CRIMINAL LAWS OF ALABAMA

2024 EDITION

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and the 2024 Cumulative Supplement

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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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October 8, 2024

Dear Alabama Law Enforcement Officer:

As the chief law enforcement officer of Alabama, I understand the need to keep you apprised of the changing criminal laws of our state. To that end, I am pleased to offer the 2024 Twenty-Fifth Anniversary Edition of the *Criminal Laws of Alabama*.

This volume incorporates all updates to Alabama's criminal laws since the 2022 edition, including recent legislative changes to Alabama's manslaughter statute. This volume also contains sections of the *Code of Alabama* of specific importance to law enforcement. These include Alabama's criminal and motor-vehicle codes and rules of criminal procedure, as well as acts governing the registration and community-notification requirements of sex offenders; the rights of crime victims; the regulation of controlled substances; the prevention of child abuse and domestic violence; and the protection of elderly and disabled persons. Also included is the Alabama Law Enforcement Agency's *Law Enforcement Officers' Handbook*.

In addition to the funding provided by my office, several other entities helped make this publication possible. I would like to express my gratitude to the Alabama Peace Officers' Standards and Training Commission for their significant contribution. Additional sponsorships from the following organizations completed the funding necessary to underwrite the publication costs: the Alabama Sheriffs Association, the Alabama Association of Chiefs of Police, the Alabama State Fraternal Order of Police, the Alabama State Trooper Association, the Alabama District Attorneys Association, Alabama Office of Prosecution Services, and the Alabama Peace Officers' Association. This combined support of law enforcement from across the state is deeply appreciated and should not go unnoticed.

I am proud to be your partner in the promotion of a safer and better Alabama.

Sincerely,

Steve Marshall

Steve Marshall
Attorney General

STATE OF ALABAMA

PEACE OFFICERS' STANDARDS AND TRAINING COMMISSION

CHIEF R. ALAN BENEFIELD
EXECUTIVE SECRETARY

August 7, 2024

Dear Fellow Law Enforcement Officers,

On behalf of the Alabama Peace Officers' Standards and Training Commission - Sheriff Jimmy Abbett (Chair), Chief Bill Partridge (Vice-Chair), Chief John Anderson, Mr. Lyle Mitchell, Chief Ashley Welborn, Colonel Charles Ward, and Sheriff Jay Jones - I want to thank you for your service to our state and the law enforcement profession. Serving as an Alabama law enforcement officer is a truly unique and rewarding opportunity in life. Today, more than ever before, serving our society as a sworn law enforcement officer is a very dangerous and demanding profession, requiring the very best of character, understanding, training and commitment. Many of you have this understanding and commitment. Others will learn, or they will soon discover, that serving as a law enforcement officer is not for them.

The Commission and I are happy to support Attorney General Steve Marshall and his office in sponsoring the annual "Law Enforcement Summit." General Marshall's annual Law Enforcement Summit is a great training and networking opportunity for all of Alabama's Peace Officers. The "Summit" provides a golden opportunity for you to participate in professional law enforcement training while helping you meet your annual continuing education requirements. And, it is at no cost to you or your agency. We are pleased to appropriate the funds necessary to provide you a copy of the 2024 Edition of the Criminal Laws of Alabama, including the "Alabama Law Enforcement Officers' Handbook." We believe you will find the 2024 Edition a very useful reference in carrying out your duties as law enforcement officers.

Please remember that your Certification as an Alabama law enforcement officer is your license to serve as a sworn officer in Alabama. It is your duty and responsibility to ensure your Certification remains valid and current by completing annual firearms and continuing education requirements, and, while this is a shared responsibility between you and your agency, it is ultimately your responsibility. After all, it is your Certification. Again, thank you for your service and dedication to our profession...law enforcement!

Sincerely,

Chief R. Alan Benefield
Executive Secretary

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TITLE 13A.

CRIMINAL CODE.

CHAPTER 1.

GENERAL PROVISIONS.

§ 13A–1–1. Short title.

This title shall be known and may be cited as the ''Alabama Criminal Code.''

(Acts 1977, No. 607, p. 812, § 101.)

§ 13A–1–2. Definitions.

Unless different meanings are expressly specified in subsequent provisions of this title, the following terms shall have the following meanings:

(1) BOOBY TRAP. Any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. This term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices for the production of toxic fumes or gases.

(2) BURDEN OF INJECTING THE ISSUE. The term means that the defendant must offer some competent evidence relating to all matters subject to the burden, except that the defendant may rely upon evidence presented by the prosecution in meeting the burden.

(3) CLANDESTINE LABORATORY OPERATION. Any of the following:

a. Purchase or procurement of chemicals, supplies, equipment, or laboratory location for the unlawful manufacture of controlled substances.

b. Transportation or arranging for the transportation of chemicals, supplies, or equipment for the unlawful manufacture of controlled substances.

c. Setting up of equipment or supplies in preparation for the unlawful manufacture of controlled substances.

d. Distribution or disposal of chemicals, equipment, supplies, or products used in or produced by the unlawful manufacture of controlled substances.

(4) CRIME. A misdemeanor or a felony.

(5) DANGEROUS INSTRUMENT. Any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is highly capable of causing death or serious physical

injury. The term includes a ''vehicle,'' as that term is defined in subdivision (15).

(6) DEADLY PHYSICAL FORCE. Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

(7) DEADLY WEAPON. A firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switchblade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack, bludgeon, or metal knuckles.

(8) FELONY. An offense for which a sentence to a term of imprisonment in excess of one year is authorized by this title.

(9) MISDEMEANOR. An offense for which a sentence to a term of imprisonment not in excess of one year may be imposed.

(10) OFFENSE. Conduct for which a sentence to a term of imprisonment, or the death penalty, or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state.

(11) PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental instrumentality.

(12) PHYSICAL INJURY. Impairment of physical condition or substantial pain.

(13) POSSESS. To have physical possession or otherwise to exercise dominion or control over tangible property.

(14) SERIOUS PHYSICAL INJURY. Physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ; or a penetrating gunshot wound inflicted by a firearm as defined in Section 13A–8–1.

