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3 SENATE FINANCE AND TAXATION GENERAL FUND COMMITTEE SUBSTITUTE
4 FOR HB110
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9 SYNOPSIS: Under existing law, a parole or probation
10 officer may impose brief periods of confinement for
11 parole or probation violations, to be served in a
12 county jail.

13 This bill would revise the limitations for
14 confinement for parole and probation violations and
15 would require confinement be served in a
16 residential transition center or a consenting
17 county jail.

18 This bill would revise the circumstances in
19 which a person's parole or probation may be
20 revoked.

21 This bill would provide that counties are
22 not financially responsible for the health care
23 expenses while housing a parole or probation
24 violator in a county jail.

25 This bill would provide that the Board of
26 Pardons and Paroles may establish and maintain

1 residential transition centers and would provide
2 for the operation of the facilities.

3 Under existing law, a parolee or probationer
4 who violates the conditions of his or her parole or
5 probation may be required to serve a 45-day period
6 of confinement in a Department of Corrections
7 facility in certain circumstances.

8 This bill would require parolees and
9 probationers to serve the 45-day period of
10 confinement in a residential transition center
11 being operated by the Board of Pardons and Paroles
12 or a consenting county jail.

13 Under existing law, a parolee or probationer
14 would not receive credit for any time spent in a
15 county jail or other detention center prior to a
16 hearing on a parole or probation violation.

17 This bill would allow a parolee or
18 probationer to be credited with the time served in
19 a county jail or other detention center.

20 Under existing law, when a defendant is
21 sentenced to the Department of Corrections, the
22 court is required to notify the department.

23 This bill would require that the court or
24 the court clerk send an electronic notification to
25 the Department of Corrections when the defendant is
26 sentenced to the custody of the department.

1 The bill would require the Department of
2 Corrections, in agreement with a county commission
3 and the sheriff, to establish at least three county
4 jails to be used for the housing and care of
5 parolees and probationers charged with, or
6 sanctioned or revoked for, parole or probation
7 violations.

8 The bill would establish the procedures for
9 selecting the county jails to be used for the
10 housing and care of parole and probation violators.

11 This would provide that if the Department of
12 Corrections has not entered into an agreement with
13 a residential transition center or three consenting
14 county jails to house parole and probation
15 violators, and if the center or jails are not
16 operational by October 1, 2021, parole and
17 probation violators may not be housed by any
18 residential transition center or any county jail.

19 This bill would also make nonsubstantive,
20 technical revisions to update the existing code
21 language to current style.

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

1 Relating to parole and probation; to amend Sections
2 15-22-29, 15-22-32, 15-22-52, and 15-22-54, as last amended by
3 Act 2019-513, 2019 Regular Session, Code of Alabama 1975; to
4 revise the limitations on confinement and location of
5 confinement for parole and probation violators; to revise the
6 circumstances when a parolee or probationer's parole or
7 probation may be revoked; to provide that the Department of
8 Corrections must reimburse the county commission for health
9 care costs of state parolees and probationers; to require the
10 Department of Corrections to designate county jails for the
11 confinement of parole and probation violators; to provide that
12 the Board of Pardons and Paroles may establish and maintain
13 residential transition centers and to provide for the
14 operation of the facilities; to provide that a parole or
15 probation violator may get credit for any time served in a
16 county jail or other detention center in certain
17 circumstances; to amend Section 14-3-30, Code of Alabama 1975,
18 to require the court or the court clerk to provide electronic
19 notification to the Department of Corrections when a defendant
20 is sentenced to the custody of the department; to require the
21 Department of Corrections, in agreement with a county
22 commission and the sheriff, to select county jails to provide
23 for the housing and care of parole and probation violators; to
24 provide for the selection process of the county jails; and to
25 make nonsubstantive, technical revisions to update the
26 existing code language to current style.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§15-22-29.

5 "(a) The Board of Pardons and Paroles, in releasing
6 a prisoner on parole, shall specify in writing the conditions
7 of his or her parole~~;~~ and a copy of ~~such the~~ conditions shall
8 be given to the parolee. A ~~violation of such~~ parolee who
9 violates the conditions of parole may ~~render the prisoner~~
10 ~~liable~~ be subject to arrest and reimprisonment.

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

17 "(1) The parolee shall not leave the state without
18 the consent of the board~~;~~.

19 "(2) ~~He or she~~ The parolee shall contribute to the
20 support of his or her dependents to the best of his or her
21 ability~~;~~.

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

24 "(4) ~~He or she~~ The parolee shall ~~abandon evil~~
25 ~~associates and ways;~~ avoid persons or places of disreputable
26 or harmful character.

1 ~~"(5) He or she~~ The parolee shall ~~carry out~~ follow
2 the instructions of his or her parole officer and ~~in general~~
3 ~~so~~ comport himself or herself as ~~such~~ the officer shall
4 determine~~;~~ and.

