

1 SB304
2 165321-3
3 By Senators Waggoner, Melson, Whatley, Shelnuttt, Singleton,
4 Ward, Allen, Reed and Ross
5 RFD: Governmental Affairs
6 First Read: 01-MAR-16

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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 serves.

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

14 This bill would also provide that the
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 be delivered to the sheriff of the county in which
19 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 another

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

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 "§13A-11-75.

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

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

26 "2. Was found not guilty in a criminal case by
27 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 sheriff may not place conditions
7 or requirements on the issuance of the permit or limit its
8 scope or applicability.

9 "(2)a. The sheriff who initially issued the permit
10 or the sheriff of the county in which a permittee is a
11 resident may revoke a permit issued under subdivision (1) for
12 any reason that could lead to a denial of a permit under that
13 subdivision.

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

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

1 possession of a pistol or other firearm pursuant to state or
2 federal law or, based on any of the considerations enumerated
3 in subsection (a)(1) that the person may use a weapon
4 unlawfully or in such other manner as would endanger the
5 person's self or others if granted a permit to carry a
6 concealed weapon under this section.

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

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

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

17 "(b) Each permit shall be written or in an
18 electronic or digital form to be prescribed by the Secretary
19 of State in consultation with the Alabama Sheriff's
20 Association, and shall bear the name, address, description,
21 and signature of the permittee. The original hardcopy of the
22 permit shall be delivered to the permittee, and a duplicate
23 shall, within seven days, be sent by registered or certified
24 mail to the ~~Director of Public Safety~~ Secretary of the Alabama
25 State Law Enforcement Agency and the sheriff of the county in
26 which the permittee resides. The application and a copy shall
27 be preserved for six years by the authority issuing the same.

1 The sheriff may charge a fee as provided by local law for the
2 issuance of the permit under subdivision (1) of subsection
3 (a). The amount of the fee for a period of one year up to five
4 years shall be the amount of the fee as prescribed by local
5 law multiplied by the number of years of the permit requested
6 by the applicant. The fee shall be paid into the county
7 treasury unless otherwise provided by local law. Prior to
8 issuance or renewal of a permit, and within three days from
9 receipt of a completed application and accompanying fee, the
10 sheriff shall contact available local, state, and federal
11 criminal history data banks, including the National Instant
12 Criminal Background Check System, to determine whether
13 possession of a firearm by an applicant would be a violation
14 of state or federal law.

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

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

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

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

1 permit, except as authorized in this subsection or in response
2 to a court order or subpoena, is a Class A misdemeanor.

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

10 "(h) 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.