(15) VEHICLE. Any ''propelled vehicle,'' as defined in subdivision (9) of Section 13A–8–1. The term includes any propelled device by which any person or property is transported on land, water, or in the air, and includes motor vehicles, motorcycles, motorboats, and aircraft, and any vessel, whether propelled by machinery or not.

(16) VIOLATION. An offense for which a sentence to a term of imprisonment not in excess of 30 days may be imposed.

(Acts 1977, No. 607, p. 812, § 130; Acts 1978, No. 770, p. 1110; Act 2001–971, 3rd Sp. Sess., p. 873, § 2; Act 2022–401, § 1.)

§ 13A–1–3. General purposes of title.

The general purposes of the provisions of this title are:

(1) To proscribe conduct that unjustifiably and inexcusably causes or threatens substantial harm to individual and/or public interests;

(2) To give fair warning of the nature of the conduct proscribed and of the punishment authorized upon conviction;

(3) To define the act or omission and the accompanying mental state that constitute each offense;

(4) To differentiate on reasonable grounds between serious and minor offenses and to prescribe proportionate penalties for each;

(5) To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted and their confinement when required in the interests of public protection; and

(6) To prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

(Acts 1977, No. 607, p. 812, § 105.)

§ 13A–1–4. When act or omission constitutes crime.

No act or omission is a crime unless made so by this title or by other applicable statute or lawful ordinance.

(Acts 1977, No. 607, p. 812, § 110.)

§ 13A–1–5. Conformity of local ordinances with title. Repealed by Acts 1979, No. 79–471, p. 862, § 2, effective July 30, 1979.

§ 13A–1–6. General rule of construction.

All provisions of this title shall be construed according to the fair import of their terms to promote justice and to effect the objects of the law, including the purposes stated in Section 13A–1–3.

(Acts 1977, No. 607, p. 812, § 115.)

§ 13A–1–7. Applicability of title to offenses committed before and after enactment of title.

(a) The provisions of this title shall govern the construction of and punishment for any offense defined in this title and committed after 12:01 A.M. January 1, 1980, as well as the construction and application of any defense to a prosecution for such an offense.

(b) Unless otherwise expressly provided or unless the context otherwise requires, the provisions of this chapter shall govern the construction of and punishment for any offense defined outside this title and committed after the effective date thereof, as well as the construction and application of any defense to a prosecution for such an offense.

(c) The provisions of this title do not apply to or govern the construction of and punishment for any offense committed prior to 12:01 A.M. January 1, 1980, or the construction and application of any defense to a prosecution of such an offense. Such an offense must be construed and punished according

to the provisions of law existing at the time of the commission thereof in the same manner as if this title had not been enacted.

(Acts 1977, No. 607, p. 812, § 120.)

§ 13A–1–8. Procedural matters; civil liabilities not affected by title; prosecution when more than one offense.

(a)(1) Except as otherwise provided herein, the procedure governing the accusation, prosecution, conviction, and punishment of offenders and offenses is not regulated by this title.

(2) This title does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in the proceeding constitutes an offense defined in this title.

(b) When the same conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each such offense. He may not, however, be convicted of more than one offense if:

(1) One offense is included in the other, as defined in Section 13A–1–9; or

(2) One offense consists only of a conspiracy or other form of preparation to commit the other; or

(3) Inconsistent findings of fact are required to establish the commission of the offenses; or

(4) The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct.

(Acts 1977, No. 77–607, p. 812, § 125; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–1–9. Lesser included offenses.

(a) A defendant may be convicted of an offense included in an offense charged. An offense is an included one if:

(1) It is established by proof of the same or fewer than all the facts required to establish the commission of the offense charged; or

(2) It consists of an attempt or solicitation to commit the offense charged or to commit a lesser included offense; or

(3) It is specifically designated by statute as a lesser degree of the offense charged; or

(4) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interests, or a lesser kind of culpability suffices to establish its commission.

(b) The court shall not charge the jury with respect to an included offense unless there is a rational basis for a verdict convicting the defendant of the included offense.

(Acts 1977, No. 607, p. 812, § 126.)

§ 13A–1–10. Pending proceedings, rights and liabilities not affected.

All proceedings pending and all rights and liabilities existing, acquired or incurred on January 1, 1980, are hereby saved and may be consummated according to the law in force when they were commenced. This title shall not be construed to affect any prosecution pending or begun before January 1, 1980.

(Acts 1977, No. 607, p. 812, § 9905.)

§ 13A–1–11. Effective date.

This title shall take effect at 12:01 A.M. o'clock on January 1, 1980.

(Acts 1977, No. 607, p. 812, § 9910; Acts 1978, No. 770, p. 1110, § 1; Acts 1979, No. 79–125, p. 230.)

CHAPTER 2.

PRINCIPLES OF CRIMINAL LIABILITY.

ARTICLE 1.

CULPABILITY.

§ 13A–2–1. Definitions — Generally.

The following definitions apply to this Criminal Code:

(1) ACT. A bodily movement, and such term includes possession of property.

(2) VOLUNTARY ACT. An act performed consciously as a result of effort or determination, and such term includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient time to have been able to terminate it.

(3) OMISSION. A failure to perform an act as to which a duty of performance is imposed by law.

(4) CONDUCT. An act or omission and its accompanying mental state.

(5) TO ACT. Either to perform an act or to omit to perform an act.

(6) CULPABLE MENTAL STATE. Such term means ''intentionally'' or ''knowingly'' or ''recklessly'' or with ''criminal negligence,'' as these terms are defined in Section 13A–2–2.

(Acts 1977, No. 607, p. 812, § 301.)

§ 13A–2–2. Definitions — Definitions of culpable mental state.

The following definitions apply to this Criminal Code:

(1) INTENTIONALLY. A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his purpose is to cause that result or to engage in that conduct.

(2) KNOWINGLY. A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.

(3) RECKLESSLY. A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware thereof solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A–3–2, acts recklessly with respect thereto.

