

1 HB349
2 197593-4
3 By Representatives Collins, Wadsworth, Robertson, Hill,
4 McMillan, Simpson and Coleman
5 RFD: Judiciary
6 First Read: 04-APR-19

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2 ENROLLED, An Act,

3 Relating to the age of majority; to amend Sections
4 12-15-102, 16-28-3, 22-52-16, 26-1-1, and 26-14-1, Code of
5 Alabama 1975, to provide further for the jurisdiction of the
6 juvenile court; to provide further for admission to public
7 school; to provide further for the jurisdiction of the probate
8 court with regard to involuntary commitments of persons who
9 are mentally ill; to provide further for an unemancipated
10 minor's right to contract; and to provide further for the
11 authority of the Department of Human Resources to provide
12 protective services.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 12-15-102, 16-28-3, 22-52-16,
15 26-1-1, and 26-14-1, Code of Alabama 1975, are amended to read
16 as follows:

17 "§12-15-102.

18 "When used in this chapter, the following words and
19 phrases have the following meanings:

20 "(1) ADULT. An individual 19 years of age or older.

21 "(2) AFTERCARE. Conditions and supervision as the
22 juvenile court orders after release from the Department of
23 Youth Services.

24 "(3) CHILD. An individual under the age of 18 years,
25 or under 21 years of age and before the juvenile court for a

1 delinquency matter arising before that individual's 18th
2 birthday, or under 19 years of age and before the juvenile
3 court for a child in need of supervision matter or commitment
4 to the State Department of Mental Health or under 19 years of
5 age and before the juvenile court for a proceeding initiated
6 under Section 12-15-115(b) (2). Where a delinquency petition
7 alleges that an individual, prior to the individual's 18th
8 birthday, has committed an offense for which there is no
9 statute of limitation pursuant to Section 15-3-5, the term
10 child also shall include the individual subject to the
11 petition, regardless of the age of the individual at the time
12 of filing.

13 "(4) CHILD IN NEED OF SUPERVISION. A child who has
14 been adjudicated by a juvenile court for doing any of the
15 following and who is in need of care, rehabilitation, or
16 supervision:

17 "a. Being subject to the requirement of compulsory
18 school attendance, is habitually truant from school as defined
19 by the State Board of Education in the Alabama Administrative
20 Code. Notwithstanding the foregoing, a child shall not be
21 found in need of supervision pursuant to this subdivision if
22 the juvenile court determines that the parent, legal guardian,
23 or legal custodian of the child was solely responsible for the
24 nonattendance of the child.

1 "b. Disobeys the reasonable and lawful demands of
2 his or her parent, legal guardian, or legal custodian and is
3 beyond the control of the parent, legal guardian, or legal
4 custodian.

5 "c. Leaves, or remains away from, the home without
6 the permission of the parent, legal guardian, legal custodian,
7 or person with whom he or she resides.

8 d. Commits an offense established by law but not
9 classified as criminal.

10 " (5) CHILD'S ATTORNEY. A licensed attorney who
11 provides legal services for a child, or for a minor in a
12 mental commitment proceeding, and who owes the same duties of
13 undivided loyalty, confidentiality, and competent
14 representation to the child or minor as is due an adult
15 client.

16 " (6) DELINQUENT ACT. An act committed by a child
17 that is designated a violation, misdemeanor, or felony offense
18 pursuant to the law of the municipality, county, or state in
19 which the act was committed or pursuant to federal law. This
20 term shall not apply to any of the following:

21 "a. An offense when committed by a child 16 or 17
22 years of age as follows:

23 "1. A nonfelony traffic offense or water safety
24 offense other than one charged pursuant to Section 32-5A-191

1 or 32-5A-191.3 or a municipal ordinance prohibiting the same
2 conduct.

3 "2. A capital offense.

4 "3. A Class A felony.

5 "4. A felony which has as an element the use of a
6 deadly weapon.

7 "5. A felony which has as an element the causing of
8 death or serious physical injury.

9 "6. A felony which has as an element the use of a
10 dangerous instrument against any person who is one of the
11 following:

12 "(i) A law enforcement officer or official.

13 "(ii) A correctional officer or official.

14 "(iii) A parole or probation officer or official.

15 "(iv) A juvenile court probation officer or
16 official.

17 "(v) A district attorney or other prosecuting
18 officer or official.

19 "(vi) A judge or judicial official.

20 "(vii) A court officer or official.

21 "(viii) A person who is a grand juror, juror, or
22 witness in any legal proceeding of whatever nature when the
23 offense stems from, is caused by, or is related to the role of
24 the person as a juror, grand juror, or witness.

