

**House Judiciary Reported Substitute for HB228**

A BILL

TO BE ENTITLED

AN ACT

Relating to criminal procedure; to amend Sections 15-11-1 and 15-13-3, Code of Alabama 1975; to further provide for preliminary hearings and further provide for pretrial detention hearings; and to repeal Section 15-13-3.1, Code of Alabama 1975, relating to pretrial detention.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 15-11-1 and 15-13-3, Code of Alabama 1975, are amended to read as follows:

"§15-11-1

(a) Every ~~person~~ individual charged with and arrested for a felony before his or her indictment shall have an absolute right to a preliminary hearing on ~~said the~~ charge upon ~~such person's~~ his or her demand within ~~30~~ 45 days following ~~said the~~ arrest, ~~provided, that such person's~~ his or her failure or refusal to appear for ~~such the~~ preliminary hearing or his or her absence from the state at the time of the setting for the preliminary hearing shall not delay or invalidate an indictment pursuant to ~~said the~~ charge.

(b) A pretrial detention hearing held pursuant to Section 15-13-3 shall satisfy a defendant's rights under this

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section unless otherwise ordered by the court for good cause shown."

"§15-13-3

(a) A defendant is not eligible for bail when he or she is charged with capital murder pursuant to Section 13A-5-40, if the court is of the opinion, on the evidence adduced, that he or she is guilty of the offense.

(b) (1) A defendant charged with an offense listed in subsection (c) shall be held without bail prior to a pretrial detention hearing, unless the court is notified that there is an agreement between the parties regarding conditions of bail.

(2) If there is an agreement regarding bail, no pretrial detention hearing shall be held.

(c) ~~(1) The court, after~~ After a pretrial detention hearing as provided in this subsection, ~~for an offense enumerated in this subsection and~~ after the presentment of an indictment or a showing of probable cause in the charged offense, ~~and if the~~ court may deny a defendant bail if both of the following apply:

(1) The prosecuting attorney proves by clear and convincing evidence that no condition or combination of conditions of release will reasonably ensure the defendant's appearance in court or protect the safety of the community or any person, ~~may deny a defendant's bail, if he or she.~~

(2) The defendant is charged with any of the following offenses:

a. Murder, as provided in Section 13A-6-2.

b. Kidnapping in the first degree, as provided in

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Section 13A-6-43.

c. Rape in the first degree, as provided in Section 13A-6-61.

d. Sodomy in the first degree, as provided in Section 13A-6-63.

e. Sexual torture, as provided in Section 13A-6-65.1.

f. Domestic violence in the first degree, as provided in Section 13A-6-130.

g. Human trafficking in the first degree, as provided in Section 13A-6-152.

h. Burglary in the first degree, as provided in Section 13A-7-5.

i. Arson in the first degree, as provided in Section 13A-7-41.

j. Robbery in the first degree, as provided in Section 13A-8-41.

k. Terrorism, as provided in ~~subdivision (b)(2) of~~ Section 13A-10-152 (b)(2).

l. Aggravated child abuse, as provided in ~~subsection (b) of~~ Section 26-15-3.1 (b).

~~(2) A court shall order that a defendant charged with an offense listed in this subsection be held without bail prior to a pretrial detention hearing.~~

~~(3) (d) (1) The court shall hold a pretrial detention hearing immediately,~~ upon the defendant's first appearance before the court, shall set a pretrial detention hearing within 10 days of the arrest of a defendant for an offense listed in subsection (c) ~~unless the prosecuting attorney or the~~

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~~defendant requests a continuance. Except for good cause, a continuance on a motion of the defendant may not exceed five days, excluding Saturdays, Sundays, and state holidays, and a continuance on motion by the prosecuting attorney may not exceed three days, excluding Saturdays, Sundays, and state holidays.~~

(2) A pretrial detention hearing may be continued for up to 21 days following an arrest upon a determination of good cause.

(3) A pretrial detention hearing may be continued beyond 21 days on a joint motion of the parties.

(4) The defendant shall be detained until the pretrial detention hearing is held and during any continuance unless the court is notified of an agreement of the parties to conditions of bail.

