

1 HB612
2 199291-1
3 By Representatives Hill and England
4 RFD: Judiciary
5 First Read: 14-MAY-19

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8 SYNOPSIS: Under existing law, theft of property
9 offenses have threshold amounts established for
10 each offense.

11 This bill would revise the threshold amounts
12 for theft of property offenses.

13 Under existing law, receiving stolen
14 property offenses have threshold amounts
15 established for each offense.

16 This bill would revise the threshold amounts
17 for receiving stolen property offenses.

18 This bill would revise the penalty for
19 obstructing justice using a false identity.

20 This bill would also modify the criminal
21 penalties for criminal solicitation, attempt, and
22 criminal conspiracy for consistency with Class D
23 felony offenses.

24 Under existing law, unlawful distribution of
25 a controlled substance is a Class B felony.

26 This bill would create the crime of unlawful
27 distribution of marijuana and provide penalties.

1 Under existing law, unlawful possession of a
2 controlled substance is a Class D felony.

3 This bill would create the crime of unlawful
4 possession of a controlled substance in the second
5 degree and provide penalties.

6 Under existing law, a person commits the
7 crime of unlawful possession of marijuana in the
8 first degree if he or she possesses marijuana for
9 other than personal use or possesses marijuana for
10 personal use only after having been previously
11 convicted of unlawful possession of marijuana in
12 the second degree or in the first degree.

13 This bill would revise the elements of
14 unlawful possession of marijuana in the first
15 degree or provide that a person commits the crime
16 if he or she possesses two or more ounces of
17 marijuana and would prescribe new criminal
18 penalties based on the number of prior violations.

19 Under existing law, a person commits the
20 crime of unlawful possession of marijuana in the
21 second degree if he or she possesses marijuana for
22 personal use.

23 This bill would revise the crime of unlawful
24 possession of marijuana in the second degree to
25 provide that a person commits the crime if he or
26 she possesses less than two ounces of marijuana and
27 would change the criminal penalty to a fine only.

1 This bill would also provide that a person
2 who is charged with, found not guilty of, or
3 convicted of unlawful possession of marijuana in
4 the first or second degree may have that charge,
5 finding, or conviction expunged under certain
6 circumstances.

7 Under existing law, unlawful manufacture of
8 a controlled substance in the first degree is a
9 Class A felony.

10 This bill would revise the circumstances
11 that would constitute unlawful manufacture of a
12 controlled substance in the first degree.

13 This bill would revise the penalty for a
14 violation of failing to affix a tax stamp.

15 Under existing law, there are certain
16 circumstances where an officer may arrest a person
17 without a warrant.

18 This bill would provide that an officer may
19 issue a summons, without an arrest warrant, in
20 certain circumstances.

21 This bill would revise the criminal
22 penalties for a violation of the Alabama Sex
23 Offender Registration and Community Notification
24 Act.

25 Under the existing habitual felony offender
26 law, enhanced penalties are established for certain
27 criminal offenses.

1 This bill would repeal the habitual felony
2 offender laws.

3 This bill would also repeal enhancements for
4 certain criminal offenses.

5 This bill would also revise the
6 implementation date for truth-in-sentencing.

7 This bill would provide early parole of
8 certain inmates in certain circumstances.

9 This bill would clarify the phrase
10 "consenting community corrections programs" for
11 Class D felony offenses.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment.

1 felony offenses; to amend Sections 13A-12-211, as last amended
2 by Act 2018-552, 2018 Regular Session, Code of Alabama 1975,
3 13A-12-212, 13A-12-213, 13A-12-214, and 13A-12-218, Code of
4 Alabama 1975, relating to drug offenses, to revise certain
5 drug offenses and provide penalties; to amend Section
6 40-17A-9, Code of Alabama 1975, relating to drugs, to revise
7 the penalty for a violation; to amend Section 15-10-1, Code of
8 Alabama 1975, relating to criminal procedure, to revise the
9 procedure for when an officer may make an arrest; to amend
10 Sections 15-20A-7, 15-20A-9, 15-20A-10, 15-20A-11, 15-20A-12,
11 15-20A-13, 15-20A-14, 15-20A-15, 15-20A-16, 15-20A-17,
12 15-20A-18, 15-20A-20, 15-20A-23, 15-20A-24, and 15-20A-25,
13 Code of Alabama 1975, Section 15-20A-27, as last amended by
14 Act 2018-528, 2018 Regular Session, Code of Alabama 1975,
15 Section 15-20A-29, Code of Alabama 1975, Section 15-20A-30, as
16 last amended by Act 2018-528, 2018 Regular Session, Code of
17 Alabama 1975, Sections 15-20A-31, 15-20A-32, 15-20A-34,
18 15-20A-36, 15-20A-37, and 15-20A-39, Code of Alabama 1975, to
19 revise the criminal penalties for a violation of the Alabama
20 Sex Offender Registration and Community Notification Act; to
21 add Sections 13A-12-211.1 and 13A-12-212.1 to the Code of
22 Alabama 1975, to provide for the crime of unlawful
23 distribution of marijuana, to provide for the crime of
24 unlawful possession of a controlled substance in the second
25 degree; to add Section 15-10-3.1 to the Code of Alabama 1975,
26 to provide that an officer may issue a summons, without an
27 arrest warrant, in certain circumstances; to repeal Sections

1 13A-5-9, 13A-5-10, 13A-5-10.1, 13A-8-4.1, 13A-8-8.1,
2 13A-8-10.25, 13A-8-18.1, 13A-12-215, 13A-12-232, 13A-12-250,
3 and 13A-12-270, Code of Alabama 1975, to repeal the habitual
4 felony offender laws, and to provide for parole consideration
5 in certain circumstances; and in connection therewith would
6 have as its purpose or effect the requirement of a new or
7 increased expenditure of local funds within the meaning of
8 Amendment 621 of the Constitution of Alabama of 1901, now
9 appearing as Section 111.05 of the Official Recompilation of
10 the Constitution of Alabama of 1901, as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 12-25-34, 12-25-34.2, 12-25-36,
13 13A-5-6, 13A-5-8.1, Code of Alabama 1975, Section 13A-12-231,
14 as last amended by Act 2018-552, 2018 Regular Session, Code of
15 Alabama 1975, and Section 15-22-54, Code of Alabama 1975, are
16 amended to read as follows:

17 "§12-25-34.

18 "(a) Statewide voluntary sentencing standards shall
19 be developed and presented to the Legislature in stages over a
20 three-year period as follows:

21 "(1) By July 31, 2003, the commission shall develop
22 and distribute to all sentencing judges a reference manual
23 analyzing historical sentencing practices by duration of
24 sentence and disposition of felony offenders in Alabama. The
25 reference manual shall indicate those types of offenders
26 historically most likely to be sentenced to punishments other

1 than active incarceration where alternatives to active
2 incarceration are available.

3 "(2) Concurrently with the development and
4 distribution of the reference manual, the commission shall
5 develop and begin testing worksheets and voluntary sentencing
6 standards in selected circuits for selected felony offenses.

7 "(3) The commission shall develop and present the
8 initial voluntary sentencing standards to the Legislature
9 before or during the 2006 Regular Session. These standards
10 shall be introduced in the 2006 Regular Session and shall
11 become effective on October 1 following the 2006 Regular
12 Session, if approved by an act of the Legislature passed
13 during that session. The initial voluntary sentencing
14 standards based on sentences imposed shall apply to
15 convictions for felony offenses sentenced on or after October
16 1, 2006, and committed before the effective date of the
17 voluntary truth-in-sentencing standards.

18 "(4) The commission shall develop and present
19 truth-in-sentencing standards to the Legislature before or
20 during the ~~2020~~ 2025 Regular Session. These standards shall be
21 introduced in the ~~2020~~ 2025 Regular Session and shall become
22 effective on October 1 following the ~~2020~~ 2025 Regular
23 Session, if approved by an act of the Legislature. The
24 voluntary truth-in-sentencing standards shall apply only to
25 felony offenses committed on or after the effective date of
26 these standards.

1 "(b) Recommended sentence ranges shall be
2 established by standards that are based on historical
3 sentencing practices, adjusted to achieve sentencing goals as
4 established in Rule 26 of the Alabama Rules of Criminal
5 Procedure, this chapter, and Section 12-25-31.

6 "(c) Voluntary sentencing standards shall take into
7 account and include statewide historically based sentence
8 ranges, including all applicable statutory minimums and
9 sentence enhancement provisions, including the Habitual Felony
10 Offender Act, with adjustments made to reflect current
11 sentencing policies. No additional penalties pursuant to any
12 sentence enhancement statute shall apply to sentences imposed
13 based on the voluntary sentencing standards.

14 "(d) Commencing with the 2013 Regular Session, any
15 modifications to the initial voluntary sentencing standards
16 made by the commission shall be contained in the annual report
17 presented to the Governor, the Legislature, the Chief Justice,
18 and the Attorney General. An annual report containing proposed
19 modifications shall be presented to the Governor, the
20 Legislature, the Chief Justice, and the Attorney General at
21 least forty-five days prior to each regular session of the
22 Legislature. The modifications presented for nonviolent
23 offenses shall become effective on October 1 following the
24 legislative session in which the modifications were presented
25 unless rejected by an act of the Legislature enacted by bill
26 during the legislative session. The modifications presented
27 for violent offenses shall become effective on October 1

1 following the legislative session in which the modifications
2 were presented, if approved by an act of the Legislature
3 enacted by bill during the legislative session in which the
4 modifications were presented.

5 "§12-25-34.2.

6 "(a) For the purposes of this section, the following
7 words shall have the following meanings:

8 "(1) AGGRAVATING FACTORS. Substantial and compelling
9 reasons justifying an exceptional sentence whereby the
10 sentencing court may impose a departure sentence above the
11 presumptive sentence recommendation for an offense.

12 Aggravating factors may result in dispositional or sentence
13 range departures, or both, and shall be stated on the record
14 by the court.

15 "(2) DEPARTURE. A sentence which departs from the
16 presumptive sentence recommendation for an offender.

17 "(3) DISPOSITION. The part of the sentencing courts
18 presumptive sentence recommendation other than sentence
19 length.

20 "(4) DISPOSITIONAL DEPARTURE. A sentence which
21 departs from the presumptive sentence recommendation for
22 disposition of sentence.

23 "(5) MITIGATING FACTORS. Substantial and compelling
24 reasons justifying an exceptional sentence whereby the
25 sentencing court may impose a departure sentence below the
26 presumptive sentence recommendation for an offense. Mitigating
27 factors may result in disposition or sentence range

1 departures, or both, and shall be stated on the record by the
2 court.

3 "(6) NONVIOLENT OFFENSES. As defined in Section
4 12-25-32.

5 "(7) PRESUMPTIVE SENTENCE RECOMMENDATION. The
6 recommended sentence range and disposition provided in the
7 sentencing standards.

8 "(8) SENTENCE RANGE. The sentencing court's
9 discretionary range of length of sentence as provided and
10 recommended in the presumptive sentencing recommendation.

11 "(9) SENTENCE RANGE DEPARTURE. A sentence which
12 departs from the presumptive sentence recommendation as to the
13 sentence range.

14 "(10) VIOLENT OFFENSES. As defined in Section
15 12-25-32.

16 "(b) The voluntary sentencing standards as provided
17 for in Section 12-25-34, as applied to nonviolent offenses
18 shall become presumptive sentencing standards effective
19 October 1, 2013, to the extent the modification adopted by the
20 Alabama Sentencing Commission become effective October 1,
21 2013. The standards shall be applied by the courts in
22 sentencing subject to departures as provided herein. To
23 accomplish this purpose as to the existing initial voluntary
24 sentencing standards, the Alabama Sentencing Commission shall
25 adopt modifications to the standards, worksheets, and
26 instructions to the extent necessary to implement this
27 provision including, but not limited to, defining aggravating

1 and mitigating factors that allow for departure from the
2 presumptive sentencing recommendations. The commission's
3 modifications shall be presented to the Legislature in the
4 commission's annual report within the first five legislative
5 days of the 2013 Regular Session.

6 "(c) The voluntary sentencing standards as provided
7 for in Section 12-25-34, as applied to the offenses of Robbery
8 III pursuant to Section 13A-8-43 and Assault II pursuant to
9 Section 13A-6-21, shall become presumptive sentencing
10 standards offenses effective October 1, 2020, to the extent
11 the modifications adopted by the Alabama Sentencing Commission
12 become effective October 1, 2020. The standards shall be
13 applied by the courts in sentencing subject to departures as
14 provided herein. To accomplish this purpose as to the existing
15 initial voluntary sentencing standards, the Alabama Sentencing
16 Commission shall adopt modifications to the standards,
17 worksheets, and instructions to the extent necessary to
18 implement this provision including, but not limited to,
19 defining aggravating and mitigating factors that allow for
20 departure from the presumptive sentencing recommendations. The
21 commission's modifications shall be presented to the
22 Legislature in the commission's annual report at least 45 days
23 prior to the 2020 Regular Session.

24 ~~"(c)~~ (d) Durational and dispositional departures
25 from the presumptive sentencing standards shall be subject to
26 appellate review. Along with the modifications provided for in
27 subsection (b), the Alabama Sentencing Commission shall

1 recommend a narrowly defined scope of appellate review
2 applicable to departures from presumptive sentencing
3 recommendations. The scope of appellate review shall become
4 effective upon approval by an act of the Legislature enacted
5 by bill.

6 "§12-25-36.

7 "This section and Sections 12-25-37 and 12-25-38
8 shall apply only after development and legislative approval of
9 the proposed truth-in-sentencing standards submitted in ~~2020~~
10 2025. When a judge sentences based on the voluntary
11 truth-in-sentencing standards, all of the following rules
12 shall apply:

13 "(1) Sentences imposed based on voluntary
14 truth-in-sentencing standards pursuant to this article shall
15 not be subject to any other provision of law concerning the
16 duration of sentence.

17 "(2) Sentences imposed based on the voluntary
18 truth-in-sentencing standards shall include both a minimum and
19 an extended term of sentence including a period of
20 post-release supervision. The minimum sentence and the
21 extended sentence shall be specified in the judgment of the
22 court for those sentences that are imposed in compliance with
23 the voluntary truth-in-sentencing standards. Sentence
24 dispositions may include active incarceration, intermediate
25 punishment, unsupervised probation, or a minimum punishment as
26 specified in the voluntary truth-in-sentencing standards.

1 "(3) The minimum term of sentence shall be
2 consistent with the sentence range recommended in the
3 voluntary truth-in-sentencing standards for the worksheet
4 score of an offender. No offender sentenced to incarceration
5 may be released from incarceration before the expiration date
6 of the minimum term of sentence.

7 "(4) The extended term of sentence shall be a period
8 of time equal to 120 percent of the minimum term, rounded to
9 the next highest month, plus a one-year period of post-release
10 supervision.

11 "(5) The amount of time an offender shall be
12 incarcerated on the extended term of sentence shall be
13 determined by the Department of Corrections pursuant to rules
14 and regulations established by the Department of Corrections
15 governing an offender's conduct after conviction and sentence.

16 "(6) No sentence of active incarceration may be
17 suspended.

18 "(7) For any disposition of sentence less than
19 active incarceration as defined in paragraph a. of subdivision
20 (2) of Section 12-25-32, the court shall retain jurisdiction
21 to modify sentence disposition of sentence.

22 "§13A-5-6.

23 "(a) Sentences for felonies shall be for a definite
24 term of imprisonment, which imprisonment includes hard labor,
25 within the following limitations:

26 "(1) For a Class A felony, for life or not more than
27 99 years or less than 10 years.

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

3 "(3) For a Class C felony, not more than 10 years or
4 less than 1 year and 1 day and must be in accordance with
5 subsection (b) of Section 15-18-8 ~~unless sentencing is~~
6 ~~pursuant to Section 13A-5-9.~~

7 "(4) For a Class D felony, not more than 5 years or
8 less than 1 year and 1 day and must be in accordance with
9 subsection (b) of Section 15-18-8.

10 "~~(5) For a Class A felony in which a firearm or~~
11 ~~deadly weapon was used or attempted to be used in the~~
12 ~~commission of the felony, or a Class A felony sex offense~~
13 involving a child as defined in Section 15-20A-4(26), not less
14 than 20 years.

15 "~~(6) For a Class B or C felony in which a firearm or~~
16 ~~deadly weapon was used or attempted to be used in the~~
17 ~~commission of the felony, or a Class B felony sex offense~~
18 involving a child as defined in Section 15-20A-4(26), not less
19 than 10 years.

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

24 "(c) In addition to any penalties heretofore or
25 hereafter provided by law, in all cases where an offender is
26 designated as a sexually violent predator pursuant to Section
27 15-20A-19, or where an offender is convicted of a Class A

1 felony sex offense involving a child as defined in Section
2 15-20A-4(26), and is sentenced to a county jail or the Alabama
3 Department of Corrections, the sentencing judge shall impose
4 an additional penalty of not less than 10 years of
5 post-release supervision to be served upon the defendant's
6 release from incarceration.

7 "(d) In addition to any penalties heretofore or
8 hereafter provided by law, in all cases where an offender is
9 convicted of a sex offense pursuant to Section 13A-6-61,
10 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of
11 age or older and the victim was six years of age or less at
12 the time the offense was committed, the defendant shall be
13 sentenced to life imprisonment without the possibility of
14 parole.

15 "§13A-5-8.1.

16 "If a defendant is participating in a court
17 supervised evidence-based treatment program, as that term is
18 defined in Section 12-25-32, a court ordered faith-based
19 program, or any other court ordered rehabilitative program and
20 is subsequently terminated from that program, the court may
21 then order that the defendant be confined in either a prison,
22 jail-type institution, treatment institution, or a ~~consenting~~
23 community corrections program. The court shall impose a
24 sentence length that complies with either Section 13A-5-6,
25 Section 13A-5-9, or the sentencing guidelines, whichever is
26 applicable. Nothing in this section shall preclude the court
27 from imposing a split sentence under Section 15-18-8 or from

1 suspending a sentence under Section 15-22-50. Nothing in this
2 section shall limit the court's discretion with regard to any
3 defendant ordered to participate in a court supervised
4 evidence-based treatment program, as that term is defined in
5 Section 12-25-32, a court ordered faith-based program, or any
6 other court ordered rehabilitative program, whether pre-trial,
7 pre-trial adjudication, or as a condition of bond.

8 "§13A-12-231.

