

1 HB57
2 198793-3
3 By Representative Sells
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 03/04/2019

1 (1) He or she commits a theft of foreign or domestic
2 funds, cash, or cash equivalent, that includes, but is not
3 limited to, stocks, bonds, investments, or retirement
4 accounts, that exceeds two hundred thousand dollars (\$200,000)
5 in value, if obtained by deception.

6 (2) He or she commits a theft of public funds or
7 revenue of any state, county, or municipal government agency
8 or department, or any governmental or political subdivision
9 that exceeds one hundred thousand dollars (\$100,000) in value,
10 if obtained by deception.

11 (b) The limitations period for any prosecution under
12 this section does not commence or begin to accrue until the
13 discovery of the facts constituting the deception, after which
14 the prosecution shall be commenced within six years.

15 (c) Aggravated theft by deception is a felony with a
16 range of punishment of five to 30 years' imprisonment and a
17 fine of up to sixty thousand dollars (\$60,000) per violation.

18 (d) Notwithstanding any other law, the maximum
19 probation period shall not exceed 10 years unless otherwise
20 authorized by law.

21 (e) A conviction for aggravated theft by deception
22 shall be treated as a Class A or Class B felony for purposes
23 of Section 15-18-8.

24 (f) A person may be charged with attempt, criminal
25 solicitation, or criminal conspiracy to commit aggravated
26 theft by deception if he or she engages in the conduct defined
27 in Sections 13A-4-1, 13A-4-2, or 13A-4-3. A violation shall be

1 punished the same as if the crime was completed pursuant to
2 this section.

3 Section 2. Sections 15-22-33, 15-22-54, and
4 17-3-30.1, Code of Alabama 1975, are amended to read as
5 follows:

6 "§15-22-33.

7 "No person released on parole shall be discharged
8 from parole prior to the expiration of the full maximum term
9 for which he or she was sentenced unless the Board of Pardons
10 and Paroles chooses to discharge the parolee earlier based on
11 review of the parolee under guidelines established pursuant to
12 subdivision (6) of subsection (b) of Section 15-22-37 and the
13 parolee was not convicted of a violent offense as defined in
14 Section 12-25-32 or a violation of Section 13A-8-2.1. The
15 Board of Pardons and Paroles, however, may relieve a prisoner
16 on parole from making further reports and may permit such
17 prisoner to leave the state or county if satisfied that this
18 is for the best interests of society.

19 "§15-22-54.

20 "(a) The period of probation or suspension of
21 execution of sentence shall be determined by the court and
22 shall not be waived by the defendant, and the period of
23 probation or suspension may be continued, extended, or
24 terminated. However, except as provided in Section 32-5A-191
25 relating to ignition interlock requirements, in no case shall
26 the maximum probation period of a defendant guilty of a
27 misdemeanor exceed two years, nor shall the maximum probation

1 period of a defendant guilty of a felony exceed five years,
2 except as provided in Section 13A-8-2.1. When the conditions
3 of probation or suspension of sentence are fulfilled, the
4 court shall, by order duly entered on its minutes, discharge
5 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, and aggravated theft by deception offenses pursuant
3 to Section 13A-8-2.1, the court may only revoke probation as
4 provided below:

5 "(1) Unless the underlying offense is a violent
6 offense as defined in Section 12-25-32 and classified as a
7 Class A felony or an offense of aggravated theft by deception
8 as defined in Section 13A-8-2.1, when a defendant under
9 supervision for a felony conviction has violated a condition
10 of probation, other than arrest or conviction of a new offense
11 or absconding, the court may impose a period of confinement of
12 no more than 45 consecutive days to be served in the custody
13 population of the Department of Corrections. By April 29,
14 2016, the Department of Corrections shall develop and
15 implement a streamlined process to transport and receive the
16 probationer into its custody population and shall identify
17 and, if possible, implement policies aimed at reducing the
18 administrative delays, if any, in transferring to the
19 Department of Corrections the physical custody of the
20 probationer and those whose probation has been revoked. Such
21 process shall be developed in cooperation with the Alabama
22 Sheriffs' Association and the Association of County
23 Commissions of Alabama. Such process shall include the most
24 cost-effective method to process sanctioned probation
25 violators for the maximum 45-day confinement period and shall
26 provide that the Department of Corrections shall reimburse the
27 state mileage rate, as determined by the Alabama Comptroller's

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

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

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

1 confinement within five business days of its receipt of the
2 court's order.

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

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

1 board or supervising officer, or a period of confinement in a
2 consenting jail facility as specified in subdivision (10) of
3 Section 15-22-52.

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

24 "(h) The board shall adopt guidelines and procedures
25 to implement the requirements of this section, which shall
26 include the requirement of a supervisor's approval prior to a

1 supervising probation officer's exercise of the delegation of
2 authority authorized by subsection (f).

