

1 HB110
2 208636-2
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to the Department of Corrections and
9 pardons and paroles; to amend Sections 15-22-29, 15-22-32, and
10 15-22-52, and Section 15-22-54, as last amended by Act
11 2019-513, 2019 Regular Session, Code of Alabama 1975, to allow
12 parolee and probation violators to serve confinement in a
13 county jail in certain circumstances; to require the
14 Department of Corrections to pay a county jail to house
15 parolees and probationers in certain circumstances; to require
16 that the Department of Corrections is responsible for the
17 health care costs of parolees and probationers in certain
18 circumstances; and to make nonsubstantive, technical revisions
19 to update the existing code language to current style.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 15-22-29, 15-22-32, and
22 15-22-52, and Section 15-22-54, as last amended by Act
23 2019-513, 2019 Regular Session, Code of Alabama 1975, are
24 amended to read as follows:

25 "§15-22-29.

26 "(a) The Board of Pardons and Paroles, in releasing
27 a prisoner on parole, shall specify in writing the conditions

1 of ~~his~~ parole, and provide a copy of ~~such the~~ conditions ~~shall~~
2 ~~be given~~ to the parolee. A ~~violation of such~~ parolee who
3 violates conditions of parole may ~~render the prisoner liable~~
4 be subject to arrest and reimprisonment.

5 "(b) The Board of Pardons and Paroles shall adopt
6 general rules ~~with regard to~~ regarding the conditions of
7 parole and their violation and may make special rules to
8 govern particular cases. ~~Such The~~ rules, both general and
9 special, shall include, ~~among other things, a requirement that~~
10 but are not limited to, all of the following:

11 "(1) The parolee ~~shall~~ may not leave the state
12 without the consent of the board~~;~~.

13 "(2) ~~He or she~~ The parolee shall contribute to the
14 support of his or her dependents to the best of his or her
15 ability~~;~~.

16 "(3) ~~He or she~~ The parolee shall make reparation or
17 restitution for his or her crime~~;~~.

18 "(4) ~~He or she~~ The parolee shall abandon evil
19 associates and ways~~;~~.

20 "(5) ~~He or she~~ The parolee shall ~~carry out~~ follow
21 the instructions of his or her parole officer and ~~in general~~
22 ~~so comport himself or herself as such~~ cooperate with the
23 parole officer shall determine; and.

24 "~~(6) He or she shall submit to behavioral treatment,~~
25 ~~substance abuse treatment, GPS monitoring, other treatment as~~
26 ~~deemed necessary by the board or the supervising parole~~
27 ~~officer, and/or a period or periods of confinement in a~~

1 ~~consenting jail facility. Periods of confinement imposed by~~
2 ~~the supervising parole officer shall not exceed six days per~~
3 ~~month during any three separate months during the period of~~
4 ~~parole. The six days per month confinement provided for in~~
5 ~~this subdivision shall only be imposed by the supervising~~
6 ~~parole officer as two-day or three-day consecutive periods at~~
7 ~~any single time. In no event shall the total periods of~~
8 ~~confinement imposed by the supervising parole officer provided~~
9 ~~for in this subdivision exceed 18 total days in a consenting~~
10 ~~jail facility. Confinement provided herein shall be subject to~~
11 ~~the limitations, provisions, and conditions provided in~~
12 ~~Section 15-22-32, and the board's authority to directly impose~~
13 ~~sanctions, periods of confinement, or revoke parole shall not~~
14 ~~otherwise be limited.~~

15 "§15-22-32.

16 "(a) ~~Whenever~~ If there is reasonable cause to
17 believe that a prisoner who has been paroled has violated his
18 or her parole, ~~the Board of Pardons and Paroles, at its next~~
19 ~~meeting, may declare the prisoner to be delinquent, and time~~
20 ~~owed shall date from the delinquency. The Department of~~
21 ~~Corrections, after receiving notice from the sheriff of the~~
22 ~~county jail where the state prisoner is being held, shall~~
23 ~~promptly notify the board of the return of a paroled prisoner~~
24 ~~charged with violation of his or her parole. Thereupon, the~~
25 board, a single member of the board, a parole revocation
26 hearing officer, or a designated parole officer shall hold a

1 parole court at the prison or at another place as it may
2 determine.

