i) to
15 a hearing before a neutral and detached parole court on the
16 alleged violation or violations, with the right to present
17 relevant witnesses and documentary evidence; (ii) to retain
18 and have counsel at the hearing if he or she so desires; and
19 (iii) to confront and cross examine any adverse witnesses.
20 Upon the signing of a waiver of these rights by the parolee
21 and the supervising parole officer, with approval of a
22 supervisor, the parolee may be treated, monitored, or confined
23 for the period recommended in the violation report and
24 designated on the waiver. However, the parolee shall have no
25 right or review if he or she has signed a written waiver of
26 rights as provided in this subsection.

1 "(g) The board shall adopt guidelines and procedures
2 to implement the requirements of this section, which shall
3 include the requirement of a supervisor's approval prior to
4 exercise of the delegation of authority authorized by
5 subsection (e).

6 "§15-22-33.

7 No person released on parole shall be discharged
8 from parole prior to the expiration of the full maximum term
9 for which he was sentenced unless ~~he is sooner fully pardoned~~
10 the Board of Pardons and Paroles chooses to discharge the
11 parolee earlier based on review of the parolee under
12 guidelines established pursuant to subdivision (6) of
13 subsection (b) of Section 15-22-37 and the parolee was not
14 convicted of a violent offense as defined in Section 12-25-32.
15 The Board of Pardons and Paroles, however, may relieve a
16 prisoner on parole from making further reports and may permit
17 such prisoner to leave the state or county if satisfied that
18 this is for the best interests of society.

19 "§15-22-36.

20 "(a) In all cases, except treason and impeachment
21 and cases in which sentence of death is imposed and not
22 commuted, as is provided by law, the Board of Pardons and
23 Paroles shall have the authority and power, after conviction
24 and not otherwise, to grant pardons and paroles and to remit
25 fines and forfeitures.

26 "(b) Each member of the Board of Pardons and Paroles
27 favoring a pardon, parole, remission of a fine or forfeiture,

1 or restoration of civil and political rights shall enter in
2 the file his or her reasons in detail, which entry and the
3 order shall be public records, but all other portions of the
4 file shall be privileged.

5 "(c) No pardon shall relieve one from civil and
6 political disabilities unless specifically expressed in the
7 pardon. No pardon shall be granted unless the prisoner has
8 successfully completed at least three years of permanent
9 parole or until the expiration of his or her sentence if his
10 or her sentence was for less than three years. Notwithstanding
11 the foregoing, a pardon based on innocence may be granted upon
12 the unanimous affirmative vote of the board following receipt
13 and filing of clear proof of his or her innocence of the crime
14 for which he or she was convicted and the written approval of
15 the judge who tried his or her case or district attorney or
16 with the written approval of a circuit judge in the circuit
17 where he or she was convicted if the judge who tried his or
18 her case is dead or no longer serving.

19 "(d) The Board of Pardons and Paroles shall have no
20 power to grant a pardon, order a parole, remit a fine or
21 forfeiture, or restore civil and political rights until 30
22 days' notice that the prisoner is being considered therefor
23 has been given by the board to the Attorney General, the judge
24 who presided over the case, the district attorney who tried
25 the subject's case, the chief of police in the municipality in
26 which the crime occurred, if the crime was committed in an
27 incorporated area with a police department, and to the sheriff

1 of the county where convicted, and to the same officials of
2 the county where the crime occurred if different from the
3 county of conviction; provided, however, that if they are dead
4 or not serving, the notice shall be given to the district
5 attorney, incumbent sheriff, and one of the judges of the
6 circuit in which the subject was convicted. The board also
7 shall be required to provide the same notice to the Crime
8 Victims Compensation Commission.

9 "(e) (1) Until and unless at least 30 days' written
10 notice of the board's action to be considered has been given
11 by the board to the victim named in the indictment, the
12 victim's representative, ~~or~~ and any other interested
13 ~~individual~~ individuals, after the board has received a request
14 that includes the preferred mode or modes of notification from
15 the victim, the victim's representative, ~~or~~ and other
16 interested ~~individual~~ individuals and is submitted ~~30~~ 45 days
17 or more in advance of the board action to be considered either
18 through the automated victim notification system or by a
19 direct request to the board or other authorized individual,
20 the Board of Pardons and Paroles shall have no power or
21 authority to in any way approve or order any parole, pardon,
22 remission of fine or forfeiture, restoration of civil and
23 political rights, furlough, leave or early release of a person
24 convicted of the following offenses:

25 "a. A Class A felony.

1 "b. Any felony committed prior to the first day of
2 January, 1980, which if committed after the first day of
3 January, 1980, would be designated a Class A felony.

4 "c. Any felony involving violence, death, or any
5 physical injury to the person of another.

6 "d. Any felony involving unlawful sexual assault or
7 other unlawful sexual conduct on the person of another.

8 "e. Any felony involving sexual assault, or a lewd
9 or lascivious act upon a child under the age of 16 years or
10 attempt thereof.

11 "f. Sexual abuse or any other criminal conduct
12 committed prior to the first day of January, 1980, which if
13 committed after the first day of January, 1980, would be
14 defined as sexual abuse under the Alabama Criminal Code.

15 "g. Child abuse or any criminal conduct committed
16 prior to the first day of January, 1980, which if committed
17 after the first day of January, 1980, would be defined as
18 child abuse under the Alabama Criminal Code.

19 "h. Sodomy or any criminal conduct committed prior
20 to the first day of January, 1980, which if committed after
21 the first day of January, 1980, would be defined as sodomy
22 under the Alabama Criminal Code.

23 "i. Any violation of Section 13A-6-69, as amended.

24 "(2) If, however, the victim, victim's
25 representative, ~~or~~ and other interested individual has not
26 been registered for notice through the automated victim
27 notification system or otherwise made a direct request to the

1 board for notice or to another authorized individual, the
2 victim's information has not been updated, or a particular
3 ~~mode~~ modes of notification ~~has~~ have not been requested at
4 least ~~30~~ 45 days or more in advance of the board's action to
5 be considered, the board shall not be limited in power or
6 authority in any way to approve or order any parole, pardon,
7 remission of fine or forfeiture, restoration of civil and
8 political rights, furlough, leave, or early release of a
9 person convicted of the offenses named in subsection (e)(1)a.
10 to i., inclusive.

11 "(3) The notice shall be given by U.S. certified
12 mail, return receipt requested, U.S. mail, electronic
13 transmission, or by other commonly accepted method of
14 delivery, upon a request made through the automated victim
15 notification system or otherwise upon direct request made to
16 the board or other authorized individual ~~30~~ 45 days or more in
17 advance of the board's action to be considered and shall
18 include:

19 "a. The name of the prisoner or defendant involved.

20 "b. The crime for which the prisoner or defendant
21 was convicted.

22 "c. The date of the sentence.

23 "d. The court in which the conviction occurred.

24 "e. The sentence imposed.

25 "f. The actual time the prisoner has been held in
26 confinement and the prisoner's minimum release date, as
27 computed by the Department of Corrections.

1 "g. The action to be considered by the board.

2 "h. The date, time, and location of the board
3 meeting at which the action is to be considered.

4 "i. The right of the victim named in the indictment,
5 a victim's representative, or if the victim is deceased as a
6 result of the offense, the victim's immediate family, as
7 defined by the board's operating rules, or, in the event there
8 is no immediate family, a relative of a victim, if any, to
9 present his or her views to the board in person or in writing.

10 "Notice for robbery victims who were robbed while on
11 duty as an employee of a business establishment shall be
12 sufficient if mailed to the last address provided by the
13 victim or as otherwise noted on the indictment or in the board
14 files.