9 "Except as authorized in Chapter 2, Title 20:

10 "(1) Any person who knowingly sells, manufactures,
11 delivers, or brings into this state, or who is knowingly in
12 actual or constructive possession of, in excess of one kilo or
13 2.2 pounds of any part of the plant of the genus Cannabis,
14 whether growing or not, the seeds thereof, the resin extracted
15 from any part of the plant, and every compound, manufacture,
16 salt, derivative, mixture, or preparation of the plant, its
17 seeds, or resin including the completely defoliated mature
18 stalks of the plant, fiber produced from the stalks, oil, or
19 cake, or the completely sterilized samples of seeds of the
20 plant which are incapable of germination is guilty of a
21 felony, which felony shall be known as "trafficking in
22 cannabis." Nothing in this subdivision shall apply to samples
23 of tetrahydrocannabinols including, but not limited to, all
24 synthetic or naturally produced samples of
25 tetrahydrocannabinols which contain more than 15 percent by
26 weight of tetrahydrocannabinols and which do not contain plant

1 material exhibiting the external morphological features of the
2 plant cannabis. If the quantity of cannabis involved:

3 "a. Is in excess of one kilo or 2.2 pounds, but less
4 than 100 pounds, the person shall be sentenced to a mandatory
5 minimum term of imprisonment of three calendar years and to
6 pay a fine of twenty-five thousand dollars (\$25,000).

7 "b. Is 100 pounds or more, but less than 500 pounds,
8 the person shall be sentenced to a mandatory minimum term of
9 imprisonment of five calendar years and to pay a fine of fifty
10 thousand dollars (\$50,000).

11 "c. Is 500 pounds or more, but less than 1,000
12 pounds, the person shall be sentenced to a mandatory minimum
13 term of imprisonment of 15 calendar years and to pay a fine of
14 two hundred thousand dollars (\$200,000).

15 "d. Is 1,000 pounds or more, the person shall be
16 sentenced to a mandatory term of imprisonment of life.

17 "(2) Any person who knowingly sells, manufactures,
18 delivers, or brings into this state, or who is knowingly in
19 actual or constructive possession of, 28 grams or more of
20 cocaine or of any mixture containing cocaine, described in
21 Section 20-2-25(1), is guilty of a felony, which felony shall
22 be known as "trafficking in cocaine." If the quantity
23 involved:

24 "a. Is 28 grams or more, but less than 500 grams,
25 the person shall be sentenced to a mandatory minimum term of
26 imprisonment of three calendar years and to pay a fine of
27 fifty thousand dollars (\$50,000).

1 "b. Is 500 grams or more, but less than one kilo,
2 the person shall be sentenced to a mandatory minimum term of
3 imprisonment of five calendar years and to pay a fine of one
4 hundred thousand dollars (\$100,000).

5 "c. Is one kilo, but less than 10 kilos, then the
6 person shall be sentenced to a mandatory minimum term of
7 imprisonment of 15 calendar years and to pay a fine of two
8 hundred fifty thousand dollars (\$250,000).

9 "d. Is 10 kilos or more, the person shall be
10 sentenced to a mandatory term of imprisonment of life.

11 " (3) Any person, except as otherwise authorized by
12 law, who knowingly sells, manufactures, delivers, or brings
13 into this state, or who is knowingly in actual or constructive
14 possession of, four grams or more of any morphine, opium, or
15 any salt, isomer, or salt of an isomer thereof, including
16 heroin, as described in Section 20-2-23(b) (2) or Section
17 20-2-25(1)a., or four grams or more of any mixture containing
18 any such substance, or any mixture containing Fentanyl or any
19 synthetic controlled substance Fentanyl analogue, as described
20 in Sections 20-2-23 and 20-2-25, is guilty of a felony, which
21 felony shall be known as "trafficking in illegal drugs." If
22 the quantity involved:

23 "a. Is four grams or more, but less than 14 grams,
24 the person shall be sentenced to a mandatory minimum term of
25 imprisonment of three calendar years and to pay a fine of
26 fifty thousand dollars (\$50,000).

1 "b. Is 14 grams or more, but less than 28 grams, the
2 person shall be sentenced to a mandatory minimum term of
3 imprisonment of 10 calendar years and to pay a fine of one
4 hundred thousand dollars (\$100,000).

5 "c. Is 28 grams or more, but less than 56 grams, the
6 person shall be sentenced to a mandatory minimum term of
7 imprisonment of 25 calendar years and to pay a fine of five
8 hundred thousand dollars (\$500,000).

9 "d. Is 56 grams or more, the person shall be
10 sentenced to a mandatory term of imprisonment of life.

11 " (4) Any person who knowingly sells, manufactures,
12 delivers, or brings into this state, or who is knowingly in
13 actual or constructive possession of 1,000 or more pills or
14 capsules of methaqualone, as described in Section 20-2-1, et
15 seq., is guilty of a felony, which felony shall be known as
16 "trafficking in illegal drugs." If the quantity involved:

17 "a. Is 1,000 pills or capsules, but less than 5,000
18 pills or capsules, the person shall be sentenced to a
19 mandatory minimum term of imprisonment of three calendar years
20 and pay a fine of fifty thousand dollars (\$50,000).

21 "b. Is 5,000 capsules or more, but less than 25,000
22 capsules, that person shall be imprisoned to a mandatory
23 minimum term of imprisonment of 10 calendar years and pay a
24 fine of one hundred thousand dollars (\$100,000).

25 "c. Is 25,000 pills or more, but less than 100,000
26 pills or capsules, the person shall be sentenced to a

1 mandatory minimum term of imprisonment of 25 calendar years
2 and pay a fine of five hundred thousand dollars (\$500,000).

3 "d. Is 100,000 capsules or more, the person shall be
4 sentenced to a mandatory term of imprisonment of life.

5 "(5) Any person who knowingly sells, manufactures,
6 delivers, or brings into this state, or who is knowingly in
7 actual or constructive possession of 500 or more pills or
8 capsules of hydromorphone as is described in Section 20-2-1,
9 et seq., is guilty of a felony which shall be known as
10 "trafficking in illegal drugs." If the quantity involved:

11 "a. Is 500 pills or capsules or more but less than
12 1,000 pills or capsules, the person shall be sentenced to a
13 mandatory term of imprisonment of three calendar years and to
14 pay a fine of fifty thousand dollars (\$50,000).

15 "b. Is 1,000 pills or capsules or more, but less
16 than 4,000 pills or capsules, the person shall be sentenced to
17 a mandatory term of imprisonment of 10 calendar years and to
18 pay a fine of one hundred thousand dollars (\$100,000).

19 "c. Is 4,000 pills or capsules or more but less than
20 10,000 pills or capsules, the person shall be sentenced to a
21 mandatory term of imprisonment of 25 calendar years and to pay
22 a fine of one hundred thousand dollars (\$100,000).

23 "d. Is more than 10,000 pills or capsules, the
24 person shall be sentenced to a mandatory term of life.

25 "(6) Any person who knowingly sells, manufactures,
26 delivers, or brings into this state, or who is knowingly in
27 actual or constructive possession of, 28 grams or more of

1 3,4-methylenedioxy amphetamine, or of any mixture containing
2 3,4-methylenedioxy amphetamine, is guilty of a felony, which
3 felony shall be known as "trafficking in illegal drugs." If
4 the quantity involved:

5 "a. Is 28 grams or more, but less than 500 grams,
6 the person shall be sentenced to a mandatory minimum term of
7 imprisonment of three calendar years and to pay a fine of
8 fifty thousand dollars (\$50,000).

9 "b. Is 500 grams or more, but less than one kilo,
10 the person shall be sentenced to a mandatory minimum term of
11 imprisonment of five calendar years and to pay a fine of one
12 hundred thousand dollars (\$100,000).

13 "c. Is one kilo, but less than 10 kilos, then the
14 person shall be sentenced to a mandatory minimum term of
15 imprisonment of 15 calendar years and to pay a fine of two
16 hundred fifty thousand dollars (\$250,000).

17 "d. Is 10 kilos or more, the person shall be
18 sentenced to a mandatory term of imprisonment of life.

19 "(7) Any person who knowingly sells, manufactures,
20 delivers, or brings into this state, or who is knowingly in
21 actual or constructive possession of, 28 grams or more of
22 5-methoxy-3, 4-methylenedioxy amphetamine, or of any mixture
23 containing 5-methoxy-3, 4-methylenedioxy amphetamine is guilty
24 of a felony, which felony shall be known as "trafficking in
25 illegal drugs" if the quantity involved:

26 "a. Is 28 grams or more, but less than 500 grams,
27 the person shall be sentenced to a mandatory minimum term of

1 imprisonment of three calendar years and to pay a fine of
2 fifty thousand dollars (\$50,000).

3 "b. Is 500 grams or more, but less than one kilo,
4 the person shall be sentenced to a mandatory minimum term of
5 imprisonment of five calendar years and to pay a fine of one
6 hundred thousand dollars (\$100,000).

7 "c. Is one kilo, but less than 10 kilos, then the
8 person shall be sentenced to a mandatory minimum term of
9 imprisonment of 15 calendar years and to pay a fine of two
10 hundred fifty thousand dollars (\$250,000).

11 "d. Is 10 kilos or more, the person shall be
12 sentenced to a mandatory term of imprisonment of life.

13 "(8) Any person who knowingly sells, manufactures,
14 delivers, or brings into this state, or who is knowingly in
15 actual or constructive possession of, four grams or more of
16 phencyclidine, or any mixture containing phencyclidine, is
17 guilty of a felony, which felony shall be known as
18 "trafficking in illegal drugs." If the quantity involved:

19 "a. Is four grams or more, but less than 14 grams,
20 the person shall be sentenced to a mandatory minimum term of
21 imprisonment of three calendar years and to pay a fine of
22 fifty thousand dollars (\$50,000).

23 "b. Is 14 grams or more, but less than 28 grams, the
24 person shall be sentenced to a mandatory minimum term of
25 imprisonment of five calendar years and to pay a fine of one
26 hundred thousand dollars (\$100,000).

1 "c. Is 28 grams or more, but less than 56 grams,
2 then the person shall be sentenced to a mandatory minimum term
3 of imprisonment of 15 calendar years and to pay a fine of two
4 hundred fifty thousand dollars (\$250,000).

5 "d. Is 56 grams or more, the person shall be
6 sentenced to a mandatory term of imprisonment of life.

7 "(9) Any person who knowingly sells, manufactures,
8 delivers, or brings into this state, or who is knowingly in
9 actual or constructive possession of, four grams or more of
10 lysergic acid diethylamide, of four grams or more of any
11 mixture containing lysergic acid diethylamide, is guilty of a
12 felony, which felony shall be known as "trafficking in illegal
13 drugs." If the quantity involved:

14 "a. Is four grams or more, but less than 14 grams,
15 the person shall be sentenced to a mandatory minimum term of
16 imprisonment of three calendar years and to pay a fine of
17 fifty thousand dollars (\$50,000).

18 "b. Is 14 grams or more, but less than 28 grams, the
19 person shall be sentenced to a mandatory minimum term of
20 imprisonment of 10 calendar years and to pay a fine of one
21 hundred thousand dollars (\$100,000).

22 "c. Is 28 grams or more, but less than 56 grams, the
23 person shall be sentenced to a mandatory minimum term of
24 imprisonment of 25 calendar years and to pay a fine of five
25 hundred thousand dollars (\$500,000).

26 "d. Is 56 grams or more, the person shall be
27 sentenced to a mandatory term of imprisonment of life.

1 "(10) Any person who knowingly sells, manufactures,
2 delivers, or brings into this state, or who is knowingly in
3 actual or constructive possession of, 28 grams or more of
4 amphetamine or any mixture containing amphetamine, its salt,
5 optical isomer, or salt of its optical isomer thereof, is
6 guilty of a felony, which felony shall be known as
7 "trafficking in amphetamine." If the quantity involved:

8 "a. Is 28 grams or more but less than 500 grams, the
9 person shall be sentenced to a mandatory minimum term of
10 imprisonment of three calendar years and to pay a fine of
11 fifty thousand dollars (\$50,000).

12 "b. Is 500 grams or more, but less than one kilo,
13 the person shall be sentenced to a mandatory minimum term of
14 imprisonment of five calendar years and to pay a fine of one
15 hundred thousand dollars (\$100,000).

16 "c. Is one kilo but less than 10 kilos, then the
17 person shall be sentenced to a mandatory minimum term of
18 imprisonment of 15 calendar years and to pay a fine of two
19 hundred fifty thousand dollars (\$250,000).

20 "d. Is 10 kilos or more, the person shall be
21 sentenced to a mandatory term of imprisonment of life.

22 "(11) Any person who knowingly sells, manufactures,
23 delivers, or brings into this state, or who is knowingly in
24 actual or constructive possession of, 28 grams or more of
25 methamphetamine or any mixture containing methamphetamine, its
26 salts, optical isomers, or salt of its optical isomers

1 thereof, is guilty of a felony, which felony shall be known as
2 "trafficking in methamphetamine." If the quantity involved:

3 "a. Is 28 grams or more but less than 500 grams, the
4 person shall be sentenced to a mandatory minimum term of
5 imprisonment of three calendar years and to pay a fine of
6 fifty thousand dollars (\$50,000).

7 "b. Is 500 grams or more, but less than one kilo,
8 the person shall be sentenced to a mandatory minimum term of
9 imprisonment of five calendar years and to pay a fine of one
10 hundred thousand dollars (\$100,000).

11 "c. Is one kilo but less than 10 kilos, then the
12 person shall be sentenced to a mandatory minimum term of
13 imprisonment of 15 calendar years and to pay a fine of two
14 hundred fifty thousand dollars (\$250,000).

15 "d. Is 10 kilos or more, the person shall be
16 sentenced to a mandatory term of imprisonment of life.

17 "(12) Any person who knowingly sells, manufactures,
18 delivers, or brings into this state, or who is knowingly in
19 actual or constructive possession of 56 or more grams of a
20 synthetic controlled substance or a synthetic controlled
21 substance analogue, as described in subdivision (4) or (5) of
22 subsection (a) of Section 20-2-23, except for any synthetic
23 controlled substance Fentanyl analogue referenced in
24 subdivision (13), is guilty of a felony, which felony shall be
25 known as "trafficking in synthetic controlled substances." If
26 the quantity involved:

1 "a. Is 56 grams or more, but less than 500 grams,
2 the person shall be sentenced to a mandatory minimum term of
3 imprisonment of three calendar years and to pay a fine of
4 fifty thousand dollars (\$50,000).

5 "b. Is 500 grams or more, but less than 1 kilo, the
6 person shall be sentenced to a mandatory minimum term of
7 imprisonment of 10 calendar years and to pay a fine of one
8 hundred thousand dollars (\$100,000).

9 "c. Is one kilo, but less than 10 kilos, then the
10 person shall be sentenced to a mandatory minimum term of
11 imprisonment of 15 calendar years and to pay a fine of two
12 hundred fifty thousand dollars (\$250,000).

13 "d. Is 10 kilos or more, the person shall be
14 sentenced to a mandatory term of imprisonment of life.

15 "(13) Any person, unless otherwise authorized by
16 law, who knowingly sells, manufactures, delivers, or brings
17 into this state, or who is knowingly in actual or constructive
18 possession of, one gram or more of Fentanyl or any synthetic
19 controlled substance Fentanyl analogue, as a single component
20 as described in Sections 20-2-23 and 20-2-25, is guilty of a
21 felony, which felony shall be known as "trafficking in illegal
22 drugs." If the quantity involved:

23 "a. Is one gram or more, but less than two grams,
24 the person shall be ordered to pay a minimum fine of fifty
25 thousand dollars (\$50,000).

1 "b. Is two grams or more, but less than four grams,
2 the person shall be ordered to pay a minimum fine of one
3 hundred thousand dollars (\$100,000).

4 "c. Is four grams or more, but less than eight
5 grams, the person shall be ordered to pay a minimum fine of
6 five hundred thousand dollars (\$500,000).

7 "d. Is eight grams or more, the person shall be
8 ordered to pay a minimum fine of seven hundred fifty thousand
9 dollars (\$750,000).

10 " (14) In lieu of the weight ranges listed in
11 subdivision (12), a person may instead be charged with
12 trafficking any substance listed in subdivisions (3) and (12)
13 if that person possesses 50 or more individual packages of
14 that substance. The person shall only be sentenced according
15 to the sentence range provision listed in paragraph a. of each
16 subdivision for the specific substance contained in the 50 or
17 more individual packages if charged pursuant to this
18 subdivision, subdivision (15), or subdivision (16), if
19 applicable. In order to charge a person pursuant to this
20 subdivision, the same substance must be contained in each of
21 the 50 or more individual packages.

22 " (15) The felonies of "trafficking in cannabis,"
23 "trafficking in cocaine," "trafficking in illegal drugs,"
24 "trafficking in amphetamine," "trafficking in
25 methamphetamine," and "trafficking in synthetic controlled
26 substances" as defined in subdivisions (1) through (14),
27 above, shall be treated as Class A felonies for purposes of

1 this title, ~~including sentencing under Section 13A-5-9.~~
2 ~~Provided, however, that the sentence of imprisonment for a~~
3 ~~defendant with one or more prior felony convictions who~~
4 ~~violates subdivisions (1) through (14) of this section shall~~
5 ~~be the sentence provided therein, or the sentence provided~~
6 ~~under Section 13A-5-9, whichever is greater.~~ Provided further,
7 that the fine for a defendant with one or more prior felony
8 convictions who violates subdivisions (1) through (14) of this
9 section shall be the fine provided therein, ~~or the fine~~
10 ~~provided under Section 13A-5-9, whichever is greater.~~

11 ~~"(16) Notwithstanding any provision of law to the~~
12 ~~contrary, any person who has possession of a firearm during~~
13 ~~the commission of any act proscribed by this section shall be~~
14 ~~punished by a term of imprisonment of five calendar years~~
15 ~~which shall be in addition to, and not in lieu of, the~~
16 ~~punishment otherwise provided, and a fine of twenty-five~~
17 ~~thousand dollars (\$25,000); the court shall not suspend the~~
18 ~~five-year additional sentence of the person or give the person~~
19 ~~a probationary sentence.~~

20 "§15-22-54.

21 "(a) The period of probation or suspension of
22 execution of sentence shall be determined by the court and
23 shall not be waived by the defendant, and the period of
24 probation or suspension may be continued, extended, or
25 terminated. However, except as provided in Section 32-5A-191
26 relating to ignition interlock requirements, in no case shall
27 the maximum probation period of a defendant guilty of a

1 misdemeanor exceed two years, nor shall the maximum probation
2 period of a defendant guilty of a felony exceed five years.
3 When the conditions of probation or suspension of sentence are
4 fulfilled, the court shall, by order duly entered on its
5 minutes, discharge the defendant.

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

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

1 judge shall have authority to issue a bond to a probationer
2 for release from custody.

3 "(d) Except as provided in Chapter 15 of Title 12,
4 any probation officer, police officer, or other officer with
5 power of arrest, when requested by the probation officer, may
6 arrest a probationer without a warrant. In case of an arrest
7 without a warrant, the arresting officer shall have a written
8 statement by the probation officer setting forth that the
9 probationer has, in his or her judgment, violated the
10 conditions of probation, and the statement shall be sufficient
11 warrant for the detention of the probationer in the county
12 jail or other appropriate place of detention until the
13 probationer is brought before the court. The probation officer
14 shall forthwith report the arrest and detention to the court
15 and submit in writing a report showing in what manner the
16 probationer has violated probation.