3 "(b) (1) The parole court shall be held within 20
4 business days and shall consider the case of the parole
5 violate~~r, who~~. The parolee shall be given an opportunity to
6 appear personally or by counsel before ~~the board or~~ the parole
7 court ~~and to~~ produce witnesses and ~~to~~ explain the charges made
8 against him or her. The ~~board member, parole revocation~~
9 hearing officer, or a designated parole officer, acting as a
10 parole court, shall determine whether sufficient evidence
11 supports the violation charges.

12 "(2) If a hearing is not held within ~~the specified~~
13 20 business days, the parolee shall be released back to parole
14 supervision.

15 ~~"(b) Upon~~ (c) (1) After conducting a parole court and
16 upon finding sufficient evidence to support a parole
17 violation, the parole court may recommend to the board
18 revocation or reinstatement of parole, and the board may
19 revoke or reinstate parole. Upon revocation of parole, the
20 board may require the prisoner to serve in a state prison
21 facility the balance of the term for which he or she was
22 originally sentenced or any portion thereof, calculated from
23 the date of delinquency. The delinquent parolee shall be
24 deemed to begin serving the balance of the prison time
25 required on the date of his or her rearrest as a delinquent
26 parolee. However, in all cases, excluding violent offenses
27 defined pursuant to Section 12-25-32 and classified as a Class

1 ~~A felony, and sex offenses, defined pursuant to Section~~
2 ~~15-20A-5, the parole court may only recommend revocation and~~
3 ~~the board may only revoke parole as provided below~~ take any of
4 the following actions:

5 ~~"(1) Unless~~ a. If the underlying offense is ~~is~~ was a
6 violent offense as defined in Section 12-25-32 and classified
7 as a Class A felony, ~~when a parolee under supervision of the~~
8 ~~Board of Pardons and Paroles has violated a condition of~~
9 ~~parole, other than being~~ a sex offense pursuant to Section
10 15-20A-5, or aggravated theft by deception pursuant to Section
11 13A-8-2.1, the board may revoke parole and require the parolee
12 to serve the balance of the term for which he or she was
13 originally sentenced, or any portion thereof, in a state
14 prison facility, calculated from the date of his or her
15 rearrest as a delinquent parolee.

16 ~~"b. If the parole violation was for being arrested~~
17 ~~or convicted of a new offense or absconding, the parole court~~
18 ~~may recommend and~~ the board may revoke parole and require the
19 parolee to serve the balance of the term for which he or she
20 was originally sentenced, or any portion thereof, in a state
21 prison facility, calculated from the date of his or her
22 rearrest as a delinquent parolee.

23 ~~"c. 1. For all other parolees,~~ the board may impose
24 a period of confinement of no more than 45 consecutive days to
25 be served in ~~the custody population of the Department of~~
26 ~~Corrections. By April 29, 2016, the Department of Corrections~~
27 ~~shall develop and implement a streamlined process to transport~~

1 and receive the parolee into its custody population and shall
2 identify and, if possible, implement policies aimed at
3 reducing the administrative delays, if any, in transferring to
4 the Department of Corrections the physical custody of the
5 parolee and those whose parole has been revoked. Such process
6 shall be developed in cooperation with the Alabama Sheriffs'
7 Association and the Association of County Commissions of
8 Alabama. Such process shall include the most cost-effective
9 method to process sanctioned parole violators for the maximum
10 45 day confinement period and shall provide that the
11 Department of Corrections shall reimburse the state mileage
12 rate, as determined by the Alabama Comptroller's Office, to
13 the county for any state inmate sanctioned as a parole
14 violator and transferred to or from a Department of
15 Corrections facility by the county a county jail, calculated
16 from the date of his or her rearrest as a delinquent parolee.
17 Upon completion of the confinement period and release from
18 confinement, the parolee shall automatically continue on
19 parole for the remaining term of the sentence without further
20 action from the board. The parole court ~~shall~~ may not
21 recommend and the board ~~shall~~ may not revoke parole unless the
22 parolee has previously received a total of three periods of
23 confinement ~~under~~ pursuant to this subsection paragraph. A
24 parolee shall receive only three total periods of confinement
25 ~~under~~ pursuant to this subsection paragraph. The maximum 45
26 day term of confinement ~~ordered under this subsection shall~~
27 may not be reduced by credit for incarceration time already

1 served in the case. Confinement ~~under~~ pursuant to this
2 ~~subsection paragraph~~ shall be credited to the balance of the
3 incarceration term for which the parolee was originally
4 sentenced. ~~In the event~~ If the time remaining on parole
5 supervision is 45 days or less, the term of confinement shall
6 be for the remainder of the parolee's sentence.