15 "(4) If a victim, victim's representative, ~~or~~ and
16 otherwise interested individual requests not to be notified,
17 the request shall be made to the Board of Pardons and Paroles
18 in writing or by electronic signature. Confirmation of a
19 request to not be notified shall be provided to the victim so
20 requesting. After a request is received, the board shall
21 provide no further notifications, unless and until the victim,
22 victim's representative, ~~or~~ and otherwise interested
23 individual subsequently requests future notifications, at
24 least ~~30~~ 45 days in advance of the board's action to be
25 considered through the automated victim notification system
26 ~~designated by the board~~ or by contacting the board or other
27 authorized individual in writing, in person, or by telephone.

1 "(5) Should a victim, victim's representative, ~~or~~
2 and otherwise interested person wish to receive notice of any
3 specific board hearing and action taken by the board, if any,
4 in a specific case, the individual may register to request the
5 notice through the automated victim notification system or
6 otherwise request notice by making a direct request to the
7 board or other authorized individual to receive notice at
8 least ~~30~~ 45 days in advance of the board's action to be
9 considered. The individual shall be required to designate his
10 or her preferred mode or modes of communication.

11 "(6) Prior to the sentencing of any defendant
12 convicted of the offenses named in subsection (e)(1)a. to i.,
13 inclusive, and only after the most recent victim information
14 has been furnished to the Board of Pardons and Paroles
15 pursuant to Section 12-17-184(9), in those cases, the
16 probation and parole officer assigned to prepare a
17 pre-sentence or post-sentence investigation report shall at
18 that time register the most recent information for the victim
19 named in the indictment into the automated victim notification
20 system ~~designated by the board~~. In case of a homicide, the
21 information of immediate family members shall be entered into
22 the automated victim notification system ~~designated by the~~
23 ~~board~~. If a surviving victim is a minor, information for
24 parents or guardians shall be entered into the automated
25 victim notification system ~~designated by the board~~. The
26 probation and parole officer assigned to prepare a
27 pre-sentence or post-sentence investigation report shall then

1 report to the sentencing court that all most current victim
2 information has been so registered. The sentencing court shall
3 then record into the case record that the victim information
4 has been entered into the automated victim notification
5 system.

6 "(7) For those cases in which a defendant has been
7 convicted and sentenced prior to the implementation task force
8 determining that the automated victim notification system
9 complies with the requirements of this section and Sections
10 15-22-23 and 15-22-36.2, for any homicide, and Class A felony,
11 except Burglary I in which no victim was present, or any
12 criminal sex offense, as defined by Section 15-20-21(4), the
13 board shall exercise due diligence to locate the victim or
14 victims and register the most recent victim information into
15 the automated victim notification system ~~designated by the~~
16 ~~board~~. If all attempts to locate a victim, or in case of a
17 homicide to locate immediate family member or members, have
18 failed and the agent of the board has certified that due
19 diligence has been exercised, no future location attempts
20 shall be required.

21 "(f) After any board action is taken granting any
22 pardon or parole, the board shall promptly notify all persons
23 who timely requested notice, pursuant to this section as to
24 the action taken by the board and the conditions, if any, of
25 any such parole or pardon via electronic notification through
26 the automated victim notification system ~~or~~ and posting
27 publicly on a state agency website.

1 "(g) Electronic notices as required by this section,
2 Section 14-14-5, Section 15-22-23, Section 15-22-36.2, Section
3 15-22-36.3, Section 9 and Section 10 shall be produced through
4 the automated notification system developed and maintained by
5 the Alabama Law Enforcement Agency. All data and records
6 required to produce said notices shall be provided to the
7 Alabama Law Enforcement Agency to be incorporated into the
8 automated notification system. Board records and information
9 accessible to the public through the automated notification
10 system shall be limited to those notification items specified
11 in subdivision (3) of subsection (e), as well as the
12 offender's age, sex, race, and unique identifiers. Records
13 concerning the status of supervised offenders on probation and
14 parole shall also be made available to the public, including
15 information on when supervision began, the date the
16 supervision term will end, and information on whether or how
17 supervision was terminated. Otherwise, access to board records
18 and information through the automated notification system
19 shall be limited in use to the legitimate law enforcement
20 purpose of entering and updating contact information on behalf
21 of crime victims, assisting victims with registration, and
22 ensuring victims receive notice. Information and records of
23 the board accessible for law enforcement purposes through the
24 automated notification system, in addition to that available
25 to the public as specified above, shall be limited to the
26 offender's date of birth, the supervising officer's name, the
27 county of residence for those offenders currently supervised

1 in Alabama, and the supervising officer's phone number. Misuse
2 of the automated notification system or records or information
3 contained in the automated notification system shall be
4 subject to criminal prosecution under Article 5A of Chapter 8
5 of Title 13A, as well as Section 41-9-601, Section 41-9-602,
6 and any other law of this state.

7 "§15-22-36.2.

8 "(a) There is hereby created the Victim Notification
9 Implementation Task Force to guide and support the
10 implementation of a statewide automated victim notification
11 system in Alabama. The task force shall be composed of ~~two~~
12 three representatives of crime victims' rights ~~organizations~~
13 advocates designated by the Attorney General and ~~at least~~ one
14 designee from each of the following: The Board of Pardons and
15 Paroles, the Department of Corrections, ~~the Alabama Criminal~~
16 ~~Justice Information Center~~ the Alabama Law Enforcement Agency,
17 the Alabama Crime Victims Compensation Commission, the
18 District Attorneys Association or a district attorney
19 representative, the Attorney General, the Administrative
20 Office of Courts, the Office of Prosecution Services, and any
21 other entity or organization as deemed appropriate by a
22 majority vote of the current representatives composing the
23 task force. The task force shall elect a chair to function as
24 the administrative head. The task force shall meet initially
25 by March 1, 2012, at the call of the Attorney General. The
26 task force shall meet not less than quarterly after January 1,
27 2012, ~~until December 31, 2015,~~ and otherwise at the call of

1 the chair or a majority vote of the current task force
2 representatives. Pursuant to this section and ~~Sections~~ Section
3 14-14-5, Section 15-22-23, and Section 15-22-36, Section
4 15-22-36.3, Section 9 and Section 10, the task force shall be
5 responsible for overseeing the development of the automated
6 victim notification system by the Alabama Law Enforcement
7 Agency and integration of a process to automatically update
8 victim information into the automated victim notification
9 system on a continual basis. The task force shall also oversee
10 a statewide public education and awareness campaign for the
11 implementation of the automated victim notification system and
12 shall be charged with confirming, by majority vote, that the
13 automated victim notification system complies with the
14 requirements of this section and ~~Sections~~ Section 14-14-5,
15 Section 15-22-23, and Section 15-22-36, Section 15-22-36.3,
16 Section 9 and Section 10. Approval from the task force shall
17 not be required for the validity of any action taken by any
18 entity represented on the task force in the exercise of any of
19 the power or authority granted to it by the Legislature. ~~The~~
20 ~~task force shall be dissolved effective December 31, 2015.~~

21 "(b) Immediately upon approval from the task force
22 by majority vote that the automated notification system
23 complies with the requirements of this section and Section
24 14-14-5, Section 15-22-23, Section 15-22-36, Section
25 15-22-36.3, Section 9 and Section 10, the task force shall
26 automatically convert to the Victim Notification Oversight
27 Council for the purpose of continuing to provide direction to

1 the Alabama Law Enforcement Agency on development, support,
2 expansion, and maintenance of the automated notification
3 system. The council shall consist of those task force
4 representatives serving on the task force, including
5 appointees, at the time of conversion. Upon conversion,
6 representatives from partner agencies may be added by majority
7 vote of the council. The appointees designated by the Attorney
8 General shall serve four year terms to ensure that a variety
9 of victim advocates are included in the oversight of the
10 system. The Attorney General shall designate a replacement as
11 required at the expiration of the term of the victim advocate.
12 No victim advocate may be appointed for more than two
13 consecutive terms.

