

1 HB47
2 173331-1
3 By Representative Poole
4 RFD: Judiciary
5 First Read: 02-FEB-16
6 PFD: 02/02/2016

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

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

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16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 To amend Section 13A-7-1, Code of Alabama 1975, and
21 Section 15-10-3, Code of Alabama 1975, as last amended by Act
22 2015-493, 2015 Regular Session, relating to warrantless
23 arrests, to authorize a law enforcement officer to arrest a
24 person without a warrant under certain conditions for
25 trespassing on the property of an educational institution and
26 to further provide for the definition of "building".

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 13A-7-1, Code of Alabama 1975,
2 and Section 15-10-3, Code of Alabama 1975, as last amended by
3 Act 2015-493, 2015 Regular Session, are amended to read as
4 follows:

5 "§13A-7-1.

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

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

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

22 "(3) DWELLING. A building which is used or normally
23 used by a person for sleeping, living or lodging therein.

24 "(4) ENTER OR REMAIN UNLAWFULLY. A person "enters or
25 remains unlawfully" in or upon premises when he is not
26 licensed, invited or privileged to do so. A person who,
27 regardless of his intent, enters or remains in or upon

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

15 "§15-10-3.

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

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

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

23 "(3) When a felony has been committed and the
24 officer has reasonable cause to believe that the person
25 arrested committed the felony.

26 "(4) When the officer has reasonable cause to
27 believe that the person arrested has committed a felony,

1 although it may afterwards appear that a felony had not in
2 fact been committed.

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

5 "(6) When the officer has actual knowledge that a
6 warrant for the person's arrest for the commission of a felony
7 or misdemeanor has been issued, provided the warrant was
8 issued in accordance with this chapter. However, upon request
9 the officer shall show the warrant to the arrested person as
10 soon as possible. If the officer does not have the warrant in
11 his or her possession at the time of arrest the officer shall
12 inform the defendant of the offense charged and of the fact
13 that a warrant has been issued.

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

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

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

1 "b. For the purposes of this subdivision, the term
2 "educational institution" means a public or private college,
3 university, graduate school, professional school, junior
4 college, trade school, elementary school, secondary school,
5 and every institution for education and training of the deaf,
6 blind, or individuals with developmental disabilities.

7 "(b) When a law enforcement officer investigates an
8 allegation of domestic violence, whether or not an arrest is
9 made, the officer shall make a written report of the alleged
10 incident, including a statement of the complaint, and the
11 disposition of the case.

12 "(c) If the defendant is arrested under this section
13 for committing an act of domestic violence in violation of a
14 protection order, the defendant shall be held in custody until
15 brought before the court as expeditiously as possible for the
16 purpose of enforcing the protection order and for
17 consideration of bail in accordance with Section 15-13-190 and
18 the applicable rules of criminal procedure, pending a
19 hearing."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.