7 "2. Any county that houses and cares for parole
8 violators pursuant to this paragraph, and is participating in
9 the liability self-insurance fund established pursuant to
10 Chapter 30 of Title 11, shall be eligible for the liability
11 self-insurance fund's coverage for any claims arising out of
12 the housing and care of parole violators.

13 "(2) The total time spent in confinement ~~under~~
14 pursuant to this subsection ~~shall~~ may not exceed the term of
15 the parolee's original sentence.

16 "(3) Confinement shall be immediate. The board shall
17 ~~be responsible for ensuring~~ ensure that the Department of
18 Corrections or a county jail that will be housing the parolee
19 pursuant to this section receives necessary documentation for
20 imposing a period of confinement within five business days of
21 the board's action.

22 "(4) If the parolee is presented to a county jail
23 for any period of confinement ~~as contemplated hereinabove,~~
24 pursuant to this section, with a serious medical condition, if
25 the admittance of the parolee would create a security risk to
26 the county jail, or if the jail is near, at, or over capacity,
27 the sheriff may refuse to admit the parolee. If, while in

1 custody of the county jail, the parolee develops a serious
2 medical condition, if the presence of the parolee creates a
3 security risk to the county jail, or if the county jail
4 reaches near, at, or over capacity, the sheriff may release
5 the parolee upon notification to the parole officer. A sheriff
6 and his or her ~~staff~~ employees shall be immune from liability
7 for exercising discretion pursuant to Section 36-1-12 in
8 refusing to admit a parolee into the jail or releasing a
9 parolee from jail ~~under the circumstances described above~~
10 pursuant to this section.

11 "(5) The Department of Corrections shall be
12 responsible for health care costs of any parolee being housed
13 in a county jail pursuant to this section.

14 "(6) The Department of Corrections shall pay a
15 county jail housing parolees, pursuant to this section, twenty
16 dollars (\$20) per day the parolee is housed in the county
17 jail.

18 ~~"(c)~~ (d) The position of Parole Revocation Hearing
19 Officer is created and established, subject to ~~provisions of~~
20 the state Merit System.

21 ~~"(d)~~ (e) The board may appoint or employ, ~~as the~~
22 ~~board deems necessary,~~ hearing officers who shall conduct a
23 parole court. ~~Such hearing officers shall have authority to~~
24 ~~determine the sufficiency of evidence to support parole~~
25 ~~violation charges and recommend to the board revocation of~~
26 ~~parole pursuant to subsection (b) or reinstatement of parole.~~

1 ~~"(e)~~ (f) In lieu of ~~the provisions of~~ subsections
2 (a) and (b), when a parolee violates his or her parole terms
3 and conditions, his or her parole officer, after an
4 administrative review and approval by the parole officer's
5 supervisor, ~~may require the parolee to submit to behavioral~~
6 impose any of the following sanctions:

7 "(1) Mandatory behavioral treatment,

8 "(2) Mandatory substance abuse treatment,

9 "(3) GPS monitoring, ~~such.~~

10 "(4) Any other treatment as determined by the board
11 or supervising parole officer, ~~or a.~~

12 "(5)a. A short period of confinement in a consenting
13 jail facility as specified in subdivision (6) of subsection
14 (b) of Section 15-22-29. The parole officer may exercise such
15 authority after administrative review and approval by the
16 officer's supervisor. Periods of confinement under this
17 paragraph may not exceed six days per month during any three
18 separate months during the period of parole. The six days per
19 month confinement may only be imposed as two-day or three-day
20 consecutive periods at any single time. The total periods of
21 confinement provided may not exceed 18 total days in a
22 consenting jail facility.

23 "b. Confinement pursuant to paragraph a. may not
24 limit the board's ability to directly impose sanctions,
25 periods of confinement, or revoke parole.

26 "c. Any county that houses and cares for parole
27 violators pursuant to this subdivision, and is participating

1 in the liability self-insurance fund established pursuant to
2 Chapter 30 of Title 11, shall be eligible for the liability
3 self-insurance fund's coverage for any claims arising out of
4 the housing and care of parole violators.