14 "(b) (c) The Board of Pardons and Paroles shall have
15 authority to carry out the enforcement of ~~this section and~~
16 Sections 15-22-23 and 15-22-36, and the Department of
17 Corrections shall have authority to carry out the enforcement
18 of Section 14-14-5, Section 15-22-36.3, Section 9 and Section
19 10.

20 "(d) The Alabama Law Enforcement Agency shall be
21 required to develop, support, house, and maintain the
22 automated notification system referenced in this section and
23 Section 14-14-5, Section 15-22-23, Section 15-22-36, Section
24 15-22-36.3, Section 9 and Section 10 for the use of the Board
25 of Pardons and Paroles and the Department of Corrections to
26 make automated notices as required. The system shall
27 additionally be used to make notices of an offender's change

1 in status or custody, or notices regarding criminal justice
2 proceedings deemed to be in the best interest of Alabama crime
3 victims and public safety, by a majority vote of the task
4 force or, after its conversion, the Victim Notification
5 Oversight Council. The automatic notification system created
6 by the Alabama Law Enforcement Agency shall be the automated
7 notification system used by the state in making notifications
8 to the Alabama crime victims.

9 "(e) There is hereby created a Victim Notification
10 System Fund in the State Treasury. The fund shall consist of
11 all monies appropriated for the development, expansion,
12 support, and maintenance of the automated victim notification
13 system by the Alabama Law Enforcement Agency. Any monies in
14 the fund may be expended solely for the use of the victim
15 notification system. The Secretary of the Alabama Law
16 Enforcement Agency may expend monies in the Victim
17 Notification System Fund solely at the request and direction
18 of the Victim Notification Implementation Task Force or, after
19 its conversion, the Victim Notification Oversight Council,
20 created by this section.

21 "§15-22-37.

22 "(a) The Board of Pardons and Paroles may adopt and
23 promulgate rules and regulations, not inconsistent with the
24 provisions of this article, touching upon all matters dealt
25 with in this article, including, among others, practice and
26 procedure in matters pertaining to paroles, pardons and
27 remission of fines and forfeitures; provided, however, that no

1 rule or regulation adopted and promulgated by such board shall
2 have the effect of denying to any person whose application for
3 parole or the revocation of whose parole is being considered
4 by said board from having the benefit of counsel or witnesses
5 upon said hearing.

6 "(b) The Board of Pardons and Paroles shall adopt
7 and promulgate rules and regulations to:

8 "(1) Establish a program of limited supervision for
9 parolees who qualify addressing eligibility using validated
10 risk and needs assessments, as defined in Section 12-25-32,
11 transfers among levels of supervision, to include guidelines
12 for the transfer of lower-risk individuals to an
13 administrative form of parole, and reporting requirements;

14 "(2) Develop policies and procedures for screening,
15 assessment, and referral for parolees to connect with
16 recidivism reduction services including, but not limited to,
17 cognitive behavioral intervention and substance abuse
18 treatment;

19 "(3) Establish a matrix of rewards for compliance
20 and pro-social behaviors and swift, certain and graduated
21 sanctions to be imposed by the board, as provided under
22 subsections (e) and (f) of Section 15-22-32, in response to
23 corresponding violations of parole terms or conditions
24 imposed;

25 "(4) Establish clear guidelines and procedures that
26 retain the board's discretion in individual parole release
27 cases. Such guidelines shall provide that, if a prisoner

1 convicted of a nonviolent offense, as defined in Section
2 12-25-32, with a sentence of 20 years or less is denied
3 parole, the board shall reconsider releasing the prisoner on
4 parole no more than two years after such parole release
5 denial. Such guidelines shall allow a current validated risk
6 and needs assessment as defined in Section 12-25-32, past
7 criminal history, program completion, institutional
8 misconduct, and other individual characteristics related to
9 the likelihood of offending in the future to be factored into
10 the release decision while working to allocate prison space
11 for the most violent and greatest risk prisoners;

12 "(5) Ensure that the provisions of subsections (k)
13 and (l) of Section 15-22-24 are implemented relating to the
14 supervision and treatment of parolees; and

15 "(6) Establish criteria, guidelines, and procedures
16 to discharge parolees from parole supervision requirements
17 prior to the expiration of the full maximum term for which the
18 parolee was sentenced, unless the parolee was convicted of a
19 violent offense as defined in Section 12-25-32, which shall
20 include review of a parolee for discharge from parole
21 supervision at least every two years if the parolee has
22 satisfied all financial obligations owed to the court,
23 including restitution, and has not had his or her supervision
24 revoked.

25 "§15-22-51.

26 "(a) When directed by the court, a probation officer
27 shall fully investigate and report to the court in writing the

1 circumstances of the offense, criminal record, social history
2 and present condition of a defendant through use of a
3 validated risk and needs assessment, as defined in Section
4 15-25-32. No defendant, unless the court shall otherwise
5 direct, shall be placed on probation or released under
6 suspension of sentence until the report of such investigation
7 shall have been presented to and considered by the court;
8 provided, however, that after conviction the court may
9 continue the case for such time as may be reasonably necessary
10 to enable the probation officer to make his investigation and
11 report.

12 "(b) Whenever practicable, such investigation shall
13 include physical and mental examinations of the defendant;
14 and, if such defendant is committed to an institution, a copy
15 of the report of such investigation shall be sent to the ~~Board~~
16 Department of Corrections at the time of commitment; provided,
17 that in all cases where the defendant was on bond prior to the
18 time of the trial and an application for probation is made to
19 the court, then the judge of such court, in his discretion,
20 may suspend the execution of the sentence pending the
21 disposition of the application for probation and continue the
22 defendant under the same bond that he was under or, in his
23 discretion, may raise the bond or lower the same pending the
24 disposition of the application for probation, and such bond
25 shall remain in full force and effect until the application
26 for probation is finally disposed of.

27 "§15-22-52.

1 "The court shall determine and may at any time
2 modify the conditions of probation and ~~may~~ shall include among
3 them the following or any other conditions. Such conditions
4 ~~may~~ shall provide that the probationer shall:

5 "(1) Avoid injurious or vicious habits;

6 "(2) Avoid persons or places of disreputable or
7 harmful character;

8 "(3) Report to the probation officer as directed;

9 "(4) Permit the probation officer to visit him or
10 her at his or her home or elsewhere;

11 "(5) Work faithfully at suitable employments as far
12 as possible;

13 "(6) Remain within a specified place;

14 "(7) Pay the fine imposed or costs or such portions
15 thereof as the court may determine and in such installments as
16 the court may direct;

17 "(8) Make reparation or restitution to the aggrieved
18 party for the damage or loss caused by his or her offense in
19 an amount to be determined by the court; ~~and~~

20 "(9) Support his or her dependents to the best of
21 his or her ability; ~~and~~

22 "(10) Submit to behavioral treatment, substance
23 abuse treatment, GPS monitoring, other treatment as deemed
24 necessary by the court or supervising probation officer,
25 and/or a period or periods of confinement in a consenting jail
26 facility for a total of no more than six days per month during
27 any three separate months during the period of probation. The

1 six days per month confinement provided for in this subsection
2 shall only be imposed as two-day or three-day consecutive
3 periods at any single time. In no event shall the total
4 periods of confinement provided for in this subdivision exceed
5 18 total days in a consenting jail facility. Confinement
6 provided herein shall be subject to the limitations,
7 provisions, and conditions provided in subdivision (4) of
8 subsection (e) of Section 15-20-54.

9 "§15-22-53.

