HB308

204943-1

By Representatives Stringer, Reynolds, Farley, Isbell, Marques, Pettus, Simpson, Sorrells, Shaver, McCampbell, Hanes, Ledbetter and Rich

RFD: Public Safety and Homeland Security

First Read: 20-FEB-20
SYNOPSIS: Under current law, concealed carry permits are issued by the sheriffs of each county. Each sheriff may maintain separate databases of individuals authorized to carry a pistol in a vehicle or concealed on or about his or her person within this state.

This bill would create a statewide information database relating to pistol permits issued by the sheriff of each county, to be known as the Alabama Responding Officer Warning System (AROWS).

This bill would also further provide for the appearance and contents of pistol permits.

A BILL

TO BE ENTITLED

AN ACT

Relating to concealed carry permits; to create a statewide information database relating to pistol permits; and
to amend Section 13A-11-75, Code of Alabama 1975, to further
provide for the appearance and content of pistol permits.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a)(1) There is created a repository of
all permits issued by a sheriff pursuant to Section 13A-11-75,
Code of Alabama 1975, which would allow an individual to carry
a pistol in a vehicle or concealed on or about his or her
person. This repository shall be known as the Alabama
Responding Officer Warning System (AROWS).

(2) The repository shall be created, maintained, and
operated by the Montgomery County Sheriff's Office on behalf
of all sheriffs in the state.

(b) The sheriff of each county shall update the
repository at least once each day via electronic means
determined by the Montgomery County Sheriff's Office after
consultation with and agreement of a majority of the members
of the Alabama Sheriffs Association. The information updated
in the repository shall include, but not be limited to, all of
the following as they relate to each holder of a permit
granted by that sheriff:

(1) Full name.

(2) Current address, as reported by the permit
holder.

(3) Driver's license number.

(4) Race.

(5) Sex.

(6) Date of birth.
(7) Height.
(8) Weight.
(9) Hair color.
(10) Eye color.
(11) A photograph of the permit holder.
(12) The permit number, as well as the permitting agency.
(13) AROWS record number.
(14) The ORI, or Originating Agency, number of the issuing agency.
(15) Issuance date of the permit.
(16) Expiration date of the permit.
(17) Whether the permit is currently either of the following:
   a. Valid and in good standing.
   b. Invalid due to revocation by the county sheriff issuing the permit; and if invalid, the date of revocation.
(18) Notwithstanding any provision of law to the contrary, any official probate court records regarding involuntary commitments for mental health reasons shall also be included in the repository upon delivery of those records to the Montgomery County Sheriff's Office by the Alabama Administrative Office of Courts or the Alabama State Law Enforcement Agency.
   (c) A sheriff may incorporate into the repository any county jail records on a permit holder showing recent arrests and dispositions of criminal cases that might not yet
be reported to the Alabama Criminal Justice Information Center
or other criminal records database.

(d) Upon the issuance of a new pistol permit, the
sheriff issuing the permit, within 24 hours and in a format
determined by the Montgomery County Sheriff's Office after
consultation with and agreement of a majority of the members
of the Alabama Sheriffs Association, shall electronically
transmit to the Montgomery County Sheriff's Office for
inclusion into the repository the information described in
subsections (b) and (c).

(e) Within 24 hours of the county sheriff issuing a
pistol permit or receiving notice of any material change in
status of the information described in subsection (b), he or
she shall electronically transmit to the Montgomery County
Sheriff's Office for inclusion into the repository the updated
information.

(d) Notwithstanding the provisions of Section
13A-11-75 or any other provision of law to the contrary, the
Montgomery County Sheriff's Office, upon request, shall make
available, electronically or in writing, all information
contained in the repository to all federal, state, county, and
municipal law enforcement agencies, prosecuting attorneys, or
probation officers for any lawful criminal justice purposes.

(e) A person who knowingly publishes or releases to
the public any information available through the repository,
except as authorized in this act or required by law or in
response to a court order or subpoena, shall be guilty of a
Class A misdemeanor.