5 ~~"(6) He or she~~ The parolee shall submit to
6 behavioral treatment, substance abuse treatment, GPS
7 monitoring, or any other treatment as deemed necessary by the
8 board or the supervising parole officer~~;~~ ~~and/or a period or~~
9 ~~periods of confinement in a consenting jail facility. Periods~~
10 ~~of confinement imposed by the supervising parole officer shall~~
11 ~~not exceed six days per month during any three separate months~~
12 ~~during the period of parole. The six days per month~~
13 ~~confinement provided for in this subdivision shall only be~~
14 ~~imposed by the supervising parole officer as two-day or~~
15 ~~three-day consecutive periods at any single time. In no event~~
16 ~~shall the total periods of confinement imposed by the~~
17 ~~supervising parole officer provided for in this subdivision~~
18 ~~exceed 18 total days in a consenting jail facility.~~
19 ~~Confinement provided herein shall be subject to the~~
20 ~~limitations, provisions, and conditions provided in Section~~
21 ~~15-22-32, and the board's authority to directly impose~~
22 ~~sanctions, periods of confinement, or revoke parole shall not~~
23 ~~otherwise be limited.~~

24 "(7) The parolee may not buy, own, or possess a
25 firearm in violation of federal law or in violation of Section
26 13A-11-72.

27 "§15-22-32.

1 "(a) (1) Whenever there is reasonable cause to
2 believe that a prisoner who has been paroled has violated his
3 or her parole, the Board of Pardons and Paroles, at its next
4 meeting, may declare the ~~prisoner~~ parolee to be delinquent,
5 and time owed shall date from the delinquency. The Department
6 of Corrections, after receiving notice from the sheriff of the
7 county jail where the ~~state prisoner~~ parolee is being held,
8 shall promptly notify the board of the return of a ~~paroled~~
9 ~~prisoner~~ parolee charged with violation of his or her parole.
10 ~~Thereupon, the~~ The board, a single member of the board, a
11 parole revocation hearing officer, or a designated parole
12 officer shall hold a parole court at the prison or at another
13 place as it may determine within 20 business days and consider
14 the case of the parole violator, ~~who.~~ The parolee shall be
15 given an opportunity to appear personally or by counsel before
16 ~~the board or~~ the parole court and to produce witnesses, and
17 explain the charges made against him or her. ~~The board member,~~
18 ~~parole revocation hearing officer, or a designated parole~~
19 ~~officer, acting as a~~ parole court, shall determine whether
20 sufficient evidence supports the violation charges. If a
21 hearing is not held within ~~the specified~~ 20 business days, the
22 parolee shall be released back to parole supervision.

23 "(2) Counties shall not be financially responsible
24 for the cost of health care provided to a parolee charged with,
25 or sanctioned or revoked for, a parole violation. The county
26 may submit an invoice to the Department of Corrections for
27 reimbursement of the county's actual cost of health care for a

1 parolee charged with, or sanctioned or revoked for, a
2 violation of his or her parole, which shall be paid within 30
3 days of receipt of the invoice.

4 "(3) If the Legislature does not make a specific
5 appropriation to the Department of Corrections sufficient to
6 reimburse the counties for health care as provided in
7 subdivision (2), individuals who have violated the conditions
8 of parole may not be delivered to the custody of any county
9 jail until the State Finance Director certifies the
10 availability of sufficient funds for the reimbursement.

11 "(b) Upon finding sufficient evidence to support a
12 parole violation, the parole court may recommend to the board
13 revocation or reinstatement of parole, and the board may
14 revoke or reinstate parole. Upon revocation of parole, the
15 board ~~may shall~~ require the ~~prisoner~~ delinquent parolee to
16 serve in a state prison facility the balance of the term for
17 which he or she was originally sentenced or any portion
18 ~~thereof~~ of the original sentence, calculated from the date of
19 delinquency. The delinquent parolee shall be ~~deemed to begin~~
20 ~~-serving the balance of the prison time required on~~ given jail
21 credit towards his or her sentence from the date of his or her
22 rearrest as a delinquent parolee. ~~However, in~~ In all cases,
23 excluding violent offenses ~~defined pursuant to~~ as provided in
24 Section 12-25-32 and classified as a Class A felony, ~~and~~ sex
25 offenses, ~~defined pursuant to~~ as provided in Section 15-20A-5,
26 and aggravated theft by deception offenses as provided in
27 Section 13A-8-2.1, the parole court may only recommend

1 revocation and the board may only revoke parole as provided
2 below:

3 ~~"(1) Unless the underlying offense is a violent~~
4 ~~offense as defined in Section 12-25-32 and classified as a~~
5 ~~Class A felony, when~~ When a parolee under supervision of the
6 Board of Pardons and Paroles has violated a condition of
7 parole, other than being arrested or convicted of a new
8 offense or absconding, the parole court may recommend and the
9 board may impose a period of confinement of no more than 45
10 consecutive days to be served in ~~the custody population of the~~
11 ~~Department of Corrections. By April 29, 2016, the Department~~
12 ~~of Corrections shall develop and implement a streamlined~~
13 ~~process to transport and receive the parolee into its custody~~
14 ~~population and shall identify and, if possible, implement~~
15 ~~policies aimed at reducing the administrative delays, if any,~~
16 ~~in transferring to the Department of Corrections the physical~~
17 ~~custody of the parolee and those whose parole has been~~
18 ~~revoked. Such process shall be developed in cooperation with~~
19 ~~the Alabama Sheriffs' Association and the Association of~~
20 ~~County Commissions of Alabama. Such process shall include the~~
21 ~~most cost-effective method to process sanctioned parole~~
22 ~~violators for the maximum 45 day confinement period and shall~~
23 ~~provide that the~~ a residential transition center, established
24 pursuant to subdivision (7), or a consenting county jail
25 designated for this purpose as provided in Section 3 of the
26 act adding this amendatory language. The Department of
27 Corrections shall reimburse the state mileage rate to the

1 county, as determined by the Alabama Comptroller's Office, to
2 the county for any state inmate ~~sanctioned as~~ charged with, or
3 sanctioned or revoked for, a parole ~~violation~~ violation and who
4 is transferred to or from a Department of Corrections facility
5 or to or from a consenting county jail by the county.