(4) CRIMINAL NEGLIGENCE. A person acts with criminal negligence with respect to a result or to a circumstance which is defined by statute as an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence.

(Acts 1977, No. 607, p. 812, § 305.)

§ 13A–2–3. Requirements for criminal liability in general and for offenses of strict liability and of mental culpability.

The minimum requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing. If that conduct is all that is required for commission of a particular offense, or if an offense or some material element thereof does not require a culpable mental state on the part of the actor, the offense is one of ''strict liability.'' If a culpable mental state on the part of the actor is required with respect to any material element of an offense, the offense is one of ''mental culpability.''

(Acts 1977, No. 607, p. 812, § 310.)

§ 13A–2–4. Construction of statutes with respect to culpability requirements.

(a) When a statute defining an offense prescribes as an element thereof a specified culpable mental state, such mental state is presumed to apply to

every element of the offense unless the context thereof indicates to the contrary.

(b) Although no culpable mental state is expressly designated in a statute defining an offense, an appropriate culpable mental state may nevertheless be required for the commission of that offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state. A statute defining a crime, unless clearly indicating a legislative intent to impose strict liability, states a crime of mental culpability.

(c) If a statute provides that criminal negligence suffices to establish an element of an offense, that element also is established if a person acts recklessly, knowingly or intentionally. If recklessness suffices to establish an element, that element also is established if a person acts knowingly and intentionally. If acting knowingly suffices to establish an element, that element also is established if a person acts intentionally.

(Acts 1977, No. 607, p. 812, § 315.)

§ 13A–2–5. Causal relationship between conduct and results; relationship to mental culpability.

(a) A person is criminally liable if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was sufficient to produce the result and the conduct of the actor clearly insufficient.

(b) A person is nevertheless criminally liable for causing a result if the only difference between what actually occurred and what he intended, contemplated or risked is that:

(1) A different person or property was injured, harmed or affected; or

(2) A less serious or less extensive injury or harm occurred.

(c) When causing a particular result is a material element of an offense for which absolute liability is imposed by law, the element is not established unless the actual result is a probable consequence of the actor's conduct.

(Acts 1977, No. 607, p. 812, § 320.)

§ 13A–2–6. Effect of ignorance or mistake upon liability.

(a) A person is not relieved of criminal liability for conduct because he engages in that conduct under a mistaken belief of fact unless:

(1) His factual mistake negatives the culpable mental state required for the commission of an offense; or

(2) The statute defining the offense or a statute related thereto expressly provides that such a factual mistake constitutes a defense or exemption; or

(3) The factual mistake is of a kind that supports a defense of justification as defined in Article 2 of Chapter 3 of this title.

(b) A person is not relieved of criminal liability for conduct because he engages in that conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless his mistaken belief is founded upon an official statement of the law contained in a statute or the latest judicial decision of the highest state or federal court which has decided on the matter.

(c) The burden of injecting the issue of mistake of law under subsection (b) of this section is on the defendant, but this does not shift the burden of proof.

(d) A mistake of law, other than as to the existence or meaning of the statute under which the defendant is prosecuted, is relevant to disprove the specific state of mental culpability required by the statute under which the defendant is prosecuted.

(Acts 1977, No. 607, p. 812, § 325.)

§ 13A–2–7. Consent.

(a) *In general.* The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negatives a required element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

(b) *Consent to bodily harm.* When conduct is charged to constitute an offense because it causes or threatens bodily harm, consent to such conduct or to the infliction of such harm is a defense only if:

(1) The bodily harm consented to or threatened by the conduct consented to is not serious; or

(2) The conduct and the harm are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or

(3) The consent establishes a justification for the conduct under Article 2 of Chapter 3 of this title.

(c) *Ineffective consent.* Unless otherwise provided by this Criminal Code or by the law defining the offense, assent does not constitute consent if:

(1) It is given by a person who is legally incompetent to authorize the conduct; or

(2) It is given by a person who by reason of immaturity, mental disease or defect, or intoxication is manifestly unable and known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct; or

(3) It is given by a person whose consent is sought to be prevented by the law defining the offense; or

(4) It is induced by force, duress or deception.

(Acts 1977, No. 607, p. 812, § 330.)

ARTICLE 2.

PARTIES TO OFFENSES.

§ 13A–2–20. Criminal liability based upon behavior.

A person is criminally liable for an offense if it is committed by his own behavior or by the behavior of another person for which he is legally accountable as provided for in this article, or both.

(Acts 1977, No. 607, p. 812, § 401.)

§ 13A–2–21. Criminal liability based upon behavior of another — Accountability imposed by statute.

A person is legally accountable for the behavior of another person if he is made accountable for the behavior of such person by the statute defining the offense or by specific provision of this title.

(Acts 1977, No. 607, p. 812, § 405.)

§ 13A–2–22. Criminal liability based upon behavior of another — Conduct of an innocent person.

(a) A person is legally accountable for the behavior of another if, acting with the culpable mental state sufficient for the commission of the offense in question, he causes an innocent person to engage in such behavior.

(b) As used in this section, an ''innocent person'' includes any person who is not guilty of the offense in question, despite his behavior, because of:

(1) Criminal irresponsibility or other legal incapacity or exemption.

(2) Unawareness of the criminal nature of the conduct in question or of the defendant's criminal purpose.

(3) Any other factor precluding the mental state sufficient for the commission of the offense in question.

(Acts 1977, No. 607, p. 812, § 410.)

§ 13A–2–23. Criminal liability based upon behavior of another — Complicity.

A person is legally accountable for the behavior of another constituting a criminal offense if, with the intent to promote or assist the commission of the offense:

(1) He procures, induces or causes such other person to commit the offense; or

(2) He aids or abets such other person in committing the offense; or

(3) Having a legal duty to prevent the commission of the offense, he fails to make an effort he is legally required to make.

(Acts 1977, No. 607, p. 812, § 415.)

§ 13A–2–24. Criminal liability based upon behavior of another — Exceptions.

