

1 SB330
2 183891-1
3 By Senators Shelnutt, Melson, Ward, Glover, Allen, Whatley,
4 Dial, Waggoner, Holtzclaw, Albritton, Stutts, Smitherman and
5 Bussman
6 RFD: Judiciary
7 First Read: 16-MAR-17

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8 SYNOPSIS: Under existing law, a sheriff may issue or
9 renew a pistol permit to or for any person residing
10 in the county in which he or she has jurisdiction.

11 This bill would allow a sheriff to issue or
12 renew a pistol permit to or for a person residing
13 in any county in the state.

14 This bill would also provide that the permit
15 issuing sheriff or the sheriff of the county in
16 which the permittee resides may revoke a permit and
17 would require that a duplicate of the pistol permit
18 wherever issued be delivered to the sheriff of the
19 county in which the permittee resides.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To amend Section 13A-11-75, Code of Alabama 1975,
26 relating to pistol permits, to allow a sheriff to issue or
27 renew a pistol permit to or for a person residing in any

1 county; to specify who may revoke a permit; and to require
2 that a duplicate of the pistol permit wherever issued be
3 delivered to the sheriff of the county in which the permittee
4 resides.

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~~ receipt of a completed application, accompanying fees, and
13 a successfully completed National Instant Criminal Background
14 Check, shall issue or renew, within 30 days, a permit for that
15 person to carry a pistol in a vehicle or concealed on or about
16 his or her person within this state for one to five year
17 periods, as requested by the person seeking the permit, from
18 date of issue, unless the sheriff determines that the person
19 is prohibited from the possession of a pistol or firearm
20 pursuant to state or federal law, or has a reasonable
21 suspicion that the person may use a weapon unlawfully or in
22 such other manner that would endanger the person's self or
23 others. In making such determination, the sheriff may consider
24 whether the applicant:

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

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

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

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

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

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

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

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

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

23 "10. Falsified any portion of the permit
24 application.

25 "11. Caused justifiable concern for public safety.

26 "b. The sheriff shall take into account how recent
27 any consideration under paragraph a. is in relation to the

1 date of the application. The sheriff shall provide a written
2 statement of the reasons for a denial of a permit and the
3 evidence upon which it is based must be disclosed to the
4 applicant, unless disclosure would interfere with a criminal
5 investigation.

6 "c. Except as otherwise provided by the laws of this
7 state, a permit issued under this subdivision is valid
8 throughout the state, and a sheriff may not place conditions
9 or requirements on the issuance of the permit or limit its
10 scope or applicability.

11 "d. An online version of an application for, or in
12 renewal of, a permit under this section shall be processed for
13 approval only in the applicant's county of residence.

14 "(2)a. The sheriff who initially issued the permit
15 or the sheriff of the county in which a permittee is a
16 resident may revoke a permit issued under subdivision (1) for
17 any reason that could lead to a denial of a permit under that
18 subdivision.

19 "b. The sheriff who initially issued the permit or
20 the sheriff of the county in which a permittee is a resident
21 shall provide a written statement of the reasons for the
22 revocation and the evidence upon which it is based must be
23 disclosed to the applicant, unless disclosure would interfere
24 with a criminal investigation.

25 "(3) A person who is denied a permit under
26 subdivision (1), or a person whose permit is revoked under
27 subdivision (2), within 30 days of notification of the denial

1 or revocation, may appeal the denial or revocation to the
2 district court of the county where the denial or revocation
3 was issued. Upon a review of a denial under this subdivision,
4 the sheriff shall have the burden of proving by clear and
5 convincing evidence that the person is prohibited from
6 possession of a pistol or other firearm pursuant to state or
7 federal law or, based on any of the considerations enumerated
8 in subsection (a)(1) that the person may use a weapon
9 unlawfully or in such other manner as would endanger the
10 person's self or others if granted a permit to carry a
11 concealed weapon under this section.

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

15 "(5) If the district court issues a determination in
16 favor of a person whose permit was denied or revoked, the
17 person shall be issued a permit or the permit must be
18 reinstated.

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

22 "(b) Each permit shall be written or in an
23 electronic or digital form to be prescribed by the Secretary
24 of State in consultation with the Alabama Sheriff's
25 Association, and shall bear the name, address, description,
26 and signature of the permittee. The original hardcopy of the
27 permit shall be delivered to the permittee, and a duplicate

1 shall, within seven days, be sent by registered or certified
2 mail to the ~~Director of Public Safety~~ Secretary of the Alabama
3 State Law Enforcement Agency and the sheriff of the county in
4 which the permittee resides if he or she is not the sheriff
5 issuing the permit. The application and a copy shall be
6 preserved for six years by the authority issuing the same. The
7 sheriff may charge a fee as provided by local law for the
8 issuance of the permit under subdivision (1) of subsection
9 (a). The amount of the fee for a period of one year up to five
10 years shall be the amount of the fee as prescribed by local
11 law multiplied by the number of years of the permit requested
12 by the applicant. The fee shall be paid into the county
13 treasury unless otherwise provided by local law. Prior to
14 issuance or renewal of a permit, and within three days from
15 receipt of a completed application and accompanying fee, the
16 sheriff shall contact available local, state, and federal
17 criminal history data banks, including the National Instant
18 Criminal Background Check System, to determine whether
19 possession of a firearm by an applicant would be a violation
20 of state or federal law.

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

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

13 "(e) The name, address, signature, photograph, and
14 any other personally identifying information collected from an
15 applicant or permittee under this section shall be kept
16 confidential, shall be exempt from disclosure under Section
17 36-12-40, and may only be used for law enforcement purposes
18 except when a current permittee is charged in any state with a
19 felony involving the use of a pistol. All other information on
20 permits under this section, including information concerning
21 the annual number of applicants, number of permits issued,
22 number of permits denied or revoked, revenue from issuance of
23 permits, and any other fiscal or statistical data otherwise,
24 shall remain public writings subject to public disclosure.
25 Except as provided above, the sheriff of a county shall redact
26 the name, address, signature, photograph, and any other
27 personally identifying information of a permit holder before

1 releasing a copy of a permit for a non-law enforcement
2 purpose. The sheriff may charge one dollar (\$1) per copy of
3 any redacted permit record requested other than when requested
4 for law enforcement purposes. To knowingly publish or release
5 to the public in any form any information or records related
6 to the licensing process, or the current validity of any
7 permit, except as authorized in this subsection or in response
8 to a court order or subpoena, is a Class A misdemeanor.

9 "(f) A concealed pistol permit issued under this
10 section shall be valid for the carrying of a pistol in a motor
11 vehicle or concealed on the permittee's person throughout the
12 state, unless prohibited by this section.

13 "(g) This section shall not be construed to limit or
14 place any conditions upon a person's right to carry a pistol
15 that is not in a motor vehicle or not concealed.

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

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