6 "(2)a. On or before October 1, 2021, the Department
7 of Corrections shall enter into agreements, and operation
8 shall begin pursuant to the agreements, with at least one
9 residential transition center or at least three counties whose
10 facilities will be used for the housing and care of parolees
11 charged with, or sanctioned or revoked for, a parole violation
12 as provided in this section. Where county jails are used for
13 the housing and care of such parolees, the agreements shall be
14 implemented and the county jails shall be designated as
15 provided by Section 3 of the act adding this amendatory
16 language.

17 "b. Parolees in custody while awaiting parole court
18 hearings shall be delivered to a residential transition center
19 or a consenting county jail designated for this purpose, shall
20 be held in the residential transition center or consenting
21 county jail while awaiting parole court and board action, and
22 shall serve any ordered confinement in the residential
23 transition center or consenting county jail. If, after October
24 1, 2021, there is not an agreement in place and operation has
25 not begun with at least one residential transition center or
26 at least three county jails for the purpose of providing the
27 housing and care of persons charged with, or sanctioned or

1 revoked for, a parole violation as provided in this
2 subsection, no confinement, in any county jail or a
3 residential transition center, for a violation may be enforced
4 until the agreements required by this subdivision are executed
5 and operation has begun.

6 "(3) Upon completion of the confinement period and
7 release from confinement, the parolee shall automatically
8 continue on parole for the remaining term of the sentence
9 without further action from the board. The parole court ~~shall~~
10 may not recommend and the board ~~shall~~ may not revoke parole
11 unless the parolee has previously received a total of three
12 periods of confinement under this subsection. A parolee shall
13 receive only three total periods of confinement ~~under~~ pursuant
14 to this subsection. The maximum 45 day term of confinement
15 ordered ~~under~~ pursuant to this subsection shall ~~not~~ be reduced
16 by ~~credit for incarceration time already~~ the time served ~~in~~
17 ~~the case. Confinement under this subsection in a residential~~
18 transition center, a county jail, or other place of detention
19 pending the imposition of the period of confinement and shall
20 be credited to the balance of the incarceration term for which
21 the parolee was originally sentenced. In the event the time
22 remaining on parole supervision is 45 days or less, the term
23 of confinement ~~shall be for~~ may not exceed the remainder of
24 the parolee's sentence.

25 "~~(2)~~ (4) The total time spent in confinement under
26 this subsection ~~shall~~ may not exceed the term of the parolee's
27 original sentence.

1 "~~(3)~~ (5) Confinement shall be immediate. The board
2 shall ~~be responsible for ensuring~~ ensure that the Department
3 of Corrections, a residential transition center, a county
4 jail, or other place of detention receives necessary
5 documentation for imposing a period of confinement within five
6 business days of the board's action.

7 "~~(4)~~ (6) If the parolee is presented to a county
8 jail, excluding a consenting county jail designated for this
9 purpose, as provided in Section 3 of the act adding this
10 amendatory language, for any period of confinement ~~as~~
11 ~~contemplated hereinabove~~ with a serious ~~medical~~ health
12 condition, if the admittance of the parolee would create a
13 security risk to the county jail, or if the county jail is
14 near, at, or over capacity, the sheriff may refuse to admit
15 the parolee. If, while in custody of the county jail, the
16 parolee develops a serious ~~medical~~ health condition, if the
17 presence of the parolee creates a security risk to the county
18 jail, or if the county jail reaches near, at, or over
19 capacity, the sheriff may release the parolee upon
20 notification to the parole officer. A sheriff and ~~his or her~~
21 ~~staff~~ employees in the county jail shall be immune from
22 liability for exercising discretion pursuant to Section
23 36-1-12 in refusing to admit a parolee into the jail or
24 releasing a parolee from jail ~~under the circumstances~~
25 ~~described above~~ pursuant to this subdivision.

26 "(7) The Board of Pardons and Paroles may establish
27 and maintain one or more residential transition centers for

1 parolees and probationers to be used to house parolees and
2 probationers ordered to serve a period of confinement pursuant
3 to this section and Section 15-22-54.

4 "(c) The position of Parole Revocation Hearing
5 Officer is created and established, subject to ~~provisions of~~
6 the state Merit System.

7 "(d) The board may appoint or employ, ~~as the board~~
8 ~~deems necessary,~~ hearing officers who shall conduct a parole
9 court. ~~Such~~ The hearing officers shall ~~have authority to~~
10 determine the sufficiency of evidence to support parole
11 violation charges and recommend to the board revocation of
12 parole pursuant to subsection (b) or reinstatement of parole.