Unless otherwise provided by the statute defining the offense, a person shall not be legally accountable for behavior of another constituting a criminal offense if:

(1) He is a victim of that offense; or

(2) The offense is so defined that his conduct is inevitably incidental to its commission; or

(3) Prior to the commission of the offense, he voluntarily terminated his effort to promote or assist its commission and either gave timely and adequate warning to law enforcement authorities, or to the intended victim, or wholly deprived his complicity of its effectiveness in the commission of the offense. The burden of injecting this issue is on the defendant, but this does not shift the burden of proof.

(Acts 1977, No. 607, p. 812, § 420.)

§ 13A–2–25. Criminal liability based upon behavior of another — Certain defenses not available.

In a prosecution for an offense in which criminal liability is based upon the behavior of another person pursuant to this article, it is no defense that:

(1) Such other person has not been prosecuted for or convicted of any offense based upon the behavior in question, or has been previously acquitted thereof, or has been convicted of a different offense or degree of offense.

(2) The defendant belongs to a class of persons who, by definition of the offense, are legally incapable of committing the offense in an individual capacity.

(Acts 1977, No. 607, p. 812, § 425.)

§ 13A–2–26. Criminal liability of an individual for corporate conduct.

A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if such conduct were performed in his own name or behalf.

(Acts 1977, No. 607, p. 812, § 435.)

CHAPTER 3.

DEFENSES.

ARTICLE 1.

RESPONSIBILITY.

§ 13A–3–1. Mental disease or defect.

(a) It is an affirmative defense to a prosecution for any crime that, at the time of the commission of the acts constituting the offense, the defendant, as a result of severe mental disease or defect, was unable to appreciate the nature and quality or wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense.

(b) ''Severe mental disease or defect'' does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

(c) The defendant has the burden of proving the defense of insanity by clear and convincing evidence.

(Acts 1977, No. 607, p. 812, § 501; Acts 1988, No. 88–654, p. 1051, § 2.)

§ 13A–3–2. Intoxication.

(a) Intoxication is not a defense to a criminal charge, except as provided in subsection (c) of this section. However, intoxication, whether voluntary or involuntary, is admissible in evidence whenever it is relevant to negate an element of the offense charged.

(b) When recklessness establishes an element of an offense and the actor is unaware of a risk because of voluntary intoxication, his unawareness is immaterial in a prosecution for that offense.

(c) Involuntary intoxication is a defense to prosecution if as a result the actor lacks capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

(d) Intoxication in itself does not constitute mental disease or defect within the meaning of Section 13A–3–1.

(e) In this section:

(1) ''Intoxication'' includes a disturbance of mental or physical capacities resulting from the introduction of any substance into the body.

(2) ''Voluntary intoxication'' means intoxication caused by substances that the actor knowingly introduced into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them under circumstances that would afford a defense to a charge of crime.

(Acts 1977, No. 607, p. 812, § 505.)

§ 13A–3–3. Immaturity.

The prosecution of any person as an adult shall be barred if the offense was committed when the actor was less than 14 years old.

(Acts 1977, No. 607, p. 812, § 510.)

ARTICLE 2.

JUSTIFICATION AND EXCUSE.

§ 13A–3–20. Definitions.

The following definitions are applicable to this article:

(1) BUILDING. Any structure which may be entered and utilized by persons for business, public use, lodging, or the storage of goods, and includes any vehicle, aircraft, or watercraft used for the lodging of persons or carrying on business therein. Each unit of a building consisting of two or more units separately occupied or secured is a separate building.

(2) DEADLY PHYSICAL FORCE. Force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

(3) DWELLING. A building which is usually occupied by a person lodging therein at night, or a building of any kind, including any attached balcony, whether the building is temporary or permanent, mobile or immobile, which has a roof over it, and is designed to be occupied by people lodging therein at night.

(4) FORCE. Physical action or threat against another, including confinement.

(5) PREMISES. The term includes any building, as defined in this section, and any real property.

(6) RESIDENCE. A dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

(7) VEHICLE. A motorized conveyance which is designed to transport people or property.

(Acts 1977, No. 607, p. 812, § 670; Act 2006–303, p. 638, § 1.)

§ 13A–3–21. Basis for defense generally; injury to innocent person through negligence; civil remedies.

(a) *Defense.* Except as otherwise expressly provided, justification or excuse under this article is a defense.

(b) *Danger to innocent persons.* If a person is justified or excused in using force against a person, but he recklessly or negligently injures or creates a substantial injury to another person, the justifications afforded by this article are unavailable in a prosecution for such recklessness or negligence.

(c) *Civil remedy unimpaired.* Any justification or excuse within the meaning of this article does not abolish or impair any civil remedy or right of action which is otherwise available.

(Acts 1977, No. 607, p. 812, § 601.)

§ 13A–3–22. Execution of public duty.

Unless inconsistent with other provisions of this article, or with some other provision of law, conduct which would otherwise constitute an offense is

justifiable and not criminal when it is required or authorized by law or by a judicial decree or is performed by a public servant in the reasonable exercise of his official powers, duties or functions.

(Acts 1977, No. 607, p. 812, § 605; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–3–23. Use of force in defense of a person.

(a) A person is justified in using physical force upon another person in order to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he or she may use a degree of force which he or she reasonably believes to be necessary for the purpose. A person may use deadly physical force, and is legally presumed to be justified in using deadly physical force in self-defense or the defense of another person pursuant to subdivision (5), if the person reasonably believes that another person is:

(1) Using or about to use unlawful deadly physical force.

(2) Using or about to use physical force against an occupant of a dwelling while committing or attempting to commit a burglary of such dwelling.

(3) Committing or about to commit a kidnapping in any degree, assault in the first or second degree, burglary in any degree, robbery in any degree, forcible rape, or forcible sodomy.

(4) Using or about to use physical force against an owner, employee, or other person authorized to be on business property when the business is closed to the public while committing or attempting to commit a crime involving death, serious physical injury, robbery, kidnapping, rape, sodomy, or a crime of a sexual nature involving a child under the age of 12.