5 ~~"(f) (g) (1) Prior to imposing a sanction provided~~
6 ~~under pursuant to subsection (e) and pursuant to subdivision~~
7 ~~(6) of subsection (b) of Section 15-22-29 (f), the parolee~~
8 must first be presented with a written violation report,
9 ~~putting~~ setting forth the alleged parole violations and
10 supporting evidence.

11 "(2) The parolee may request a hearing before the
12 parole court to be heard in person within 10 days.

13 "(3) The parolee shall be given written notice of
14 the right to seek ~~such~~ a parole court review and be advised of
15 ~~the right (i) to~~ all of the following rights:

16 "a. To have a hearing before a neutral and detached
17 parole court on the alleged violation or violations, with the
18 right to present relevant witnesses and documentary evidence,
19 ~~(ii) to.~~

20 "b. To retain and have counsel at the hearing if he
21 or she so desires,~~and (iii) to.~~

22 "c. To confront and cross examine any adverse
23 witnesses.

24 "(4) Upon the signing of a waiver of these rights by
25 the parolee and the ~~supervising~~ parole officer, with the
26 approval of a supervisor, the parolee may be treated,

1 monitored, or confined for the period recommended in the
2 violation report and designated on the waiver. ~~However, the~~

3 "(5) The parolee shall have no right of review if he
4 or she has signed a written waiver of rights as provided in
5 this subsection. A signed waiver shall be deemed as the
6 parolee's consent to the treatment, monitoring, or confinement
7 recommended in the violation report and designated on the
8 waiver.

9 "(6) Should a parolee not sign a written waiver
10 consenting to the recommended treatment, monitoring, or
11 confinement, the revocation process shall be initiated by the
12 filing of a delinquency report by the parole officer, subject
13 to subsections (a) and (b), including the requirement that a
14 parole court hearing be held within 20 business days.

15 ~~"(g)~~ (h) The board shall adopt guidelines and
16 procedures to implement the requirements of this section,
17 which shall include the requirement of a supervisor's approval
18 prior to exercise of the delegation of authority authorized by
19 subsection (e).

20 "§15-22-52.

21 "The court shall determine, ~~and may at any time, may~~
22 modify the conditions of probation ~~and shall include among~~
23 ~~them the following or any other conditions. Such.~~ The
24 conditions of probation shall provide that the probationer
25 shall include, but are not limited to, all of the following:

26 "(1) Avoid injurious or vicious habits.

1 "(2) Avoid persons or places of disreputable or
2 harmful character~~;~~.

3 "(3) Report to the probation officer as directed~~;~~.

4 "(4) Permit the probation officer to visit him or
5 her at his or her home or elsewhere~~;~~.

6 "(5) Work faithfully at suitable ~~employments as far~~
7 ~~as possible;~~ employment to the extent possible.

8 "(6) Remain within a specified ~~place;~~ location.

9 "(7) Pay the fine ~~imposed~~ or costs imposed or ~~such~~
10 ~~portions thereof as the court may determine and in such~~
11 ~~installments~~ of fines and costs imposed, as the determined by
12 the court may direct;.

13 "(8) Make reparation or restitution to the aggrieved
14 party for the damage or loss caused by his or her offense in
15 an amount to be determined by the court~~;~~.

16 "(9) Support his or her dependents to the best of
17 his or her ability~~;~~and.

18 "~~(10) Submit to behavioral treatment, substance~~
19 ~~abuse treatment, GPS monitoring, other treatment as deemed~~
20 ~~necessary by the court or supervising probation officer,~~
21 ~~and/or a period or periods of confinement in a consenting jail~~
22 ~~facility. Periods of confinement imposed by the supervising~~
23 ~~probation officer shall not exceed six days per month during~~
24 ~~any three separate months during the period of probation. The~~
25 ~~six days per month confinement provided for in this subsection~~
26 ~~shall only be imposed by the supervising probation officer as~~
27 ~~two-day or three-day consecutive periods at any single time.~~

1 ~~In no event shall the total periods of confinement imposed by~~
2 ~~the supervising probation officer provided for in this~~
3 ~~subsection exceed 18 total days in a consenting jail facility.~~
4 ~~Confinement provided herein shall be subject to the~~
5 ~~limitations, provisions, and conditions provided in Section~~
6 ~~15-22-54, and the court's authority to directly impose~~
7 ~~sanctions, periods of confinement, or revoke probation shall~~
8 ~~not otherwise be limited.~~

9 "§15-22-54.