10 "(a) A probation officer shall investigate all cases
11 referred to him for investigation by any court or by the Board
12 of Pardons and Paroles and shall report in writing thereon. He
13 shall furnish to ~~each person~~ persons released on probation
14 under his supervision a written statement of the conditions of
15 probation and shall instruct ~~him~~ them regarding the same. Such
16 officer shall keep informed concerning the conduct and
17 condition of each person on probation under his supervision by
18 visiting, requiring reports and in other ways, based on the
19 offender's measured risk of offending, and he shall report
20 thereon in writing as often as the court or the board may
21 require. Such officer shall use all practicable and suitable
22 ~~methods~~ evidence-based practices as defined in Section
23 12-25-32, not inconsistent with the provisions imposed by the
24 court, to aid and encourage persons on probation and to bring
25 about improvements in their conduct and condition. Such
26 officer shall keep detailed records of his work and shall make
27 such reports in writing to the court and the board as they may

1 require. A probation officer shall have, in the execution of
2 his duties, the powers of arrest and the same right to execute
3 process as is now given or may hereafter be given by law to
4 the sheriffs of this state. Supervision and treatment of
5 probationers shall be conducted pursuant to and consistent
6 with the provisions of subsections (k) and (l) of Section
7 15-22-24 and Section 15-22-57.

8 "(b) All reports, records and data assembled by any
9 probation officer and referred to the court shall be
10 privileged and shall not be available for public inspection
11 except upon order of the court to which the same was referred.

12 "(c) In no case shall the right to inspect said
13 report be denied the defendant or his counsel after said
14 report has been completed or filed.

15 "§15-22-54.

16 "(a) The period of probation or suspension of
17 execution of sentence shall be determined by the court, and
18 the period of probation or suspension may be continued,
19 extended, or terminated. However, except as provided in
20 Section 32-5A-191 relating to ignition interlock requirements,
21 in no case shall the maximum probation period of a defendant
22 guilty of a misdemeanor exceed two years, nor shall the
23 maximum probation period of a defendant guilty of a felony
24 exceed five years. When the conditions of probation or
25 suspension of sentence are fulfilled, the court shall, by
26 order duly entered on its minutes, discharge the defendant.

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

13 "(c) At any time during the period of probation or
14 suspension of execution of sentence, the court may issue a
15 warrant and cause the defendant to be arrested for violating
16 any of the conditions of probation or suspension of sentence,
17 upon which the court shall hold a violation hearing. No
18 probationer shall be held in jail awaiting such violation
19 hearing for longer than 15 business days, unless new criminal
20 charges are pending. If the hearing is not held within the
21 specified time, the sheriff shall release the probation
22 violation unless there are other pending charges. A judge shall
23 have authority to issue a bond to a probationer for release
24 from custody.

25 "(d) Except as provided in Chapter 15 of Title 12,
26 any probation officer, police officer, or other officer with
27 power of arrest, when requested by the probation officer, may

1 arrest a probationer without a warrant. In case of an arrest
2 without a warrant, the arresting officer shall have a written
3 statement by the probation officer setting forth that the
4 probationer has, in his or her judgment, violated the
5 conditions of probation, and the statement shall be sufficient
6 warrant for the detention of the probationer in the county
7 jail or other appropriate place of detention until the
8 probationer is brought before the court. The probation officer
9 shall forthwith report the arrest and detention to the court
10 and submit in writing a report showing in what manner the
11 probationer has violated probation.

12 ~~"(1) If the defendant violates any condition of~~
13 ~~probation or suspension of execution of sentence, the court,~~
14 ~~after a hearing, may implement one or more of the following~~
15 ~~options:~~

16 ~~"a. Continue the existing probation and suspension~~
17 ~~of execution of sentence.~~

18 ~~"b. Issue a formal or informal warning to the~~
19 ~~probationer that further violations may, subject to paragraph~~
20 ~~f., result in revocation of probation or suspension of~~
21 ~~execution of sentence.~~

22 ~~"c. Conduct a formal or informal conference with the~~
23 ~~probationer to reemphasize the necessity of compliance with~~
24 ~~the conditions of probation.~~

25 ~~"d. Modify the conditions of probation or suspension~~
26 ~~of execution of sentence, which conditions may include the~~
27 ~~addition of short periods of confinement, not to exceed 90~~

1 ~~days incarceration in a county jail, a facility of the~~
2 ~~Department of Corrections, or work release type facility, if~~
3 ~~available.~~

4 ~~"e. Revoke the probation or suspension of execution~~
5 ~~of sentence for a defendant who is not an eligible offender as~~
6 ~~defined herein. If the court revokes probation, it may, after~~
7 ~~a hearing, impose the sentence that was suspended at the~~
8 ~~original hearing or any lesser sentence.~~

9 ~~"f. In addition to the provisions of paragraphs a.~~
10 ~~to d., inclusive, of this subdivision, the probation of an~~
11 ~~eligible offender may be revoked and the defendant required to~~
12 ~~serve a term of not more than 90 days imprisonment in a~~
13 ~~Department of Corrections facility, which may include~~
14 ~~participation in the restart program, LIFEtech program, or a~~
15 ~~technical violator program or, if no space is available in a~~
16 ~~Department of Corrections facility, not more than 90 days in~~
17 ~~the county jail.~~

18 ~~"g. Notwithstanding any law to the contrary,~~
19 ~~following release of an eligible offender from incarceration,~~
20 ~~the sentencing court shall have jurisdiction to sentence the~~
21 ~~defendant to a period of probation, not to exceed five years~~
22 ~~or the remainder of his or her suspended sentence, whichever~~
23 ~~is less.~~

24 ~~"(2) The court may also continue the existing~~
25 ~~probation and suspension of execution of sentence of any~~
26 ~~defendant with the additional condition that the probationer~~
27 ~~does any of the following:~~

1 ~~"a. Participates in a community corrections program.~~
2 ~~"b. Participates in a county work release program.~~
3 ~~"c. Performs community service.~~
4 ~~"d. Undergoes intensive probation supervision.~~
5 ~~"e. Participates in a residential or outpatient drug~~
6 ~~or alcohol treatment program.~~

7 ~~"f. Participates and completes a Life Skills~~
8 ~~Influenced by Freedom and Education Tech (LIFE Tech)~~
9 ~~residential program.~~

10 ~~"(3) If revocation results in a sentence of~~
11 ~~confinement, credit shall be given for all time spent in~~
12 ~~custody prior to revocation. Full credit shall be awarded for~~
13 ~~full-time confinement in facilities such as county jail, state~~
14 ~~prison, state technical violator programs, and boot camp.~~
15 ~~Credit for other penalties, such as work release programs,~~
16 ~~intermittent confinement, and home detention, shall be left to~~
17 ~~the discretion of the court, with the presumption that time~~
18 ~~spent subject to these penalties will receive half credit. The~~
19 ~~court shall also give significant weight to the time spent on~~
20 ~~probation in substantial compliance with the conditions~~
21 ~~thereof. The total time spent in confinement may not exceed~~
22 ~~the term of confinement of the original sentence.~~

23 ~~"(4) The court shall not revoke probation and order~~
24 ~~the confinement of the probationer for violations of the~~
25 ~~conditions of probation unless the court finds on the basis of~~
26 ~~the original offense and the probationer's intervening~~
27 ~~conduct, either of the following:~~

1 ~~"a. No measure short of confinement will adequately~~
2 ~~protect the community from further criminal activity by the~~
3 ~~probationer.~~

4 ~~"b. No measure short of confinement will avoid~~
5 ~~depreciating the seriousness of the violation.~~

