

**House Judiciary Engrossed Substitute for HB123**



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A BILL  
TO BE ENTITLED  
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§13A-11-72

(a) (1) No person who has been convicted in this state or elsewhere of committing or attempting to commit a crime of violence, misdemeanor offense of domestic violence, violent offense as listed in Section 12-25-32-~~(15)~~, anyone who is subject to a valid protection order for domestic abuse, or



## House Judiciary Engrossed Substitute for HB123

29 anyone of unsound mind shall own a firearm or have one in his  
30 or her possession or under his or her control.

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

32 (b) (1) No person who is a minor, except under the  
33 circumstances provided in this section, ~~a drug addict, or an~~  
34 ~~habitual drunkard~~ or who has a drug or alcohol addiction,  
35 shall own a pistol or have one in his or her possession or  
36 under his or her control.

37 (2) A violation of this subsection is a Class A  
38 misdemeanor.

39 (c) (1) Subject to the exceptions provided by Section  
40 13A-11-74, no person shall knowingly, with intent to do bodily  
41 harm, carry or possess a deadly weapon on the premises of a  
42 public school.

43 ~~(d) (2) Possession of a deadly weapon with the intent to~~  
44 ~~do bodily harm on the premises of a public school in A~~  
45 violation of this subsection ~~(c) of this section~~ is a Class C  
46 felony.

47 ~~(e) (d)~~ School security personnel and school resource  
48 officers qualified under ~~subsection (a) of~~ Section  
49 16-1-44.1 (a), employed by a local board of education, and  
50 authorized by the employing local board of education to carry  
51 a deadly weapon while on duty are exempt from subsection (c)  
52 ~~of this section~~. Law enforcement officers are exempt from this  
53 section, and persons with ~~pistol~~ permits issued pursuant to  
54 Section 13A-11-75, are exempt from subsection (c) ~~of this~~  
55 ~~section~~.

56 (e) (1) A parent or legal guardian of a minor shall

House Judiciary Engrossed Substitute for HB123



57 store his or her firearms in a manner that reasonably secures  
58 the firearm from unauthorized or unlawful access by the minor.

59 (2) Except as authorized under subsection (f), if a  
60 parent or legal guardian fails to reasonably secure a firearm  
61 as required under subdivision (1), and their minor gains  
62 access to the firearm and unlawfully possesses the firearm on  
63 the premises of a public school, the parent or legal guardian  
64 is guilty of a Class ~~C-felony~~ A misdemeanor.

65 (3) For purposes of this subsection, "reasonably  
66 secure" includes storing a firearm using a trigger lock or in  
67 a locked box or gun safe that requires a key, numerical or  
68 alphanumeric combination, or fingerprint to open. This  
69 subdivision shall not be interpreted to exclude other manners  
70 of storage from the meaning of "reasonably secure" as used  
71 within this subsection.

72 (f) A person shall not be in violation of Section  
73 13A-11-57, ~~or~~ 13A-11-76, ~~and a minor shall not be in violation~~  
74 ~~of~~ or this section if the minor has permission to possess a  
75 pistol or other firearm from a parent or legal guardian who is  
76 not prohibited from possessing a firearm under state or  
77 federal law, and any of the following are satisfied:

78 (1) The minor is attending a hunter education course or  
79 a firearms safety course under the supervision of an adult who  
80 is not prohibited from possessing a firearm under state or  
81 federal law.

82 (2) The minor is engaging in practice in the use of a  
83 firearm or target shooting at an established range under the  
84 supervision of an adult who is not prohibited from possessing



## House Judiciary Engrossed Substitute for HB123

85 a firearm under state or federal law.

86 (3) The minor is engaging in an organized competition  
87 involving the use of a firearm or participating in or  
88 practicing for a performance by an organized group under 26  
89 U.S.C. § 501(c)(3) which uses firearms as part of the  
90 performance.

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

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

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

101 (7) The minor is traveling by motor vehicle to any of  
102 the locations or activities listed in subdivisions (1) through  
103 (6), has written permission to possess the pistol or firearm  
104 by his or her parent or legal guardian, and the pistol or  
105 firearm is unloaded, locked in a compartment or container that  
106 is in or affixed securely to the motor vehicle, and is out of  
107 reach of the driver and any passenger in the motor vehicle.