10 "(a) (1) The period of probation or suspension of
11 execution of sentence shall be determined by the court and
12 ~~shall~~ may not be waived by the defendant, ~~and the.~~

13 "(2) The period of probation or suspension of
14 execution of sentence may be continued, extended, or
15 terminated by the court.

16 "(3) When the conditions of probation or suspension
17 of sentence are fulfilled, the court, by order duly entered on
18 its minutes, shall discharge the defendant.

19 "~~However,~~ (b) (1) The maximum probation period of a
20 defendant convicted of a misdemeanor may not exceed two years,
21 except as provided in Section 32-5A-191, relating to ignition
22 interlock requirements, ~~in no case shall the maximum probation~~
23 ~~period of a defendant guilty of a misdemeanor exceed two~~
24 ~~years, nor shall the.~~

25 "(2) The maximum probation period of a defendant
26 guilty convicted of a felony may not exceed five years, except
27 as provided in Section 13A-8-2.1, relating to aggravated theft

1 ~~by deception. When the conditions of probation or suspension~~
2 ~~of sentence are fulfilled, the court shall, by order duly~~
3 ~~entered on its minutes, discharge the defendant.~~

4 "~~(b)~~ (c) (1) The court granting probation, upon the
5 recommendation of the officer supervising the probationer, may
6 terminate all authority and supervision over the probationer
7 prior to the declared date of completion of probation upon
8 showing a continued satisfactory compliance with the
9 conditions of probation over a sufficient portion of the
10 period of the probation.

11 "(2) At least every two years, and after providing
12 notice to the district attorney, the court shall review the
13 probationer's suitability for discharge from probation
14 supervision if the probationer has satisfied all financial
15 obligations owed to the court, including restitution, and has
16 not had his or her supervision revoked.

17 "~~(c)~~ (d) (1) At any time during the period of
18 probation or suspension of execution of sentence, the court
19 may issue a warrant and ~~cause~~ have the defendant ~~to be~~
20 arrested for violating any of the conditions of probation or
21 suspension of sentence, upon which the court shall hold a
22 violation hearing.

23 "(2) No probationer shall be held in jail awaiting
24 ~~such~~ the violation hearing for longer than 20 business days,
25 unless new criminal charges are pending. If the hearing is not
26 held within ~~the specified time~~ 20 business days, the sheriff

1 shall release the probation violator unless there are other
2 pending criminal charges.

3 "(3) A judge ~~shall have authority to~~ may issue a
4 bond to a probationer for release from custody.

5 "~~(d)~~ (e) Except as provided in Chapter 15 of Title
6 12, any probation officer, ~~police officer,~~ or ~~other~~ any law
7 enforcement officer with power of arrest, when requested by
8 the probation officer, may arrest a probationer without a
9 warrant. ~~In case of an arrest~~ If an arrest is made without a
10 warrant, the arresting officer shall have a written statement
11 by the probation officer setting forth that the probationer
12 ~~has,~~ in his or her judgment, has violated the conditions of
13 probation, ~~and the~~. The probation officer's written statement
14 shall be sufficient warrant for the detention of the
15 probationer in the county jail or other appropriate place of
16 detention until the probationer is brought before the court.
17 The probation officer shall ~~forthwith report~~ immediately
18 notify the court of the arrest and detention ~~to the court of~~
19 the probationer and shall submit ~~in writing~~ a written report
20 showing in what manner the probationer has violated probation.

21 "~~(e)~~ (f) (1) After conducting a violation hearing and
22 finding sufficient evidence to support a probation violation,
23 the court may ~~revoke probation to impose a sentence of~~
24 ~~imprisonment, and credit shall be given for all time spent in~~
25 ~~custody prior to revocation.~~ take any of the following
26 actions:

1 ~~"a. If the probationer was convicted of underlying~~
2 offense was a Class D felony and his or her probation is
3 revoked, the incarceration portion of any split sentence
4 imposed due to revocation shall be limited to two years or
5 one-third of the original suspended prison sentence, whichever
6 is less. ~~However, in all cases, excluding~~

7 ~~"b. If the underlying offense was a violent offenses~~
8 offense as defined pursuant to in Section 12-25-32 and
9 classified as a Class A felony, ~~a sex offenses defined offense~~
10 pursuant to Section 15-20A-5, ~~and or~~ aggravated theft by
11 deception ~~offenses~~ pursuant to Section 13A-8-2.1, the court
12 may ~~only revoke probation as provided below:~~ revoke probation
13 and require the probationer to serve the balance of the term
14 for which he or she was originally sentenced, or any portion
15 thereof, in a state prison facility, calculated from the date
16 of his or her rearrest as a delinquent probationer.