6 ~~"(5) A defendant determined by the court to be~~
7 ~~indigent shall not be excluded from a determination as an~~
8 ~~eligible offender solely because of nonpayment of~~
9 ~~court-ordered monies. Only the willful nonpayment of~~
10 ~~court-ordered monies shall exclude an otherwise eligible~~
11 ~~defendant from being considered an eligible offender.~~

12 ~~"(e) For purposes of this section and Section~~
13 ~~15-22-54.1, the following words have the following meanings:~~

14 ~~"(1) ADMINISTRATIVE VIOLATION. Any violation of the~~
15 ~~rules and conditions of probation other than one of the~~
16 ~~following:~~

17 ~~"a. A violation of law.~~

18 ~~"b. Possession, receipt, or transportation of any~~
19 ~~firearm.~~

20 ~~"c. Any violation of any condition prohibiting~~
21 ~~contact with any victim.~~

22 ~~"d. A violation of any condition which presented a~~
23 ~~danger to the health, safety, or welfare of any person.~~

24 ~~"(2) ELIGIBLE OFFENDER. A nonviolent offender~~
25 ~~meeting all of the following criteria:~~

26 ~~"a. Serving a probationary sentence who has~~
27 ~~committed an administrative violation only.~~

1 ~~"b. Who has no pending criminal charges.~~

2 ~~"c. Has no convictions for a new offense since the~~
3 ~~time the offender was placed on probation.~~

4 ~~"d. Has not on two or more previous occasions been~~
5 ~~found by a court to be in violation of any condition of the~~
6 ~~current probation.~~

7 ~~"(3) NEW OFFENSE. Any misdemeanor or felony, whether~~
8 ~~in violation of state or federal law except for minor~~
9 ~~misdemeanor traffic offenses.~~

10 ~~"(4) NONVIOLENT OFFENDER. A person who has not been~~
11 ~~convicted at any time of any crime defined in subdivision (13)~~
12 ~~of Section 12-25-32 and who is not currently on probation for~~
13 ~~a crime the court finds involved actual or attempted physical~~
14 ~~harm or injury to any person.~~

15 "(e) After conducting a violation hearing and
16 finding sufficient evidence to support a probation violation,
17 the court may revoke probation to impose a sentence of
18 imprisonment, and credit shall be given for all time spent in
19 custody prior to revocation. If the probationer was convicted
20 of a Class D felony and his or her probation is revoked, the
21 incarceration portion of any split sentence imposed due to
22 revocation shall be limited to two years or one-third of the
23 original suspended prison sentence, whichever is less.
24 However, in all cases, excluding sex offenses, defined
25 pursuant to Section 15-20A-5, the court may only revoke
26 probation as provided below:

1 "(1) When a defendant under supervision for a felony
2 conviction has violated a condition of probation, other than
3 arrest or conviction of a new offense or absconding, the court
4 may impose a period of confinement of no more than 45
5 consecutive days to be served in the custody population of the
6 Department of Corrections. Within 90 days of the effective
7 date of this act, the Department of Corrections shall develop
8 and implement a streamlined process to transport and receive
9 the probationer into its custody population. Such process
10 shall be developed in cooperation with the Alabama Sheriffs'
11 Association and the Association of County Commissions of
12 Alabama. Such process shall include the most cost-effective
13 method to process sanctioned probation violators for the
14 maximum 45 day confinement period and shall provide that the
15 Department of Corrections shall reimburse the state mileage
16 rate, as determined by the Alabama Comptroller's Office, to
17 the county for any state inmate sanctioned as a probation
18 violation and transferred to or from a Department of
19 Corrections facility by the county. Upon completion of the
20 confinement period, the remaining probation period or
21 suspension of sentence shall automatically continue upon the
22 defendant's release from confinement. The maximum 45 day term
23 of confinement ordered under this subsection for a felony
24 shall not be reduced by credit for time already served in the
25 case. Any such credit shall instead be applied to the
26 suspended sentence. In the event the time remaining on the

1 imposed sentence is 45 days or less, the term of confinement
2 shall be for the remainder of the defendant's sentence.

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

6 "(3) Confinement shall be immediate. The court shall
7 be responsible for ensuring that the Department of Corrections
8 receives necessary transcripts for imposing a period of
9 confinement within five business days of the defendant's
10 violation hearing.

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

1 "The Department of Corrections shall be financially
2 responsible for any medical, dental, or mental health
3 conditions or needs of any probationer while detained in a
4 county jail.

5 "(f) In lieu of the provisions of subsections (c)
6 through (e), when a probationer violates his or her probation
7 terms and conditions imposed by the court, his or her
8 probation officer may, after administrative review and
9 approval by the officer's supervisor, require the probationer
10 to submit to behavioral treatment, substance abuse treatment,
11 GPS monitoring, such other treatment as determined by the
12 board or supervising officer, or a period of confinement in a
13 consenting jail facility as specified in subdivision (10) of
14 Section 15-22-52.

15 "(g) Prior to imposing a sanction provided under
16 subsection (f) and pursuant to subdivision (10) of Section
17 15-22-52, the probationer must first be presented with a
18 violation report, with the alleged probation violations and
19 supporting evidence noted. The probationer may file a motion
20 with the court to conduct a probation violation hearing within
21 10 days. The probationer shall be given notice of the right to
22 such hearing and advised of the right (i) to a hearing before
23 the court on the alleged violation in person, with the right
24 to present relevant witnesses and documentary evidence; (ii)
25 to retain and have counsel at the hearing and that counsel
26 will be appointed if the probationer is indigent; and (iii) to
27 confront and cross examine any adverse witnesses. Upon the

1 signing of a waiver of these rights by the probationer and the
2 supervising probation officer, with approval of a supervisor,
3 the probationer may be treated, monitored, or confined for the
4 period recommended in the violation report and designated in
5 the waiver. However, the probationer shall have no right of
6 review if he or she has signed a written waiver of rights as
7 provided in this subsection.

8 "(h) The board shall adopt guidelines and procedures
9 to implement the requirements of this section, which shall
10 include the requirement of a supervisor's approval prior to a
11 supervising probation officer's exercise of the delegation of
12 authority authorized by subsection (f).

13 Section 4. Section 29-2-20, Code of Alabama 1975, is
14 hereby amended to read as follows:

15 "§29-2-20.

16 "(a) A permanent legislative committee which shall
17 be composed of eight members, two of whom shall be ex officio
18 members and six of whom shall be appointed members, three each
19 to be appointed by the President of the Senate and Speaker of
20 the House, who shall both serve as the ex officio members,
21 shall be formed to assist in realizing the recommendations of
22 the legislative prison task force and examine all aspects of
23 the operations of the Department of Corrections. The chairman
24 of the committee shall be selected by and from among the
25 membership. The committee shall make diligent inquiry and a
26 full examination of Alabama's present and long term prison
27 needs and they shall file reports of their findings and

1 recommendations to the Alabama Legislature not later than the
2 fifteenth legislative day of each regular session that the
3 committee continues to exist.

4 "(b) The committee shall study and address mental
5 health issues for prisoners reentering the community after a
6 term of imprisonment in order to streamline the sharing of
7 critical mental health information and in order to address
8 barriers to accessing mental health treatment for such
9 prisoners. The committee shall report such findings to the
10 legislature no later than January 1, 2016 and shall work in
11 conjunction with the following in studying and addressing such
12 issues:

13 "(1) Department of Corrections;

14 "(2) Board of Pardons and Paroles;

15 "(3) Department of Mental Health;

16 "(4) Administrative Office of Courts;

17 "(5) Office of Prosecution Services;

18 "(6) Office of the Attorney General;

19 "(7) Alabama Law Enforcement Agency;

20 "(8) Association of County Commissions of Alabama;

21 "(9) Alabama Probate Judges Association;

22 "(10) Alabama Sheriffs' Association;

23 "(11) Alabama Criminal Defense Lawyers Association;

24 "(12) Department of Public Health;

25 "(13) Office of the Governor;

26 "(14) Alabama District Attorneys Association;

27 "(15) Alabama Drug Abuse Task Force; and

1 "(16) Any other advocacy groups as determined by the
2 committee.