17 "(e) After conducting a violation hearing and
18 finding sufficient evidence to support a probation violation,
19 the court may revoke probation to impose a sentence of
20 imprisonment, and credit shall be given for all time spent in
21 custody prior to revocation. If the probationer was convicted
22 of a Class D felony and his or her probation is revoked, the
23 incarceration portion of any split sentence imposed due to
24 revocation shall be limited to two years or one-third of the
25 original suspended prison sentence, whichever is less.
26 However, in all cases, excluding violent offenses defined
27 pursuant to Section 12-25-32 and classified as a Class A

1 felony, and sex offenses, defined pursuant to Section
2 15-20A-5, the court may only revoke probation as provided
3 below:

4 "(1) Unless the underlying offense is a violent
5 offense as defined in Section 12-25-32 and classified as a
6 Class A felony, when a defendant under supervision for a
7 felony conviction has violated a condition of probation, other
8 than arrest or conviction of a new offense or absconding, the
9 court may impose a period of confinement of no more than 45
10 consecutive days to be served in the custody population of the
11 Department of Corrections or county jail. By April 29, 2016,
12 the Department of Corrections shall develop and implement a
13 streamlined process to transport and receive the probationer
14 into its custody population and shall identify and, if
15 possible, implement policies aimed at reducing the
16 administrative delays, if any, in transferring to the
17 Department of Corrections the physical custody of the
18 probationer and those whose probation has been revoked. Such
19 process shall be developed in cooperation with the Alabama
20 Sheriffs' Association and the Association of County
21 Commissions of Alabama. Such process shall include the most
22 cost-effective method to process sanctioned probation
23 violators for the maximum 45-day confinement period and shall
24 provide that the Department of Corrections shall reimburse the
25 state mileage rate, as determined by the Alabama Comptroller's
26 Office, to the county for any state inmate sanctioned as a
27 probation violator and transferred to or from a Department of

1 Corrections facility by the county. Upon completion of the
2 confinement period, the remaining probation period or
3 suspension of sentence shall automatically continue upon the
4 defendant's release from confinement. The court shall not
5 revoke probation unless the defendant has previously received
6 a total of three periods of confinement under this subsection.
7 For purposes of revocation, the court may take judicial notice
8 of the three total periods of confinement under this
9 subsection. A defendant shall only receive three total periods
10 of confinement under this subsection. The maximum 45-day term
11 of confinement ordered under this subsection for a felony
12 shall not be reduced by credit for time already served in the
13 case. Any such credit shall instead be applied to the
14 suspended sentence. In the event the time remaining on the
15 imposed sentence is 45 days or less, the term of confinement
16 shall be for the remainder of the defendant's sentence.

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

20 "(3) Confinement shall be immediate. The court shall
21 be responsible for ensuring that the circuit clerk receives
22 the order revoking probation within five business days. The
23 circuit clerk shall insure that the Department of Corrections
24 receives necessary transcripts for imposing a period of
25 confinement within five business days of its receipt of the
26 court's order.

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

19 "(f) In lieu of the provisions of subsections (c)
20 through (e), when a probationer violates his or her probation
21 terms and conditions imposed by the court, his or her
22 probation officer may, after administrative review and
23 approval by the officer's supervisor, require the probationer
24 to submit to behavioral treatment, substance abuse treatment,
25 GPS monitoring, such other treatment as determined by the
26 board or supervising officer, or a period of confinement in a

1 consenting jail facility as specified in subdivision (10) of
2 Section 15-22-52.

3 "(g) Prior to imposing a sanction provided under
4 subsection (f) and pursuant to subdivision (10) of Section
5 15-22-52, the probationer must first be presented with a
6 violation report, with the alleged probation violations and
7 supporting evidence noted. The probationer may file a motion
8 with the court to conduct a probation violation hearing within
9 10 days. The probationer shall be given notice of the right to
10 such hearing and advised of the right (i) to a hearing before
11 the court on the alleged violation in person, with the right
12 to present relevant witnesses and documentary evidence; (ii)
13 to retain and have counsel at the hearing and that counsel
14 will be appointed if the probationer is indigent; and (iii) to
15 confront and cross examine any adverse witnesses. Upon the
16 signing of a waiver of these rights by the probationer and the
17 supervising probation officer, with approval of a supervisor,
18 the probationer may be treated, monitored, or confined for the
19 period recommended in the violation report and designated in
20 the waiver. However, the probationer shall have no right of
21 review if he or she has signed a written waiver of rights as
22 provided in this subsection.

23 "(h) The board shall adopt guidelines and procedures
24 to implement the requirements of this section, which shall
25 include the requirement of a supervisor's approval prior to a
26 supervising probation officer's exercise of the delegation of
27 authority authorized by subsection (f)."

1 Section 2. Sections 13A-4-1, 13A-4-2, 13A-4-3,
2 13A-8-1, 13A-8-3, 13A-8-4, 13A-8-5, 13A-8-7, 13A-8-8, 13A-8-9,
3 13A-8-10, 13A-8-10.1, 13A-8-10.2, 13A-8-10.3, 13A-8-16,
4 13A-8-17, 13A-8-18, 13A-8-19, 13A-8-144, 13A-8-194,
5 13A-12-211, as last amended by Act 2018-552, 2018 Regular
6 Session, 13A-12-212, 13A-12-213, 13A-12-214, 13A-12-218, and
7 40-17A-9, Code of Alabama 1975, are amended to read as
8 follows:

9 "§13A-4-1.

10 "(a) (1) A person is guilty of criminal solicitation
11 if, with the intent that another person engage in conduct
12 constituting a crime, he solicits, requests, commands or
13 importunes such other person to engage in such conduct.

14 "(2) A person may not be convicted of criminal
15 solicitation upon the uncorroborated testimony of the person
16 allegedly solicited, and there must be proof of circumstances
17 corroborating both the solicitation and the defendant's
18 intent.

19 "(b) A person is not liable under this section if,
20 under circumstances manifesting a voluntary and complete
21 renunciation of his criminal intent, he (1) notified the
22 person solicited of his renunciation and (2) gave timely and
23 adequate warning to the law enforcement authorities or
24 otherwise made a substantial effort to prevent the commission
25 of the criminal conduct solicited. The burden of injecting
26 this issue is on the defendant, but this does not shift the
27 burden of proof.

1 "(c) A person is not liable under this section when
2 his solicitation constitutes conduct of a kind that is
3 necessarily incidental to the commission of the offense
4 solicited. When the solicitation constitutes an offense other
5 than criminal solicitation which is related to but separate
6 from the offense solicited, defendant is guilty of such
7 related offense only and not of criminal solicitation.

8 "(d) It is no defense to a prosecution for criminal
9 solicitation that the person solicited could not be guilty of
10 the offense solicited because of:

11 "(1) Criminal irresponsibility or other legal
12 incapacity or exemption; or

13 "(2) Unawareness of the criminal nature of the
14 conduct solicited or of the defendant's criminal purpose; or

15 "(3) Any other factor precluding the mental state
16 required for the commission of the offense in question.

17 "(e) It is no defense to a prosecution for criminal
18 solicitation that defendant belongs to a class of persons who
19 by definition are legally incapable in an individual capacity
20 of committing the offense that he solicited another to commit.

21 "(f) Criminal solicitation is a:

22 "(1) Class A felony if the offense solicited is
23 murder.

24 "(2) Class B felony if the offense solicited is a
25 Class A felony.

26 "(3) Class C felony if the offense solicited is a
27 Class B felony.

1 "(4) Class D felony if the offense solicited is a
2 Class C felony.

3 "~~(4)~~ (5) Class A misdemeanor if the offense
4 solicited is a Class ~~C~~ D felony.

5 "~~(5)~~ (6) Class B misdemeanor if the offense
6 solicited is a Class A misdemeanor.

7 "~~(6)~~ (7) Class C misdemeanor if the offense
8 solicited is a Class B misdemeanor.

9 "~~(7)~~ (8) Violation if the offense solicited is a
10 Class C misdemeanor.

11 "§13A-4-2.

12 "(a) A person is guilty of an attempt to commit a
13 crime if, with the intent to commit a specific offense, he
14 does any overt act towards the commission of such offense.

15 "(b) It is no defense under this section that the
16 offense charged to have been attempted was, under the
17 attendant circumstances, factually or legally impossible of
18 commission, if such offense could have been committed had the
19 attendant circumstances been as the defendant believed them to
20 be.

21 "(c) A person is not liable under this section if,
22 under circumstances manifesting a voluntary and complete
23 renunciation of this criminal intent, he avoided the
24 commission of the offense attempted by abandoning his criminal
25 effort and, if mere abandonment is insufficient to accomplish
26 such avoidance, by taking further and affirmative steps which
27 prevented the commission thereof. The burden of injecting this

1 issue is on the defendant, but this does not shift the burden
2 of proof.

3 "(d) An attempt is a:

4 "(1) Class A felony if the offense attempted is
5 murder.

6 "(2) Class B felony if the offense attempted is a
7 Class A felony.

8 "(3) Class C felony if the offense attempted is a
9 Class B felony.

10 "(4) Class D felony if the offense attempted is a
11 Class C felony.

12 "~~(4)~~ (5) Class A misdemeanor if the offense
13 attempted is a Class ~~C~~ D felony.

14 "~~(5)~~ (6) Class B misdemeanor if the offense
15 attempted is a Class A misdemeanor.

16 "~~(6)~~ (7) Class C misdemeanor if the offense
17 attempted is a Class B misdemeanor.

18 "~~(7)~~ (8) Violation if the offense attempted is a
19 Class C misdemeanor.

20 "§13A-4-3.

21 "(a) A person is guilty of criminal conspiracy if,
22 with the intent that conduct constituting an offense be
23 performed, he agrees with one or more persons to engage in or
24 cause the performance of such conduct, and any one or more of
25 such persons does an overt act to effect an objective of the
26 agreement.

1 "(b) If a person knows or should know that one with
2 whom he agrees has in turn agreed or will agree with another
3 to effect the same criminal objective, he shall be deemed to
4 have agreed with such other person, whether or not he knows
5 the other's identity.

6 "(c) A person is not liable under this section if,
7 under circumstances manifesting a voluntary and complete
8 renunciation of his criminal purpose, he gave a timely and
9 adequate warning to law enforcement authorities or made a
10 substantial effort to prevent the enforcement of the criminal
11 conduct contemplated by the conspiracy. Renunciation by one
12 conspirator, however, does not affect the liability of another
13 conspirator who does not join in the abandonment of the
14 conspiratorial objective. The burden of injecting the issue of
15 renunciation is on the defendant, but this does not shift the
16 burden of proof.

17 "(d) It is no defense to a prosecution for criminal
18 conspiracy that:

19 "(1) The person, or persons, with whom defendant is
20 alleged to have conspired has been acquitted, has not been
21 prosecuted or convicted, has been convicted of a different
22 offense or is immune from prosecution, or

23 "(2) The person, or persons, with whom defendant
24 conspired could not be guilty of the conspiracy or the object
25 crime because of lack of mental responsibility or culpability,
26 or other legal incapacity or defense, or

1 "(3) The defendant belongs to a class of persons who
2 by definition are legally incapable in an individual capacity
3 of committing the offense that is the object of the
4 conspiracy.

5 "(e) A conspirator is not liable under this section
6 if, had the criminal conduct contemplated by the conspiracy
7 actually been performed, he would be immune from liability
8 under the law defining the offense or as an accomplice under
9 Section 13A-2-24.

10 "(f) Liability as accomplice. Accomplice liability
11 for offenses committed in furtherance of a conspiracy is to be
12 determined as provided in Section 13A-2-23.

13 "(g) Criminal conspiracy is a:

14 "(1) Class A felony if an object of the conspiracy
15 is murder.

16 "(2) Class B felony if an object of the conspiracy
17 is a Class A felony.

18 "(3) Class C felony if an object of the conspiracy
19 is a Class B felony.

20 "(4) Class D felony if an object of the conspiracy
21 is a Class C felony.

22 "~~(4)~~ (5) Class A misdemeanor if an object of the
23 conspiracy is a Class ~~C~~ D felony.

24 "~~(5)~~ (6) Class B misdemeanor if an object of the
25 conspiracy is a Class A misdemeanor.

26 "~~(6)~~ (7) Class C misdemeanor if an object of the
27 conspiracy is a Class B misdemeanor.

1 "~~(7)~~ (8) Violation if an object of the conspiracy is
2 a Class C misdemeanor.

3 "§13A-8-1.

4 "The following definitions are applicable in this
5 article unless the context otherwise requires:

6 "(1) DECEPTION occurs when a person knowingly does
7 any of the following:

8 "a. Creates or confirms another's impression which
9 is false and which the defendant does not believe to be true~~;~~
10 or.

11 "b. Fails to correct a false impression which the
12 defendant previously has created or confirmed~~;~~or.

13 "c. Fails to correct a false impression when the
14 defendant is under a duty to do so~~;~~or.

15 "d. Prevents another from acquiring information
16 pertinent to the disposition of the property involved~~;~~or.

17 "e. Sells or otherwise transfers or encumbers
18 property, failing to disclose a lien, adverse claim, or other
19 legal impediment to the enjoyment of the property when the
20 defendant is under a duty to do so, whether that impediment is
21 or is not valid, or is not a matter of official record~~;~~or.

22 "f. Promises performance which the defendant does
23 not intend to perform or knows will not be performed. Failure
24 to perform, standing alone, however, is not proof that the
25 defendant did not intend to perform.

26 "The term "deception" does not, however, include
27 falsity as to matters having no pecuniary significance, or

1 puffing by statements unlikely to deceive ordinary persons.
2 "Puffing" means an exaggerated commendation of wares or
3 services.

4 "(2) To "DEPRIVE ..." means any of the following:

5 "a. To withhold property or cause it to be withheld
6 from a person permanently or for such period or under such
7 circumstances that all or a portion of its use or benefit
8 would be lost to him or her;~~or.~~

9 "b. To dispose of the property so as to make it
10 unlikely that the owner would recover it;~~or.~~

11 "c. To retain the property with intent to restore it
12 to the owner only if the owner purchases or leases it back, or
13 pays a reward or other compensation for its return;~~or.~~

14 "d. To sell, give, pledge, or otherwise transfer any
15 interest in the property;~~or.~~

16 "e. To subject the property to the claim of a person
17 other than the owner.

18 "(3) FIFTH WHEEL. Coupling between a trailer and a
19 vehicle used for towing.

20 "(4) FINANCIAL INSTITUTION. A bank, insurance
21 company, credit union, safety deposit company, savings and
22 loan association, investment trust, or other organization held
23 out to the public as a place of deposit of funds or medium of
24 savings or collective investment.

25 "(5) FIREARM. A weapon from which a shot is
26 discharged by gunpowder.

1 "(6) GOVERNMENT. The United States, any state or any
2 county, municipality, or other political unit within territory
3 belonging to the United States, or any department, agency, or
4 subdivision of any of the foregoing, or any corporation or
5 other association carrying out the functions of government, or
6 any corporation or agency formed pursuant to interstate
7 compact or international treaty.

8 "As used in this definition "state" includes any
9 state, territory, or possession of the United States, the
10 District of Columbia, and the Commonwealth of Puerto Rico.

11 "(7) OBTAINS. Such term means any of the following:

12 "a. In relation to property, to bring about a
13 transfer or purported transfer of a legally recognized
14 interest in the property, whether to the obtainer or another
15 ~~or~~.

16 "b. In relation to labor or service, to secure
17 performance thereof.

18 "(8) OBTAINS OR EXERTS CONTROL or OBTAINS OR EXERTS
19 UNAUTHORIZED CONTROL over property includes but is not
20 necessarily limited to the taking, carrying away, or the sale,
21 conveyance, or transfer of title to, or interest in, or
22 possession of, property, and includes but is not necessarily
23 limited to conduct heretofore defined or known as common law
24 larceny by trespassory taking, common law larceny by trick,
25 larceny by conversion, embezzlement, extortion, or obtaining
26 property by false pretenses.

1 "(9) OWNER. A person, other than the defendant, who
2 has possession of or any other interest in the property
3 involved, even though that interest or possession is unlawful,
4 and without whose consent the defendant has no authority to
5 exert control over the property.

6 "A secured party, as defined in Section
7 7-9A-102~~(a)~~(72), is not an owner in relation to a defendant
8 who is a debtor, as defined in Section 7-9A-102~~(a)~~(28), in
9 respect of property in which the secured party has a security
10 interest, as defined in Section 7-1-201~~(37)~~.

11 "(10) PROPELLED VEHICLE. Any propelled device in,
12 upon, or by which any person or property is transported on
13 land, water, or in the air, and such term includes motor
14 vehicles, motorcycles, motorboats, aircraft, and any vessel
15 propelled by machinery, whether or not that machinery is the
16 principal source of propulsion.

17 "(11) PROPERTY. Any money, tangible or intangible
18 personal property, property (whether real or personal) the
19 location of which can be changed (including things growing on,
20 affixed to, or found in land and documents, although the
21 rights represented hereby have no physical location), contract
22 right, chose-in-action, interest in a claim to wealth, credit,
23 or any other article or thing of value of any kind.

24 "Commodities of a public utility nature, such as
25 gas, electricity, steam, and water, constitute property, but
26 the supplying of such a commodity to premises from an outside
27 source by means of wires, pipes, conduits, or other equipment

1 shall be deemed a rendition of a service rather than a sale or
2 delivery of property.

3 "(12) RECEIVING. Such term includes, but is not
4 limited to, acquiring possession, control, or title and taking
5 a security interest in the property.

6 "(13) STOLEN. Obtained by theft, theft by
7 appropriating lost property, robbery, or extortion.

8 "(14) THREAT. A menace, however communicated, ~~to~~
9 that has the intent to do any of the following:

10 "a. Cause physical harm to the person threatened or
11 to any other person;~~or.~~

12 "b. Cause damage to property;~~or.~~

13 "c. Subject the person threatened or any other
14 person to physical confinement or restraint;~~or.~~

15 "d. Engage in other conduct constituting a crime;
16 ~~or.~~

17 "e. Accuse any person of a crime or cause criminal
18 charges to be instituted against any person;~~or.~~

19 "f. Expose a secret or publicize an asserted fact,
20 whether true or false, tending to subject any person to
21 hatred, contempt, or ridicule;~~or.~~

22 "g. Reveal any information sought to be concealed by
23 the person threatened;~~or.~~

24 "h. Testify or provide information or withhold
25 testimony or information with respect to another's legal claim
26 or defense;~~or.~~

1 "i. Take action as an official against anyone or
2 anything, or withhold official action, or cause such action or
3 withholding;~~or.~~

4 "j. Bring about or continue a strike, boycott, or
5 other similar collective action to obtain property which is
6 not demanded or received for the benefit of the group which
7 the actor purports to represent;~~or.~~

8 "k. Do any other act which would not in itself
9 substantially benefit the actor but which is calculated to
10 harm substantially another person with respect to his or her
11 health, safety, business, calling, career, financial
12 condition, reputation, or personal relationships.

