

1 SB223  
2 190015-1  
3 By Senator Sanders  
4 RFD: Judiciary  
5 First Read: 25-JAN-18

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8 SYNOPSIS: Under existing law, there is no provision  
9 prohibiting a person who has been convicted of a  
10 felony or misdemeanor offense and sentenced to an  
11 additional penalty for committing a crime motivated  
12 by a victim's race, national origin, ethnicity, or  
13 disability from owning, possessing, or controlling  
14 a firearm.

15 This bill would prohibit a person convicted  
16 of a felony or misdemeanor offense and who is  
17 sentenced to an additional penalty for committing a  
18 crime motivated by a victim's race, national  
19 origin, ethnicity, or physical or mental disability  
20 under existing law, from owning, possessing, or  
21 controlling a firearm.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Section 13A-11-72, Code of Alabama 1975, to  
2 prohibit a person convicted of a felony or misdemeanor offense  
3 for which he or she is sentenced to an additional penalty for  
4 committing a crime motivated by a victim's race, national  
5 origin, ethnicity, or physical or mental disability from  
6 owning, possessing, or controlling a firearm.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8           Section 1. Section 13A-11-72, Code of Alabama 1975,  
9 is amended to read as follows:

10           "§13A-11-72.

11           "(a) No person who has been convicted in this state  
12 or elsewhere of committing or attempting to commit a crime of  
13 violence, misdemeanor offense of domestic violence, violent  
14 offense as listed in Section 12-25-32(15), anyone who is  
15 subject to a valid protection order for domestic abuse, anyone  
16 who has been convicted of a felony or misdemeanor offense and  
17 sentenced to an additional penalty pursuant to Section  
18 13A-5-13, or anyone of unsound mind shall own a firearm or  
19 have one in his or her possession or under his or her control.

20           "(b) No person who is a minor, except under the  
21 circumstances provided in this section, a drug addict, or an  
22 habitual drunkard shall own a pistol or have one in his or her  
23 possession or under his or her control.

24           "(c) Subject to the exceptions provided by Section  
25 13A-11-74, no person shall knowingly with intent to do bodily  
26 harm carry or possess a deadly weapon on the premises of a  
27 public school.

1           "(d) Possession of a deadly weapon with the intent  
2 to do bodily harm on the premises of a public school in  
3 violation of subsection (c) of this section is a Class C  
4 felony.

5           "(e) School security personnel and school resource  
6 officers qualified under subsection (a) of Section 16-1-44.1,  
7 employed by a local board of education, and authorized by the  
8 employing local board of education to carry a deadly weapon  
9 while on duty are exempt from subsection (c) of this section.  
10 Law enforcement officers are exempt from this section, and  
11 persons with pistol permits issued pursuant to Section  
12 13A-11-75, are exempt from subsection (c) of this section.

13           "(f) A person shall not be in violation of Section  
14 13A-11-57 or 13A-11-76 and a minor shall not be in violation  
15 of this section if the minor has permission to possess a  
16 pistol from a parent or legal guardian who is not prohibited  
17 from possessing a firearm under state or federal law, and any  
18 of the following are satisfied:

19           "(1) The minor is attending a hunter education  
20 course or a firearms safety course under the supervision of an  
21 adult who is not prohibited from possessing a firearm under  
22 state or federal law.

23           "(2) The minor is engaging in practice in the use of  
24 a firearm or target shooting at an established range under the  
25 supervision of an adult who is not prohibited from possessing  
26 a firearm under state or federal law.

1           "(3) The minor is engaging in an organized  
2 competition involving the use of a firearm or participating in  
3 or practicing for a performance by an organized group under 26  
4 U.S.C. § 501(c) (3) which uses firearms as part of the  
5 performance.

6           "(4) The minor is hunting or fishing pursuant to a  
7 valid license, if required, and the person has the license in  
8 his or her possession; has written permission of the owner or  
9 legal possessor of the land on which the activities are being  
10 conducted; and the pistol, when loaded, is carried only in a  
11 manner discernible by ordinary observation.

12           "(5) The minor is on real property under the control  
13 of the minor's parent, legal guardian, or grandparent.

14           "(6) The minor is a member of the armed services or  
15 National Guard and the minor is acting in the line of duty.