3 "(c) The committee shall study and address issues
4 related to felony restitution collection in order to improve
5 rates of collection for restitution obligations in felony
6 cases and establish best practices relating to a defendant's
7 ability to pay obligations owed. The committee shall report
8 such findings to the legislature no later than January 1, 2016
9 and shall work in conjunction with the following in studying
10 and addressing such issues:

11 "(1) Department of Corrections;

12 "(2) Board of Pardons and Paroles;

13 "(3) Administrative Office of Courts;

14 "(4) Office of Prosecution Services;

15 "(5) Office of the Attorney General;

16 "(6) Alabama Law Enforcement Agency;

17 "(7) Alabama Criminal Defense Lawyers Association;

18 "(8) Association of County Commissions of Alabama;

19 "(9) Alabama Sheriffs Association;

20 "(10) Alabama Crime Victims Compensation Commission;

21 "(11) Two crime victims' rights advocates designated
22 by the Attorney General;

23 "(12) Two members from the Alabama District
24 Attorneys Association, of which one shall be from a largely
25 populated metropolitan judicial circuit and the other shall be
26 from a small, rurally populated judicial circuit; and

1 "(13) Any other advocacy groups as determined by the
2 committee."

3 "(d) The committee shall study and address capacity
4 issues within the Department of Corrections to include, but
5 not limited to, the issue of design capacity and operational
6 or functional capacity, as well as the construction of new
7 prison facilities and the renovation of current correctional
8 facilities as they relate to prison overcrowding and public
9 safety. The committee shall report such findings to the
10 legislature no later than January 1, 2016 and shall work in
11 conjunction with the following in studying and addressing such
12 issues:

13 "(1) Department of Corrections;

14 "(2) Board of Pardons and Paroles;

15 "(3) Department of Mental Health;

16 "(4) Department of Public Health;

17 "(5) Administrative Office of Courts;

18 "(6) Office of Prosecution Services;

19 "(7) Office of the Attorney General;

20 "(8) Alabama Law Enforcement Agency;

21 "(9) Alabama Drug Abuse Task Force;

22 "(10) Alabama Criminal Defense Lawyers Association;

23 "(11) Association of County Commissions of Alabama;

24 "(12) Two members from the Alabama Sheriffs'

25 Association, of which one shall be from a largely populated
26 metropolitan judicial circuit and the other shall be from a
27 small, rurally populated judicial circuit; and

1 "(13) Two members from the Alabama District
2 Attorneys Association, of which one shall be from a largely
3 populated metropolitan judicial circuit and the other shall be
4 from a small, rurally populated judicial circuit.

5 "(e) The studies and collaborating partners provided
6 for in this section shall reflect the racial, gender,
7 geographic, urban/rural, and economic diversity of the state.

8 Section 5. Section 36-18-25, Code of Alabama 1975,
9 is hereby amended to read as follows:

10 "§36-18-25.

11 "(a) All persons convicted of a criminal offense as
12 set out in Section 36-18-24 shall, when requested by the
13 director submit to the taking of a DNA sample or samples as
14 may be specified by the director, provided, however, the
15 director shall promulgate such rules and regulations as may be
16 necessary for the purposes of ensuring that DNA samples are
17 collected in a medically approved manner.

18 "(b) As of May 6, 1994, all persons serving any
19 sentence of probation for any of the offenses set out in
20 Section 36-18-24 shall, when requested by the director, submit
21 to the taking of a DNA sample or samples as specified by the
22 director. Upon the refusal of any such person to so submit the
23 sentencing court shall order such submission as a mandatory
24 condition of probation.

25 "(c) (1) All persons arrested for any felony offense
26 on or after October 1, 2010, or for any sexual offense
27 including, but not limited to, those that would require

1 registration pursuant to the Community Notification Act,
2 Article 2, commencing with Section 15-20-20, of Chapter 20,
3 Title 15, on or after October 1, 2010, shall have a DNA sample
4 drawn or taken, as specified by the director, at the same time
5 he or she is fingerprinted pursuant to the booking procedure
6 or at the time of arrest.

7 "(2) For purposes of this chapter, a juvenile who is
8 arrested for an offense covered by this chapter or adjudicated
9 delinquent for the commission of a felony-grade delinquent act
10 shall be considered a person who is arrested for a felony or
11 other specified offense.

12 ~~"(3) Notwithstanding the other provisions of this~~
13 ~~section, any person arrested for a felony offense or a sexual~~
14 ~~offense, including a juvenile pursuant to subdivision (2),~~
15 ~~shall consent in writing freely and voluntarily to provide a~~
16 ~~DNA sample and shall be informed that they are providing~~
17 ~~written permission without any threats or promises. The person~~
18 ~~shall have the right to refuse to provide a sample pursuant to~~
19 ~~subdivision (1) or (2) without penalty. The refusal may not be~~
20 ~~used as evidence against the person in any proceeding.~~

21 ~~"(4) (3)~~ If it is determined that the person's DNA
22 sample has been included in the DNA database, and has not been
23 subject to a court's order expunging the record from the DNA
24 database, no additional sample is required.

25 "(d) As of May 6, 1994, all persons convicted of any
26 of the offenses set out in Section 36-18-24 shall be ordered
27 to submit to the taking of a DNA sample or samples as

1 specified by the director as a mandatory condition of any term
2 of probation or suspended sentence which may be imposed by the
3 sentencing court.

4 "(e) As of May 6, 1994, all persons convicted for
5 any offense set out in Section 36-18-24 and under any sentence
6 of confinement to any incarceration facility, shall, when
7 requested by the director, submit to the taking of a DNA
8 sample or samples as specified by the director. Upon the
9 refusal of any such person to so submit, the custodian of the
10 incarceration facility shall require such submission as a
11 mandatory condition of any temporary, partial, or limited
12 release, including, but not limited to, work release,
13 furlough, or other incentive release.

14 "(f) As of May 6, 1994, all persons convicted of any
15 of the offenses set out in Section 36-18-24, shall be ordered
16 by the sentencing court to submit to the taking of a DNA
17 sample or samples as may be specified by the director as part
18 of the sentence to be imposed.

19 "(g) As of May 6, 1994, all persons convicted for
20 any offense set out in Section 36-18-24 who may be eligible
21 for consideration by the Alabama Board of Pardons and Paroles
22 for either a pardon or parole shall be ordered by the Alabama
23 Board of Pardons and Paroles to submit to the taking of a DNA
24 sample or samples as may be specified by the director, as a
25 mandatory condition of the pardon or parole.

26 "(h) Nothing in this article shall be construed as
27 creating a cause of action against the state or any of its

1 agencies, officials, employees, or political subdivisions
2 based on the performance of any duty imposed by this article
3 or the failure to perform any duty imposed by this article.

4 "(i) A DNA sample obtained in good faith shall be
5 deemed to have been obtained in accordance with the
6 requirements of this chapter and its use in accordance with
7 this chapter is authorized until the circuit court in which an
8 individual was convicted or, in a case where the DNA sample
9 was collected pursuant to a felony or sexual offense arrest,
10 the circuit court where the individual was arrested, orders
11 that the DNA sample should be expunged.

12 "(j) DNA records and DNA samples submitted to the
13 Department of Forensic Sciences may only be released for one
14 of the following authorized purposes:

15 "(1) For law enforcement identification purposes,
16 including the identification of human remains, to federal,
17 state, or local criminal justice agencies.