(f)(1) On or before July 1 of each calendar year,
the Montgomery County Sheriff's Office, after consultation
with the Alabama Sheriff's Association and agreement of a
majority of the members of the association, shall establish a
projected cost for the ongoing operation,
upgrade, maintenance, and repair costs of the repository for
the upcoming fiscal year beginning the following October 1. By
that same July 1, the Montgomery County Sheriff's Office shall
divide this projected cost into a pro-rata share for each
county sheriff, and shall report to each county sheriff his or
her pro-rata share.

(2) Each sheriff shall remit to the Montgomery
County Sheriff's Office his or her pro-rata share of the
projected costs for ongoing operation, upgrade, maintenance,
and repair of the repository for the upcoming fiscal year on a
quarterly basis.

(g) Notwithstanding any law to the contrary, each
sheriff may add a fee not to exceed fifty cents ($0.50) per
year of validity of the issued pistol permit to each pistol
permit issued in his or her county, the proceeds of which
shall be remitted to the Montgomery County Sheriff's Office
pursuant to subsection (f) to be used for the facilitation,
ongoing operations, upgrading, maintenance, and repair of the
repository. Notwithstanding the foregoing, any proceeds from
these fees left over after remittance under subsection (f) may be retained by the sheriff's office.

Section 2. Section 13A-11-75 is amended to read as follows:

"§13A-11-75.

"(a)(1)a. The sheriff of a county, upon the application of any person residing in that county, within 30 days from receipt of a complete application and accompanying fee, shall issue or renew a permit for such person to carry a pistol in a vehicle or concealed on or about his or her person within this state for one- to five-year increments, as requested by the person seeking the permit, from date of issue, unless the sheriff determines that the person is prohibited from the possession of a pistol or firearm pursuant to state or federal law, or has a reasonable suspicion that the person may use a weapon unlawfully or in such other manner that would endanger the person's self or others. In making such determination, the sheriff may consider whether the applicant:

"1. Was found guilty but mentally ill in a criminal case.

"2. Was found not guilty in a criminal case by reason of insanity or mental disease or defect.

"3. Was declared incompetent to stand trial in a criminal case.

"4. Asserted a defense in a criminal case of not guilty by reason of insanity or mental disease or defect.
5. Was found not guilty only by reason of lack of mental responsibility under the Uniform Code of Military Justice.

6. Required involuntary inpatient treatment in a psychiatric hospital or similar treatment facility.

7. Required involuntary outpatient treatment in a psychiatric hospital or similar treatment facility based on a finding that the person is an imminent danger to himself or herself or to others.

8. Required involuntary commitment to a psychiatric hospital or similar treatment facility for any reason, including drug use.

9. Is or was the subject of a prosecution or of a commitment or incompetency proceeding that could lead to a prohibition on the receipt or possession of a firearm under the laws of Alabama or the United States.

10. Falsified any portion of the permit application.

11. Caused justifiable concern for public safety.

b. The sheriff shall take into account how recent any consideration under paragraph a. is in relation to the date of the application. The sheriff shall provide a written statement of the reasons for a denial of a permit and the evidence upon which it is based must be disclosed to the applicant, unless disclosure would interfere with a criminal investigation.
"c. Except as otherwise provided by the laws of this state, a permit issued under this subdivision is valid throughout the state.

d. Except as expressly provided in this section, a sheriff may not place conditions or requirements on the issuance of a pistol permit or limit its scope or applicability.

"(2)a. The sheriff may revoke a permit issued under subdivision (1) for any reason that could lead to a denial of a permit under that subdivision.

"b. The sheriff shall provide a written statement of the reasons for the revocation and the evidence upon which it is based must be disclosed to the applicant, unless disclosure would interfere with a criminal investigation.

"(3) A person who is denied a permit under subdivision (1), or a person whose permit is revoked under subdivision (2), within 30 days of notification of the denial or revocation, may appeal the denial or revocation to the district court of the county where the denial or revocation was issued. Upon a review of a denial under this subdivision, the sheriff shall have the burden of proving by clear and convincing evidence that the person is prohibited from possession of a pistol or other firearm pursuant to state or federal law or, based on any of the considerations enumerated in subdivision (a)(1) that the person may use a weapon unlawfully or in such other manner as would endanger the
person's self or others if granted a permit to carry a concealed weapon under this section.

"(4) Within 30 days of receipt of the appeal, the district court shall review the appeal and issue a determination providing the reasons for the determination.