17 ~~"(1) Unless the underlying offense is a violent~~
18 ~~offense as defined in Section 12-25-32 and classified as a~~
19 ~~Class A felony or an offense of aggravated theft by deception~~
20 ~~as defined in Section 13A-8-2.1, when a defendant under~~
21 ~~supervision for a felony conviction has violated a condition~~
22 ~~of probation, other than arrest or conviction~~

23 "c. If the probation violation was for being
24 arrested or convicted of a new offense or absconding, the
25 court may revoke probation and require the probationer to
26 serve the balance of the term for which he or she was
27 originally sentenced, or any portion thereof, in a state

1 prison facility, calculated from the date of his or her
2 rearrest as a delinquent probationer.

3 "d. 1. For all other probationers, the court may
4 impose a period of confinement of no more than 45 consecutive
5 days to be served in ~~the custody population of the Department~~
6 ~~of Corrections. By April 29, 2016, the Department of~~
7 ~~Corrections shall develop and implement a streamlined process~~
8 ~~to transport and receive the probationer into its custody~~
9 ~~population and shall identify and, if possible, implement~~
10 ~~policies aimed at reducing the administrative delays, if any,~~
11 ~~in transferring to the Department of Corrections the physical~~
12 ~~custody of the probationer and those whose probation has been~~
13 ~~revoked. The process shall be developed in cooperation with~~
14 ~~the Alabama Sheriffs' Association and the Association of~~
15 ~~County Commissions of Alabama. The process shall include the~~
16 ~~most cost-effective method to process sanctioned probation~~
17 ~~violators for the maximum 45-day confinement period and shall~~
18 ~~provide that the Department of Corrections shall reimburse the~~
19 ~~state mileage rate, as determined by the Alabama Comptroller's~~
20 ~~Office, to the county for any state inmate sanctioned as a~~
21 ~~probation violator and transferred to or from a Department of~~
22 ~~Corrections facility by the county a county jail, calculated~~
23 from the date of his or her rearrest as a delinquent
24 probationer. Upon completion of the confinement period, the
25 remaining probation period or suspension of sentence shall
26 automatically continue upon the defendant's release from
27 confinement. The court shall not revoke probation unless the

1 defendant has previously received a total of three periods of
2 confinement ~~under~~ pursuant to this subsection paragraph. For
3 purposes of revocation, the court may take judicial notice of
4 the three total periods of confinement ~~under~~ pursuant to this
5 subsection paragraph. A ~~defendant shall~~ probationer may only
6 receive three total periods of confinement ~~under~~ pursuant to
7 this subsection paragraph. The maximum 45-day term of
8 confinement ordered ~~under~~ pursuant to this subsection
9 paragraph for a felony ~~shall~~ may not be reduced by credit for
10 time already served in the case. Any credit shall instead be
11 applied to the suspended sentence. ~~In the event~~ If the time
12 remaining on the imposed sentence is 45 days or less, the term
13 of confinement shall be for the remainder of the ~~defendant's~~
14 probationer's sentence.

15 "2. Any county that elects to provide for the
16 housing and care of probation violators pursuant to this
17 paragraph, and is participating in the liability
18 self-insurance fund established pursuant to Chapter 30 of
19 Title 11, shall be eligible for the liability self-insurance
20 fund's coverage for any claims arising out of the housing and
21 care of probation violators.

22 "(2) The total time spent in confinement ~~under~~
23 pursuant to this subsection ~~shall~~ may not exceed the term of
24 the ~~defendant's~~ probationer's original sentence.

25 "(3) Confinement shall be immediate. The court shall
26 ~~be responsible for ensuring~~ ensure that the circuit clerk
27 receives the order revoking probation within five business

1 days. The circuit clerk shall ensure that the Department of
2 Corrections or a county jail that will be housing the
3 probationer pursuant to this section receives necessary
4 transcripts for imposing a period of confinement within five
5 business days of its receipt of the court's order.