(5) If the last day to hold a pretrial detention hearing falls on a Saturday, Sunday, legal holiday, or any other day a court is closed, the hearing shall be set on the following business day.

~~(4)a.~~ (e) (1) A defendant shall have all of the following rights at a pretrial detention hearing:

~~1.a.~~ a. To be represented by counsel. If the defendant is financially unable to obtain counsel, he or she shall have counsel appointed.

~~2.b.~~ b. To testify.

~~3.c.~~ c. To present witnesses.

~~4.d.~~ d. To present evidence.

~~5.e.~~ e. To cross-examine witnesses.

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113 ~~b.~~ (2) The judge shall have discretion as to who the
114 defendant may call as a witness ~~as provided in this~~
115 ~~subdivision~~ at the pretrial detention hearing.

116 ~~(5)~~ (f) In considering whether there are any conditions
117 or combination of conditions that would reasonably ensure the
118 defendant's appearance in court or protect the safety of the
119 community and of any person, the court shall consider all of
120 the following factors:

121 ~~a.~~ (1) The nature and circumstances of the offenses
122 charged.

123 ~~b.~~ (2) The weight of the evidence against the defendant.

124 ~~c.~~ (3) The history and characteristics of the defendant,
125 including, but not limited to, the defendant's character,
126 physical and mental condition, family ties, employment,
127 financial resources, length of residence in the community,
128 community ties, past conduct, history relating to drug or
129 alcohol abuse, criminal history, ~~and the defendant's~~ record
130 concerning appearance at court proceedings, and whether, at
131 the time of the current offense, the defendant was on
132 probation, parole, or on other release pending trial,
133 sentencing, appeal, or completion of sentence for an offense.

134 ~~d.~~ (4) The nature and seriousness of the danger to any
135 person or the community if the defendant is released.

136 ~~(6)~~ (g) At any pretrial detention hearing, the rules
137 governing admissibility of evidence in criminal trials shall
138 not apply, and the court shall receive all relevant evidence.

139 ~~All evidence shall be recorded.~~ The testimony of a defendant
140 may not be admissible in any other criminal proceeding against

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the defendant, except if being used for perjury based on the testimony or for the purpose of impeachment in any subsequent proceeding.

(h) A recording of a pretrial detention hearing shall be kept by stenographic reporting, by mechanical or electronic device or by some combination thereof, for the purpose of creating an official record of the proceedings. The audio or stenographic recording shall be preserved until the time for making an appeal has expired. The trial court shall determine whether there is an adequate record for purposes of appellate review.

~~(7)a.~~ (i) (1) A prosecuting attorney may file a motion for a pretrial detention hearing at any time.

~~b.~~ (2) A pretrial detention hearing may be reopened, before or after a determination by the court, at any time prior to trial if the court finds that information exists that was not known by the movant at the time of the pretrial detention hearing.

~~(8)~~ (j) In an order denying bail, the judge shall make written findings or state for the record findings of fact and a statement of the reasons for denying bail. The judge shall enter an order denying bail within 48 hours of the pretrial detention hearing.

(k) An appeal of a pretrial detention order shall be made to the Court of Criminal Appeals unless there is not an adequate record, in which case the appeal shall be made to the circuit court de novo.

(l) (1) Notwithstanding any provision of law, a judge

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may order, as a condition of bond, that a defendant charged with any offense listed in subsection (c) be supervised by the Board of Pardons and Paroles.

(2) The board shall adopt rules necessary to implement this subsection."

Section 2. If Section 4 of Act 2025-273, which amends Section 15-13-3, Code of Alabama 1975, becomes effective pursuant to the ratification of the constitutional amendment proposed by Act 2025-227, the Code Commissioner shall give effect to both this act and Section 4 of Act 2025-273 to the extent that the language is not in substantive conflict and in a manner that will make the code section intelligible.

Section 3. It is the intent of the Legislature that pursuant to Section 150 of the Constitution of Alabama of 2022, the Supreme Court of Alabama shall amend its rules to conform with this act.

Section 4. Section 15-13-3.1, Code of Alabama 1975, relating to pretrial supervision of certain offenders, is repealed.

Section 5. This act shall become effective on May 15, 2026.