13 "(15) VALUE. The market value of the property at the
14 time and place of the criminal act.

15 "Whether or not they have been issued or delivered,
16 certain written instruments, not including those having a
17 readily ascertainable market value such as some public and
18 corporate bonds and securities shall be evaluated as follows:

19 "a. The value of an instrument constituting an
20 evidence of debt, such as a check, draft, or promissory note,
21 shall be deemed the amount due or collectible thereon or
22 thereby, that figure ordinarily being the face amount of the
23 indebtedness less any portion thereof which has been
24 satisfied.

25 "b. The value of any other instrument that creates,
26 releases, discharges, or otherwise affects any valuable legal
27 right, privilege, or obligation shall be deemed the greatest

1 amount of economic loss which the owner of the instrument
2 might reasonably suffer by virtue of the loss of the
3 instrument.

4 "When the value of property cannot be ascertained
5 pursuant to the standards set forth above, its value shall be
6 deemed to be an amount not exceeding five hundred dollars
7 (\$500).

8 "Amounts involved in thefts committed pursuant to
9 one scheme or course of conduct, whether from the same person
10 or several persons, may be aggregated in determining the grade
11 of the offense; provided, that only one conviction may be had
12 and only one sentence enforced for all thefts included in such
13 aggregate.

14 "§13A-8-3.

15 "(a) The theft of property ~~which that~~ exceeds ~~two~~
16 three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in
17 value, ~~or property of any value taken from the person of~~
18 ~~another,~~ constitutes theft of property in the first degree.

19 "(b) The theft of property of any value taken from
20 the person of another constitutes theft of property in the
21 first degree.

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

24 "~~(c)~~ (d) (1) The theft of property which involves all
25 of 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~~ two thousand dollars ~~(\$1,000)~~ (\$2,000) within a
9 180-day period.

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

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

16 "§13A-8-4.

17 "(a) The theft of property ~~between one~~ that exceeds
18 two thousand ~~five hundred~~ dollars ~~(\$1,500)~~ (\$2,000) in value
19 ~~and two~~ but does not exceed three thousand five hundred
20 dollars ~~(\$2,500)~~ (\$3,500) in value, and which is not taken
21 from the person of another, constitutes theft of property in
22 the second degree.

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

25 "~~(c)~~ (b) The theft of a firearm, rifle, or shotgun,
26 regardless of its value, constitutes theft of property in the
27 second degree.

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

4 "~~(e)~~ (d) The theft of any livestock which includes
5 cattle, swine, equine or equidae, or sheep, regardless of
6 their value, constitutes theft of property in the second
7 degree.

8 "(e) Theft of property in the second degree is a
9 Class C felony.

10 "§13A-8-5.

11 "(a) The theft of property ~~which~~ that does not
12 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in
13 value and which is not taken from the person of another
14 constitutes theft of property in the ~~fourth~~ third degree.

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

17 "§13A-8-7.

18 "(a) The theft of lost property ~~which~~ that exceeds
19 ~~two~~ three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in
20 value constitutes theft of lost property in the first degree.

21 "(b) Theft of lost property in the first degree is a
22 Class B felony.

23 "§13A-8-8.

24 "(a) The theft of lost property ~~between one~~ that
25 exceeds two thousand ~~five hundred~~ dollars ~~(\$1,500)~~ (\$2,000) in
26 value ~~and two~~ but does not exceed three thousand five hundred

1 dollars ~~(\$2,500)~~ (\$3,500) in value constitutes theft of lost
2 property in the second degree.

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

5 "§13A-8-9.

6 "(a) The theft of lost property ~~which~~ that does not
7 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in
8 value constitutes theft of lost property in the ~~fourth~~ third
9 degree.

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

12 "§13A-8-10.

13 "(a) A person commits the crime of theft of services
14 if he or she does either of the following:

15 "(1) ~~He intentionally~~ Intentionally obtains services
16 known by him to be available only for compensation by
17 deception, threat, false token, or other means to avoid
18 payment for the services; ~~or.~~

19 "(2) Having control over the disposition of services
20 of others to which he or she is not entitled, he or she
21 knowingly diverts those services to his or her own benefit or
22 to the benefit of another not entitled thereto.

23 "(b) "Services" includes, but is not necessarily
24 limited to, labor, professional services, transportation,
25 telephone, or other public services, accommodation in motels,
26 hotels, restaurants or elsewhere, admission to exhibitions,
27 computer services, and the supplying of equipment for use.

1 "(c) Where compensation for services is ordinarily
2 paid immediately upon the rendering of them, as in the case of
3 motels, hotels, restaurants and the like, absconding without
4 payment or bona fide offer to pay is prima facie evidence
5 under subsection (a) that the services were obtained by
6 deception.

7 "(d) If services are obtained under subdivision (a)
8 (1) from a hotel, motel, inn, restaurant or cafe, no
9 prosecution can be commenced after 120 days from the time of
10 the offense.

11 "§13A-8-10.1.

12 "(a) The theft of services ~~which that~~ exceeds ~~two~~
13 three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in value
14 constitutes theft of services in the first degree.

15 "(b) Theft of services in the first degree is a
16 Class B felony.

17 "§13A-8-10.2.

18 "(a) The theft of services ~~between one~~ that exceeds
19 two thousand ~~five hundred~~ dollars ~~(\$1,500)~~ (\$2,000) ~~in value~~
20 but does not exceed three ~~and two~~ thousand five hundred
21 dollars ~~(\$2,500)~~ (\$3,500) in value constitutes theft of
22 services in the second degree.

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

25 "§13A-8-10.3.

26 "(a) The theft of services ~~which that~~ does not
27 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in

1 value constitutes theft of services in the ~~fourth~~ third
2 degree.

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

5 "§13A-8-16.

6 "(a) A person commits the crime of receiving stolen
7 property if he or she intentionally receives, retains, or
8 disposes of stolen property knowing that it has been stolen or
9 having reasonable grounds to believe it has been stolen,
10 unless the property is received, retained, or disposed of with
11 intent to restore it to the owner.

12 "(b) If a person does any of the following, it shall
13 be prima facie evidence that he or she has the requisite
14 knowledge or belief:

15 "(1) On two separate occasions within a year prior
16 to the commission of the instant offense of receiving stolen
17 property is found in possession or control of stolen property,
18 ~~or.~~

19 "(2) Possesses goods or property which have been
20 recently stolen, ~~or.~~

21 "(3) Regularly buys, sells, uses or handles in the
22 course of business property of the sort received, and acquired
23 the property without making reasonable inquiry whether the
24 person selling or delivering the property to him had a legal
25 right to do so, ~~this shall be prima facie evidence that he has~~
26 ~~the requisite knowledge or belief.~~

1 "(c) The fact that the person who stole the property
2 has not been convicted, apprehended or identified is not a
3 defense to a charge of receiving stolen property.

4 "§13A-8-17.

5 "(a) Receiving stolen property ~~which~~ that exceeds
6 ~~two~~ three thousand five hundred dollars ~~(\$2,500)~~ (\$3,500) in
7 value constitutes receiving stolen property in the first
8 degree.

9 "(b) Receiving stolen property in the first degree
10 is a Class B felony.

11 "§13A-8-18.

12 "(a) Receiving stolen property: ~~(1) Which is between~~
13 ~~one~~ that exceed two thousand ~~five hundred~~ dollars ~~(\$1,500)~~
14 (\$2,000) in value ~~and two~~ but does not exceed three thousand
15 five hundred dollars ~~(\$2,500)~~ (\$3,500) in value, ~~or,~~
16 constitutes receiving stolen property in the second degree.

17 ~~(2) Of~~ (b) Receiving stolen property any value under
18 the circumstances described in subdivision (b) (3) of Section
19 13A-8-16~~7~~, L constitutes receiving stolen property in the second
20 degree.

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

23 "§13A-8-19.

24 "(a) Receiving stolen property ~~which~~ that does not
25 exceed ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) in
26 value constitutes receiving stolen property in the ~~fourth~~
27 third degree.

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

3 "§13A-8-144.

4 "(a) The crime of theft by fraudulent leasing or
5 rental of property shall be a Class A misdemeanor if the
6 subject matter of the lease or rental agreement had a value of
7 ~~five hundred~~ two thousand dollars ~~(\$500)~~ (\$2,000) or less; ~~if.~~
8 ~~the value of such property was in excess of five hundred~~
9 ~~dollars (\$500), the crime shall be a Class C felony.~~

10 "(b) The crime of theft by fraudulent leasing or
11 rental of property shall be a Class C felony if the value of
12 such property was in excess of ~~five hundred~~ two thousand
13 ~~dollars (\$500), the crime shall be a Class C felony~~ (\$2,000).

14 "§13A-8-194.

15 "(a) A person commits the crime of obstructing
16 justice using a false identity if he or she uses
17 identification documents or identifying information of another
18 person or a fictitious person to avoid summons, arrest,
19 prosecution, or to impede a criminal investigation.

20 "(b) Obstructing justice using a false identity is a
21 Class ~~C~~ A misdemeanor.

22 "§13A-12-211.

23 "(a) ~~A~~ Except as provided in Section 13A-12-211.1, a
24 person commits the crime of unlawful distribution of
25 controlled substances if, except as otherwise authorized, he
26 or she sells, furnishes, gives away, delivers, or distributes
27 a controlled substance enumerated in Schedules I through V.

1 "(b) Unlawful distribution of controlled substances
2 is a Class B felony.

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

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

10 "(2) More than two grams, but less than four grams,
11 of any mixture of morphine, opium, or any salt, isomer, or
12 salt of an isomer thereof, including heroin or any mixture
13 containing Fentanyl or any synthetic controlled substance
14 Fentanyl or any synthetic controlled substance Fentanyl
15 analogue, as described in Sections 20-2-23 and 20-2-25.

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

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

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

25 "(6) More than eight grams, but less than 28 grams,
26 of methamphetamine or any mixture containing methamphetamine,

1 its salts, optical isomers, or salt of its optical isomers
2 thereof.

3 "(7) More than one-half gram, but less than one
4 gram, of Fentanyl or any synthetic controlled substance
5 Fentanyl analogue, as a single component.

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

8 "§13A-12-212.

9 "(a) A person commits the crime of unlawful
10 possession of controlled substance in the first degree if he
11 or she does either of the following:

12 "(1) Except as ~~otherwise authorized, he or she~~
13 provided in Section 13A-12-212.1, possesses a controlled
14 substance enumerated in Schedules I through V.

15 "(2) ~~He or she obtains~~ Obtains by fraud, deceit,
16 misrepresentation, or subterfuge or by the alteration of a
17 prescription or written order or by the concealment of a
18 material fact or by the use of a false name or giving a false
19 address, a controlled substance enumerated in Schedules I
20 through V or a precursor chemical enumerated in Section
21 20-2-181.

22 "(b) Unlawful possession of a controlled substance
23 is a Class D felony.

24 "§13A-12-213.

25 "(a) A person commits the crime of unlawful
26 possession of ~~marihuana~~ marijuana in the first degree if,

1 except as otherwise authorized: he or she possesses two or
2 more ounces of marijuana.

3 ~~"(1) He or she possesses marihuana for other than~~
4 ~~personal use; or~~

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

9 "(b) Unlawful possession of ~~marihuana~~ marijuana in
10 the first degree ~~pursuant to subdivision (1) of subsection (a)~~
11 is punishable as follows:

12 "(1) Upon a first conviction of this section within
13 the preceding five years, the person is guilty of a Class C
14 misdemeanor, punishable only by a fine not to exceed two
15 hundred fifty dollars (\$250).

16 "(2) Upon a second conviction of this section within
17 the preceding five years, the person is guilty of a Class C
18 misdemeanor, punishable only by a fine not to exceed five
19 hundred dollars (\$500).

20 "(3) Upon a third or subsequent conviction of this
21 section within the preceding five years, the person is guilty
22 of a Class C ~~D~~ felony, punishable only by a fine not to exceed
23 seven hundred fifty dollars (\$750).

24 ~~"(c) Unlawful possession of marihuana in the first~~
25 ~~degree pursuant to subdivision (2) of subsection (a) is a~~
26 ~~Class D felony. All fines and forfeitures collected upon~~
27 ~~conviction or upon forfeiture of bail of any person charged~~

1 with a violation of this section shall be deposited into the
2 State Treasury to the credit of the State General Fund.

3 "(d) (1) Notwithstanding Chapter 27 of Title 15, a
4 person who has been charged with, found not guilty of, or
5 convicted of violating this section may file a petition in the
6 criminal division of any circuit court to expunge records
7 related to the charge, finding, or conviction when the person
8 has not been convicted of any other felony, misdemeanor, or
9 violation, excluding minor traffic violations, during the
10 previous five years.

11 "(2) A petition filed under this section shall
12 include a certified official criminal record obtained from the
13 Alabama Criminal Justice Information Center. The petitioner
14 shall specify what criminal charges from the record are to be
15 considered, specify the agency or department that made the
16 arrest, and specify the court of conviction, if applicable.

17 "(3) The court shall grant the petition if it is
18 reasonably satisfied from the evidence that the petitioner has
19 not been convicted of any other felony, misdemeanor, or
20 violation, excluding minor traffic violations, during the
21 previous five years.

22 "(4) Upon the granting of a petition, the court
23 shall order the expungement of the requested records of the
24 person as provided in Section 15-27-6.

25 "§13A-12-214.

26 "(a) A person commits the crime of unlawful
27 possession of ~~marihuana~~ marijuana in the second degree if,

1 except as otherwise authorized, he or she possesses less than
2 two ounces of marijuana ~~marihuana for his personal use only.~~

3 "(b) Unlawful possession of ~~marihuana~~ marijuana in
4 the second degree is a ~~Class A misdemeanor~~ violation
5 punishable only by a fine not to exceed two hundred fifty
6 dollars (\$250).

7 "(c) A violation of this section alone shall not be
8 accompanied by a charge pursuant to Section 13A-12-260.

9 "(d) All fines and forfeitures collected upon
10 conviction or upon forfeiture of bail of any person charged
11 with a violation of this section shall be deposited into the
12 State Treasury to the credit of the State General Fund.

13 "(e) (1) Notwithstanding Chapter 27 of Title 15, a
14 person who has been charged with, found not guilty of, or
15 convicted of violating this section may file a petition in the
16 criminal division of any circuit court to expunge records
17 related to the charge, finding, or conviction when the person
18 has not been convicted of any other felony, misdemeanor, or
19 violation, excluding minor traffic violations, during the
20 previous five years.

21 "(2) A petition filed under this section shall
22 include a certified official criminal record obtained from the
23 Alabama Criminal Justice Information Center. The petitioner
24 shall specify what criminal charges from the record are to be
25 considered, specify the agency or department that made the
26 arrest, and specify the court of conviction, if applicable.

1 "(3) The court shall grant the petition if it is
2 reasonably satisfied from the evidence that the petitioner has
3 not been convicted of any other felony, misdemeanor, or
4 violation, excluding minor traffic violations, during the
5 previous five years.

6 "(4) Upon the granting of a petition, the court
7 shall order the expungement of the requested records of the
8 person as provided in Section 15-27-6.

9 "§13A-12-218.

10 "(a) A person commits the crime of unlawful
11 manufacture of a controlled substance in the first degree if
12 he or she violates Section 13A-12-217 and two or more of the
13 following conditions occurred in conjunction with that
14 violation:

15 ~~"(1) Possession of a firearm.~~

16 ~~"(2) Use of a booby trap.~~

17 ~~"(3)~~ (1) Illegal possession, transportation, or
18 disposal of hazardous or dangerous materials or while
19 transporting or causing to be transported materials in
20 furtherance of a clandestine laboratory operation, there was
21 created a substantial risk to human health or safety or a
22 danger to the environment.

23 ~~"(4)~~ (2) A clandestine laboratory operation was to
24 take place or did take place within 500 feet of a residence,
25 place of business, church, or school.

26 ~~"(5) A clandestine laboratory operation actually~~
27 ~~produced any amount of a specified controlled substance.~~

1 "~~(6) A clandestine laboratory operation was for the~~
2 ~~production of controlled substances listed in Schedule I or~~
3 ~~Schedule II.~~

4 "~~(7)~~ (3) A person under the age of 17 was present
5 during the manufacturing process.

6 "(b) Unlawful manufacture of a controlled substance
7 in the first degree is a Class A felony.

8 "§40-17A-9.

9 "(a) Any dealer violating this chapter is subject to
10 a penalty of 100 percent of the tax in addition to the tax
11 imposed by Section 40-17A-8. In addition to the tax and
12 penalty imposed, a dealer failing to affix the appropriate
13 stamps, labels, or other indicia is guilty of a Class ~~C felony~~
14 A misdemeanor, and, upon conviction, may be punished as
15 provided in the Alabama Criminal Code. Such penalty shall be
16 cumulative to any other penalty or crime.

17 "(b) Notwithstanding any other provision of the
18 criminal laws of this state, an indictment may be found and
19 filed upon any criminal offense specified in this section, in
20 the proper court within six years after the commission of this
21 offense."

22 Section 3. Section 15-10-1, Code of Alabama 1975, is
23 amended to read as follows:

24 "§15-10-1.

25 "An arrest may be made, under a warrant ~~or~~, without
26 a warrant , or by issuance of a summons, by any sheriff or
27 other officer acting as sheriff or his or her deputy, or by

1 any constable, acting within ~~their~~ his or her respective
2 counties, or by any marshal, deputy marshal, or policeman of
3 any incorporated city or town within the limits of the
4 county."

5 Section 4. Sections 15-20A-7, 15-20A-9, 15-20A-10,
6 15-20A-11, 15-20A-12, 15-20A-13, 15-20A-14, 15-20A-15,
7 15-20A-16, 15-20A-17, 15-20A-18, 15-20A-20, 15-20A-23,
8 15-20A-24, 15-20A-25, 15-20A-27, as last amended by Act
9 2018-528, 2018 Regular Session, Code of Alabama 1975, Section
10 15-20A-29, Code of Alabama 1975, Section 15-20A-30, as last
11 amended by Act 2018-528, 2018 Regular Session, Code of Alabama
12 1975, Sections 15-20A-31, 15-20A-32, 15-20A-34, 15-20A-36,
13 15-20A-37, and 15-20A-39, Code of Alabama 1975, are amended to
14 read as follows:

15 "§15-20A-7.

16 "(a) The following registration information, unless
17 otherwise indicated, shall be provided by the sex offender
18 when registering:

19 "(1) Name, including any aliases, nicknames, ethnic,
20 or tribal names.

21 "(2) Date of birth.

22 "(3) Social Security number.

23 "(4) Address of each residence.

24 "(5) Name and address of any school the sex offender
25 attends or will attend. For purposes of this subdivision, a
26 school includes an educational institution, public or private,

1 including a secondary school, a trade or professional school,
2 or an institution of higher education.

3 "(6) Name and address of any employer where the sex
4 offender works or will work, including any transient or day
5 laborer information.