1 "(ix) A teacher, principal, or employee of the
2 public education system of Alabama.

3 "7. Trafficking in drugs in violation of Section
4 13A-12-231, or as the same may be amended.

5 "8. Any lesser included offense of the offenses in
6 subparagraphs 1 to 7, inclusive, charged or any lesser felony
7 offense charged arising from the same facts and circumstances
8 and committed at the same time as the offenses listed in
9 subparagraphs 1 to 7, inclusive.

10 "b. Any criminal act, offense, or violation
11 committed by a child under the age of 18 years who has been
12 previously convicted or adjudicated a youthful offender.

13 "(7) DELINQUENT CHILD. A child who has been
14 adjudicated for a delinquent act and is in need of care or
15 rehabilitation.

16 "(8) DEPENDENT CHILD. a. A child who has been
17 adjudicated dependent by a juvenile court and is in need of
18 care or supervision and meets any of the following
19 circumstances:

20 "1. Whose parent, legal guardian, legal custodian,
21 or other custodian subjects the child or any other child in
22 the household to abuse, as defined in subdivision (2) of
23 Section 12-15-301 or neglect as defined in subdivision (4) of
24 Section 12-15-301, or allows the child to be so subjected.

1 "2. Who is without a parent, legal guardian, or
2 legal custodian willing and able to provide for the care,
3 support, or education of the child.

4 "3. Whose parent, legal guardian, legal custodian,
5 or other custodian neglects or refuses, when able to do so or
6 when the service is offered without charge, to provide or
7 allow medical, surgical, or other care necessary for the
8 health or well-being of the child.

9 "4. Whose parent, legal guardian, legal custodian,
10 or other custodian fails, refuses, or neglects to send the
11 child to school in accordance with the terms of the compulsory
12 school attendance laws of this state.

13 "5. Whose parent, legal guardian, legal custodian,
14 or other custodian has abandoned the child, as defined in
15 subdivision (1) of Section 12-15-301.

16 "6. Whose parent, legal guardian, legal custodian,
17 or other custodian is unable or unwilling to discharge his or
18 her responsibilities to and for the child.

19 "7. Who has been placed for care or adoption in
20 violation of the law.

21 "8. Who, for any other cause, is in need of the care
22 and protection of the state.

23 "b. The commission of one or more status offenses as
24 defined in subdivision (4) of Section 12-15-201 is not a
25 sufficient basis for an adjudication of dependency.

1 "(9) DETENTION. The temporary placement of children
2 alleged or adjudicated to be delinquent in secure custody as
3 defined herein pending juvenile court disposition or transfer
4 to a residential facility for further care of a child
5 adjudicated delinquent.

6 "(10) GUARDIAN AD LITEM. A licensed attorney
7 appointed by a juvenile court to protect the best interests of
8 an individual without being bound by the expressed wishes of
9 that individual.

10 "(11) INTAKE OFFICER. A juvenile probation officer
11 or an employee of the judicial branch of government, who is
12 neutral and detached from executive and legislative branch
13 activities, designated by the juvenile court judge to initiate
14 original delinquency, dependency, and child in need of
15 supervision cases, as well as cases designated in Section
16 12-15-132 before the juvenile court. The juvenile court intake
17 officer shall be appointed a magistrate pursuant to Rule 18,
18 Alabama Rules of Judicial Administration, to issue warrants of
19 arrest for individuals 18 years of age or older committing
20 criminal offenses under the jurisdiction of the juvenile
21 court.

22 "(12) JUVENILE COURT. The juvenile or family court
23 division of the circuit or district court having jurisdiction
24 over matters as provided by this chapter.

1 "(13) JUVENILE DETENTION FACILITY. Any facility
2 owned or operated by the state, any county, or other legal
3 entity licensed by and contracted with the Department of Youth
4 Services for the detention of children.

5 "(14) LAW ENFORCEMENT OFFICER. Any person, however
6 denominated, who is authorized by law to exercise the police
7 powers of the state, a county, or local governments.

8 "(15) LEGAL CUSTODIAN. A parent, person, agency, or
9 department to whom legal custody of a child under the
10 jurisdiction of the juvenile court pursuant to this chapter
11 has been awarded by order of the juvenile court or other court
12 of competent jurisdiction.

13 "(16) LEGAL CUSTODY. A legal status created by order
14 of the juvenile court which vests in a legal custodian the
15 right to have physical custody of a child under the
16 jurisdiction of the juvenile court pursuant to this chapter
17 and the right and duty to protect, train, and discipline the
18 child and to provide the child with food, shelter, clothing,
19 education, and medical care, all subject to the powers,
20 rights, duties, and responsibilities of the legal guardian of
21 the person of the child and subject to any residual parental
22 rights and responsibilities. A parent, person, agency, or
23 department granted legal custody shall exercise the rights and
24 responsibilities personally, unless otherwise restricted by
25 the juvenile court.

