

HB123 INTRODUCED



1 R21SMN-1

2 By Representatives Drummond, Warren, Forte, England

3 RFD: Judiciary

4 First Read: 21-Mar-23

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SYNOPSIS:

Under existing law, a person may not knowingly carry or possess a deadly weapon on the premises of a public school with the intent to do bodily harm.

This bill would provide a criminal penalty for a parent or legal guardian that does not reasonably secure their firearm which results in their minor unlawfully possessing the firearm on the premises of a public school.

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

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill



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29 does not require approval of a local governmental
30 entity or enactment by a 2/3 vote to become effective
31 because it comes within one of the specified exceptions
32 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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39 Relating to firearms; to amend Section 13A-11-72, Code
40 of Alabama 1975, to provide a criminal penalty for a parent or
41 legal guardian who fails to reasonably secure their firearm
42 resulting in their minor possessing the firearm on the
43 premises of a public school; to make nonsubstantive, technical
44 revisions to update the existing code language to current
45 style; and in connection therewith would have as its purpose
46 or effect the requirement of a new or increased expenditure of
47 local funds within the meaning of Section 111.05 of the
48 Constitution of Alabama of 2022.

49 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

52 "§13A-11-72

53 (a) (1) No person who has been convicted in this state
54 or elsewhere of committing or attempting to commit a crime of
55 violence, misdemeanor offense of domestic violence, violent
56 offense as listed in Section 12-25-32-~~(15)~~, anyone who is



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57 subject to a valid protection order for domestic abuse, or
58 anyone of unsound mind shall own a firearm or have one in his
59 or her possession or under his or her control.

60 (2) A violation of this subsection is a Class C felony.

61 (b) (1) No person who is a minor, except under the
62 circumstances provided in this section, ~~a drug addict, or an~~
63 ~~habitual drunkard~~ or who has a drug or alcohol addiction,
64 shall own a pistol or have one in his or her possession or
65 under his or her control.

66 (2) A violation of this subsection is a Class A
67 misdemeanor.

68 (c) (1) Subject to the exceptions provided by Section
69 13A-11-74, no person shall knowingly, with intent to do bodily
70 harm, carry or possess a deadly weapon on the premises of a
71 public school.

72 ~~(d) (2) Possession of a deadly weapon with the intent to~~
73 ~~do bodily harm on the premises of a public school in A~~
74 violation of this subsection ~~(e) of this section~~ is a Class C
75 felony.

76 ~~(e) (d)~~ School security personnel and school resource
77 officers qualified under ~~subsection (a) of~~ Section
78 16-1-44.1 (a), employed by a local board of education, and
79 authorized by the employing local board of education to carry
80 a deadly weapon while on duty are exempt from subsection (c)
81 ~~of this section~~. Law enforcement officers are exempt from this
82 section, and persons with ~~pistol~~ permits issued pursuant to
83 Section 13A-11-75, are exempt from subsection (c) ~~of this~~
84 ~~section~~.



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85 (e) (1) A parent or legal guardian of a minor shall
86 store his or her firearms in a manner that reasonably secures
87 the firearm from unauthorized or unlawful access by the minor.

88 (2) Except as authorized under subsection (f), if a
89 parent or legal guardian fails to reasonably secure a firearm
90 as required under subdivision (1), and their minor gains
91 access to the firearm and unlawfully possesses the firearm on
92 the premises of a public school, the parent or legal guardian
93 is guilty of a Class C felony.

94 (f) A person shall not be in violation of Section
95 13A-11-57, ~~or 13A-11-76, and a minor shall not be in violation~~
96 ~~of~~ or this section if the minor has permission to possess a
97 pistol or other firearm from a parent or legal guardian who is
98 not prohibited from possessing a firearm under state or
99 federal law, and any of the following are satisfied:

100 (1) The minor is attending a hunter education course or
101 a firearms safety course under the supervision of an adult who
102 is not prohibited from possessing a firearm under state or
103 federal law.

104 (2) The minor is engaging in practice in the use of a
105 firearm or target shooting at an established range under the
106 supervision of an adult who is not prohibited from possessing
107 a firearm under state or federal law.

108 (3) The minor is engaging in an organized competition
109 involving the use of a firearm or participating in or
110 practicing for a performance by an organized group under 26
111 U.S.C. § 501(c) (3) which uses firearms as part of the
112 performance.



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113 (4) The minor is hunting or fishing pursuant to a valid
114 license, if required, and the person has the license in his or
115 her possession; has written permission of the owner or legal
116 possessor of the land on which the activities are being
117 conducted; and the pistol or firearm, when loaded, is carried
118 only in a manner discernible by ordinary observation.

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

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

123 (7) The minor is traveling by motor vehicle to any of
124 the locations or activities listed in subdivisions (1) through
125 (6), has written permission to possess the pistol or firearm
126 by his or her parent or legal guardian, and the pistol or
127 firearm is unloaded, locked in a compartment or container that
128 is in or affixed securely to the motor vehicle, and is out of
129 reach of the driver and any passenger in the motor vehicle.

130 (g) This section does not apply to a minor who uses a
131 pistol or other firearm while acting in self-defense of
132 himself, ~~or~~ herself, or other persons against an intruder into
133 the residence of the minor or a residence in which the minor
134 is an invited guest.

