

1 SB113  
2 188404-1  
3 By Senators Sanford, Holtzclaw, Allen, Bussman, Glover,  
4 Shelnutt, Holley, Scofield, Williams and Singleton  
5 RFD: Judiciary  
6 First Read: 09-JAN-18

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8 SYNOPSIS: Under existing law, the sheriff may issue  
9 pistol permits to eligible applicants.

10 This bill would clarify that, except as  
11 expressly provided, a sheriff may not place  
12 conditions or requirements on the issuance of a  
13 pistol permit, or limit the scope or applicability  
14 of the law regarding the issuance of a pistol  
15 permit to an eligible applicant.

16 This bill would also provide that a sheriff  
17 may not place a time constraint requirement on the  
18 taking possession of an approved pistol permit.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT

23  
24 Relating to pistol permits; to amend Section  
25 13A-11-75, Code of Alabama 1975, to specify that, except as  
26 provided, a sheriff may not place conditions or requirements  
27 on the issuance of a pistol permit, or limit the scope or

1 applicability of the law regarding the issuance of a pistol  
2 permit to an eligible applicant; and to provide that a sheriff  
3 may not place a time constraint requirement on the taking  
4 possession of an approved pistol permit.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 13A-11-75, Code of Alabama 1975,  
7 is amended to read as follows:

8 "§13A-11-75.

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

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

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

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

3           "4. Asserted a defense in a criminal case of not  
4 guilty by reason of insanity or mental disease or defect.

5           "5. Was found not guilty only by reason of lack of  
6 mental responsibility under the Uniform Code of Military  
7 Justice.

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

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

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

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

21          "10. Falsified any portion of the permit  
22 application.

23          "11. Caused justifiable concern for public safety.

24          "b. The sheriff shall take into account how recent  
25 any consideration under paragraph a. is in relation to the  
26 date of the application. The sheriff shall provide a written  
27 statement of the reasons for a denial of a permit and the

1 evidence upon which it is based must be disclosed to the  
2 applicant, unless disclosure would interfere with a criminal  
3 investigation.

4 "c. Except as otherwise provided by the laws of this  
5 state, a permit issued under this subdivision is valid  
6 throughout the state, ~~and a~~.

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

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

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

18 "(3) A person who is denied a permit under  
19 subdivision (1), or a person whose permit is revoked under  
20 subdivision (2), within 30 days of notification of the denial  
21 or revocation, may appeal the denial or revocation to the  
22 district court of the county where the denial or revocation  
23 was issued. Upon a review of a denial under this subdivision,  
24 the sheriff shall have the burden of proving by clear and  
25 convincing evidence that the person is prohibited from  
26 possession of a pistol or other firearm pursuant to state or  
27 federal law or, based on any of the considerations enumerated

1 in subsection (a) (1) that the person may use a weapon  
2 unlawfully or in such other manner as would endanger the  
3 person's self or others if granted a permit to carry a  
4 concealed weapon under this section.

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

8 "(5) If the district court issues a determination in  
9 favor of a person whose permit was denied or revoked, the  
10 person shall be issued a permit or the permit must be  
11 reinstated.

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

15 "(b) Each permit shall be written or in an  
16 electronic or digital form to be prescribed by the Secretary  
17 of State in consultation with the Alabama Sheriff's  
18 Association, and shall bear the name, address, description,  
19 and signature of the permittee. The original hardcopy of the  
20 permit shall be ~~delivered~~ issued to the permittee, and a  
21 duplicate shall, within seven days, be sent by registered or  
22 certified mail to the Director of the Alabama State Law  
23 Enforcement Agency. The application and a copy shall be  
24 preserved for six years by the authority issuing the same. The  
25 sheriff may charge a fee as provided by local law for the  
26 issuance of the permit under subdivision (1) of subsection  
27 (a). The amount of the fee for a period of one year up to five

1 years shall be the amount of the fee as prescribed by local  
2 law multiplied by the number of years of the permit requested  
3 by the applicant. The fee shall be paid into the county  
4 treasury unless otherwise provided by local law. Prior to  
5 issuance or renewal of a permit, the sheriff shall contact  
6 available local, state, and federal criminal history data  
7 banks, including the National Instant Criminal Background  
8 Check System, to determine whether possession of a firearm by  
9 an applicant would be a violation of state or federal law.

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

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

21 ~~"(d)~~ (e) If a person who is not a United States  
22 citizen applies for a permit under this section, the sheriff  
23 shall conduct an Immigration Alien Query through U.S.  
24 Immigration and Customs Enforcement, or any successor agency,  
25 and the application form shall require information relating to  
26 the applicant's country of citizenship, place of birth, and  
27 any alien or admission number issued by U.S. Immigration and

1 Customs Enforcement, or any successor agency. The sheriff  
2 shall review the results of these inquiries before making a  
3 determination of whether to issue a permit or renewal permit.  
4 A person who is unlawfully present in this state may not be  
5 issued a permit under this section.

6 "~~(e)~~ (f) The name, address, signature, photograph,  
7 and any other personally identifying information collected  
8 from an applicant or permittee under this section shall be  
9 kept confidential, shall be exempt from disclosure under  
10 Section 36-12-40, and may only be used for law enforcement  
11 purposes except when a current permittee is charged in any  
12 state with a felony involving the use of a pistol. All other  
13 information on permits under this section, including  
14 information concerning the annual number of applicants, number  
15 of permits issued, number of permits denied or revoked,  
16 revenue from issuance of permits, and any other fiscal or  
17 statistical data otherwise, shall remain public writings  
18 subject to public disclosure. Except as provided above, the  
19 sheriff of a county shall redact the name, address, signature,  
20 photograph, and any other personally identifying information  
21 of a permit holder before releasing a copy of a permit for a  
22 non-law enforcement purpose. The sheriff may charge one dollar  
23 (\$1) per copy of any redacted permit record requested other  
24 than when requested for law enforcement purposes. To knowingly  
25 publish or release to the public in any form any information  
26 or records related to the licensing process, or the current  
27 validity of any permit, except as authorized in this

1 subsection or in response to a court order or subpoena, is a  
2 Class A misdemeanor.

3 ~~"(f)~~ (g) A concealed pistol permit issued under this  
4 section shall be valid for the carrying of a pistol in a motor  
5 vehicle or concealed on the permittee's person throughout the  
6 state, unless prohibited by this section.

7 ~~"(g)~~ (h) This section shall not be construed to  
8 limit or place any conditions upon a person's right to carry a  
9 pistol that is not in a motor vehicle or not concealed.

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

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