(5) In the process of unlawfully and forcefully entering, or has unlawfully and forcefully entered, a dwelling, residence, business property, or occupied vehicle, or federally licensed nuclear power facility, or is in the process of sabotaging or attempting to sabotage a federally licensed nuclear power facility, or is attempting to remove, or has forcefully removed, a person against his or her will from any dwelling, residence, business property, or occupied vehicle when the person has a legal right to be there, and provided that the person using the deadly physical force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring. The legal presumption that a person using deadly physical force is justified to do so pursuant to this subdivision does not apply if:

a. The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner or lessee, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person;

b. The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used;

c. The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

d. The person against whom the defensive force is used is a law enforcement officer acting in the performance of his or her official duties.

(b) A person who is justified under subsection (a) in using physical force, including deadly physical force, and who is not engaged in an unlawful activity and is in any place where he or she has the right to be has no duty to retreat and has the right to stand his or her ground.

(c) Notwithstanding the provisions of subsection (a), a person is not justified in using physical force if:

(1) With intent to cause physical injury or death to another person, he or she provoked the use of unlawful physical force by such other person.

(2) He or she was the initial aggressor, except that his or her use of physical force upon another person under the circumstances is justifiable if he or she withdraws from the encounter and effectively communicates to the other person his or her intent to do so, but the latter person nevertheless continues or threatens the use of unlawful physical force.

(3) The physical force involved was the product of a combat by agreement not specifically authorized by law.

(d)(1) A person who uses force, including deadly physical force, as justified and permitted in this section is immune from criminal prosecution and civil action for the use of such force, unless the force was determined to be unlawful.

(2) Prior to the commencement of a trial in a case in which a defense is claimed under this section, the court having jurisdiction over the case, upon motion of the defendant, shall conduct a pretrial hearing to determine whether force, including deadly force, used by the defendant was justified or whether it was unlawful under this section. During any pretrial hearing to determine immunity, the defendant must show by a preponderance of the evidence that he or she is immune from criminal prosecution.

(3) If, after a pretrial hearing under subdivision (2), the court concludes that the defendant has proven by a preponderance of the evidence that force, including deadly force, was justified, the court shall enter an order finding the defendant immune from criminal prosecution and dismissing the criminal charges.

(4) If the defendant does not meet his or her burden of proving immunity at the pre-trial hearing, he or she may continue to pursue the defense of self-defense or defense of another person at trial. Once the issue of self-defense or defense of another person has been raised by the defendant, the state continues to bear the burden of proving beyond a reasonable doubt all of the elements of the charged conduct.

(e) A law enforcement agency may use standard procedures for investigating the use of force described in subsection (a), but the agency may not arrest

the person for using force unless it determines that there is probable cause that the force used was unlawful.

(Acts 1977, No. 607, p. 812, § 610; Acts 1979, No. 79–599, p. 1060, § 1; Act 2006–303, p. 638, § 1; Act 2013–283, p. 938, § 8; Act 2016–420, p. 1189, § 1.)

§ 13A–3–24. Use of force by persons with parental, custodial, or special responsibilities.

The use of force upon another person is justified under any of the following circumstances:

(1) A parent, guardian, or other person responsible for the care and supervision of a minor or an incompetent person, and a teacher or other person responsible for the care and supervision of a minor for a special purpose, may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent that he reasonably believes it necessary and appropriate to maintain discipline or to promote the welfare of the minor or incompetent person.

(2) A warden or other authorized official of a jail, prison, or correctional institution may, in order to maintain order and discipline, use whatever physical force is authorized by law.

(3) A person responsible for the maintenance of order in a common or contract carrier of passengers, or a person acting under his direction, may use reasonable physical force when and to the extent that he reasonably believes it necessary to maintain order, but he may use deadly physical force only when he reasonably believes it necessary to prevent death or serious physical injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use reasonable physical force upon that person to the extent that he reasonably believes it necessary to thwart the result.

(5) A duly licensed physician, or a person acting under his direction, may use reasonable physical force for the purpose of administering a reasonable and recognized form of treatment which he reasonably believes to be adapted to promoting the physical or mental health of the patient if:

a. The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his parent, guardian or other person responsible for his care and supervision; or

b. The treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

(Acts 1977, No. 607, p. 812, § 615.)

§ 13A–3–25. Use of force in defense of premises.

(a) A person in lawful possession or control of premises, as defined in Section 13A–3–20, or a person who is licensed or privileged to be thereon, may use physical force upon another person when and to the extent that he reasonably believes it necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission of a criminal trespass by the other person in or upon such premises.

(b) A person may use deadly physical force under the circumstances set forth in subsection (a) of this section only:

(1) In defense of a person, as provided in Section 13A–3–23; or

(2) When he reasonably believes it necessary to prevent the commission of arson in the first or second degree by the trespasser.

(Acts 1977, No. 607, p. 812, § 620.)

§ 13A–3–26. Use of force in defense of property other than premises.

A person is justified in using physical force, other than deadly physical force, upon another person when and to the extent that he reasonably believes it to be necessary to prevent or terminate the commission or attempted commission by the other person of theft or criminal mischief with respect to property other than premises as defined in Section 13A–3–20.

(Acts 1977, No. 607, p. 812, § 625.)

§ 13A–3–27. Use of force in making an arrest or preventing an escape.

(a) A peace officer is justified in using that degree of physical force which he reasonably believes to be necessary, upon a person in order:

(1) To make an arrest for a misdemeanor, violation or violation of a criminal ordinance, or to prevent the escape from custody of a person arrested for a misdemeanor, violation or violation of a criminal ordinance, unless the peace officer knows that the arrest is unauthorized; or

(2) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest for a misdemeanor, violation or violation of a criminal ordinance, or while preventing or attempting to prevent an escape from custody of a person who has been legally arrested for a misdemeanor, violation or violation of a criminal ordinance.