6 "(7) The license plate number, registration number
7 or identifier, description, and permanent or frequent location
8 where all vehicles are kept for any vehicle used for work or
9 personal use, including land vehicles, aircraft, and
10 watercraft.

11 "(8) Any telephone number used, including land line
12 and cell phone numbers.

13 "(9) Any email addresses or instant message address
14 or identifiers used, including any designations or monikers
15 used for self-identification in Internet communications or
16 postings other than those used exclusively in connection with
17 a lawful commercial transaction.

18 "(10) A current photograph.

19 "(11) A physical description of the sex offender
20 including physical appearance, physical characteristics, and
21 identifying marks such as scars and tattoos.

22 "(12) Fingerprints and palm prints.

23 "(13) A DNA sample. The DNA sample may be collected
24 by the probation officer, sheriff, chief of police, or other
25 responsible agency. Prior to collecting a DNA sample, the
26 responsible agency shall determine if a DNA sample has already
27 been collected for the sex offender by checking the Dru Sjodin

1 National Sex Offender Public Registry website, the Alabama
2 Department of Forensic Sciences DNATracker site, or with the
3 Alabama State Law Enforcement Agency. If a DNA sample has not
4 been previously collected for the sex offender, the
5 responsible agency shall coordinate for the collection of a
6 DNA sample with the sheriff of the county in which the
7 registration is occurring. The collection of a DNA sample
8 should be performed using materials recommended or provided by
9 the Alabama Department of Forensic Sciences. The DNA sample
10 shall be immediately forwarded by the entity collecting the
11 sample to the Department of Forensic Sciences.

12 "(14) A photocopy of the valid driver license or
13 identification card.

14 "(15) A photocopy of any and all passport and
15 immigration documents.

16 "(16) Any professional licensing information that
17 authorizes the sex offender to engage in an occupation or
18 carry out a trade or business.

19 "(17) A full criminal history of the sex offender,
20 including dates of all arrests and convictions, status of
21 parole, probation, or supervised release, registration status,
22 and outstanding arrest warrants.

23 "(18) A list of any and all Internet service
24 providers used by the sex offender.

25 "(19) Any other information deemed necessary by the
26 Secretary of the Alabama State Law Enforcement Agency.

1 "(b) The registering agency is not required to
2 obtain any of the following information each time the sex
3 offender verifies his or her required registration information
4 if the registering agency verifies the information has already
5 been collected and has not been changed or altered:

6 "(1) A current photograph.

7 "(2) Fingerprints or palm prints.

8 "(3) A DNA sample.

9 "(4) A photocopy of the valid driver license or
10 identification card.

11 "(5) A photocopy of any and all passport and
12 immigration documents.

13 "(c) The registration information shall be
14 transmitted to the Alabama State Law Enforcement Agency in a
15 manner determined by the secretary of the department and
16 promulgated in rule by the secretary upon recommendation of an
17 advisory board consisting of representatives of the office of
18 the Attorney General, District Attorneys Association, Chiefs
19 of Police Association, Sheriffs Association, and the Alabama
20 State Law Enforcement Agency. The advisory board members shall
21 not receive any compensation or reimbursement for serving on
22 the advisory board.

23 "(d) The required registration information shall
24 include a form explaining all registration and notification
25 duties, including any requirements and restrictions placed on
26 the sex offender. This form shall be signed and dated by the
27 sex offender. If the sex offender fails to sign the form, the

1 designee of the registering agency shall sign the form stating
2 that the requirements have been explained to the sex offender
3 and that the sex offender refused to sign.

4 "(e) All required registration information shall be
5 stored electronically in a manner determined by the Secretary
6 of the Alabama State Law Enforcement Agency and shall be
7 available in a digitized format by the Alabama State Law
8 Enforcement Agency to anyone entitled to receive the
9 information as provided in Section 15-20A-42.

10 "(f) Any person who knowingly fails to provide the
11 required registration information, or who knowingly provides
12 false information, pursuant to this section shall be guilty of
13 a Class ~~C~~ A misdemeanor.

14 "§15-20A-9.

15 "(a) At least 30 days prior to release, or
16 immediately upon notice of release if release is less than 30
17 days, of an adult sex offender from the county jail, municipal
18 jail, Department of Corrections, or any other facility that
19 has incarcerated the adult sex offender, or immediately upon
20 conviction, if the adult sex offender is not incarcerated:

21 "(1) The responsible agency shall inform the adult
22 sex offender of his or her duty to register and, instruct the
23 adult sex offender to read and sign a form stating that the
24 duty to register has been explained. The adult sex offender
25 shall sign the form stating that the duty to register has been
26 explained and shall provide the required registration
27 information. If the adult sex offender refuses to sign the

1 form, the designee of the responsible agency shall sign the
2 form stating that the requirements have been explained to the
3 adult sex offender and that the adult sex offender refused to
4 sign.

5 "(2) If the adult sex offender declares his or her
6 intent to reside within this state, the responsible agency
7 shall immediately notify and provide the required registration
8 information to the Alabama State Law Enforcement Agency, the
9 Attorney General, the district attorney in the county of
10 conviction, and local law enforcement where the adult sex
11 offender intends to reside. The notification shall also
12 include any other information available to the responsible
13 agency which would be necessary to identify and trace the
14 adult sex offender, including, but not limited to, each sex
15 offense history or a copy of the pre-sentence investigation of
16 the sex offense and the release date of the adult sex
17 offender.

18 "(3) If the adult sex offender declares his or her
19 intent to reside outside of the state, the responsible agency
20 shall immediately notify and provide the required registration
21 information to the Alabama State Law Enforcement Agency, the
22 Attorney General, the district attorney in the county of
23 conviction, and the designated state law enforcement agency of
24 the state to which the adult sex offender has declared his or
25 her intent to reside. The notification shall also include any
26 other information available to the responsible agency which
27 would be necessary to identify and trace the adult sex

1 offender, including, but not limited to, each sex offense
2 history or a copy of the pre-sentence investigation of the sex
3 offense and the release date of the sex offender.

4 "(4) If an adult sex offender is not able to provide
5 a residence prior to the time of release, then the responsible
6 agency shall notify the sheriff of the county where the last
7 conviction for a sex offense or violation of this chapter took
8 place at least five days prior to the release of the adult sex
9 offender. Upon notice of the release date from the responsible
10 agency, the sheriff of the county of the last conviction for a
11 sex offense or a violation of this chapter shall make
12 arrangements to have the adult sex offender immediately
13 remanded to his or her custody to register in accordance with
14 Section 15-20A-10 at the time of release.

15 "(5) Any adult sex offender who is due to be
16 released due to the expiration of his or her sentence and who
17 refuses to provide the required registration information shall
18 be treated as follows:

19 "a. If the adult sex offender has not accumulated
20 any incentive time pursuant to Section 14-9-41 or any other
21 law, he or she shall be charged with violating this section.
22 At least five days prior to his or her release date, the
23 Department of Corrections shall notify the sheriff in the
24 county where the last conviction for a sex offense or
25 violation of this chapter took place, which county shall be
26 the proper venue for arrest and prosecution of violation of
27 this section. Upon notice of the release date, the sheriff

1 from the county of the last conviction for a sex offense or
2 violation of this chapter shall make arrangements to have the
3 adult sex offender immediately remanded to his or her custody
4 at the time of release. Any adult sex offender charged with
5 violating this section may only be released on bond on the
6 condition that the adult sex offender is in compliance with
7 this section before being released.

8 "b. If the adult sex offender has accumulated
9 correctional incentive time pursuant to Section 14-9-41 or any
10 other law, the adult sex offender shall be charged with
11 non-compliance with this section and shall not be allowed
12 early release, but instead shall forfeit all correctional
13 incentive time that has accrued pursuant to Section 14-9-41,
14 or other good time allowed by law.

15 "(b) An adult sex offender who knowingly fails to
16 comply with this section by failing to provide the required
17 registration information shall be guilty of a Class ~~C~~ felony A
18 misdemeanor.

19 "§15-20A-10.

20 "(a) (1) Immediately upon release from incarceration,
21 or immediately upon conviction if the adult sex offender is
22 not incarcerated, the adult sex offender shall appear in
23 person and register all required registration information with
24 local law enforcement in each county in which the adult sex
25 offender resides or intends to reside, accepts or intends to
26 accept employment, accepts or intends to accept a volunteer
27 position, and begins or intends to begin school attendance.

1 "(2) An adult sex offender who registers pursuant to
2 subdivision (1) shall have seven days from release to comply
3 with the residence restrictions pursuant to subsection (a) of
4 Section 15-20A-11.

5 "(b) Immediately upon establishing a new residence,
6 accepting employment, accepting a volunteer position, or
7 beginning school attendance, the adult sex offender shall
8 appear in person to register with local law enforcement in
9 each county in which the adult sex offender establishes a
10 residence, accepts employment, accepts a volunteer position,
11 or begins school attendance.

12 "(c) (1) Immediately upon transferring or terminating
13 any residence, employment, or school attendance, the adult sex
14 offender shall appear in person to notify local law
15 enforcement in each county in which the adult sex offender is
16 transferring or terminating residence, employment, or school
17 attendance.

18 "(2) Whenever a sex offender transfers his or her
19 residence, as provided in subdivision (1) from one county to
20 another county, the sheriff of the county from which the sex
21 offender is transferring his or her residence shall
22 immediately notify local law enforcement in the county in
23 which the sex offender intends to reside. If a sex offender
24 transfers his or her residence, as provided in subdivision (1)
25 from one county to another jurisdiction, the sheriff of the
26 county from which the sex offender is transferring his or her
27 residence shall immediately notify the chief law enforcement

1 agency in the jurisdiction in which the sex offender intends
2 to reside.

3 "(d) Immediately upon any name change, the adult sex
4 offender shall immediately appear in person to update the
5 information with local law enforcement in each county in which
6 the adult sex offender is required to register.

7 "(e) (1) Upon changing any required registration
8 information, including by transferring or terminating a
9 residence the adult sex offender shall immediately appear in
10 person and update the information with local law enforcement
11 in each county in which the adult sex offender resides.

12 Provided, however, any changes in telephone numbers, email
13 addresses, instant message addresses, or other on-line
14 identifiers or Internet service providers may be reported to
15 local law enforcement in person, electronically, or
16 telephonically as required by the local law enforcement
17 agency.

18 "(2) Notwithstanding any other provision of law
19 regarding the establishment of residence, an adult sex
20 offender has transferred or terminated his or her residence
21 for purposes of subdivision (1) whenever the adult sex
22 offender vacates his or her residence or fails to spend three
23 or more consecutive days at his or her residence without
24 previously notifying local law enforcement or completing a
25 travel notification document pursuant to Section 15-20A-15.

26 "(f) An adult sex offender shall appear in person to
27 verify all required registration information during the adult

1 sex offender's birth month and every three months thereafter,
2 regardless of the month of conviction, for the duration of the
3 adult sex offender's life with local law enforcement in each
4 county in which the adult sex offender resides.

5 "(g) At the time of registration, the adult sex
6 offender shall be provided a form explaining any and all
7 duties and restrictions placed on the adult sex offender. The
8 adult sex offender shall read and sign this form stating that
9 he or she understands the duties and restrictions imposed by
10 this chapter. If the adult sex offender refuses to sign the
11 form, the designee of the registering agency shall sign the
12 form stating that the requirements have been explained to the
13 adult sex offender and that the adult sex offender refused to
14 sign.

15 "(h) For purposes of this section, a school includes
16 an educational institution, public or private, including a
17 secondary school, a trade or professional school, or an
18 institution of higher education.

19 "(i) If an adult sex offender was convicted and
20 required to register prior to July 1, 2011, then the adult sex
21 offender shall begin quarterly registration after his or her
22 next biannual required registration date.

23 "(j) Any person who knowingly violates this section
24 shall be guilty of a Class ~~C~~ A misdemeanor.

25 "§15-20A-11.

26 "(a) No adult sex offender shall establish a
27 residence or maintain a residence after release or conviction

1 within 2,000 feet of the property on which any school,
2 childcare facility, or resident camp facility is located
3 unless otherwise exempted pursuant to Sections 15-20A-23 and
4 15-20A-24. For the purposes of this section, a resident camp
5 facility includes any place, area, parcel, or tract of land
6 which contains permanent or semi-permanent facilities for
7 sleeping owned by a business, church, or nonprofit
8 organization used primarily for educational, recreational, or
9 religious purposes for minors and the location of the resident
10 camp has been provided to local law enforcement. Resident camp
11 does not include a private residence, farm, or hunting or
12 fishing camp.

13 "(b) No adult sex offender shall establish a
14 residence or maintain a residence after release or conviction
15 within 2,000 feet of the property on which his or her former
16 victim, or an immediate family member of the victim, resides
17 unless otherwise exempted pursuant to Section 15-20A-24 or
18 Section 15-20A-16.

19 "(c) Changes to property within 2,000 feet of a
20 registered address of an adult sex offender which occur after
21 the adult sex offender establishes residency shall not form
22 the basis for finding that the adult sex offender is in
23 violation of this section unless the sex offender has been
24 released or convicted of a new offense after establishing
25 residency.

26 "(d) No adult sex offender shall reside or conduct
27 an overnight visit with a minor. Notwithstanding the

1 foregoing, an adult sex offender may reside with a minor if
2 the adult sex offender is the parent, grandparent, stepparent,
3 sibling, or stepsibling of the minor, unless one of the
4 following conditions applies:

5 "(1) Parental rights of the adult sex offender have
6 been or are in the process of being terminated as provided by
7 law.

8 "(2) The adult sex offender has been convicted of
9 any sex offense in which any of the minor children,
10 grandchildren, stepchildren, siblings, or stepsiblings of the
11 adult sex offender was the victim.

12 "(3) The adult sex offender has been convicted of
13 any sex offense in which a minor was the victim and the minor
14 resided or lived with the adult sex offender at the time of
15 the offense.

16 "(4) The adult sex offender has been convicted of
17 any sex offense involving a child, regardless of whether the
18 adult sex offender was related to or shared a residence with
19 the child victim.

20 "(5) The adult sex offender has been convicted of
21 any sex offense involving forcible compulsion in which the
22 victim was a minor.

23 "(e) (1) Notwithstanding any other provision of law
24 regarding establishment of residence, an adult sex offender
25 shall be deemed to have established a residence wherever he or
26 she resides following release, regardless of whether the adult

1 sex offender resided at the same location prior to the time of
2 conviction.

3 "(2) Notwithstanding any other provision of law
4 regarding establishment of residence, an adult sex offender
5 has transferred his or her residence for purposes of Section
6 15-20A-10(e)(1) whenever the adult sex offender vacates his or
7 her residence or fails to spend three or more consecutive days
8 at his or her residence without previously notifying local law
9 enforcement or obtaining a travel notification document
10 pursuant to Section 15-20A-15.

11 "(f) An adult sex offender is exempt from
12 subsections (a) and (b) during the time the adult sex offender
13 is in the facility of a licensed health care provider or is
14 incarcerated in a jail, prison, mental health facility, or any
15 other correctional placement facility wherein the adult sex
16 offender is not allowed unsupervised access to the public.

17 "(g) An adult sex offender shall not be found in
18 violation of subsection (a) on the basis of any address,
19 street number, place, or parcel that has been approved in
20 writing by local law enforcement prior to establishing a
21 residence. Local law enforcement shall promulgate, publicize,
22 and enforce a policy that affords sex offenders a reasonable
23 opportunity to obtain preapproval of a proposed residence.

24 "(h) For the purposes of this section, the
25 2,000-foot measurement shall be taken in a straight line from
26 nearest property line to nearest property line.

1 "(i) Any person who knowingly violates this section
2 shall be guilty of a Class ~~C~~-felony A misdemeanor.

3 "§15-20A-12.

4 "(a) An adult sex offender who no longer has a fixed
5 residence shall be considered homeless and shall appear in
6 person and report such change in fixed residence to local law
7 enforcement where he or she is located immediately upon such
8 change in fixed residence.

9 "(b) In addition to complying with the registration
10 and verification requirements pursuant to Section 15-20A-10, a
11 homeless adult sex offender who lacks a fixed residence, or
12 who does not provide an address at a fixed residence at the
13 time of release or registration, shall report in person once
14 every seven days to law enforcement agency where he or she
15 resides. If the sex offender resides within the city limits of
16 a municipality, he or she shall report to the chief of police.
17 If the adult sex offender resides outside of the city limits
18 of a municipality he or she shall report to the sheriff of the
19 county. The weekly report shall be on a day specified by local
20 law enforcement and shall occur during normal business hours.

21 "(c) A homeless adult sex offender who lacks a fixed
22 address shall comply with the residence restrictions set forth
23 in Section 15-20A-11.

24 "(d) (1) Each time a homeless adult sex offender
25 reports under this section, he or she shall provide all of the
26 following information:

27 "a. Name.

1 "b. Date of birth.

2 "c. Social Security number.

3 "d. A detailed description of the location or
4 locations where he or she has resided during the week.

5 "e. A list of the locations where he or she plans to
6 reside in the upcoming week with as much specificity as
7 possible.

8 "(2) The registering agency is not required to
9 obtain the remaining required registration information from
10 the homeless adult sex offender each time he or she reports to
11 the registering agency unless the homeless adult sex offender
12 has any changes to the remaining required registration
13 information.

14 "(e) If an adult sex offender who was homeless
15 obtains a fixed residence in compliance with the provisions of
16 Section 15-20A-11, the adult sex offender shall immediately
17 appear in person to update the information with local law
18 enforcement in each county of residence.

19 "(f) Any person who knowingly violates this section
20 shall be guilty of a Class ~~C felony~~ A misdemeanor.

21 "§15-20A-13.

22 "(a) No adult sex offender shall accept or maintain
23 employment or a volunteer position at any school, childcare
24 facility, mobile vending business that provides services
25 primarily to children, or any other business or organization
26 that provides services primarily to children, or any amusement
27 or water park.

1 "(b) No adult sex offender shall accept or maintain
2 employment or a volunteer position within 2,000 feet of the
3 property on which a school or childcare facility is located
4 unless otherwise exempted pursuant to Sections 15-20A-24 and
5 15-20A-25.

6 "(c) No adult sex offender, after having been
7 convicted of a sex offense involving a child, shall accept or
8 maintain employment or a volunteer position within 500 feet of
9 a playground, park, athletic field or facility, or any other
10 business or facility having a principal purpose of caring for,
11 educating, or entertaining minors.

12 "(d) Changes to property within 2,000 feet of an
13 adult sex offender's place of employment which occur after an
14 adult sex offender accepts employment shall not form the basis
15 for finding that an adult sex offender is in violation of this
16 section.

17 "(e) It shall be unlawful for the owner or operator
18 of any childcare facility or any other organization that
19 provides services primarily to children to knowingly provide
20 employment or a volunteer position to an adult sex offender.

21 "(f) For purposes of this section, the 2,000-foot
22 measurement shall be taken in a straight line from nearest
23 property line to nearest property line.