3 "§17-3-30.1.

4 "(a) This section shall be known and may be cited as
5 the Felony Voter Disqualification Act.

6 "(b) (1) The Legislature finds and declares that:

7 "a. Article VIII of the Constitution of Alabama of
8 1901, now appearing as Section 177 of Article VIII of the
9 Official Recompilation of the Constitution of Alabama of 1901,
10 as amended, provides that Alabama citizens shall lose the
11 right to vote when convicted of a crime only if the conviction
12 was for a felony involving moral turpitude.

13 "b. Under general law, there is no comprehensive
14 list of felonies that involve moral turpitude which disqualify
15 a person from exercising his or her right to vote. Neither
16 individuals with felony convictions nor election officials
17 have a comprehensive, authoritative source for determining if
18 a felony conviction involves moral turpitude and is therefore
19 a disqualifying felony.

20 "(2) The purposes of this section are:

21 "a. To give full effect to Article VIII of the
22 Constitution of Alabama of 1901, now appearing as Section 177
23 of Article VIII of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended.

25 "b. To ensure that no one is wrongly excluded from
26 the electoral franchise.

1 "c. To provide a comprehensive list of acts that
2 constitute moral turpitude for the limited purpose of
3 disqualifying a person from exercising his or her right to
4 vote.

5 "(c) For purposes of Article VIII of the
6 Constitution of Alabama of 1901, now appearing as Section 177
7 of Article VIII of the Official Recompilation of the
8 Constitution of Alabama of 1901, as amended, a person is
9 disqualified to vote by reason of conviction of a felony
10 involving moral turpitude only when convicted of any of the
11 following offenses in a degree constituting a felony:

12 "(1) Murder as defined in the following sections:

13 "a. Subdivision (1) of subsection (a) of Section
14 13A-5-40.

15 "b. Subdivision (2) of subsection (a) of Section
16 13A-5-40.

17 "c. Subdivision (3) of subsection (a) of Section
18 13A-5-40.

19 "d. Subdivision (4) of subsection (a) of Section
20 13A-5-40.

21 "e. Subdivision (5) of subsection (a) of Section
22 13A-5-40.

23 "f. Subdivision (6) of subsection (a) of Section
24 13A-5-40.

25 "g. Subdivision (7) of subsection (a) of Section
26 13A-5-40.

1 "h. Subdivision (8) of subsection (a) of Section
2 13A-5-40.
3 "i. Subdivision (9) of subsection (a) of Section
4 13A-5-40.
5 "j. Subdivision (10) of subsection (a) of Section
6 13A-5-40.
7 "k. Subdivision (11) of subsection (a) of Section
8 13A-5-40.
9 "l. Subdivision (12) of subsection (a) of Section
10 13A-5-40.
11 "m. Subdivision (13) of subsection (a) of Section
12 13A-5-40.
13 "n. Subdivision (14) of subsection (a) of Section
14 13A-5-40.
15 "o. Subdivision (15) of subsection (a) of Section
16 13A-5-40.
17 "p. Subdivision (16) of subsection (a) of Section
18 13A-5-40.
19 "q. Subdivision (17) of subsection (a) of Section
20 13A-5-40.
21 "r. Subdivision (18) of subsection (a) of Section
22 13A-5-40.
23 "s. Subdivision (19) of subsection (a) of Section
24 13A-5-40.
25 "t. Section 13A-6-2.
26 "(2) Manslaughter as defined in Section 13A-6-3.

1 "(3) Assault as defined in Section 13A-6-20, except
2 for subdivision (5) of subsection (a) of Section 13A-6-20, and
3 Section 13A-6-21.

4 "(4) Kidnapping in the first degree as defined in
5 Section 13A-6-43.

6 "(5) Kidnapping in the second degree as defined in
7 Section 13A-6-44.

8 "(6) Rape as defined in Sections 13A-6-61 and
9 13A-6-62.

10 "(7) Sodomy as defined in Sections 13A-6-63 and
11 13A-6-64.

12 "(8) Sexual torture as defined in Section
13 13A-6-65.1.

14 "(9) Sexual abuse as defined in Sections 13A-6-66,
15 13A-6-67, and 13A-6-69.1.

16 "(10) Enticing a child to enter a vehicle for
17 immoral purposes as defined in Section 13A-6-69.

18 "(11) Facilitating solicitation of unlawful sexual
19 conduct with a child as defined in Section 13A-6-121.

20 "(12) Electronic solicitation of a child as defined
21 in Section 13A-6-122.

22 "(13) Facilitating the on-line solicitation of a
23 child as defined in Section 13A-6-123.

24 "(14) Traveling to meet a child for an unlawful sex
25 act as defined in Section 13A-6-124.

26 "(15) Facilitating the travel of a child for an
27 unlawful sex act as defined in Section 13A-6-125.