(b) A peace officer is justified in using deadly physical force upon another person when and to the extent that he reasonably believes it necessary in order:

(1) To make an arrest for a felony or to prevent the escape from custody of a person arrested for a felony, unless the officer knows that the arrest is unauthorized; or

(2) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

(c) Nothing in subdivision (a)(1), or (b)(1), or (f)(2) constitutes justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to persons being arrested or to innocent persons whom he is not seeking to arrest or retain in custody.

(d) A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (a) and (b) unless the warrant is invalid and is known by the officer to be invalid.

(e) Except as provided in subsection (f), a person who has been directed by a peace officer to assist him to effect an arrest or to prevent an escape from custody is justified in using physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction.

(f) A person who has been directed to assist a peace officer under circumstances specified in subsection (e) may use deadly physical force to effect an arrest or to prevent an escape only when:

(1) He reasonably believes that force to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(2) He is authorized by the peace officer to use deadly physical force and does not know that the peace officer himself is not authorized to use deadly physical force under the circumstances.

(g) A private person acting on his own account is justified in using physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest or to prevent the escape from custody of an arrested person whom he reasonably believes has committed a felony and who in fact has committed that felony, but he is justified in using deadly physical force for the purpose only when he reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

(h) A guard or peace officer employed in a detention facility is justified:

(1) In using deadly physical force when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be the escape of a prisoner accused or convicted of a felony from any detention facility, or from armed escort or guard;

(2) In using physical force, but not deadly physical force, in all other circumstances when and to extent that he reasonably believes it necessary to prevent what he reasonably believes to be the escape of a prisoner from a detention facility.

(3) ''Detention facility'' means any place used for the confinement, pursuant to law, of a person:

a. Charged with or convicted of an offense; or

b. Charged with being or adjudicated a youthful offender, a neglected minor or juvenile delinquent; or

c. Held for extradition; or

d. Otherwise confined pursuant to an order of a criminal court.

(Acts 1977, No. 607, p. 812, § 630; Acts 1979, No. 79–599, p. 1060, § 1.)

§ 13A–3–28. Use of force in resisting arrest prohibited.

A person may not use physical force to resist a lawful arrest by a peace officer who is known or reasonably appears to be a peace officer.

(Acts 1977, No. 607, p. 812, § 635.)

§ 13A–3–29. Necessity for conduct otherwise constituting an offense. Repealed by Acts 1979, No. 79–664, p. 1163, § 2, effective July 30, 1979.

§ 13A–3–30. Duress.

(a) It is a defense to prosecution that the actor engaged in the proscribed conduct because he was compelled to do so by the threat of imminent death or serious physical injury to himself or another.

(b) The defense provided by this section is unavailable if the actor intentionally or recklessly placed himself in a situation in which it was probable that he would be subjected to duress. The defense is also unavailable if he was negligent in placing himself in such a situation, whenever negligence suffices to establish culpability for the offense charged.

(c) It is no defense that a person acted at the command or persuasion of his or her spouse, unless such compulsion would establish a defense under this section. The presumption that a woman is subject to compulsion when acting in the presence of her husband is abolished.

(d) The defense provided by this section is unavailable in a prosecution for:

(1) murder; or

(2) any killing of another under aggravated circumstances, as provided by Article 2 of Chapter 5 of this title.

(Acts 1977, No. 607, p. 812, § 645; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–3–31. Entrapment.

The Alabama Criminal Code adopts the present case law on entrapment.

(Acts 1977, No. 607, p. 812, § 650; Acts 1979, No. 79–664, p. 1163, § 1.)

CHAPTER 4.

INCHOATE CRIMES.

§ 13A–4–1. Criminal solicitation.

(a)(1) A person is guilty of criminal solicitation if, with the intent that another person engage in conduct constituting a crime, he or she solicits, requests, commands or importunes another person to engage in such conduct.

(2) A person may not be convicted of criminal solicitation upon the uncorroborated testimony of the person allegedly solicited, and there must be proof of circumstances corroborating both the solicitation and the defendant's intent.

(b) A person is not liable under this section if, under circumstances manifesting a voluntary and complete renunciation of his or her criminal intent, he or she (1) notified the person solicited of his or her renunciation and (2) gave timely and adequate warning to the law enforcement authorities or otherwise made a substantial effort to prevent the commission of the criminal conduct solicited. The burden of injecting this issue is on the defendant, but this does not shift the burden of proof.

(c) A person is not liable under this section when his or her solicitation constitutes conduct of a kind that is necessarily incidental to the commission of the offense solicited. When the solicitation constitutes an offense other than criminal solicitation that is related to but separate from the offense solicited, the defendant is guilty of the related offense only and not of criminal solicitation.

(d) It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the offense solicited because of any of the following:

(1) Criminal irresponsibility or other legal incapacity or exemption.

(2) Unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose.

(3) Any other factor precluding the mental state required for the commission of the offense in question.

(e) It is no defense to a prosecution for criminal solicitation that the defendant belongs to a class of persons who by definition are legally incapable in an individual capacity of committing the offense that he or she solicited another to commit.

(f) Criminal solicitation is a:

(1) Class A felony if the offense solicited is murder.

(2) Class B felony if the offense solicited is a Class A felony.

(3) Class C felony if the offense solicited is a Class B felony.

(4) Class D felony if the offense solicited is a Class C felony.

(5) Class A misdemeanor if the offense solicited is a Class D felony.

(6) Class B misdemeanor if the offense solicited is a Class A misdemeanor.

(7) Class C misdemeanor if the offense solicited is a Class B misdemeanor.

(8) Violation if the offense solicited is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 1001; Act 2023–461, § 1, eff. July 1, 2023.)

§ 13A–4–2. Attempt.

(a) A person is guilty of an attempt to commit a crime if, with the intent to commit a specific offense, he or she does any overt act towards the commission of the offense.

(b) It is no defense under this section that the offense charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if the offense could have been committed had the attendant circumstances been as the defendant believed them to be.

(c) A person is not liable under this section if, under circumstances manifesting a voluntary and complete renunciation of this criminal intent, he or she avoided the commission of the offense attempted by abandoning his or her criminal effort and, if mere abandonment is insufficient to accomplish such avoidance, by taking further and affirmative steps that prevented the commission thereof. The burden of injecting this issue is on the defendant, but this does not shift the burden of proof.