24 "(g) Any person who knowingly violates this section
25 shall be guilty of a Class ~~C~~ A misdemeanor.

26 "§15-20A-14.

1 "(a) Any adult sex offender who declares he or she
2 is entering the state to establish a residence or who enters
3 this state to establish a residence shall immediately appear
4 in person and register all required registration information
5 with local law enforcement in the county where the adult sex
6 offender intends to establish or establishes a residence.

7 "(b) Any adult sex offender who enters this state to
8 accept employment or a volunteer position or to become a
9 student shall immediately appear in person and register all
10 required registration information with local law enforcement
11 in the county where the adult sex offender accepts employment
12 or the volunteer position or becomes a student.

13 "(c) Whenever an adult sex offender registers
14 pursuant to this section, he or she shall be subject to the
15 requirements of this chapter.

16 "(d) Within 30 days of initial registration, the
17 adult sex offender shall provide each registering agency with
18 a certified copy of his or her sex offense conviction;
19 however, an adult sex offender shall be exempt from this
20 subsection if the adult sex offender provides adequate
21 documentation that the certified record is no longer available
22 or has been destroyed.

23 "(e) Any person who knowingly violates this section
24 shall be guilty of a Class ~~C~~ A misdemeanor.

25 "§15-20A-15.

26 "(a) Immediately before an adult sex offender
27 temporarily leaves his or her county of residence for a period

1 of three or more consecutive days, the adult sex offender
2 shall report in person to the sheriff in each county of
3 residence and complete and sign a travel notification
4 document.

5 "(b) The travel notification document shall be a
6 form prescribed by the Alabama State Law Enforcement Agency to
7 collect dates of travel, the intended destination or
8 destinations, temporary lodging information, and any other
9 information reasonably necessary to monitor a sex offender who
10 plans to travel.

11 "(c) If a sex offender intends to travel to another
12 country, he or she shall report in person to the sheriff in
13 each county of residence and complete a travel notification
14 document at least 21 days prior to such travel. If the travel
15 to another country is for a family or personal medical
16 emergency or a death in the family, then the sex offender
17 shall report in person to the sheriff in each county of
18 residence immediately prior to travel. Any information
19 reported to the sheriff in each county of residence shall
20 immediately be reported to the United States Marshals Service
21 and the Alabama State Law Enforcement Agency.

22 "(d) The travel notification document shall explain
23 the duties of the adult sex offender regarding travel as
24 prescribed by the Alabama State Law Enforcement Agency and a
25 certification that the adult sex offender understands the
26 duties required of him or her and that the information he or
27 she provided on the travel notification document is true and

1 correct. No sex offender shall provide false information on
2 the travel notification document.

3 "(e) The sheriff in each county of residence shall
4 immediately notify local law enforcement in the county or the
5 jurisdiction to which the adult sex offender will be
6 traveling.

7 "(f) Upon return to the county of residence, the
8 adult sex offender shall immediately report to the sheriff in
9 each county of residence.

10 "(g) All completed travel notification documents
11 shall be included with the adult sex offender's required
12 registration information.

13 "(h) Any person who knowingly violates this section
14 shall be guilty of a Class ~~C felony~~ A misdemeanor.

15 "§15-20A-16.

16 "(a) No adult sex offender shall contact, directly
17 or indirectly, in person or through others, by phone, mail, or
18 electronic means, any former victim.

19 "(b) No adult sex offender shall knowingly come
20 within 100 feet of a former victim.

21 "(c) No sex offender shall make any harassing
22 communication, directly or indirectly, in person or through
23 others, by phone, mail, or electronic means to the victim or
24 any immediate family member of the victim.

25 "(d) A petition to exclude an adult sex offender
26 from the requirements of subsections (a) and (b) of this
27 section and Section 15-20A-11(b) may be filed in accordance

1 with the requirements of Section 15-20A-24(c). The court shall
2 conduct a hearing and shall exclude an adult sex offender from
3 the provisions of this section provided that:

4 "(1) The victim appears in court at the time of the
5 hearing and requests the exemption in writing in open court.

6 "(2) The court finds by clear and convincing
7 evidence that the victim's court appearance and written
8 request pursuant to subdivision (1) were made voluntarily.

9 "(3) The victim is over the age of 19 at the time of
10 the request.

11 "(4) The district attorney or prosecuting attorney
12 shall be notified of the hearing and shall have the right to
13 be present and heard.

14 "(e) Notwithstanding any state or local law or rule
15 assigning costs and fees for filing and processing civil and
16 criminal cases a petition filed shall be assessed a filing fee
17 in the amount of two hundred dollars (\$200) to be distributed
18 as provided in Section 15-20A-46.

19 "(f) Any person who knowingly violates this section
20 shall be guilty of a Class ~~C~~ A misdemeanor.

21 "§15-20A-17.

22 "(a) (1) No adult sex offender, after having been
23 convicted of a sex offense involving a minor, shall loiter on
24 or within 500 feet of the property line of any property on
25 which there is a school, childcare facility, playground, park,
26 athletic field or facility, school bus stop, college or
27 university, or any other business or facility having a

1 principal purpose of caring for, educating, or entertaining
2 minors.

3 "(2) Under this subsection, loiter means to enter or
4 remain on property while having no legitimate purpose or, if a
5 legitimate purpose exists, remaining on that property beyond
6 the time necessary to fulfill that purpose. An adult sex
7 offender does not violate this subsection unless he or she has
8 first been asked to leave a prohibited location by a person
9 authorized to exclude the adult sex offender from the
10 premises. An authorized person includes, but is not limited
11 to, any law enforcement officer, security officer, any owner
12 or manager of the premises, a principal, teacher, or school
13 bus driver if the premises is a school, childcare facility, or
14 bus stop, a coach, if the premises is an athletic field or
15 facility, or any person designated with that authority.

16 "(3) For purposes of this subsection, a school bus
17 stop is any location where a motor vehicle owned or operated
18 by or on behalf of a public or private school stops on a
19 regular basis for the purpose of transporting children to and
20 from school.

21 "(b) (1) No adult sex offender, after having been
22 convicted of a sex offense involving a minor, shall enter onto
23 the property of a K-12 school while school is in session or
24 attend any K-12 school activity unless the adult sex offender
25 does all of the following:

1 "a. Notifies the principal of the school, or his or
2 her designee, before entering onto the property or attending
3 the K-12 school activity.

4 "b. Immediately reports to the principal of the
5 school, or his or her designee, upon entering the property or
6 arriving at the K-12 school activity.

7 "c. Complies with any procedures established by the
8 school to monitor the whereabouts of the sex offender for the
9 duration of his or her presence on the school property or
10 attendance at the K-12 school activity. For a public K-12
11 school, the local school board shall adopt a policy to
12 effectuate this section.

13 "(2) Procedures established to effectuate this
14 subsection are limited to rules that allow the principal of
15 the school, or his or her designee, to discreetly monitor the
16 adult sex offender.

17 "(3) For the purposes of this subsection, a K-12
18 school activity is an activity sponsored by a school in which
19 students in grades K-12 are the primary intended participants
20 or for whom students in grades K-12 are the primary intended
21 audience including, but not limited to, school instructional
22 time, after school care, after school tutoring, athletic
23 events, field trips, school plays, or assemblies.

24 "(c) Any person who knowingly violates subsection
25 (a) or subsection (b) shall be guilty of a Class ~~C~~ felony A
26 misdemeanor.

27 "§15-20A-18.

1 "(a) Every adult sex offender who is a resident of
2 this state shall obtain from the Alabama State Law Enforcement
3 Agency, and always have in his or her possession, a valid
4 driver license or identification card issued by the Alabama
5 State Law Enforcement Agency. If any adult sex offender is
6 ineligible to be issued a driver license or official
7 identification card, the Alabama State Law Enforcement Agency
8 shall provide the adult sex offender some other form of
9 identification card or documentation that, if it is kept in
10 the possession of the adult sex offender, shall satisfy the
11 requirements of this section. If any adult sex offender is
12 determined to be indigent, an identification card, or other
13 form of identification or documentation that satisfies the
14 requirements of this section, shall be issued to the adult sex
15 offender at no cost. Indigence shall be determined by order of
16 the court prior to each issuance of a driver license or
17 identification card.

18 "(b) The adult sex offender shall obtain from the
19 Alabama State Law Enforcement Agency a valid driver license or
20 identification card bearing a designation that enables law
21 enforcement officers to identify the licensee as a sex
22 offender within 14 days of his or her initial registration
23 following release, initial registration upon entering the
24 state to become a resident, or immediately following his or
25 her next registration after July 1, 2011.

26 "(c) Whenever the Alabama State Law Enforcement
27 Agency issues or renews a driver license or identification

1 card to an adult sex offender, the driver license or
2 identification card shall bear a designation that, at a
3 minimum, enables law enforcement officers to identify the
4 licensee as a sex offender.

5 "(d) Upon obtaining or renewing a driver license or
6 identification card bearing a designation that enables law
7 enforcement officers to identify the licensee as a sex
8 offender, the adult sex offender shall relinquish to the
9 Alabama State Law Enforcement Agency any other driver license
10 or identification card previously issued to him or her by a
11 state motor vehicle agency which does not bear any designation
12 enabling law enforcement officers to identify the licensee as
13 a sex offender. Nothing in this section shall require an adult
14 sex offender to relinquish, or preclude an adult sex offender
15 from possessing, any form of identification issued to him or
16 her by an entity other than a state motor vehicle agency,
17 including, but not limited to, the United States, a federal
18 department or agency, a municipal or county government entity,
19 an educational institution, or a private employer.

20 "(e) No adult sex offender shall mutilate, mar,
21 change, reproduce, alter, deface, disfigure, or otherwise
22 change the form of any driver license or identification card
23 which is issued to the adult sex offender by the Alabama State
24 Law Enforcement Agency and which bears any designation
25 enabling law enforcement officers to identify the licensee as
26 a sex offender. An adult sex offender having in his or her
27 possession a driver license or identification card issued to

1 him or her by the Alabama State Law Enforcement Agency bearing
2 any designation enabling law enforcement officers to identify
3 the licensee as a sex offender which has been mutilated,
4 marred, changed, reproduced, altered, defaced, disfigured, or
5 otherwise changed shall be prima facie evidence that he or she
6 has violated this section.

7 "(f) Any person who knowingly violates this section
8 shall be guilty of a Class ~~C~~-felony A misdemeanor.

9 "§15-20A-20.

10 "(a) The Alabama State Law Enforcement Agency shall
11 implement a system of active and passive electronic monitoring
12 that identifies the location of a monitored person and that
13 can produce upon request reports or records of the person's
14 presence near or within a crime scene or prohibited area, the
15 person's departure from specified geographic limitations, or
16 curfew violations by the offender. The Director of the Alabama
17 State Law Enforcement Agency may promulgate any rules as are
18 necessary to implement and administer this system of active
19 electronic monitoring including establishing policies and
20 procedures to notify the person's probation and parole officer
21 or other court-appointed supervising authority when a
22 violation of his or her electronic monitoring restrictions has
23 occurred.

24 "(b) The Board of Pardons and Paroles or a court may
25 require, as a condition of release on parole, probation,
26 community corrections, court referral officer supervision,
27 pretrial release, or any other community-based punishment

1 option, that any person charged or convicted of a sex offense
2 be subject to electronic monitoring as provided in subsection
3 (a).

4 "(c) Any person designated a sexually violent
5 predator pursuant to Section 15-20A-19, upon release from
6 incarceration, shall be subject to electronic monitoring
7 supervised by the Board of Pardons and Paroles, as provided in
8 subsection (a), for a period of no less than 10 years from the
9 date of the sexually violent predator's release. This
10 requirement shall be imposed by the sentencing court as a part
11 of the sentence of the sexually violent predator in accordance
12 with subsection (c) of Section 13A-5-6.

13 "(d) Any person convicted of a Class A felony sex
14 offense involving a child as defined in Section 15-20A-4, upon
15 release from incarceration, shall be subject to electronic
16 monitoring supervised by the Board of Pardons and Paroles, as
17 provided in subsection (a), for a period of no less than 10
18 years from the date of the sex offender's release. This
19 requirement shall be imposed by the sentencing court as a part
20 of the sex offender's sentence in accordance with subsection
21 (c) of Section 13A-5-6.

22 "(e) Anyone subject to electronic monitoring
23 pursuant to this section, unless he or she is indigent, shall
24 be required to reimburse the supervising entity a reasonable
25 fee to defray supervision costs. The Board of Pardons and
26 Paroles, the sentencing court, or other supervising entity
27 shall determine the amount to be paid based on the financial

1 means and ability to pay of the person, but such amount shall
2 not exceed fifteen dollars (\$15) per day.

3 "(f) The supervising entity shall pay the Alabama
4 State Law Enforcement Agency a fee, to be determined by the
5 center, but not exceeding ten dollars (\$10) per day, to defray
6 monitoring equipment and telecommunications costs.

7 "(g) It shall constitute a Class ~~C~~ A
8 misdemeanor for any person to knowingly alter, disable,
9 deactivate, tamper with, remove, damage, or destroy any device
10 used to facilitate electronic monitoring under this section.

11 "(h) The procurement of any product or services
12 necessary for compliance with Act 2005-301, including any
13 system of electronic monitoring, any equipment, and the
14 building of a website, shall be subject to the competitive bid
15 process.

16 "§15-20A-23.

17 "(a) A sex offender required to register under this
18 chapter may petition the court for relief from the residency
19 restriction pursuant to subsection (a) of Section 15-20A-11
20 during the time a sex offender is terminally ill or
21 permanently immobile, or the sex offender has a debilitating
22 medical condition requiring substantial care or supervision or
23 requires placement in a residential health care facility.

24 "(b) A petition for relief pursuant to this section
25 shall be filed in the civil division of the circuit court of
26 the county in which the sex offender seeks relief from the
27 residency restriction.

1 "(c) The sex offender shall serve a copy of the
2 petition by certified mail on all of the following:

3 "(1) The prosecuting attorney in the county of
4 adjudication or conviction, if the sex offender was
5 adjudicated or convicted in this state.

6 "(2) The prosecuting attorney of the county where
7 the sex offender seeks relief from the residency restriction.

8 "(3) Local law enforcement where the sex offender
9 was adjudicated or convicted if the sex offender was
10 adjudicated or convicted in this state.

11 "(4) Local law enforcement where the adult sex
12 offender seeks relief from the residency restriction.

13 "(d) The petition and documentation to support the
14 request for relief shall include all of the following:

15 "(1) A certified copy of the adjudication or
16 conviction requiring registration, including a detailed
17 description of the sex offense.

18 "(2) A list of each county, municipality, and
19 jurisdiction where the sex offender is required to register or
20 has ever been required to register.

21 "(3) The sex offender's criminal record and an
22 affidavit stating that the sex offender has no pending
23 criminal charges.

24 "(4) Notarized documentation of the sex offender's
25 condition by his or her medical provider.

1 "(5) A release allowing the prosecuting attorney or
2 the court to obtain any other medical records or documentation
3 relevant to the petition.

4 "(6) Any other information requested by the court
5 relevant to the petition.

6 "(e) Upon notification of the petition, the
7 prosecuting attorney shall make reasonable efforts to notify
8 the victim of the crime for which the sex offender is required
9 to register of the petition and the dates and times of any
10 hearings or other proceedings in connection with the petition.

11 "(f) The court shall hold a hearing within 30 days
12 of the filing of the petition. Upon request of the prosecuting
13 attorney, and for good cause shown, the hearing may be
14 continued to allow the prosecuting attorney to obtain any
15 relevant records pertinent to the hearing. At the hearing the
16 prosecuting attorney and the victim shall have the opportunity
17 to be heard.

18 "(g) The court shall issue an order releasing the
19 sex offender from the residency restrictions pursuant to
20 subsection (a) of Section 15-20A-11 if the court finds by
21 clear and convincing evidence that the sex offender (1) is
22 terminally ill, permanently immobile, has a debilitating
23 medical condition requiring substantial care or supervision,
24 or requires placement in a residential health care facility
25 and (2) does not pose a substantial risk of perpetrating any
26 future sexual offense. The court may relieve a sex offender

1 from any residency restrictions indefinitely or for a specific
2 period of time.

3 "(h) The court shall send a copy of any order
4 releasing a sex offender from residency restrictions pursuant
5 to subsection (a) of Section 15-20A-11 to the prosecuting
6 attorney and the Alabama State Law Enforcement Agency.

7 "(i) If the court finds that the sex offender still
8 poses a risk, has provided false or misleading information in
9 support of the petition, or failed to serve the petition and
10 supporting documentation upon the parties as provided for in
11 subsection (c), then the petition shall be denied.

12 "(j) If the petition for release is denied, the sex
13 offender may not file a subsequent petition for at least 12
14 months from the date of the final order on the previous
15 petition unless good cause is shown and the sex offender's
16 mental or physical condition has severely changed.

17 "(k) If at any time the sex offender is no longer
18 terminally ill, permanently immobile, or no longer suffers
19 from a debilitating medical condition requiring substantial
20 care or supervision or no longer requires placement in a
21 residential health care facility, the sex offender shall
22 immediately register in person with local law enforcement in
23 each county of residence, update all required registration
24 information, and comply with the residency restriction
25 pursuant to subsection (a) of Section 15-20A-11.

26 "(l) No sex offender petitioning the court under
27 this section for an order terminating the sex offender's

1 obligation to comply with the residency restrictions is
2 entitled to publicly funded experts or publicly funded
3 witnesses.

4 "(m) Upon request of the state, the court may
5 reinstate the restrictions pursuant to subsection (a) of
6 Section 15-20A-11 for good cause shown, including, but not
7 limited to, whenever the grounds for a relief order issued
8 pursuant to subsection (g) are revealed to be false or no
9 longer true. No filing fee may be assessed for a petition
10 filed under this subsection.

11 "(n) Notwithstanding any state or local rule
12 assigning costs and fees for filing and processing civil and
13 criminal cases, a sex offender's petition under this section
14 shall be assessed a filing fee in the amount of two hundred
15 dollars (\$200) to be distributed as provided in Section
16 15-20A-46. The filing fee may be waived initially and taxed as
17 costs at the conclusion of the case if the court finds that
18 payment of the fee will constitute a substantial hardship. A
19 verified statement of substantial hardship, signed by the sex
20 offender and approved by the court, shall be filed with the
21 clerk of court.

22 "(o) If a sex offender seeks relief from the court
23 pursuant to this section, the enforcement of this chapter
24 shall not be stayed pending a ruling of the court.

25 "(p) A person who knowingly provides false or
26 misleading information pursuant to this section shall be
27 guilty of a Class ~~C~~ A misdemeanor.

1 "§15-20A-24.

2 "(a) At disposition, sentencing, upon completion of
3 probation, or upon completion of a term of registration
4 ordered by the sentencing court, a sex offender may petition
5 the court for relief from the requirements of this chapter
6 resulting from any of the following offenses, provided that he
7 or she meets the requirements set forth in subsection (b):

8 "(1) Rape in the second degree, as provided by
9 subdivision (1) of subsection (a) of Section 13A-6-62.