13 "(e) In lieu of ~~the provisions of~~ subsections (a)
14 and (b), when a parolee violates his or her parole terms and
15 conditions, his or her parole officer, after an administrative
16 review and approval by the parole officer's supervisor, may
17 ~~require the parolee to submit to behavioral~~ impose any of the
18 following sanctions:

19 "(1) Mandatory behavior treatment~~7.~~

20 "(2) Mandatory substance abuse treatment~~7.~~

21 "(3) GPS monitoring~~7, such.~~

22 "(4) Any other treatment as determined by the board
23 or supervising officer~~7, or a.~~

24 "(5)a. A short period of confinement in a
25 residential transition center or a consenting county jail
26 ~~facility as specified in subdivision (6) of subsection (b) of~~
27 ~~Section 15-22-29. The parole officer may exercise such~~

1 ~~authority after administrative review and approval by the~~
2 ~~officer's supervisor. Periods of confinement under this~~
3 ~~subdivision may not exceed six days per month during any three~~
4 ~~separate months during the period of parole. The six days per~~
5 ~~month confinement may only be imposed as two-day or three-day~~
6 ~~consecutive periods at any single time. The total periods of~~
7 ~~confinement may not exceed nine total days in a residential~~
8 ~~transition center or a consenting county jail.~~

9 "b. Confinement pursuant to this subdivision may not
10 limit the board's ability to directly impose sanctions,
11 periods of confinement, or revoke parole.

12 "(f) (1) Prior to imposing a sanction ~~provided under~~
13 ~~pursuant to subsection (e) and pursuant to subdivision (6) of~~
14 ~~subsection (b) of Section 15-22-29, the parolee must first be~~
15 presented with a violation report, ~~putting~~ setting forth the
16 alleged parole violations and supporting evidence. The parolee
17 ~~may request a hearing before the parole court to be heard in~~
18 ~~person within 10 days. The parolee shall be given notice of~~
19 ~~the right to seek such parole court review and advised of the~~
20 ~~right (i) to a hearing before a neutral and detached~~ shall be
21 advised that he or she has all of the following:

22 "a. The right to have a parole court, in person or
23 by electronic means, on the alleged violation or violations,
24 ~~with the.~~ If a parole court is requested, no probationer shall
25 be held beyond 20 business days of the request. Only
26 requesting parolees posing a threat to public safety or a
27 flight risk shall be arrested while awaiting parole court.

1 "b. The right to present relevant witnesses and
2 documentary evidence;~~(ii).~~

3 "c. The right to retain and have counsel at the
4 hearing if he or she so desires;~~and (iii).~~

5 "d. The right to confront and cross examine any
6 adverse witnesses.

7 "(2) Upon the signing of a waiver of these rights by
8 the parolee and the supervising parole officer, with approval
9 of a supervisor, the parolee may be treated, monitored, or
10 confined for the period recommended in the violation report
11 and designated on the waiver. ~~However, the~~ The parolee shall
12 ~~have no right of~~ may not request a review if he or she has
13 signed a written waiver of rights as provided in this
14 subsection.

15 "(g) The board shall adopt guidelines and procedures
16 to implement the requirements of this section, which shall
17 include the requirement of a supervisor's approval prior to
18 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
22 modify the conditions of probation ~~and~~. The conditions of
23 probation shall include among them the following or any other
24 ~~conditions. Such conditions shall provide that the probationer~~
25 ~~shall,~~ but are not limited to, all of the following:

26 "(1) Avoid injurious or vicious habits~~7.~~

1 "(2) Avoid persons or places of disreputable or
2 harmful character~~7.~~

3 "(3) Report to the probation officer as directed~~7.~~

4 "(4) Permit the probation officer to visit him or
5 her at his or her home or elsewhere~~7.~~

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

8 "(6) Remain within a specified place~~7.~~

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

12 "(8) Make reparation or restitution to the aggrieved
13 party for the damage or loss caused by his or her offense in
14 an amount to be determined by the court~~7.~~

15 "(9) Support his or her dependents to the best of
16 his or her ability~~7; and.~~

17 "(10) Submit to behavioral treatment, substance
18 abuse treatment, GPS monitoring, or any other treatment as
19 deemed necessary by the court or supervising probation
20 officer~~, and/or a period or periods of confinement in a~~
21 ~~consenting jail facility. Periods of confinement imposed by~~
22 ~~the supervising probation officer shall not exceed six days~~
23 ~~per month during any three separate months during the period~~
24 ~~of probation. The six days per month confinement provided for~~
25 ~~in this subsection shall only be imposed by the supervising~~
26 ~~probation officer as two-day or three-day consecutive periods~~
27 ~~at any single time. In no event shall the total periods of~~

1 ~~confinement imposed by the supervising probation officer~~
2 ~~provided for in this subsection exceed 18 total days in a~~
3 ~~consenting jail facility. Confinement provided herein shall be~~
4 ~~subject to the limitations, provisions, and conditions~~
5 ~~provided in Section 15-22-54, and the court's authority to~~
6 ~~directly impose sanctions, periods of confinement, or revoke~~
7 ~~probation shall not otherwise be limited.~~

8 "(11) The probationer may not buy, own, or possess a
9 firearm in violation of federal law or in violation of Section
10 13A-11-72.