"(5) If the district court issues a determination in favor of a person whose permit was denied or revoked, the person shall be issued a permit or the permit must be reinstated no later than the close of business on the fifth business day following the district court's transmittal of its order to the appropriate sheriff.

"(6) Nothing in this section shall be construed to permit a sheriff to disregard any federal law or regulation pertaining to the purchase or possession of a firearm.

"(b)(1) Each permit shall be written or in an electronic or digital form to be prescribed by the Secretary of State in consultation with uniform in appearance, size, and information content, and be in a form prescribed by the Alabama Sheriff's Association, and shall bear the name, address, description, and signature of the permittee all of the following as they relate to the holder of the permit:

"a. Full name.
"b. Current address, as reported by the permit holder.
"c. Driver's license number.
"d. Race.
"e. Sex.
1. Date of birth.
2. Height.
3. Weight.
4. Hair color.
5. Eye color.
6. A photograph of the permit holder.
7. The issuing agency's permit number.
8. The ORI, or Originating Agency, number of the issuing agency.
9. Issuance date of the permit.
10. Expiration date of the permit.
11. The original hard copy of the permit shall be issued to the permittee, and a duplicate shall, within seven days, be sent by registered or certified mail to the Secretary of the Alabama State Law Enforcement Agency. The application and a copy shall be preserved for six years by the authority issuing the same hard copy permit. The sheriff may charge a fee as provided by local law for the issuance of the permit under subdivision (1) of subsection (a). The amount of the fee for a period of one year up to five years shall be the amount of the fee as prescribed by local law multiplied by the number of years of the permit requested by the applicant. The fee shall be paid into the county treasury unless otherwise provided by local law. Prior to issuance or renewal of a permit, the sheriff shall contact available local, state, and federal criminal history data banks, including the National Instant Criminal Background Check System, to determine whether
possession of a firearm by an applicant would be a violation of state or federal law.

"(c) A sheriff may not place a time constraint or other requirement upon taking possession of a pistol permit by the applicant after he or she has been notified that his or her pistol permit has been approved.

"(d) For the convenience of the applicant, the sheriff may provide for application or renewal of a permit under subdivision (1) of subsection (a) through electronic means. The sheriff may also accept payment for a permit by debit or credit card or other consumer electronic payment method. Any transaction or banking fee charged for the electronic payment method shall be paid by the applicant.

"(e) If a person who is not a United States citizen applies for a permit under this section, the sheriff shall conduct an Immigration Alien Query through U.S. Immigration and Customs Enforcement, or any successor agency, and the application form shall require information relating to the applicant's country of citizenship, place of birth, and any alien or admission number issued by U.S. Immigration and Customs Enforcement, or any successor agency. The sheriff shall review the results of these inquiries before making a determination of whether to issue a permit or renewal permit. A person who is unlawfully present in this state may not be issued a permit under this section.

"(f) The name, address, signature, photograph, and any other personally identifying information collected from an
applicant or permittee under this section shall be kept confidential, shall be exempt from disclosure under Section 36-12-40, and may only be used for law enforcement purposes except when a current permittee is charged in any state with a felony involving the use of a pistol. All other information on permits under this section, including information concerning the annual number of applicants, number of permits issued, number of permits denied or revoked, revenue from issuance of permits, and any other fiscal or statistical data otherwise, shall remain public writings subject to public disclosure. Except as provided above, the sheriff of a county shall redact the name, address, signature, photograph, and any other personally identifying information of a permit holder before releasing a copy of a permit for a non-law enforcement purpose. The sheriff may charge one dollar ($1) per copy of any redacted permit record requested other than when requested for law enforcement purposes. To knowingly publish or release to the public in any form any information or records related to the licensing process, or the current validity of any permit, except as authorized in this subsection or in response to a court order or subpoena, is a Class A misdemeanor.

"(g) A concealed pistol permit issued under this section shall be valid for the carrying of a pistol in a motor vehicle or concealed on the permittee's person throughout the state, unless prohibited by this section.
"(h) This section shall not be construed to limit or place any conditions upon a person's right to carry a pistol that is not in a motor vehicle or not concealed.

"(i) If a person issued a pistol permit in this state establishes residence in another state, the pistol permit shall expire upon the establishment of residence in the other state."

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.