10 "(2) Sodomy in the second degree, as provided by
11 subdivision (1) of subsection (a) of Section 13A-6-64.

12 "(3) Sexual abuse in the second degree, as provided
13 by subdivision (2) of subsection (a) of Section 13A-6-67.

14 "(4) Sexual misconduct, as provided by Section
15 13A-6-65.

16 "(5) Any crime committed in this state or any other
17 jurisdiction which, if had been committed in this state under
18 the current provisions of law, would constitute an offense
19 listed in subdivisions (1) to (4), inclusive.

20 "(6) Any solicitation, attempt, or conspiracy to
21 commit any of the offenses listed in subdivisions (1) to (5),
22 inclusive.

23 "(b) The sex offender shall prove by clear and
24 convincing evidence all of the following to obtain relief
25 under this section:

26 "(1) The sex offense did not involve force and was
27 only a crime due to the age of the victim.

1 "(2) At the time of the commission of the sex
2 offense, the victim was 13 years of age or older.

3 "(3) At the time of the commission of the sex
4 offense, the sex offender was less than five years older than
5 the victim.

6 "(c) If the petition for relief is filed after
7 sentencing or disposition, the petition for relief shall be
8 filed as follows:

9 "(1) If the adult or youthful offender sex offender
10 was adjudicated or convicted in this state, the petition for
11 relief shall be filed in the civil division of the circuit
12 court where the adult or youthful offender sex offender was
13 adjudicated or convicted.

14 "(2) If the adult or youthful offender sex offender
15 was adjudicated or convicted in a jurisdiction outside of this
16 state, the petition for relief shall be filed in the civil
17 division of the circuit court in the county in which the adult
18 or youthful offender sex offender resides.

19 "(3) If the juvenile sex offender was adjudicated in
20 this state, the petition for relief shall be filed in the
21 juvenile court.

22 "(4) If the juvenile sex offender was adjudicated in
23 a jurisdiction outside of this state, the petition for relief
24 shall be filed in the juvenile court in the county in which
25 the juvenile sex offender resides.

26 "(d) (1) The sex offender shall serve a copy of the
27 petition by certified mail on all of the following:

1 "a. The prosecuting attorney in the county of
2 adjudication or conviction, if the sex offender was
3 adjudicated or convicted in this state.

4 "b. The prosecuting attorney of the county where the
5 sex offender resides.

6 "c. Local law enforcement where the sex offender was
7 adjudicated or convicted, if the sex offender was adjudicated
8 or convicted in this state.

9 "d. Local law enforcement where the adult sex
10 offender resides.

11 "(2) Failure of the sex offender to serve a copy of
12 the petition as required by this subsection shall result in an
13 automatic denial of the petition.

14 "(e) The petition and documentation to support the
15 request for relief shall include all of the following:

16 "(1) The offense that the sex offender was initially
17 charged with and the offense that the sex offender was
18 adjudicated or convicted of, if different.

19 "(2) A certified copy of the adjudication or
20 conviction requiring registration including a detailed
21 description of the sex offense, if the petition is filed upon
22 completion of probation or a term of registration.

23 "(3) Proof of the age of the victim and the age of
24 the sex offender at the time of the commission of the sex
25 offense.

26 "(4) A list of each registering agency in each
27 county and jurisdiction in which the sex offender is required

1 to or has ever been required to register, if the petition is
2 filed upon completion of probation or a term of registration.

3 "(5) The sex offender's criminal record and an
4 affidavit stating that the sex offender has no pending
5 criminal charges.

6 "(6) Any other information requested by the court
7 relevant to the request for relief.

8 "(f) Upon notification of the petition, the
9 prosecuting attorney shall make reasonable efforts to notify
10 the victim of the crime for which the sex offender is required
11 to register of the petition and the dates and times of any
12 hearings or other proceedings in connection with the petition.

13 "(g) The court shall hold a hearing prior to ruling
14 on the petition. At the hearing, the prosecuting attorney and
15 the victim shall have the opportunity to be heard.

16 "(h) The court shall issue an order releasing the
17 sex offender from some or all requirements of this chapter
18 pursuant to subsection (i) if the court finds by clear and
19 convincing evidence that the sex offender does not pose a
20 substantial risk of perpetrating any future sex offense. In
21 determining whether to grant relief, the court may consider
22 any of the following:

23 "(1) Recommendations from the sex offender's
24 probation officer, including, but not limited to, the
25 recommendations in the presentence investigation report and
26 the sex offender's compliance with supervision requirements.

27 "(2) Recommendations from the prosecuting attorney.

1 "(3) Any written or oral testimony submitted by the
2 victim or the parent, guardian, or custodian of the victim.

3 "(4) The facts and circumstances surrounding the
4 offense.

5 "(5) The relationship of the parties.

6 "(6) The criminal history of the sex offender.

7 "(7) The protection of society.

8 "(8) Any other information deemed relevant by the
9 court.

10 "(i) The court may grant full or partial relief from
11 this chapter. If the court grants relief, the court shall
12 enter an order detailing the relief granted and provide a copy
13 of the order to the prosecuting attorney and the Alabama State
14 Law Enforcement Agency.

15 "(j) If the court denies the petition, the sex
16 offender may not petition the court again until 12 months
17 after the date of the order denying the petition.

18 "(k) A sex offender is not eligible for relief under
19 this section if he or she was adjudicated or convicted of a
20 sex offense previous to or subsequent to the offense of which
21 he or she is petitioning the court for relief or has any
22 pending criminal charges for any sex offense.

23 "(l) In addition to sex offenders adjudicated or
24 convicted of a sex offense on or after July 1, 2011, a sex
25 offender adjudicated or convicted of any of the offenses
26 specified in subsection (a) prior to July 1, 2011, who meets
27 the eligibility requirements specified in subsection (b),

1 except as otherwise provided for in subsection (k), may
2 petition the court for relief pursuant to this section.

3 "(m) Notwithstanding any state or local law or rule
4 assigning costs and fees for filing and processing civil and
5 criminal cases, except when this relief is sought at the time
6 of sentencing or disposition, a sex offender's petition under
7 this section shall be assessed a filing fee in the amount of
8 two hundred dollars (\$200) to be distributed as provided in
9 Section 15-20A-46. The filing fee may be waived initially and
10 taxed as costs at the conclusion of the case if the court
11 finds that payment of the fee will constitute a substantial
12 hardship. A verified statement of substantial hardship, signed
13 by the sex offender and approved by the court, shall be filed
14 with the clerk of court.

15 "(n) If a sex offender seeks relief from the court
16 pursuant to this section, the enforcement of this chapter
17 shall not be stayed pending a ruling of the court.

18 "(o) Any person who knowingly provides false or
19 misleading information pursuant to this section shall be
20 guilty of a Class ~~C~~ felony A misdemeanor.

21 "§15-20A-25.

22 "(a) A sex offender may petition at sentencing, or
23 if after sentencing, a sex offender may file a petition in the
24 civil division of the circuit court in the county where the
25 sex offender seeks to accept or maintain employment for relief
26 from the employment restrictions pursuant to subsection (b) of
27 Section 15-20A-13. A sex offender adjudicated or convicted of

1 any of the following sex offenses shall not be entitled to
2 relief under this section:

3 "(1) Rape in the first degree, as provided by
4 Section 13A-6-61.

5 "(2) Sodomy in the first degree, as provided by
6 Section 13A-6-63.

7 "(3) Sexual abuse in the first degree, as provided
8 by Section 13A-6-66.

9 "(4) Sex abuse of a child less than 12 years old, as
10 provided by Section 13A-6-69.1.

11 "(5) Sexual torture, as provided by Section
12 13A-6-65.1.

13 "(6) Any sex offense involving a child.

14 "(7) Any solicitation, attempt, or conspiracy to
15 commit any of the offenses listed in subdivisions (1) to (6),
16 inclusive.

17 "(8) Any offense committed in any other jurisdiction
18 which, if it had been committed in this state under the
19 current provisions of law, would constitute an offense listed
20 in subdivisions (1) to (7), inclusive.

21 "(b) (1) The sex offender shall serve a copy of the
22 petition by certified mail on all of the following:

23 "a. The prosecuting attorney in the county of
24 adjudication or conviction, if the sex offender was
25 adjudicated or convicted in this state.

26 "b. The prosecuting attorney of the county in which
27 the sex offender seeks to accept or maintain employment.

1 "c. Local law enforcement where the sex offender was
2 adjudicated or convicted, if the sex offender was adjudicated
3 or convicted in this state.

4 "d. Local law enforcement where the sex offender
5 seeks to accept or maintain employment.

6 "(2) Failure of the sex offender to serve a copy of
7 the petition as required by this subsection shall result in an
8 automatic denial of the petition.

9 "(c) The petition and documentation to support the
10 petition shall include all of the following:

11 "(1) A certified copy of the adjudication or
12 conviction requiring registration, including a detailed
13 description of the sex offense, if the petition is filed after
14 sentencing.

15 "(2) A list of each registering agency in each
16 county and jurisdiction in which the sex offender is required
17 to register or has ever been required to register, if the
18 petition is filed after conviction.

19 "(3) The sex offender's criminal record and an
20 affidavit stating that the sex offender has no pending
21 criminal charges.

22 "(4) The location where the sex offender is employed
23 or intends to obtain employment.

24 "(5) Justification as to why the court should grant
25 relief.

26 "(6) Any other information requested by the court
27 relevant to the petition.

1 "(d) Upon notification of the petition, the
2 prosecuting attorney shall make reasonable efforts to notify
3 the victim of the crime for which the sex offender is required
4 to register of the petition and the dates and times of any
5 hearings or other proceedings in connection with the petition.

6 "(e) The court shall hold a hearing prior to ruling
7 on the petition. At the hearing, the prosecuting attorney and
8 the victim shall have the opportunity to be heard.

9 "(f) The court shall issue an order releasing the
10 sex offender from the requirements of the employment
11 restrictions pursuant to subsection (b) of Section 15-20A-13
12 if the court finds by clear and convincing evidence that the
13 sex offender does not pose a substantial risk of perpetrating
14 any future sex offense. The court may consider any of the
15 following factors in determining whether to grant relief:

16 "(1) The nature of the offense.

17 "(2) Past criminal history of the sex offender.

18 "(3) The location where the sex offender is employed
19 or intends to obtain employment.

20 "(4) Any other information deemed relevant by the
21 court.

22 "(g) If the court grants the petition, the court
23 shall enter an order detailing the relief granted and provide
24 a copy of the order to the prosecuting attorney where the
25 petition was filed and to the Alabama State Law Enforcement
26 Agency.

1 "(h) A sex offender is not eligible for relief under
2 this section if he or she was adjudicated or convicted of a
3 sex offense previous to or subsequent to the offense of which
4 he or she is petitioning the court for relief or has any
5 pending criminal charges for any sex offense.

6 "(i) Upon request of the state, the court may
7 reinstate the restrictions pursuant to subsection (b) of
8 Section 15-20A-13 for good cause shown, including, but not
9 limited to, whenever the grounds for a relief order issued
10 pursuant to subsection (f) are revealed to be false or no
11 longer true. No filing fee may be assessed for a petition
12 filed under this subsection.

13 "(j) Notwithstanding any state or local law or rule
14 assigning costs and fees for filing and processing civil and
15 criminal cases, except when this relief is sought at the time
16 of sentencing, a sex offender's petition under this section
17 shall be assessed a filing fee in the amount of two hundred
18 dollars (\$200) to be distributed as provided in Section
19 15-20A-46. The filing fee may be waived initially and taxed as
20 costs at the conclusion of the case if the court finds that
21 payment of the fee will constitute a substantial hardship. A
22 verified statement of substantial hardship, signed by the sex
23 offender and approved by the court, shall be filed with the
24 clerk of court.

25 "(k) If a sex offender seeks relief from the court
26 pursuant to this section, the enforcement of this chapter
27 shall not be stayed pending a ruling of the court.

1 "(1) A person who knowingly provides false or
2 misleading information pursuant to this section shall be
3 guilty of a Class ~~C felony~~ A misdemeanor.

4 "§15-20A-27.

5 "(a) In determining whether to apply notification
6 requirements to a juvenile sex offender, the sentencing court
7 shall consider any of the following factors relevant to the
8 risk of re-offense:

9 "(1) Conditions of release that minimize the risk of
10 re-offense, including, but not limited to, whether the
11 juvenile sex offender is under supervision of probation,
12 parole, or aftercare; receiving counseling, therapy, or
13 treatment; or residing in a home situation that provides
14 guidance and supervision.

15 "(2) Physical conditions that minimize the risk of
16 re-offense, including, but not limited to, advanced age or
17 debilitating illness.

18 "(3) Criminal history factors indicative of high
19 risk of re-offense, including whether the conduct of the
20 juvenile sex offender was found to be characterized by
21 repetitive and compulsive behavior.

22 "(4) Whether psychological or psychiatric profiles
23 indicate a risk of recidivism.

24 "(5) The relationship between the juvenile sex
25 offender and the victim.

26 "(6) The particular facts and circumstances
27 surrounding the offense.

1 "(7) The level of planning and participation in the
2 offense.

3 "(8) Whether the offense involved the use of a
4 weapon, violence, or infliction of serious bodily injury.

5 "(9) The number, date, and nature of prior offenses.

6 "(10) The response to treatment of the juvenile sex
7 offender.

8 "(11) Recent behavior, including behavior while
9 confined or while under supervision in the community.

10 "(12) Recent threats against persons or expressions
11 of intent to commit additional crimes.

12 "(13) The protection of society.

13 "(14) Any other factors deemed relevant by the
14 court.

15 "(b) If the sentencing court determines that the
16 juvenile sex offender shall be subject to notification, the
17 level of notification shall be applied as follows:

18 "(1) If the risk of re-offense is low, notification
19 that the juvenile sex offender will be establishing or has
20 established a fixed residence shall be provided by local law
21 enforcement to the principal of the public or nonpublic school
22 where the juvenile sex offender will attend after release and,
23 if a public school, to the local superintendent of education
24 with jurisdiction over that school. This notification shall
25 include the name, actual living address, date of birth of the
26 juvenile sex offender, and a statement of the sex offense for
27 which he or she has been adjudicated delinquent, including the

1 age and gender of the victim. This information shall be
2 considered confidential by the school and the local
3 superintendent of education and be shared only with the
4 teachers and staff with supervision over the juvenile sex
5 offender. Whoever, except as specifically provided herein,
6 directly or indirectly discloses or makes use of or knowingly
7 permits the use of information concerning a juvenile sex
8 offender described in this section, upon conviction thereof,
9 shall be guilty of a Class ~~C felony~~ A misdemeanor within the
10 jurisdiction of the juvenile court.

11 "(2) If the risk of re-offense is moderate,
12 notification that the juvenile sex offender will be
13 establishing, or has established, a fixed residence shall be
14 provided by local law enforcement to all schools and childcare
15 facilities within three miles of the declared fixed residence
16 of the juvenile sex offender. A community notification flyer
17 shall be mailed by regular mail or hand delivered to all
18 schools or childcare facilities as required by this
19 subsection. No other method may be used to disseminate this
20 information.

21 "(3) If the risk of re-offense is high, the public
22 shall receive notification as though the juvenile sex offender
23 were an adult sex offender in accordance with Section
24 15-20A-21.

25 "(c) The sentencing court shall enter an order
26 stating whether the juvenile sex offender shall be subject to
27 notification and the level of notification that shall be

1 applied. The court shall provide a copy of the order to the
2 prosecuting attorney and to the Alabama State Law Enforcement
3 Agency.

4 "(d) The determination of notification by the
5 sentencing court shall not be subject to appeal.

6 "§15-20A-29.

7 "(a) Prior to the release of a juvenile sex
8 offender, the following shall apply:

9 "(1) The juvenile sex offender and the parent,
10 custodian, or guardian of the juvenile sex offender shall
11 provide the required registration information to the
12 responsible agency.

13 "(2) If the juvenile sex offender or the parent,
14 guardian, or custodian of the juvenile sex offender declares a
15 residence outside of the state, the responsible agency shall
16 immediately notify the Alabama State Law Enforcement Agency
17 and the designated state law enforcement agency of the state
18 to which the juvenile sex offender or the parent, guardian, or
19 custodian of the juvenile sex offender has declared the
20 residence. The notification shall include all information
21 available to the responsible agency that would be necessary to
22 identify and trace the juvenile sex offender, including, but
23 not limited to, the risk assessment and a current photograph
24 of the juvenile sex offender.

25 "(3) If the juvenile sex offender or the parent,
26 guardian, or custodian of the juvenile sex offender declares a
27 residence within this state, the responsible agency shall

1 immediately notify the Alabama State Law Enforcement Agency,
2 and local law enforcement in each county, in which the
3 juvenile sex offender or the parent, guardian, or custodian of
4 the juvenile sex offender has declared the residence. The
5 notification shall include all information available to the
6 responsible agency that would be necessary to identify and
7 trace the juvenile sex offender, including, but not limited
8 to, the risk assessment and a current photograph of the
9 juvenile sex offender.

10 "(b) When a juvenile sex offender becomes the age of
11 majority, the parent, guardian, or custodian of the juvenile
12 sex offender shall no longer be subject to this section and
13 the juvenile sex offender shall instead be solely responsible
14 for all requirements pursuant to this section.

15 "(c) Any person who knowingly violates this section
16 shall be guilty of a Class ~~C~~ A misdemeanor.

17 "§15-20A-30.

18 "(a) Immediately upon release or immediately upon
19 adjudication of delinquency if the juvenile sex offender is
20 not committed, the juvenile sex offender and the parent,
21 custodian, or guardian shall register all required
22 registration information with local law enforcement in each
23 county in which the juvenile sex offender resides or intends
24 to reside.

25 "(b) Whenever a juvenile sex offender establishes a
26 new residence, the juvenile sex offender and the parent,
27 custodian, or guardian of the juvenile sex offender shall

1 immediately appear in person to register all required
2 registration information with local law enforcement in each
3 county of residence.

4 "(c) If the parent, custodian, or guardian of a
5 juvenile sex offender transfers or terminates the residence of
6 the juvenile sex offender, or the custody of the juvenile sex
7 offender is changed to a different parent, custodian, or
8 guardian resulting in a transfer of residence, the original
9 parent, custodian, or guardian with custody shall immediately
10 notify local law enforcement in each county of residence.

11 "(d) Whenever a juvenile sex offender changes any
12 required registration information including, but not limited
13 to, his or her school attendance status, the juvenile sex
14 offender and the parent, custodian, or guardian of the
15 juvenile sex offender shall immediately appear in person to
16 update the required registration information with local law
17 enforcement in each county in which the juvenile sex offender
18 resides.

19 "(e) A juvenile sex offender required to register
20 for life pursuant to Section 15-20A-28 shall appear in person
21 with his or her parent, custodian, or guardian to verify all
22 required registration information during the birth month of
23 the juvenile sex offender and every three months thereafter
24 with the local law enforcement in each county of residence
25 unless the juvenile sex offender has been relieved from
26 registration requirements pursuant to Section 15-20A-34.