135 (h) For the purposes of this section, the following
136 terms have the following meanings:

137 ~~(h) The term "school resource officer" as used in this~~
138 ~~section means an~~ (6) SCHOOL RESOURCE OFFICER. An Alabama Peace
139 Officers' Standards and Training Commissioner-certified law
140 enforcement officer employed by a law enforcement agency who



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141 is specifically selected and specially trained for the school
142 setting.

143 ~~(i) The term "public school" as used in this section~~
144 ~~applies only to a~~ (4) PUBLIC SCHOOL. A school composed of
145 grades K-12 and shall include a school bus used for grades
146 K-12.

147 ~~(j) The term "deadly weapon" as used in this section~~
148 ~~means a~~ (2) DEADLY WEAPON. A firearm or anything manifestly
149 designed, made, or adapted for the purposes of inflicting
150 death or serious physical injury, and ~~such~~ the term includes,
151 but is not limited to, a bazooka, hand grenade, missile, or
152 explosive or incendiary device; a pistol, rifle, or shotgun;
153 or a switch-blade knife, gravity knife, stiletto, sword, or
154 dagger; or any club, baton, billy, black-jack, bludgeon, or
155 metal knuckles.

156 ~~(k) (1) The term "convicted" as used in this section~~
157 ~~requires that the~~ (1) CONVICTED. a. Means a person was
158 represented by counsel in the case, or knowingly and
159 intelligently waived the right to counsel in the case if
160 required by law, and either the case was tried before a judge,
161 tried by a jury, or the person knowingly and intelligently
162 waived the right to have the case tried, by guilty plea or
163 otherwise.

164 ~~(2)~~ b. A person ~~may~~ is not ~~be~~ considered to have been
165 convicted for the purposes of this section if the person is
166 not considered to have been convicted in the jurisdiction in
167 which the proceedings were held or the conviction has been
168 expunged, set aside, or is of an offense for which the person



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169 has been pardoned or has had his or her civil rights restored,
170 unless the pardon, expungement, or restoration of civil rights
171 expressly provides that the person may not ship, transport,
172 possess, or receive firearms.

173 ~~(1) The term "misdemeanor offense of domestic violence"~~
174 ~~as used in this section means a~~ (3) MISDEMEANOR OFFENSE OF
175 DOMESTIC VIOLENCE. A misdemeanor offense that has, as its
176 elements, the use or attempted use of physical force or the
177 threatened use of a dangerous instrument or deadly weapon, and
178 the victim is a current or former spouse, parent, child,
179 person with whom the defendant has a child in common, or a
180 present or former household member.

181 ~~(m) The term "valid protection order" as used in this~~
182 ~~section means an~~ (8) VALID PROTECTION ORDER. An order issued
183 after a hearing of which the person received actual notice,
184 and at which the person had an opportunity to participate,
185 that does ~~any~~ either of the following:

186 ~~(1)~~ a. Restrains the person from harassing, stalking, or
187 threatening a qualified individual or child of the qualified
188 individual or person or engaging in other conduct that would
189 place a qualified individual in reasonable fear of bodily
190 injury to the individual or child and that includes a finding
191 that the person represents a credible threat to the physical
192 safety of the qualified individual or child.

193 ~~(2)~~ b. By its terms, explicitly prohibits the use,
194 attempted use, or threatened use of physical force against the
195 qualified individual or child that would reasonably be
196 expected to cause bodily injury.



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197 ~~(n) The term "qualified individual" as used in~~
198 ~~subsection (m),~~ (5) QUALIFIED INDIVIDUAL. As used in
199 subdivision (6) of this subsection, means a spouse or former
200 spouse of the person, an individual who is a parent of a child
201 of the person, or an individual who cohabitates or has
202 cohabited with the person.

203 ~~(o) The term "unsound mind" as used in this section~~
204 ~~includes~~ (7) UNSOUND MIND. Includes any person who is subject
205 to any of the findings listed below, and who has not had his
206 or her rights to possess a firearm reinstated by operation of
207 law or legal process:

208 ~~(1)~~ a. Found by a court, board, commission, or other
209 lawful authority that, as a result of marked subnormal
210 intelligence, mental illness, incompetency, condition, or
211 disease, is a danger to himself, ~~or~~ herself, or others or
212 lacks the mental capacity to contract or manage his or her own
213 affairs.

214 ~~(2)~~ b. Found to be insane, not guilty by reason of
215 mental disease or defect, found mentally incompetent to stand
216 trial, or found not guilty by a reason of lack of mental
217 responsibility by a court in a criminal case, to include
218 state, federal and military courts.

219 ~~(3)~~ c. Involuntarily committed for a final commitment
220 for inpatient treatment to the Department of Mental Health or
221 a Veterans' Administration hospital by a court after a
222 hearing."

223 Section 2. Although this bill would have as its purpose
224 or effect the requirement of a new or increased expenditure of



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225 local funds, the bill is excluded from further requirements
226 and application under Section 111.05 of the Constitution of
227 Alabama of 2022, because the bill defines a new crime or
228 amends the definition of an existing crime.

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