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

25 "(5) The Department of Corrections shall be
26 responsible for health care costs of any probationer being
27 housed in a county jail pursuant to this section.

1 "(6) The Department of Corrections shall pay a
2 county jail housing probationers, pursuant to this section,
3 twenty dollars (\$20) per day the probationer is housed in the
4 county jail.

5 ~~"(f) (g)~~ In lieu of the provisions of subsections
6 ~~(c) (d)~~ through (e) (f), when a probationer violates his or
7 her probation terms and conditions imposed by the court, his
8 or her probation officer, after administrative review and
9 approval by the probation officer's supervisor, may require
10 the probationer to submit to impose any of the following
11 sanctions:

12 "(1) Mandatory behavioral treatment,

13 "(2) Mandatory substance abuse treatment,

14 "(3) GPS monitoring, ~~such.~~

15 "(4) Any other treatment as determined by the board
16 or supervising probation officer, ~~or a.~~

17 "(5) a. A short period of confinement in a
18 consenting jail facility as specified in subdivision (10) of
19 Section 15-22-52. Periods of confinement may not exceed six
20 days per month during any three separate months during the
21 period of parole. The six days per month confinement may only
22 be imposed as two-day or three-day consecutive periods at any
23 single time. The total periods of confinement provided may not
24 exceed 18 total days in a consenting jail facility.

25 "b. Any county that elects to provide for the
26 housing and care of probation violators pursuant to this
27 subdivision, and is participating in the liability

1 self-insurance fund established pursuant to Chapter 30 of
2 Title 11, shall be eligible for the liability self-insurance
3 fund's coverage for any claims arising out of the housing and
4 care of probation violators.

5 ~~"(g)~~ (h) (1) Prior to imposing a sanction ~~provided~~
6 ~~under pursuant to subsection (f) and pursuant to subdivision~~
7 ~~(10) of Section 15-22-52 (g),~~ the probationer ~~must~~ shall first
8 be presented with a written violation report, ~~with~~ setting
9 forth the alleged probation violations and supporting evidence
10 ~~noted~~. The probationer may file a motion with the court to
11 conduct a probation violation hearing within 10 days.

12 "(2) The probationer shall be given written notice
13 of the right to ~~the~~ a violation hearing and be advised of ~~the~~
14 ~~right~~ all of the following rights:

15 ~~"(i)~~ a. To have a hearing before the court on the
16 alleged violation or violations in person, with the right to
17 present relevant witnesses and documentary evidence, ~~(ii) to.~~

18 "b. To retain and have counsel at the hearing and
19 that counsel will be appointed if the probationer is indigent,
20 ~~and (iii) to.~~

21 "c. To confront and cross examine any adverse
22 witnesses.

23 "(3) The probationer may waive the right to a
24 hearing, and upon ~~Upon~~ the signing of a waiver of these rights
25 by the probationer and the ~~supervising~~ probation officer, with
26 the approval of a supervisor, the probationer may be treated,

1 monitored, or confined for the period recommended in the
2 violation report and designated in the waiver. ~~However, the~~

3 "(4) The probationer shall have no right of review
4 if he or she has signed a written waiver of rights as provided
5 in this subsection. A signed waiver shall be deemed as the
6 probationer's consent to the period of confinement recommended
7 in the violation report and designated in the waiver.

8 "(5) Should a probationer not sign a written waiver
9 consenting to the recommended treatment, monitoring, or period
10 of confinement, the revocation process shall be initiated by
11 the filing of a delinquency report by the probation officer,
12 subject to subsection (d), including the requirement that a
13 probation revocation hearing be held within 20 business days.

14 ~~"(h)~~ (i) The board shall adopt guidelines and
15 procedures to implement the requirements of this section,
16 which shall include the requirement of a supervisor's approval
17 prior to a supervising probation officer's exercise of the
18 delegation of authority authorized by subsection ~~(f)~~ (g).

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 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 02-FEB-21

Read for the second time and placed
on the calendar 1 amendment 10-FEB-21

Read for the third time and passed
as amended..... 23-FEB-21

Yeas 99, Nays 2, Abstains 0

Jeff Woodard
Clerk