1 "(17) LEGAL GUARDIAN. A person who has been
2 appointed by a probate court pursuant to the Alabama Uniform
3 Guardianship and Protective Proceedings Act, Chapter 2A
4 (commencing with Section 26-2A-1) of Title 26 to be a guardian
5 of a person under 19 years of age who has not otherwise had
6 the disabilities of minority removed. This term does not
7 include a guardian ad litem as defined in this section.

8 "(18) MINOR. An individual who is under the age of
9 19 years and who is not a child within the meaning of this
10 chapter.

11 "(19) PARENT. The legal mother or the legal father
12 of a child under the jurisdiction of the juvenile court
13 pursuant to this chapter.

14 "(20) PICK-UP ORDER. In any case before the juvenile
15 court, an order directing any law enforcement officer or other
16 person authorized by this chapter to take a child into custody
17 and to deliver the child to a place of detention, shelter, or
18 other care designated by the juvenile court.

19 "(21) PROBATION. The legal status created by order
20 of the juvenile court following an adjudication of delinquency
21 or in need of supervision whereby a child is permitted to
22 remain in a community subject to supervision and return to the
23 juvenile court for violation of probation at any time during
24 the period of probation.

1 "(22) RESIDENTIAL FACILITY. A dwelling, other than a
2 detention or shelter care facility, providing living
3 accommodations, care, treatment, and maintenance for children,
4 including, but not limited to, institutions, foster family
5 homes, group homes, half-way houses, and forestry camps
6 operated, accredited, or licensed by a federal or state
7 department or agency.

8 "(23) RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES.
9 Those rights and responsibilities remaining with a parent
10 after a transfer of legal custody of a child under the
11 jurisdiction of the juvenile court pursuant to this chapter,
12 including, but not necessarily limited to, the right of
13 visitation, the right to withhold consent to adoption, the
14 right to determine religious affiliation, and the
15 responsibility for support, unless determined by order of the
16 juvenile court not to be in the best interests of the child.

17 "(24) SECURE CUSTODY. As used with regard to
18 juvenile detention facilities and the Department of Youth
19 Services, this term means residential facilities with
20 construction features designed to physically restrict the
21 movements and activities of persons in custody such as locked
22 rooms and buildings, including rooms and buildings that
23 contain alarm devices that prevent departure; fences; or other
24 physical structures. This term does not include facilities

1 where physical restriction of movement or activity is provided
2 solely through facility staff.

3 "(25) SHELTER CARE. The temporary care of children
4 in group homes, foster care, relative placement, or other
5 nonpenal facilities.

6 "§16-28-3.

7 "(a) Except as otherwise provided in subsection (b),
8 every child between the ages of six and 17 years shall be
9 required to attend a public school, private school, church
10 school, or be instructed by a competent private tutor for the
11 entire length of the school term in every scholastic year
12 except that, prior to attaining his or her 16th birthday every
13 child attending a church school as defined in Section 16-28-1
14 is exempt from the requirements of this section, provided such
15 child complies with enrollment and reporting procedure
16 specified in Section 16-28-7. Admission to public school shall
17 be on an individual basis on the application of the parents,
18 legal custodian, or guardian of the child to the local board
19 of education at the beginning of each school year, under such
20 rules ~~and regulations~~ as the board may prescribe; provided, a
21 person who is 18 years of age and otherwise qualified to
22 attend under 19 years of age and on track to graduate from
23 public school may not be denied admission to public school
24 solely on account of his or her age. The parent, legal
25 custodian, or guardian of a child who is six years of age, may

1 opt out of enrolling ~~their~~ his or her child in school at the
2 age of six years by notifying the local school board of
3 education, in writing, that the child will not be enrolled in
4 school until he or she is seven years of age.

5 "(b) (1) If a child withdraws from a public school,
6 upon verification of enrollment in a Southern Association of
7 Colleges and Schools or any entity with accreditation status
8 as determined by one of the agencies identified on the United
9 States Department of Education's list of Recognized National
10 and Regional Accrediting Agencies or their affiliates
11 accredited and recognized online school which has been
12 authorized by the Alabama State Department of Education to
13 provide instruction in lieu of in-person instruction, the
14 child shall be counted as a transfer student.

15 "(2) If a child returns to a public school, semester
16 exams shall be given to the child to determine grade
17 placement.