1 "(16) Human trafficking as defined in Sections
2 13A-6-152 and 13A-6-153.

3 "(17) Terrorism as defined in Section 13A-10-152.

4 "(18) Soliciting or providing support for an act of
5 terrorism as defined in Section 13A-10-153.

6 "(19) Hindering prosecution of terrorism as defined
7 in Section 13A-10-154.

8 "(20) Endangering the water supply as defined in
9 Section 13A-10-171.

10 "(21) Possession, manufacture, transport, or
11 distribution of a destructive device or bacteriological or
12 biological weapon as defined in Section 13A-10-193.

13 "(22) Selling, furnishing, giving away, delivering,
14 or distribution of a destructive device, a bacteriological
15 weapon, or biological weapon to a person who is less than 21
16 years of age as defined in Section 13A-10-194.

17 "(23) Possession, manufacture, transport, or
18 distribution of a detonator, explosive, poison, or hoax device
19 as defined in Section 13A-10-195.

20 "(24) Possession or distribution of a hoax device
21 represented as a destructive device or weapon as defined in
22 subsection (c) of Section 13A-10-196.

23 "(25) Attempt to commit an explosives or destructive
24 device or bacteriological or biological weapons crime as
25 defined in Section 13A-10-197.

1 "(26) Conspiracy to commit an explosives or
2 destructive device or bacteriological or biological weapons
3 crime as defined in Section 13A-10-198.

4 "(27) Hindrance or obstruction during detection,
5 disarming, or destruction of a destructive device or weapon as
6 defined in Section 13A-10-199.

7 "(28) Possession or distribution of a destructive
8 device or weapon intended to cause injury or destruction as
9 defined in Section 13A-10-200.

10 "(29) Treason as defined in Section 13A-11-2.

11 "(30) Dissemination or public display of obscene
12 matter containing visual depiction of persons under 17 years
13 of age involved in obscene acts as defined in Section
14 13A-12-191.

15 "(31) Possession and possession with intent to
16 disseminate obscene matter containing visual depiction of
17 persons under 17 years of age involved in obscene acts as
18 defined in Section 13A-12-192.

19 "(32) Parents or guardians permitting children to
20 engage in production of obscene matter as defined in Section
21 13A-12-196.

22 "(33) Production of obscene matter containing visual
23 depiction of persons under 17 years of age involved in obscene
24 acts as defined in Section 13A-12-197.

25 "(34) Distribution, possession with intent to
26 distribute, production of obscene material, or offer or

1 agreement to distribute or produce, as defined in Section 13A-12-200.2.

2 "(35) Trafficking in cannabis, cocaine, or other
3 illegal drugs or trafficking in amphetamine and
4 methamphetamine as defined in Section 13A-12-231.

5 "(36) Bigamy as defined in Section 13A-13-1.

6 "(37) Incest as defined in Section 13A-13-3.

7 "(38) Torture or other willful maltreatment of a
8 child under the age of 18 as defined in Section 26-15-3.

9 "(39) Aggravated child abuse as defined in Section
10 26-15-3.1.

11 "(40) Prohibited acts in the offer, sale, or
12 purchase of securities as defined in Section 8-6-17.

13 "(41) Burglary as defined in Sections 13A-7-5 and
14 13A-7-6.

15 "(42) Aggravated theft by deception as defined in
16 Section 13A-8-2.1.

17 "~~(42)~~ (43) Theft of property as defined in Sections
18 13A-8-3 and 13A-8-4.

19 "~~(43)~~ (44) Theft of lost property as defined in
20 Sections 13A-8-7 and 13A-8-8.

21 "~~(44)~~ (45) Theft of trademarks or trade secrets as
22 defined in Section 13A-8-10.4.

23 "~~(45)~~ (46) Robbery as defined in Sections 13A-8-41,
24 13A-8-42, and 13A-8-43.

25 "~~(46)~~ (47) Forgery as defined in Sections 13A-9-2
26 and 13A-9-3.

1 "~~(47)~~ (48) Any crime as defined by the laws of the
2 United States or by the laws of another state, territory,
3 country, or other jurisdiction, which, if committed in this
4 state, would constitute one of the offenses listed in this
5 subsection.

6 "(d) Nothing in this section shall be interpreted as
7 determining moral turpitude for any purpose other than
8 disqualifying a person from exercising his or her right to
9 vote.

10 "(e) The felonies involving moral turpitude listed
11 in subsection (c) are the only felonies for which a person,
12 upon conviction, may be disqualified from voting. Additional
13 felonies may be added to the list in subsection (c) only by
14 amendment to this section."

15 Section 3. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

23 Section 4. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 05-MAR-19

Read for the second time and placed
on the calendar with 1 substitute
and..... 18-APR-19

Read for the third time and passed
as amended..... 25-APR-19

Yeas 101, Nays 0, Abstains 0

Jeff Woodard
Clerk