11 "§15-22-54.

12 "(a) The period of probation or suspension of
13 execution of sentence shall be determined by the court and
14 ~~shall~~ may not be waived by the defendant, ~~and the~~. The period
15 of probation or suspension may be continued, extended, or
16 terminated. ~~However, except~~ as determined by the court. Except
17 as provided in Section 32-5A-191, relating to ignition
18 interlock requirements, ~~in no case shall~~ the maximum probation
19 period of a defendant guilty of a misdemeanor may not exceed
20 two years, nor shall the maximum probation period of a
21 defendant guilty of a felony exceed five years, except as
22 provided in Section 13A-8-2.1. When the conditions of
23 probation or suspension of sentence are fulfilled, the court
24 ~~shall~~, by an order duly entered on its minutes, shall
25 discharge the defendant.

26 "(b) The court granting probation, upon the
27 recommendation of the officer supervising the probationer, may

1 terminate all authority and supervision over the probationer
2 prior to the declared date of completion of probation upon
3 showing a continued satisfactory compliance with the
4 conditions of probation over a sufficient portion of the
5 period of the probation. At least every two years, and after
6 providing notice to the district attorney, the court shall
7 review the probationer's suitability for discharge from
8 probation supervision if the probationer has satisfied all
9 financial obligations owed to the court, including
10 restitution, and has not had his or her supervision revoked.

11 "(c) (1) At any time during the period of probation
12 or suspension of execution of sentence, the court may issue a
13 warrant and ~~cause~~ have the defendant ~~to be~~ arrested for
14 violating any of the conditions of probation or suspension of
15 sentence, ~~upon which~~ and the court shall hold a violation
16 hearing. No probationer shall be held in jail awaiting ~~such~~
17 the violation hearing for longer than 20 business days, unless
18 new criminal charges are pending. If the hearing is not held
19 within the specified time, the sheriff shall release the
20 probation violator unless there are other pending criminal
21 charges. A judge ~~shall have authority to~~ may issue a bond to a
22 probationer for release from custody.

23 "(2) Counties shall not be financially responsible
24 for the costs of health care provided to a probationer charged
25 with, or sanctioned or revoked for, a state probation
26 violation. The county may submit an invoice to the Department
27 of Corrections for reimbursement of the county's actual cost

1 of health care for a state probationer charged with, or
2 sanctioned or revoked for, a violation of his or her
3 probation, which shall be paid within 30 days of receipt of
4 the invoice.

5 "(3) If the Legislature does not make a specific
6 appropriation to the Department of Corrections sufficient to
7 reimburse the counties for health care as provided in
8 subdivision (2), individuals who have violated the conditions
9 of probation may not be delivered to the custody of any county
10 jail until the State Finance Director certifies the
11 availability of sufficient funds for the reimbursement.

12 "(d) Except as provided in Chapter 15 of Title 12,
13 any probation officer, police officer, or other officer with
14 power of arrest, when requested by the probation officer, may
15 arrest a probationer without a warrant. ~~In case of~~ When an
16 arrest is made without a warrant, the arresting officer shall
17 have a written statement by the probation officer setting
18 forth that the probationer has, in his or her judgment,
19 violated the conditions of probation, and the statement shall
20 be sufficient warrant for the detention of the probationer in
21 the county jail or other appropriate place of detention until
22 the probationer is brought before the court. The probation
23 officer shall ~~forthwith~~ report the arrest and detention to the
24 court and submit in writing a report showing in what manner
25 the probationer has violated probation.

26 "(e) After conducting a violation hearing and
27 finding sufficient evidence to support a probation violation,

1 the court may revoke probation to impose a sentence of
2 imprisonment, and credit shall be given for all time spent in
3 custody prior to revocation. If the probationer was convicted
4 of a Class D felony and his or her probation is revoked, the
5 incarceration portion of any split sentence imposed due to
6 revocation shall be limited to two years or one-third of the
7 original suspended prison sentence, whichever is less.

8 ~~However, in~~ In all cases, excluding violent offenses ~~defined~~
9 ~~pursuant to~~ as provided in Section 12-25-32 and classified as
10 a Class A felony, sex offenses ~~defined pursuant to~~ as provided
11 in Section 15-20A-5, and aggravated theft by deception
12 offenses ~~pursuant to~~ as provided in Section 13A-8-2.1, the
13 court may only revoke probation as provided below:

14 " (1) ~~Unless the underlying offense is a violent~~
15 ~~offense as defined in Section 12-25-32 and classified as a~~
16 ~~Class A felony or an offense of aggravated theft by deception~~
17 ~~as defined in Section 13A-8-2.1, when~~ When a defendant under
18 supervision for a felony conviction has violated a condition
19 of probation, other than ~~arrest or conviction~~ being arrested
20 or convicted of a new offense or absconding, the court may
21 impose a period of confinement of no more than 45 consecutive
22 days to be served in ~~the custody population of the Department~~
23 ~~of Corrections. By April 29, 2016, the Department of~~
24 ~~Corrections shall develop and implement a streamlined process~~
25 ~~to transport and receive the probationer into its custody~~
26 ~~population and shall identify and, if possible, implement~~
27 ~~policies aimed at reducing the administrative delays, if any,~~