18 "(3) This subsection does not and should not be
19 interpreted to create ~~on-line~~ online schools. However, if a
20 student chooses to attend an accredited, state authorized
21 ~~on-line~~ online school, that student's former school should not
22 be penalized by the student being classified as a dropout.

23 "§22-52-16.

24 "~~The provisions of this~~ This article ~~shall~~ does not
25 apply to commitment to the custody of the State Department of

1 Mental Health of individuals under the age of 18 19 years who
2 are mentally ill ~~minors or children.~~

3 "§26-1-1.

4 "(a) Any person in this state, at the arrival at the
5 age of 19 years, shall be relieved of his or her disabilities
6 of minority and thereafter shall have the same legal rights
7 and abilities as persons over 21 years of age. No law of this
8 state shall discriminate for or against any person between and
9 including the ages of 19 and 21 years solely on the basis of
10 age.

11 "(b) This section shall also apply to any person who
12 arrived at the age of 19 and 20 years before July 22, 1975,
13 but shall not abrogate any defense or abridge any remedy
14 available to him or her prior to such date.

15 "(c) All laws or parts of laws which read "under the
16 age of 21 years" hereafter shall read "under the age of 19
17 years." Wherever the words "under the age of 21 years" appear
18 in any law limiting the legal rights and abilities of persons
19 under such age, such words shall be construed to mean under
20 the age of 19 years.

21 "(d) Notwithstanding subsection (c), nothing in this
22 section shall be deemed to repeal any provision of Chapter 19
23 of Title 15.

24 ~~"(e) Notwithstanding subsection (a), an honorably~~
25 ~~discharged veteran who is under the age of 19 shall be~~

1 ~~permitted to enter into a contract for the purchase of a motor~~
2 ~~vehicle.~~

3 "~~(f)~~ (e) Notwithstanding subsection (a), or any
4 other provision of law to the contrary, a person who is 18
5 years of age or older may consent to participate in research
6 conducted by a college or university that is accredited by a
7 federally recognized accrediting agency if the research has
8 been approved by the Institutional Review Board of the
9 institution.

10 "(f) Notwithstanding subsection (a), an
11 unemancipated minor who is 18 years old and of sound mind,
12 notwithstanding his or her minority, may enter into a binding
13 contract as may be exercised by an individual of full legal
14 age. The minor, by reason of his or her minority, may not
15 rescind, avoid, or repudiate the contract or rescind, avoid,
16 or repudiate any exercise of a right or privilege under the
17 contract.

18 "§26-14-1.

19 "For the purposes of this chapter, the following
20 terms shall have the meanings respectively ascribed to them by
21 this section:

22 "(1) ABUSE. Harm or threatened harm to a child's
23 health or welfare. Harm or threatened harm to a child's health
24 or welfare can occur through nonaccidental physical or mental
25 injury, sexual abuse or attempted sexual abuse, or sexual

1 exploitation or attempted sexual exploitation. "Sexual abuse"
2 includes the employment, use, persuasion, inducement,
3 enticement, or coercion of any child to engage in, or having a
4 child assist any other person to engage in, any sexually
5 explicit conduct or any simulation of the conduct for the
6 purpose of producing any visual depiction of the conduct; or
7 the rape, molestation, prostitution, or other form of sexual
8 exploitation of children, or incest with children as those
9 acts are defined by Alabama law. "Sexual exploitation"
10 includes allowing, permitting, or encouraging a child to
11 engage in prostitution and allowing, permitting, encouraging,
12 or engaging in the obscene or pornographic photographing,
13 filming, or depicting of a child for commercial purposes.

14 "(2) NEGLECT. Negligent treatment or maltreatment of
15 a child, including the failure to provide adequate food,
16 medical treatment, supervision, clothing, or shelter.

17 "(3) CHILD. Either of the following:

18 "a. A person under the age of 18 years.

19 "b. A person under the age of 19 years who is in
20 need of protective services and does not qualify for adult
21 protective services under Chapter 9 of Title 38.

22 "(4) DULY CONSTITUTED AUTHORITY. The chief of police
23 of a municipality or municipality and county; or the sheriff,
24 if the observation of child abuse or neglect is made in an
25 unincorporated territory; or the Department of Human

1 Resources; or any person, organization, corporation, group, or
2 agency authorized and designated by the Department of Human
3 Resources to receive reports of child abuse and neglect;
4 provided, that a "duly constituted authority" shall not
5 include an agency involved in the acts or omissions of the
6 reported child abuse or neglect."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 02-MAY-19, as amended.

Jeff Woodard
Clerk

Senate	<hr/> 29-MAY-19 <hr/>	Amended and Passed
House	<hr/> 30-MAY-19 <hr/>	Concurred in Sen- ate Amendment