

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.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
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.