1 ~~in transferring to the Department of Corrections the physical~~
2 ~~custody of the probationer and those whose probation has been~~
3 ~~revoked. The process shall be developed in cooperation with~~
4 ~~the Alabama Sheriffs' Association and the Association of~~
5 ~~County Commissions of Alabama. The process shall include the~~
6 ~~most cost-effective method to process sanctioned probation~~
7 ~~violators for the maximum 45-day confinement period and shall~~
8 ~~provide that the~~ a residential transition center, established
9 pursuant to subdivision (7), or a consenting county jail
10 designated for this purpose as provided in Section 3 of the
11 act adding this amendatory language. The Department of
12 Corrections shall reimburse the state mileage rate to the
13 county, as determined by the Alabama Comptroller's Office, to
14 the county for any state inmate sanctioned as probationer
15 charged with, or sanctioned or revoked for, a probation
16 violation and who is transferred to or from a
17 Department of Corrections facility or to or from a consenting
18 county jail by the county.

19 "(2)a. On or before October 1, 2021, the Department
20 of Corrections shall enter into agreements, and operation
21 shall begin pursuant to the agreements, with at least one
22 residential transition center or at least three counties whose
23 facilities will be used for the housing and care of
24 probationers charged with, or sanctioned or revoked for, a
25 probation violation as provided in this section. Where county
26 jails are used for the housing and care of such probationers,
27 the agreements shall be implemented and the county jails shall

1 be designated as provided by Section 3 of the act adding this
2 amendatory language.

3 "b. Probationers in custody while awaiting a
4 probation violation hearing shall be delivered to a
5 residential transition center or a consenting county jail
6 designated for this purpose, shall be held in the residential
7 transition center or consenting county jail while awaiting the
8 revocation hearing, and shall serve any ordered confinement in
9 the residential transition center or consenting county jail.
10 If, after October 1, 2021, there is not an agreement in place
11 and operation has not begun with at least one residential
12 transition center or at least three county jails for the
13 purpose of providing the housing and care of persons charged
14 with, or sanctioned or revoked for, a probation violation as
15 provided in subsection (e), no confinement, in any county jail
16 or a residential transition center, for the violation may be
17 enforced until the agreements required by this subdivision are
18 executed and operation has begun.

19 "(3) Upon completion of the confinement period, the
20 remaining probation period or suspension of sentence shall
21 automatically continue upon the defendant's release from
22 confinement. The court ~~shall~~ may not revoke probation unless
23 the defendant has previously received a total of three periods
24 of confinement ~~under~~ pursuant to this subsection. For purposes
25 of revocation, the court may take judicial notice of the three
26 total periods of confinement under this subsection. A
27 defendant shall only receive three total periods of

1 confinement ~~under~~ pursuant to this subsection. The maximum 45
2 day term of confinement ordered ~~under~~ pursuant to this
3 subsection for a felony shall ~~not~~ be reduced by ~~credit for the~~
4 time ~~already served in the case.~~ Any credit shall instead a
5 residential transition center, a county jail, or other place
6 of detention pending the imposition of the period of
7 confinement and shall be applied credited to the suspended
8 sentence. ~~In the event~~ If the time remaining on the imposed
9 sentence is 45 days or less, the term of confinement ~~shall be~~
10 for may not exceed the remainder of the defendant's sentence.

11 ~~"(2)~~ (4) The total time spent in confinement under
12 this subsection ~~shall~~ may not exceed the term of the
13 defendant's original sentence.

14 ~~"(3)~~ (5) Confinement shall be immediate. The court
15 shall ~~be responsible for ensuring~~ ensure that the circuit
16 clerk receives the order revoking probation within five
17 business days. The circuit clerk shall ensure that the
18 Department of Corrections , a residential transition center, a
19 county jail, or other place of detention receives necessary
20 transcripts for imposing a period of confinement within five
21 business days of its receipt of the court's order.

22 ~~"(4)~~ (6) If a probation violator, ~~as described in~~
23 ~~subdivision (1),~~ is presented to ~~the~~ a county jail, excluding
24 a consenting county jail designated for this purpose, as
25 provided in Section 3 of the act adding this amendatory
26 language, for any period of confinement and the probation
27 violator has with a serious medical health condition, if the

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

17 "(7) The Board of Pardons and Paroles may establish
18 and maintain one or more residential transition centers for
19 parolees or probationers to be used to house parolees and
20 probationers ordered to serve a period of confinement pursuant
21 to this section or Section 15-22-32.