(d) An attempt is a:

(1) Class A felony if the offense attempted is murder.

(2) Class B felony if the offense attempted is a Class A felony.

(3) Class C felony if the offense attempted is a Class B felony.

(4) Class D felony if the offense attempted is a Class C felony.

(5) Class A misdemeanor if the offense attempted is a Class D felony.

(6) Class B misdemeanor if the offense attempted is a Class A misdemeanor.

(7) Class C misdemeanor if the offense attempted is a Class B misdemeanor.

(8) Violation if the offense attempted is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 1005; Act 2023–461, § 1, eff. July 1, 2023.)

§ 13A–4–3. Criminal conspiracy generally.

(a) A person is guilty of criminal conspiracy if, with the intent that conduct constituting an offense be performed, he or she agrees with one or more persons to engage in or cause the performance of the conduct, and any one or more of the persons does an overt act to effect an objective of the agreement.

(b) If a person knows or should know that one with whom he or she agrees has in turn agreed or will agree with another to effect the same criminal

objective, he or she shall be deemed to have agreed with the other person, whether or not he or she knows the other's identity.

(c) A person is not liable under this section if, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, he or she gave a timely and adequate warning to law enforcement authorities or made a substantial effort to prevent the enforcement of the criminal conduct contemplated by the conspiracy. Renunciation by one conspirator, however, does not affect the liability of another conspirator who does not join in the abandonment of the conspiratorial objective. The burden of injecting the issue of renunciation is on the defendant, but this does not shift the burden of proof.

(d) None of the following is a defense to a prosecution for criminal conspiracy:

(1) The person, or persons, with whom defendant is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution.

(2) The person, or persons, with whom defendant conspired could not be guilty of the conspiracy or the object crime because of lack of mental responsibility or culpability, or other legal incapacity or defense.

(3) The defendant belongs to a class of persons who by definition are legally incapable in an individual capacity of committing the offense that is the object of the conspiracy.

(e) A conspirator is not liable under this section if, had the criminal conduct contemplated by the conspiracy actually been performed, he or she would be immune from liability under the law defining the offense or as an accomplice under Section 13A–2–24.

(f) Liability as accomplice. Accomplice liability for offenses committed in furtherance of a conspiracy is to be determined as provided in Section 13A–2–23.

(g) Criminal conspiracy is a:

(1) Class A felony if an object of the conspiracy is murder.

(2) Class B felony if an object of the conspiracy is a Class A felony.

(3) Class C felony if an object of the conspiracy is a Class B felony.

(4) Class D felony if an object of the conspiracy is a Class C felony.

(5) Class A misdemeanor if an object of the conspiracy is a Class D felony.

(6) Class B misdemeanor if an object of the conspiracy is a Class A misdemeanor.

(7) Class C misdemeanor if an object of the conspiracy is a Class B misdemeanor.

(8) Violation if an object of the conspiracy is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 1015; Act 2023–461, § 1, eff. July 1, 2023.)

§ 13A–4–4. Conspiracy formed in this state to commit crime elsewhere indictable here.

A conspiracy formed in this state to do an act beyond the state, which, if done in this state, would be a criminal offense, is indictable and punishable in this state in all respects as if such conspiracy had been to do such act in this state.

(Code 1896, § 4430; Code 1907, § 6472; Code 1923, § 3573; Code 1940, T. 14, § 102; Code 1975, § 13–9–23.)

§ 13A–4–5. Consummation of object offense not defense to prosecution; multiple convictions on basis of same course of conduct.

(a) It is no defense to a prosecution for criminal solicitation, Section 13A–4–1, attempt, Section 13A–4–2, or criminal conspiracy, Section 13A–4–3, that the offense solicited, attempted or conspired was actually committed.

(b) A person may not be convicted on the basis of the same course of conduct of both the actual commission of an offense and:

(1) An attempt to commit the offense; or

(2) Criminal solicitation of the offense; or

(3) Criminal conspiracy of the offense.

(c) A person may not be convicted of more than one of the offenses defined in Sections 13A–4–1, 13A–4–2 and 13A–4–3 for a single course of conduct designed to commit or to cause the commission of the same crime.

(Acts 1977, No. 607, p. 812, § 1020.)

CHAPTER 5.

PUNISHMENTS AND SENTENCES.

ARTICLE 1.

GENERAL PROVISIONS.

§ 13A–5–1. Applicability of provisions.

(a) Every person convicted of any offense defined in this title, or defined outside this title, shall be sentenced by the court in accordance with this article, unless otherwise specifically provided by law.

(b) Penal laws enacted after January 1, 1980, shall be classified for punishment purposes in accordance with this article.

(Acts 1977, No. 607, p. 812, § 1201.)

§ 13A–5–2. Authorized dispositions.

(a) Every person convicted of a felony shall be sentenced by the court to imprisonment for a term authorized by Sections 13A–5–6, 13A–5–9, and 13A–5–10.

(b) In addition to imprisonment, every person convicted of a felony may be sentenced by the court to pay a fine authorized by Section 13A–5–11.

(c) Every person convicted of a misdemeanor or violation shall be sentenced by the court to:

(1) Imprisonment for a term authorized by Section 13A–5–7; or

(2) Pay a fine authorized by Section 13A–5–12; or

(3) Both such imprisonment and fine.

(d) Every person convicted of a felony, misdemeanor, or violation, except for the commission of a sex offense involving a child as defined in Section 15–20A–4(26), may be placed on probation as authorized by law.

(e) This article does not deprive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend or cancel a license or permit, remove a person from office, cite for contempt, or impose any other lawful civil penalty. Such a judgment, order, or decree may be included as part of the sentence.

(f) Every person convicted of murder shall be sentenced by the court to imprisonment for a term, or to death, life imprisonment without parole, or life imprisonment in the case of a defendant who establishes that he or she was under the age of 18 years at the time of the offense, as authorized by subsection (c) of Section 13A–6–2.