18 "(2) For criminal defense and appeal purposes, to a
19 defendant, who shall have access to samples and analyses
20 performed in connection with the case in which the defendant
21 is charged or was convicted.

22 "(3) If personally identifiable information is
23 removed for forensic validation studies, forensic protocol
24 development, or quality control purposes."

25 Section 6. Sections 13A-7-7.1, 13A-8-3.1, 13A-8-4.1,
26 13A-8-8.1, 13A-8-18.1, 13A-8-24, 13A-9-3.1, and 13A-9-6.1 are
27 added to the Code of Alabama 1975, to read as follows:

1 "§13A-7-7.1

2 "(a) A person commits the crime of burglary in the
3 fourth degree if he or she knowingly enters or remains
4 unlawfully in an unoccupied building that is more than 100
5 feet from a dwelling with the intent to commit a crime
6 therein.

7 "(b) Burglary in the fourth degree is a Class C
8 felony.

9 "§13A-8-3.1

10 "(a) The theft of property that exceeds one hundred
11 thousand dollars (\$100,000) in value or the theft of property
12 that exceeds fifty thousands dollars (\$50,000) of public money
13 or revenue of any state, county, or municipal government
14 agency or department, or any governmental subdivision thereof,
15 constitutes aggravated theft or property.

16 "(b) Aggravated theft of property is a Class A
17 felony.

18 "§13A-8-4.1

19 "(a) The theft of property that exceeds five hundred
20 dollars (\$500) in value but does not exceed one thousand four
21 hundred and ninety-nine dollars (\$1,499) in value, and which
22 is not taken from the person of another, constitutes theft of
23 property in the third degree.

24 "(b) Theft of property in the third degree is a
25 Class D felony.

1 "(c) The theft of a credit card or a debit card,
2 regardless of its value, constitutes theft of property in the
3 third degree.

4 "§13A-8-8.1

5 "(a) The theft of lost property which exceeds five
6 hundred dollars (\$500) in value but does not exceed one
7 thousand four hundred and ninety-nine dollars (\$1,499) in
8 value constitutes theft of lost property in the third degree.

9 "(b) Theft of lost property in the third degree is a
10 Class D felony.

11 "§13A-8-18.1

12 "(a) Receiving stolen property which exceeds five
13 hundred dollars (\$500) in value but does not exceed one
14 thousand four hundred and ninety-nine dollars (\$1,499) in
15 value constitutes receiving stolen property in the third
16 degree.

17 "(b) Receiving stolen property in the third degree
18 is a Class D felony.

19 "§13A-8-24

20 "(a) As used in this section, the term "criminal
21 organized activity" shall mean the following:

22 "(1) The commission, attempted commission, or the
23 conspiracy to commit or the solicitation, coercion, or
24 intimidating of another person to commit any Class A or Class
25 B felony or the offenses of promotion of prostitution,
26 stalking, human trafficking, theft of property in the first or
27 second degree, or receiving stolen property;

1 "(2) Any offense defined in Alabama law relating to
2 the security of state, county, or juvenile correctional
3 facilities; or

4 "(3) Any criminal offense committed in violation of
5 the laws of the United States or its territories, dominions,
6 or possessions, any of the several states or any foreign
7 nation which, if committed in this state, would be considered
8 criminal organized activity under the provisions of this
9 section.

10 "(b) Any two or more crimes enumerated in subsection
11 (a) within two years for which a criminal enterprise is
12 established shall be considered a Racketeer Influenced and
13 Corrupt Organization. A "criminal enterprise" is any pattern
14 of criminal organized activity committed by at least two or
15 more individuals which is motivated by or the effect of which
16 is pecuniary gain, economic or physical threat or injury,
17 exploitation, or human trafficking. It is not a defense to
18 prosecution that one or more of the parties is otherwise
19 unknown or unidentified. The provisions of this subsection may
20 be charged in addition to any or all felonies that comprise
21 the criminal enterprise.

22 "(c) A violation of the provisions of this section
23 is a Class A felony.

24 "(d) The commission of any criminal organized
25 activity offense by any member or associate of a criminal
26 enterprise shall be admissible in any trial or proceeding for

1 the purpose of proving the existence of the criminal organized
2 activity and Racketeer Influenced and Corrupt Organization.

3 "(e) A person who is subject to prosecution under
4 this section and any other law of this state may be prosecuted
5 under either or both laws.

6 "(f) Any prosecution for a violation of this section
7 may be charged or indicted in any judicial circuit in which
8 any felony occurred that comprised part of the criminal
9 enterprise.

10 "(g) There is hereby established the Criminal
11 Organized Activity/Racketeer Influenced and Corrupt
12 Organization Reward Fund within the Office of Prosecution
13 Services. Contributions to the fund may be from grants, public
14 officials, law enforcement agencies, advocacy groups,
15 individuals, government entities, private entities, or
16 charitable entities. If funds are available, the district
17 attorney, chief of police, sheriff, or Secretary of the
18 Alabama Law Enforcement Agency may request funds and the
19 posting of a reward of up to \$5,000 for information leading to
20 the arrest and conviction of any person involved in criminal
21 organized activity that leads to the death or maiming of
22 another person, terrorism, funding of terrorism, or human
23 trafficking.

24 "§13A-9-3.1

25 "(a) A person commits the crime of forgery in the
26 third degree if, with intent to defraud, he or she falsely
27 makes, completes, or alters a written instrument which is or

1 purports to be, or which is calculated to become or to
2 represent if completed, an assignment or a check, draft, note,
3 or other commercial instrument which does or may evidence,
4 create, transfer, terminate or otherwise affect a legal right,
5 interest, obligation or status.

6 "(b) Forgery in the third degree is a Class D
7 felony.

8 "§13A-9-6.1

9 "(a) A person commits the crime of criminal
10 possession of a forged instrument in the third degree if he or
11 she possesses or utters a forged instrument of a kind covered
12 in Section 13A-9-3.1 with knowledge that it is forged and with
13 intent to defraud.

14 "(b) Criminal possession of a forged instrument in
15 the third degree is a Class D felony.

16 Section 7. (a) The theft of services which exceeds
17 five hundred dollars (\$500) in value but does not exceed one
18 thousand four hundred and ninety-nine dollars (\$1,499) in
19 value constitutes theft of services in the third degree.

20 (b) Theft of services in the third degree is a Class
21 D felony.

22 Section 8. Sections 15-22-26.1, 15-22-36.3, and
23 15-22-57 are added to the Code of Alabama 1975, to read as
24 follows:

25 "§15-22-26.1

1 "(a) The position of Board of Pardons and Paroles
2 Administrative Hearing Officer is created and established,
3 subject to provisions of the state Merit System.

4 "(b) The board may appoint or employ, as the board
5 deems necessary, three administrative hearing officers who
6 shall possess the powers and duties prescribed below in
7 subsection (c). The first three appointments shall be
8 provisional appointments made by the board pending job
9 analysis and compilation of the examination for the state
10 Merit System classification.

11 "(c) Administrative hearing officers shall have the
12 following powers and duties, subject to guidelines established
13 by the board:

14 "(1) No later than 12 months prior to the date an
15 inmate is eligible for parole, as determined by the board, he
16 or she shall investigate and review the inmate's preparedness
17 for release to parole supervision by the board. Such
18 investigation and review shall consider all factors deemed
19 relevant to determine preparedness for release to parole as
20 determined by the board's guidelines.

21 "(2) No later than 30 days prior to the date an
22 inmate is eligible for parole, as determined by the board, he
23 or she shall interview the inmate to provide the opportunity
24 for the inmate to present his or her case for parole
25 consideration to the board. Such interview may be conducted
26 via video-conference, subject to guidelines and rules
27 established by the board.