22 "(f) In lieu of ~~the provisions of~~ subsections (c)
23 through (e), when a probationer violates his or her probation
24 terms and conditions imposed by the court, his or her
25 probation officer, after an administrative review and approval
26 by the probation officer's supervisor, may ~~require the~~

1 ~~probationer to submit to~~ impose any of the following
2 sanctions:

3 "(1) Mandatory behavioral treatment,

4 "(2) Mandatory substance abuse treatment,

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

6 "(4) Any other treatment as determined by the board
7 court or supervising officer, ~~or a.~~

8 "(5) A short period of confinement in a residential
9 transition center or consenting jail facility as specified in
10 subdivision (10) of Section 15-22-52. Periods of confinement
11 under this subdivision may not exceed six days per month
12 during any three separate months during the period of
13 probation. The six days per month confinement may only be
14 imposed as two-day or three-day consecutive periods at any
15 single time. The total periods of confinement may not exceed
16 nine total days in a residential transition center or a
17 consenting county jail.

18 "(g) (1) Prior to imposing a sanction provided under
19 pursuant to subsection (f) and pursuant to subdivision (10) of
20 Section 15-22-52, the probationer must first be presented with
21 a violation report, with the alleged probation violations and
22 supporting evidence noted. The probationer may file a motion
23 with the court to conduct a probation violation hearing within
24 10 days. The probationer shall be given notice of the right to
25 the hearing and advised of the right: (i) To shall be advised
26 that he or she has all of the following:

1 "a. The right to have a hearing before the court on
2 the alleged violation or violations in person,~~with the~~ or by
3 electronic means. If a hearing is requested, no probationer
4 shall be held beyond 20 business days of the request. Only
5 requesting probationers posing a threat to public safety or a
6 flight risk shall be arrested while awaiting a hearing.

7 "b. The right to present relevant witnesses and
8 documentary evidence;~~(ii).~~

9 "c. The right to retain and have counsel at the
10 hearing and that counsel will be appointed if the probationer
11 is indigent;~~and (iii).~~

12 "d. The right to confront and cross examine any
13 adverse witnesses.

14 "(2) Upon the signing of a waiver of these rights by
15 the probationer and the supervising probation officer, with
16 approval of a supervisor, the probationer may be treated,
17 monitored, or confined for the period recommended in the
18 violation report and designated in the waiver. ~~However, the~~
19 The probationer shall have no right of may not request a
20 review if he or she has signed a written waiver of rights as
21 provided in this subsection.

22 "(h) The board shall adopt guidelines and procedures
23 to implement the requirements of this section, which shall
24 include the requirement of a supervisor's approval prior to a
25 supervising probation officer's exercise of the delegation of
26 authority authorized by subsection (f)."

1 Section 2. Section 14-3-30, Code of Alabama 1975, is
2 amended to read as follows:

3 "§14-3-30.

4 "(a) (1) When any ~~convict~~ defendant is sentenced to
5 the ~~penitentiary~~ custody of the Department of Corrections, the
6 judge of the court in which the sentence is rendered shall
7 order the inmate to be confined in the nearest secure jail.
8 ~~The clerk of the court shall at once notify the Department of~~
9 ~~Corrections as to the jail where the inmate is confined,~~
10 ~~forward to the department a copy of the judgment entry and~~
11 ~~sentence in the case, and inform the department if any special~~
12 ~~care is necessary to guard the inmate. Thereupon, the~~
13 ~~department shall direct where the inmate shall be taken for~~
14 ~~confinement or hard labor.~~ Within five days of the court
15 sentencing a defendant, the court or the court clerk shall
16 enter the sentencing order and the transcript of record into
17 the State Judicial Information System, or its successor
18 system, and E-Transcripts, or its successor system. Except as
19 provided in subdivision (2), upon receipt of the transcript,
20 the Department of Corrections shall accept the transcript,
21 accept the inmate for state confinement, and schedule the
22 transfer of the physical custody of the inmate. The transfer
23 of the physical custody of the inmate shall occur no later
24 than 30 calendar days following the receipt of the original
25 transcript by the department. If the department fails to
26 accept physical custody of the inmate within 30 calendar days,
27 the sheriff may deliver the inmate to the designated intake

1 facility on the first business day following the expiration of
2 the 30-day period.

3 (2) If a transcript contains substantial errors, the
4 Department of Corrections may reject the transcript. If the
5 department rejects the transcript, the department shall
6 immediately notify the court clerk of the rejection, along
7 with any deficiencies in the transcript. No later than five
8 days after the receipt of the original transcript, the
9 department shall accept the transcript, accept the inmate for
10 state confinement, and schedule the transfer of the physical
11 custody of the inmate. The transfer of the physical custody of
12 the inmate shall occur no later than 35 calendar days
13 following the receipt of the original transcript. If the
14 department fails to accept physical custody of the inmate
15 within 35 calendar days, the sheriff may deliver the inmate to
16 the designated intake facility on the first business day
17 following the expiration of the 35-day period.