16           "(7) The minor is traveling by motor vehicle to any  
17 of the locations or activities listed in subdivisions (1)  
18 through (6), has written permission to possess the pistol by  
19 his or her parent or legal guardian, and the pistol is  
20 unloaded, locked in a compartment or container that is in or  
21 affixed securely to the motor vehicle and is out of reach of  
22 the driver and any passenger in the motor vehicle.

23           "(g) This section does not apply to a minor who uses  
24 a pistol while acting in self-defense of himself or herself or  
25 other persons against an intruder into the residence of the  
26 minor or a residence in which the minor is an invited guest.

1           "(h) The term "school resource officer" as used in  
2 this section means an Alabama Peace Officers' Standards and  
3 Training Commissioner-certified law enforcement officer  
4 employed by a law enforcement agency who is specifically  
5 selected and specially trained for the school setting.

6           "(i) The term "public school" as used in this  
7 section applies only to a school composed of grades K-12 and  
8 shall include a school bus used for grades K-12.

9           "(j) The term "deadly weapon" as used in this  
10 section means a firearm or anything manifestly designed, made,  
11 or adapted for the purposes of inflicting death or serious  
12 physical injury, and such term includes, but is not limited  
13 to, a bazooka, hand grenade, missile, or explosive or  
14 incendiary device; a pistol, rifle, or shotgun; or a  
15 switch-blade knife, gravity knife, stiletto, sword, or dagger;  
16 or any club, baton, billy, black-jack, bludgeon, or metal  
17 knuckles.

18           "(k) (1) The term "convicted" as used in this section  
19 requires that the person was represented by counsel in the  
20 case, or knowingly and intelligently waived the right to  
21 counsel in the case if required by law, and either the case  
22 was tried before a judge, tried by a jury, or the person  
23 knowingly and intelligently waived the right to have the case  
24 tried, by guilty plea or otherwise.

25           "(2) A person may not be considered to have been  
26 convicted for the purposes of this section if the person is  
27 not considered to have been convicted in the jurisdiction in

1 which the proceedings were held or the conviction has been  
2 expunged, set aside, or is of an offense for which the person  
3 has been pardoned or has had civil rights restored, unless the  
4 pardon, expungement, or restoration of civil rights expressly  
5 provides that the person may not ship, transport, possess, or  
6 receive firearms.

7 "(l) The term "misdemeanor offense of domestic  
8 violence" as used in this section means a misdemeanor offense  
9 that has, as its elements, the use or attempted use of  
10 physical force or the threatened use of a dangerous instrument  
11 or deadly weapon, and the victim is a current or former  
12 spouse, parent, child, person with whom the defendant has a  
13 child in common, or a present or former household member.

14 "(m) The term "valid protection order" as used in  
15 this section means an order issued after a hearing of which  
16 the person received actual notice, and at which the person had  
17 an opportunity to participate, that does any of the following:

18 "(1) Restrains the person from harassing, stalking,  
19 or threatening a qualified individual or child of the  
20 qualified individual or person or engaging in other conduct  
21 that would place a qualified individual in reasonable fear of  
22 bodily injury to the individual or child and that includes a  
23 finding that the person represents a credible threat to the  
24 physical safety of the qualified individual or child.

25 "(2) By its terms, explicitly prohibits the use,  
26 attempted use, or threatened use of physical force against the

1 qualified individual or child that would reasonably be  
2 expected to cause bodily injury.

3 "(n) The term "qualified individual" as used in  
4 subsection (m), means a spouse or former spouse of the person,  
5 an individual who is a parent of a child of the person, or an  
6 individual who cohabitates or has cohabited with the person.

7 "(o) The term "unsound mind" as used in this section  
8 includes any person who is subject to any of the findings  
9 listed below, and who has not had his or her rights to possess  
10 a firearm reinstated by operation of law or legal process:

11 "(1) Found by a court, board, commission, or other  
12 lawful authority that, as a result of marked subnormal  
13 intelligence, mental illness, incompetency, condition, or  
14 disease, is a danger to himself or herself or others or lacks  
15 the mental capacity to contract or manage his or her own  
16 affairs.

17 "(2) Found to be insane, not guilty by reason of  
18 mental disease or defect, found mentally incompetent to stand  
19 trial, or found not guilty by a reason of lack of mental  
20 responsibility by a court in a criminal case, to include  
21 state, federal and military courts.

22 "(3) Involuntarily committed for a final commitment  
23 for inpatient treatment to the Department of Mental Health or  
24 a Veterans' Administration hospital by a court after a  
25 hearing."



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