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

House Judiciary Engrossed Substitute for HB123



113 (h) For the purposes of this section, the following  
114 terms have the following meanings:

115 ~~(h) The term "school resource officer" as used in this~~  
116 ~~section means an~~ (6) SCHOOL RESOURCE OFFICER. An Alabama Peace  
117 Officers' Standards and Training Commissioner-certified law  
118 enforcement officer employed by a law enforcement agency who  
119 is specifically selected and specially trained for the school  
120 setting.

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

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

134 ~~(k) (1) The term "convicted" as used in this section~~  
135 ~~requires that the~~ (1) CONVICTED. a. Means a person was  
136 represented by counsel in the case, or knowingly and  
137 intelligently waived the right to counsel in the case if  
138 required by law, and either the case was tried before a judge,  
139 tried by a jury, or the person knowingly and intelligently  
140 waived the right to have the case tried, by guilty plea or

House Judiciary Engrossed Substitute for HB123



141 otherwise.

142 ~~(2)~~b. A person ~~may~~ is not ~~be~~ considered to have been  
143 convicted for the purposes of this section if the person is  
144 not considered to have been convicted in the jurisdiction in  
145 which the proceedings were held or the conviction has been  
146 expunged, set aside, or is of an offense for which the person  
147 has been pardoned or has had his or her civil rights restored,  
148 unless the pardon, expungement, or restoration of civil rights  
149 expressly provides that the person may not ship, transport,  
150 possess, or receive firearms.

151 ~~(1) The term "misdemeanor offense of domestic violence"~~  
152 ~~as used in this section means a~~ (3) MISDEMEANOR OFFENSE OF  
153 DOMESTIC VIOLENCE. A misdemeanor offense that has, as its  
154 elements, the use or attempted use of physical force or the  
155 threatened use of a dangerous instrument or deadly weapon, and  
156 the victim is a current or former spouse, parent, child,  
157 person with whom the defendant has a child in common, or a  
158 present or former household member.

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

164 ~~(1)~~a. Restrains the person from harassing, stalking, or  
165 threatening a qualified individual or child of the qualified  
166 individual or person or engaging in other conduct that would  
167 place a qualified individual in reasonable fear of bodily  
168 injury to the individual or child and that includes a finding



## House Judiciary Engrossed Substitute for HB123

169 that the person represents a credible threat to the physical  
170 safety of the qualified individual or child.

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

175 ~~(n) The term "qualified individual" as used in~~  
176 ~~subsection (m),~~ (5) QUALIFIED INDIVIDUAL. As used in  
177 subdivision (6) of this subsection, means a spouse or former  
178 spouse of the person, an individual who is a parent of a child  
179 of the person, or an individual who cohabitates or has  
180 cohabited with the person.

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

186 ~~(1)~~a. Found by a court, board, commission, or other  
187 lawful authority that, as a result of marked subnormal  
188 intelligence, mental illness, incompetency, condition, or  
189 disease, is a danger to himself, ~~or~~ herself, or others or  
190 lacks the mental capacity to contract or manage his or her own  
191 affairs.

192 ~~(2)~~b. Found to be insane, not guilty by reason of  
193 mental disease or defect, found mentally incompetent to stand  
194 trial, or found not guilty by a reason of lack of mental  
195 responsibility by a court in a criminal case, to include  
196 state, federal and military courts.

## House Judiciary Engrossed Substitute for HB123



197           ~~(3)~~c. Involuntarily committed for a final commitment  
198 for inpatient treatment to the Department of Mental Health or  
199 a Veterans' Administration hospital by a court after a  
200 hearing."

201           Section 2. Although this bill would have as its purpose  
202 or effect the requirement of a new or increased expenditure of  
203 local funds, the bill is excluded from further requirements  
204 and application under Section 111.05 of the Constitution of  
205 Alabama of 2022, because the bill defines a new crime or  
206 amends the definition of an existing crime.

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