1 "(d) The board may adopt guidelines, policies, and
2 procedures necessary for the implementation of this section.

3 "§15-22-36.3

4 "(a) Prior to an inmate's participation in a work
5 release program or supervised reentry program established
6 under Chapter 8 of Title 14, participation in a community
7 punishment and corrections program established under Article 9
8 of Chapter 18 of Title 15, participation in the SIR program
9 established under Article 7 of Chapter 18 of Title 15, or any
10 temporary leave from prison or furlough, notification of the
11 inmate's participation in such program, leave, or furlough
12 shall be provided to the district attorney and to the victim
13 and interested parties through the victim notification system
14 established pursuant to Section 15-22-36.2 and under the
15 provisions of Section 15-22-36.

16 "§15-22-57

17 "The Board of Pardons and Paroles shall adopt and
18 promulgate regulations and guidelines to:

19 "(1) Establish a program of limited supervision for
20 probationers who qualify addressing eligibility using
21 validated risk and needs assessments, transfers among levels
22 of supervision, to include the transfer of lower-risk
23 individuals to an administrative form of probation, and
24 reporting requirements;

25 "(2) Develop policies and procedures for screening,
26 assessment, and referral for probationers to connect with
27 recidivism reduction services including, but not limited to,

1 cognitive behavioral intervention and substance abuse
2 treatment;

3 "(3) Establish a matrix of rewards for compliance
4 and pro-social behaviors and swift, certain and graduated
5 sanctions to be imposed by the board under the provisions of
6 subsections (f) and (g) of Section 15-22-54 in response to
7 corresponding violations of probation terms or conditions
8 imposed; and

9 "(4) Ensure that the provisions of subsections (k)
10 and (l) of Section 15-22-24 are implemented relating to the
11 supervision and treatment of probationers.

12 Section 9. (a) A convicted defendant sentenced to a
13 period of confinement under the supervision of the Department
14 of Corrections shall be subject to the following provisions,
15 unless the defendant is released to a term of probation or
16 released on parole under the provisions of Chapter 22 of Title
17 15:

18 (1) If the defendant is sentenced to a period of
19 five years or less, he or she shall be released to supervision
20 by the Board of Pardons and Paroles no less than three months
21 and no more than five months prior to the defendant's release
22 date; or

23 (2) If the defendant is sentenced to a period of
24 more than five years but less than ten years, he or she shall
25 be released to supervision by the Board of Pardons and Paroles
26 no less than six months and no more than nine months prior to
27 the defendant's release date; or

1 (3) If the defendant is sentenced to a period of
2 more than ten years, he or she shall be released to
3 supervision by the Board of Pardons and Paroles no less than
4 12 months and no more than 24 months prior to the defendant's
5 release date.

6 (b) The provisions of this section shall not apply
7 to a defendant convicted of any sex offense involving a child,
8 as defined in Section 15-20A-4.

9 (c) Prior to the defendant's release to supervision
10 pursuant to this section, notice of such release shall be
11 provided to the victim and interested parties through the
12 victim notification system established pursuant to Section
13 15-22-36.2 and under the provisions of Section 15-22-36.

14 (d) Release of an offender to supervision pursuant
15 to this section shall be release to an intensive program under
16 the supervision of the Board of Pardons and Paroles.

17 Section 10. (a) In every instance, the court shall
18 retain jurisdiction of any person who reaches the end of his
19 or her sentence, received a termination of supervised or
20 unsupervised parole or supervised or unsupervised probation,
21 or in any way has completed all terms of his or her sentence
22 or incarceration pursuant to this act or any other provision
23 of law for the purposes of the enforcement of a court order
24 related to uncollected court-ordered fines, fees, costs or
25 restitution, pursuant to Division 4 of Article 6 of Chapter 17
26 of Title 12 and Article 4A of Chapter 18 of Title 15.

1 (b) All interest, fees, or penalties prescribed by
2 law must be attached to any unpaid sums pursuant to Division 4
3 of Article 6 of Chapter 17 of Title 12 and Article 4A of
4 Chapter 18 of Title 15.

5 Section 11. Except as otherwise provided in Section
6 15-22-32 or Section 15-22-54, if the court determines that it
7 is in the best interest of the defendant that he or she be
8 ordered into a drug, alcohol, or other substance abuse
9 treatment program or into any other treatment program and the
10 court later determines that the defendant failed to
11 successfully comply with such order, the court may then order
12 a period of confinement, release, other treatment programs, or
13 other programs that the court determines is in the best
14 interest of the defendant through utilization of local
15 resources when possible. Any confinement period ordered under
16 the provisions of this section shall be pursuant to the
17 established sentence range for the offense under the
18 sentencing guidelines and shall be credited to the balance of
19 the sentence of the offender.

20 Section 12. Any time a parolee has violated his or
21 her terms of parole and has his or her parole revoked pursuant
22 to Section 15-22-32 or a probationer has violated his or her
23 terms of probation and has his or her probation revoked
24 pursuant to Section 15-22-54, the Board of Pardons and
25 Paroles, in the case of a parolee, or the court, in the case
26 of a probationer, shall be responsible for ensuring that the
27 Department of Corrections receives the necessary documentation

1 for imposing a period of confinement due to such revocation
2 within five business days of the board's action for a parolee
3 or within five business days of the court's violation hearing
4 for a probationer. Additionally, the Department of Corrections
5 shall reimburse the state mileage rate, as determined by the
6 Alabama Comptroller's Office, to the county for any state
7 inmate whose parole or probation is revoked and who is
8 transferred to or from a Department of Corrections facility by
9 the county.

10 Section 13. Pursuant to subsection (d) of 21 U.S.C.
11 §862a., a person convicted of a drug related felony who is
12 otherwise ineligible for aid under the temporary assistance
13 for needy families program and the federal supplemental
14 nutrition assistance program shall be eligible for the aid
15 upon completion of his or her sentence or if the person is
16 satisfactorily serving a sentence of a period of probation,
17 including if the person has satisfactorily completed mandatory
18 participation in a drug treatment program, provided the person
19 meets all other requirements for eligibility under the
20 programs. Provided however, any person eligible for aid
21 pursuant to this provision shall still comply with all other
22 requirements for receiving aid including those related to drug
23 testing.

24 Section 14. Notwithstanding Section 12, the
25 provisions of Section 15-22-32 as they relate to technical
26 violations of parole and Section 15-22-54 as they relate to

1 technical violations of probation shall be applied
2 retroactively.

3 Section 15. Each person released from a period of
4 confinement within the Alabama Department of Corrections shall
5 be issued at the time of his or her release a driver's license
6 without the payment of a fee and the license shall be
7 effective for 120 days from its issuance if he or she is
8 otherwise eligible to receive a driver's license.

9 Section 16. This act shall apply to criminal
10 offenses committed after the effective date of this act.

11 Section 17. All laws or parts of laws which conflict
12 with this act are repealed.

13 Section 18. The provisions of this act are
14 severable. If any part of this act is declared invalid or
15 unconstitutional, that declaration shall not affect the part
16 which remains.

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

25 Section 20. This act shall become effective on
26 October 1, 2015 following its passage and approval by the
27 Governor, or its otherwise becoming law.

1 However, this act shall only become effective if the
2 Director of Finance certifies that specific funding to
3 implement the provisions of this act has been appropriated to
4 the Board of Pardons and Paroles and the Department of
5 Corrections.

1
2
3
4
5
6
7
8
9
10

11
12
13
14

Senate

Read for the first time and referred to the Senate committee on Judiciary.....	03-MAR-15
Read for the second time and placed on the calen- dar with 1 substitute and.....	17-MAR-15
Read for the third time and passed as amended	02-APR-15

Patrick Harris
Secretary