1 "(f) A juvenile sex offender required to register
2 for 10 years pursuant to Section 15-20A-28 shall appear in
3 person with his or her parent, custodian, or guardian to
4 verify all required registration information during the birth
5 month of the juvenile sex offender and every year thereafter
6 with local law enforcement in each county of residence unless
7 the juvenile sex offender has been relieved from registration
8 requirements pursuant to Section 15-20A-24.

9 "(g) At the time of registration, the juvenile sex
10 offender shall be provided a form explaining all duties and
11 any restrictions placed on the juvenile sex offender. The
12 juvenile sex offender and the parent, custodian, or guardian
13 of the juvenile sex offender shall read and sign this form
14 stating that he or she understands the duties and restrictions
15 placed on the juvenile sex offender and his or her parent,
16 custodian, or guardian.

17 "(h) When a juvenile sex offender becomes the age of
18 majority, the parent, custodian, or guardian of the juvenile
19 sex offender shall no longer be subject to the requirements of
20 this section, and the juvenile sex offender shall instead be
21 solely responsible for the requirements in this section.

22 "(i) A person who knowingly violates this section
23 shall be guilty of a Class ~~C~~-felony A misdemeanor.

24 "§15-20A-31.

25 "(a) During the time a juvenile sex offender is
26 subject to the registration requirements of this chapter, the
27 juvenile sex offender shall not accept or maintain employment

1 or a volunteer position at any school, childcare facility, or
2 any other business or organization that provides services
3 primarily to children.

4 "(b) It shall be unlawful for the owner or operator
5 of any childcare facility or any other organization that
6 provides services primarily to children to knowingly provide
7 employment or a volunteer position to a juvenile sex offender.

8 "(c) Any person who knowingly violates this section
9 shall be guilty of a Class ~~C felony~~ A misdemeanor.

10 "§15-20A-32.

11 "(a) A juvenile sex offender or youthful offender
12 sex offender, or equivalent thereto, who is not currently a
13 resident of this state, shall immediately appear in person and
14 register all required registration information upon
15 establishing a residence, accepting employment or a volunteer
16 position, or beginning school attendance in this state with
17 local law enforcement in each county where the juvenile sex
18 offender or youthful offender sex offender resides or intends
19 to reside, accepts employment or a volunteer position, or
20 begins school attendance.

21 "(b) Within 30 days of initial registration, the
22 juvenile sex offender or youthful offender sex offender shall
23 provide each registering agency with a certified copy of his
24 or her sex offense adjudication; however, a juvenile sex
25 offender or youthful offender sex offender shall be exempt
26 under this subsection if the court of adjudication seals the

1 records and refuses to provide a certified copy or the records
2 have been destroyed by the court.

3 "(c) Whenever a juvenile sex offender enters this
4 state to establish a residence, he or she shall be subject to
5 the requirements of this chapter as it applies to juvenile sex
6 offenders in this state.

7 "(d) Whenever a youthful offender sex offender, or
8 equivalent thereto, enters this state to establish a
9 residence, he or she shall be subject to the requirements of
10 this chapter as it applies to youthful offender sex offenders
11 in this state.

12 "(e) A juvenile sex offender or youthful offender
13 sex offender entering this state to accept employment or a
14 volunteer position or to begin school attendance, but not to
15 establish a residence, must immediately appear in person and
16 register any subsequent changes to the required registration
17 information with local law enforcement in each county where he
18 or she is required to register.

19 "(f) Any person who knowingly violates this section
20 shall be guilty of a Class ~~C~~ A misdemeanor.

21 "§15-20A-34.

22 "(a) A juvenile sex offender subject to lifetime
23 registration pursuant to Section 15-20A-28 may file a petition
24 requesting the sentencing juvenile court to enter an order
25 relieving the juvenile sex offender of the requirements
26 pursuant to this chapter 25 years after the juvenile sex
27 offender is released from the custody of the Department of

1 Youth Services or sentenced, if the juvenile sex offender was
2 placed on probation, for the sex offense requiring
3 registration pursuant to this chapter.

4 "(b) The petition shall be filed as follows:

5 "(1) If the juvenile sex offender was adjudicated
6 delinquent of a sex offense in this state, the petition shall
7 be filed in the juvenile court of the county in which the
8 juvenile sex offender was adjudicated delinquent.

9 "(2) If the juvenile sex offender was adjudicated
10 delinquent of a sex offense in a jurisdiction outside of this
11 state, the petition shall be filed in the juvenile court of
12 the county in which the juvenile sex offender resides.

13 "(c) (1) The juvenile sex offender shall serve a copy
14 of the petition by certified mail on all of the following:

15 "a. The prosecuting attorney in the county of
16 adjudication, if the juvenile sex offender was adjudicated
17 delinquent in this state.

18 "b. The prosecuting attorney of the county in which
19 the juvenile sex offender resides.

20 "c. Local law enforcement where the juvenile sex
21 offender was adjudicated delinquent, if the juvenile sex
22 offender was adjudicated delinquent in this state.

23 "d. Local law enforcement where the juvenile sex
24 offender resides.

25 "(2) Failure of the juvenile sex offender to serve a
26 copy of the petition as required by this subsection shall
27 result in an automatic denial of the petition.

1 "(d) The petition and documentation to support the
2 petition shall include all of the following:

3 "(1) A certified copy of the adjudication of
4 delinquency requiring registration.

5 "(2) Documentation of the juvenile sex offender's
6 release date or sentencing date if the juvenile sex offender
7 was placed on probation.

8 "(3) Evidence that the juvenile sex offender has
9 completed a treatment program approved by the Department of
10 Youth Services.

11 "(4) A list of each county and jurisdiction in which
12 the juvenile sex offender is required to register or has ever
13 been required to register.

14 "(5) The juvenile sex offender's criminal record and
15 an affidavit stating that the juvenile sex offender has no
16 pending criminal charges.

17 "(6) Any other information requested by the court
18 relevant to the petition.

19 "(e) Upon notification of the petition, the
20 prosecuting attorney shall make reasonable efforts to notify
21 the victim of the offense for which the juvenile sex offender
22 is required to register of the petition and of the dates and
23 times of any hearings or other proceedings in connection with
24 the petition.

25 "(f) The court shall hold a hearing prior to ruling
26 on the petition. At the hearing, the prosecuting attorney and
27 the victim shall have the opportunity to be heard.

1 "(g) The court may consider any of the following
2 factors to determine whether to grant relief:

3 "(1) Recommendations from the juvenile sex
4 offender's probation officer, including, but not limited to,
5 the recommendations in the predisposition report and the
6 juvenile sex offender's compliance with supervision
7 requirements.

8 "(2) Recommendations from the juvenile sex
9 offender's treatment provider, including, but not limited to,
10 whether the juvenile sex offender successfully completed a
11 treatment program approved by the Department of Youth
12 Services.

13 "(3) Recommendations from the prosecuting attorney.

14 "(4) Any written or oral testimony submitted by the
15 victim or the parent, custodian, or guardian of the victim.

16 "(5) The facts and circumstances surrounding the
17 offense including, but not limited to, the age and number of
18 victims, whether the act was premeditated, and whether the
19 offense involved the use of a weapon, violence, or infliction
20 of serious bodily injury.

21 "(6) Any criminal behavior of the juvenile sex
22 offender before and after the adjudication of delinquency that
23 requires reporting.

24 "(7) The stability of the juvenile sex offender in
25 employment and housing and his or her community and personal
26 support system.

27 "(8) The protection of society.

1 "(9) Any other factors deemed relevant by the court.

2 "(h) If the court is satisfied by clear and
3 convincing evidence that the juvenile sex offender is
4 rehabilitated and does not pose a threat to the safety of the
5 public, the court shall grant relief.

6 "(i) The court shall provide a copy of any order
7 granting relief to the prosecuting attorney and to the Alabama
8 State Law Enforcement Agency.

9 "(j) Upon receipt of a copy of an order granting
10 relief as provided in this section, the Alabama State Law
11 Enforcement Agency shall remove the juvenile sex offender from
12 the public registry website. If the registering agencies
13 maintain a local registry of sex offenders who are registered
14 with their agencies, the registering agencies shall remove the
15 registration information of the juvenile sex offender from the
16 local sex offender public registry, if notification applied.

17 "(k) If the court denies the petition for relief,
18 the juvenile sex offender shall wait at least 12 months from
19 the date of the order denying the petition before petitioning
20 the court again.

21 "(l) Notwithstanding any state or local law or rule
22 assigning costs and fees for filing and processing civil and
23 criminal cases, the fee for filing the petition for relief
24 under this section shall be two hundred dollars (\$200) to be
25 distributed as provided in Section 15-20A-46. The filing fee
26 may be waived initially and taxed as costs at the conclusion
27 of the case if the court finds that payment of the fee will

1 constitute a substantial hardship. A verified statement of
2 substantial hardship, signed by the sex offender and approved
3 by the court, shall be filed with the clerk of court.

4 "(m) If a sex offender seeks relief from the court
5 pursuant to this section, the enforcement of this chapter
6 shall not be stayed pending a ruling of the court.

7 "(n) A person who knowingly provides false or
8 misleading information pursuant to this section shall be
9 guilty of a Class ~~C-felony~~ A misdemeanor.

10 "§15-20A-36.

11 "(a) No sex offender shall change his or her name
12 unless the change is incident to a change in the marital
13 status of the sex offender or is necessary to effect the
14 exercise of the religion of the sex offender. Such a change
15 shall be immediately reported to local law enforcement in each
16 county in which the sex offender is required to register. If
17 the sex offender is subject to the notification provisions of
18 this chapter, the reporting of a name change under this
19 section shall invoke notification.

20 "(b) Any person who knowingly violates this section
21 shall be guilty of a Class ~~C-felony~~ A misdemeanor.

22 "§15-20A-37.

23 "(a) When a sex offender declares, and the county is
24 notified that a sex offender intends to reside, maintain
25 employment or a volunteer position, or attend school in the
26 county and the sex offender fails to appear for registration,
27 the county that received the notice shall immediately inform

1 the sheriff of the county that provided the notice that the
2 sex offender failed to appear for registration.

3 "(b) When a sex offender fails to register or cannot
4 be located, an effort shall immediately be made by the sheriff
5 in the county in which the sex offender failed to register or
6 is unable to be located to determine whether the sex offender
7 has absconded.

8 "(c) If no determination can be made as to whether
9 the sex offender has absconded, the sheriff of the county in
10 which the sex offender failed to appear for registration shall
11 immediately notify the Alabama State Law Enforcement Agency
12 and the United States Marshals Service that the sex offender
13 cannot be located and provide any information available to
14 determine whether the sex offender absconded to the United
15 States Marshals Service.

16 "(d) Once a determination is made that the sex
17 offender has absconded, the following shall occur:

18 "(1) The sheriff of the county in which the sex
19 offender has absconded shall immediately obtain a warrant for
20 the arrest of the sex offender.

21 "(2) The sheriff of the county in which the sex
22 offender has absconded shall immediately notify the United
23 States Marshals Service and the Alabama State Law Enforcement
24 Agency.

25 "(3) The Alabama State Law Enforcement Agency shall
26 immediately update its public registry website to reflect that
27 the sex offender has absconded.

1 "(4) The Alabama State Law Enforcement Agency shall
2 immediately notify the Criminal Justice Information Center,
3 who shall immediately notify the National Criminal Information
4 Center.

5 "(5) The Alabama State Law Enforcement Agency shall
6 immediately notify the National Sex Offender Registry to
7 reflect that the sex offender has absconded and enter the
8 information into the National Crime Center Wanted Person File.

9 "(e) A sex offender who knowingly fails to appear
10 for registration after declaring his or her intent to reside,
11 be employed, or attend school in a county without notifying
12 local law enforcement in that county that he or she will no
13 longer establish a residence, maintain employment or a
14 volunteer position, or attend school, shall be guilty of a
15 Class ~~C~~ A ~~felony~~ misdemeanor.

16 "§15-20A-39.

17 "(a) A person is guilty of the crime of harboring,
18 assisting, concealing, or withholding information about a sex
19 offender if the person has knowledge or reason to believe that
20 a sex offender is required to register and the person assists
21 the sex offender in avoiding a law enforcement agency that is
22 seeking to find the sex offender to question the sex offender
23 about, or to arrest the sex offender for, noncompliance with
24 the requirements of this chapter if the person does any of the
25 following:

26 "(1) Harbors, attempts to harbor, or assists another
27 person in harboring or attempting to harbor the sex offender.

1 "(2) Allows a sex offender to reside at his or her
2 residence to avoid registration if the address is not the
3 address the sex offender listed as his or her residence
4 address.

5 "(3) Warns a sex offender that a law enforcement
6 agency is attempting to locate the sex offender.

7 "(4) Provides the sex offender with money,
8 transportation, weapon, disguise, or other means of avoiding
9 discovery or apprehension.

10 "(5) Conceals, attempts to conceal, or assists
11 another in concealing or attempting to conceal the sex
12 offender.

13 "(6) Provides information to a law enforcement
14 agency regarding a sex offender which the person knows to be
15 false.

16 "(b) For the purposes of this section, the term law
17 enforcement agency includes, but is not limited to, the Board
18 of Pardons and Paroles.

19 "(c) Knowingly harboring, assisting, or concealing a
20 sex offender is a Class ~~C~~ A misdemeanor."

21 Section 5. Sections 13A-12-211.1 and 13A-12-212.1
22 are added to the Code of Alabama 1975, to read as follows:

23 §13A-12-211.1.

24 (a) Except as provided in Section 13A-12-211, a
25 person commits the crime of unlawful distribution of marijuana
26 if he or she sells, furnishes, gives away, delivers, or
27 distributes marijuana.

1 (b) Unlawful distribution of marijuana is a Class C
2 felony.

3 §13A-12-212.1.

4 (a) Except as provided in Section 13A-12-212, a
5 person commits the crime of unlawful possession of a
6 controlled substance in the second degree if he or she
7 possesses five or fewer pills of a controlled substance
8 enumerated in Schedules II through V.

9 (b) Unlawful possession of a controlled substance in
10 the second degree is a Class A misdemeanor.

11 Section 6. Section 15-10-3.1 is added to the Code of
12 Alabama 1975, to read as follows:

13 §15-10-3.1.

14 (a) Except as provided in subsection (b), an officer
15 may issue a summons to a person without an arrest warrant, on
16 any day and at any time in any of the following instances:

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

19 (2) When a misdemeanor has been committed, though
20 not in the presence of the officer, by the person issued the
21 summons, and the officer has reasonable cause to believe that
22 the person issued the summons committed the misdemeanor.

23 (3) When the officer has reasonable cause to believe
24 that the person issued the summons has committed a
25 misdemeanor, although it may afterwards appear that a
26 misdemeanor had not in fact been committed.

1 (4) When a charge has been made, upon reasonable
2 cause, that the person issued the summons has committed a
3 misdemeanor.

4 (b) An officer may not issue a summons to a person
5 on any day and at any time in any of the following instances:

6 (1) If the public offense that has been committed is
7 a felony.

8 (2) If the defendant currently has an outstanding
9 warrant for his or her arrest.

10 (3) If the defendant is currently charged with an
11 offense, whether by arrest warrant or arrest summons, and that
12 charge, or those charges, remain pending.

13 (4) If the defendant is currently on probation or
14 parole with any agency in the United States.

15 (5) If the public offense that has been committed is
16 any of the following misdemeanor offenses:

17 a. Domestic violence.

18 b. Driving under the influence.

19 c. Assault in the third degree.

20 d. Leaving the scene of the accident.

21 e. Attempt, conspiracy, or solicitation to commit a
22 burglary, the commission of which would be a felony.

23 f. Unlawful imprisonment.

24 g. Attempt, conspiracy, or solicitation to commit
25 sexual abuse in the first degree.

26 h. Sexual abuse in the second degree.

27 i. Indecent exposure.

1 j. Failure to register as a sex offender.

2 k. Any offense under Section 13A-11-70 through
3 13A-11-85, inclusive.

4 l. Any offense where the officer believes the
5 individual to be a threat to society or unlikely to appear in
6 court.

7 (c) The issuance of an arrest summons or an arrest
8 warrant remains at the discretion of the arresting officer.
9 The arresting officer shall consider the following factors
10 when exercising that discretion:

11 a. Defendant's reputation and character.

12 b. Defendant's prior criminal record.

13 c. Violence or lack of violence in the alleged
14 commission of the instant offense.

15 d. Threats made against a victim or victims.

16 e. Residence of the defendant.

17 f. Likelihood that the defendant will appear in
18 court.

19 g. Reasonable belief that the defendant poses a real
20 and present danger of harm to any other person, to include
21 himself or herself, or to the public at large.

22 (d) A court of competent jurisdiction may issue
23 warrants to a defendant who was previously issued a summons if
24 the court believes, under any circumstance, that an arrest
25 warrant and bond, to include a no bond, would be appropriate.
26 The court need not develop new information from all known or

1 available information at the time of the summons to cause the
2 warrants to issue.

3 (e) (1) The prosecuting authority of competent
4 jurisdiction may seek an arrest warrant to be served on a
5 defendant who was previously issued a summons if the
6 prosecuting authority believes, under any circumstance, that
7 an arrest warrant and bond, to include a request for no bond,
8 would be appropriate. The prosecuting authority need not
9 develop new information from all known or available
10 information at the time of the summons to cause such warrants
11 to issue.

12 (2) The term "prosecuting authority" shall include
13 the district attorney, city attorney, municipal attorney,
14 Alabama Attorney General, all assigns or designated personnel
15 from any of those prosecuting authorities, or any other
16 special prosecuting authority designated by a court.

17 Section 7. The following sections of the Code of
18 Alabama 1975, are repealed:

19 (1) Sections 13A-5-9, 13A-5-10, and 13A-5-10.1,
20 relating to additional penalties for habitual felony
21 offenders.

22 (2) Sections 13A-8-4.1, 13A-8-8.1, 13A-8-10.25, and
23 13A-8-18.1, relating to theft offenses.

24 (3) Sections 13A-12-215, 13A-12-232, 13A-12-250, and
25 13A-12-270, relating to sentencing enhancements for drug
26 offenses.

1 Section 8. (a) The provisions of Section 12-25-34.2,
2 Code of Alabama 1975, relating to presumptive sentencing
3 standards, shall be applied retroactively for any inmate
4 sentenced prior to October 1, 2013.

5 (b) An inmate may petition the court to be
6 resentenced pursuant to the presumptive sentencing standards
7 by filing a petition in the circuit court in the county that
8 imposed the conviction and sentence.

9 (c) An inmate shall be resentenced pursuant to the
10 sentencing standards in place effective October 1, 2013.

11 (d) The Pardons and Parole Board shall make parole
12 decisions based on the guidelines in place at the time of the
13 parole consideration.

14 Section 9. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 10. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.