18 "(b)(1) When the Department of Corrections has
19 received the original transcript of an inmate sentenced to the
20 custody of the department and the department is in receipt of
21 a transcript of such sentence, its custody, and the inmate is
22 being housed in a county jail, and if the inmate has a health
23 condition or develops a ~~medical~~ health condition which that
24 requires immediate treatment at a ~~medical-care~~ health care
25 facility outside the county jail, the department shall be
26 financially responsible for the actual cost of the treatment
27 of the inmate. The department shall receive any contractual

1 ~~discounts the medical care facility has agreed to grant for~~
2 ~~the treatment of inmates housed in state correctional~~
3 ~~facilities.~~

4 "(2) When the Department of Corrections has received
5 the original transcript of an inmate sentenced to the custody
6 of the department and the department is in receipt of a
7 transcript of such sentence, its custody, and the inmate is
8 being housed in a county jail, and if the inmate has a health
9 condition, develops a medical health condition, or has been is
10 diagnosed as having a medical health condition which that, in
11 the opinion of a physician licensed in Alabama, would require
12 requires treatment or, a medical procedure, or both, involving
13 a cost of more than two thousand dollars (\$2,000), the
14 department shall transport the inmate shall be transferred
15 within three calendar days of the notification of the
16 condition, to a state owned or operated correctional facility
17 or to the physical custody of the department as determined by
18 the Commissioner of the Department of Corrections. The inmate
19 shall receive treatment in the same manner as other state
20 inmates. If the department fails to take custody of the
21 inmate, the county may transport the inmate to receive the
22 recommended treatment, medical procedure, or both. The
23 transportation of the inmate to the treatment or procedure
24 shall not relieve the department from the financial
25 responsibilities of the costs of the treatment or procedure.

26 "(3) Nothing in this subsection shall section may be
27 interpreted to relieve the department of its responsibility

1 for the maintenance and upkeep, including the payment of
2 ~~medical~~ health care costs, of an inmate sentenced to the
3 custody of the department, nor shall this ~~subsection~~ section
4 be interpreted as conferring any additional responsibility
5 upon a county for the maintenance and upkeep, or the payment
6 of ~~medical~~ health care costs, of any inmate sentenced to the
7 custody of the department."

8 Section 3. (a) For the purpose of designating
9 consenting county jails for the housing and care of parolees
10 and probationers pursuant to Sections 15-22-29, 15-22-32,
11 15-22-52, and 15-22-54, Code of Alabama 1975, the Department
12 of Corrections, in consultation with the Alabama Sheriffs
13 Association and the Association of County Commissions of
14 Alabama, shall develop an application and a standard
15 memorandum of agreement to be used by county commissions and
16 sheriffs who agree to provide housing and care to parolees and
17 probationers who have been charged with, or sanctioned or
18 revoked for, a parole or probation violation.

19 (b) The application shall include, but is not
20 limited to, both of the following:

21 (1) A determination of the number of excess beds
22 available in the county jail, based on the evaluation of the
23 inmate census and the available occupied beds in the jail
24 during the previous 12-month period.

25 (2) A determination of the actual daily cost of
26 housing and caring for prisoners in the county jail during the

1 previous 12-month period. This amount shall be in addition to
2 the cost of providing health care services.

3 (c) (1) A county commission, with the consent of the
4 sheriff, that elects to provide for the housing and care of
5 parole and probation violators, pursuant to Sections 15-22-29,
6 15-22-32, 15-22-52, and 15-22-54, Code of Alabama 1975, shall
7 submit an application to the Department of Corrections, submit
8 to an inspection of the county jail by the department to
9 determine its ability to house inmates and to provide for
10 their housing and care, and provide any other required
11 documentation and information required by the department.

12 (2) The department shall review all applications
13 annually and shall select the county jails for participation
14 in the program. Any county jail selected for participation
15 shall enter into a memorandum of agreement with the department
16 for the services.

17 (3) To the extent possible, the department shall
18 select county jails that are located in all regions of the
19 state.

20 (d) (1) Memoranda of agreement shall be for 12 months
21 and may be renewed for up to two additional 12-month periods
22 following an inspection and application as required in
23 subsections (b) and (c).

24 (2) The memorandum of agreement shall require the
25 Department of Corrections to provide for the cost of health
26 care for parolees and probationers in the same manner as is

1 provided for in Sections 15-22-29, 15-22-32, 15-22-52, and
2 15-22-54, Code of Alabama 1975.

3 (3) The daily rate paid to the counties for the
4 housing and care of parolees and probationers shall be the
5 actual daily cost as provided in the application plus 20
6 percent.

7 (4) The memorandum of agreement shall provide for
8 the reimbursement to the county for any increased costs of
9 liability insurance premiums that are required by its
10 insurance carrier for coverage attributed to the housing of
11 inmates pursuant to this section.

12 (5) The memorandum of agreement shall establish a
13 process for the submittal of monthly payments to the
14 participating counties upon receipt of required documentation.

15 (e) Procedures for the transfer or release of
16 parolees and probationers at the end of confinement for
17 violations and other procedures necessary to efficiently
18 implement this section shall be established by the Department
19 of Corrections, in consultation with the Alabama Sheriffs
20 Association and the Association of County Commissions of
21 Alabama.

22 (f) Any county that elects to provide for the
23 housing and care of parole and probation violators pursuant to
24 this section, and is participating in the liability
25 self-insurance fund established pursuant to Chapter 30 of
26 Title 11, Code of Alabama 1975, shall be eligible for the
27 liability self-insurance fund's coverage for any claims

1 arising out of the housing and care of parole and probation
2 violators.

3 Section 4. Sections 1 and 2 of this act shall become
4 effective on October 1, 2021, and Section 3 of this act shall
5 become effective immediately following its passage and
6 approval by the Governor, or its otherwise becoming law.