(Acts 1977, No. 607, p. 812, § 1205; Act 2005–301, 1st Sp. Sess. p. 571, § 1; Act 2015–463, p. 1506, § 1; Act 2016–360, p. 895, § 1.)

§ 13A–5–3. Classification of offenses.

(a) Offenses are designated as felonies, misdemeanors, or violations.

(b) Felonies are classified according to the relative seriousness of the offense into four categories:

(1) Class A felonies;

(2) Class B felonies;

(3) Class C felonies; and

(4) Class D felonies.

(c) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

(1) Class A misdemeanors;

(2) Class B misdemeanors; and

(3) Class C misdemeanors.

(d) Violations are not classified.

(Acts 1977, No. 607, p. 812, § 1210; Act 2015–185, p. 476, § 2.)

§ 13A–5–4. Designation of offenses.

(a) The particular classification of each felony defined in this title, except murder under Section 13A–6–2, is expressly designated in the chapter or

article defining it. Any offense defined outside this title which is declared by law to be a felony without specification of its classification or punishment is punishable as a Class C felony.

(b) The particular classification of each misdemeanor defined in this title is expressly designated in the chapter or article defining it. Any offense defined outside this title which is declared by law to be a misdemeanor without specification as to classification or punishment is punishable as a Class C misdemeanor.

(c) Every violation defined in this title is expressly designated as such. Any offense defined outside this title without specification as to punishment or as to felony or misdemeanor is a violation.

(Acts 1977, No. 607, p. 812, § 1215.)

§ 13A–5–5. Presentence investigation.

There shall be a presentence or postsentence investigation report completed and filed on every defendant convicted of a felony offense after March 10, 2006, and such report shall be in an electronic format. On motion of the court or written motion of either party, the court shall require a written report of a presentence investigation of a defendant convicted of a felony, and such defendant shall not be sentenced or otherwise disposed of before such report has been presented to and considered by the court.

(Acts 1977, No. 607, p. 812, § 1220; Act 2006–218, p. 376, § 1.)

§ 13A–5–6. Sentences of imprisonment for felonies.

(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:

(1) For a Class A felony, for life or not more than 99 years or less than 10 years.

(2) For a Class B felony, not more than 20 years or less than two years.

(3) For a Class C felony, not more than 10 years or less than one year and one day.

(4) For a Class D felony, not more than five years or less than one year and one day.

(5) For a Class A felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class A felony sex offense involving a child as defined in Section 15–20A–4, not less than 20 years.

(6) For a Class B or C felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class B felony sex offense involving a child as defined in Section 15–20A–4, not less than 10 years.

(b) The actual time of release within the limitations established by subsection (a) shall be determined under procedures established elsewhere by law.

(c) In addition to any penalties otherwise provided by law, in all cases where an offender is designated as a sexually violent predator pursuant to Section 15–20A–19, or where an offender is convicted of a Class A felony sex offense involving a child as defined in Section 15–20A–4, and is sentenced to a county jail or the Alabama Department of Corrections, the sentencing judge shall impose an additional penalty of not less than 10 years of post-release supervision to be served upon the defendant's release from incarceration.

(d) In addition to any penalties otherwise provided by law, in all cases where an offender is convicted of a sex offense pursuant to Section 13A–6–61, 13A–6–63, or 13A–6–65.1, when the defendant was 21 years of age or older and the victim was six years of age or less at the time the offense was committed, the defendant shall be sentenced to life imprisonment without the possibility of parole.

(Acts 1977, No. 607, p. 812, § 1225; Acts 1981, No. 81–840, p. 1505; Act 2005–301, 1st Sp. Sess., p. 571, § 1; Act 2011–555, p. 1037, § 1; Act 2015–185, p. 476, § 2; Act 2015–463, p. 1506, § 1; Act 2019–465, § 1; Act 2023–461, § 1, eff. July 1, 2023.)

§ 13A–5–7. Sentences of imprisonment for misdemeanors and violations.

(a) Sentences for misdemeanors shall be a definite term of imprisonment in the county jail or to hard labor for the county, within the following limitations:

(1) For a Class A misdemeanor, not more than one year.

(2) For a Class B misdemeanor, not more than six months.

(3) For a Class C misdemeanor, not more than three months.

(b) Sentences for violations shall be for a definite term of imprisonment in the county jail, not to exceed 30 days.

(Acts 1977, No. 607, p. 812, § 1230; Acts 1978, No. 770, p. 1110.)

§ 13A–5–8. Place of imprisonment.

The place of imprisonment for sentences imposed in this state shall be as established elsewhere by law.

(Acts 1977, No. 607, p. 812, § 1232.)

§ 13A–5–8.1. Termination from alternative programs.

If a defendant is participating in a court supervised evidence-based treatment program, as that term is defined in Section 12–25–32, a court ordered faith-based program, or any other court ordered rehabilitative program and is subsequently terminated from that program, the court may then order that the defendant be confined in either a prison, jail-type institution, treatment institution, or a consenting community corrections program. The court shall impose a sentence length that complies with either Section 13A–5–6, Section

13A–5–9, or the sentencing guidelines, whichever is applicable. Nothing in this section shall preclude the court from imposing a split sentence under Section 15–18–8 or from suspending a sentence under Section 15–22–50. Nothing in this section shall limit the court's discretion with regard to any defendant ordered to participate in a court supervised evidence-based treatment program, as that term is defined in Section 12–25–32, a court ordered faith-based program, or any other court ordered rehabilitative program, whether pre-trial, pre-trial adjudication, or as a condition of bond.

(Act 2015–185, p. 476, § 11.)

§ 13A–5–9. Habitual felony offenders — Additional penalties.

(a) In all cases when it is shown that a criminal defendant has been previously convicted of a Class A, Class B, or Class C felony and after the conviction has committed another Class A, Class B, or Class C felony, he or she must be punished as follows:

(1) On conviction of a Class C felony, he or she must be punished for a Class B felony.

(2) On conviction of a Class B felony, he or she must be punished for a Class A felony.

(3) On conviction of a Class A felony, he or she must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

(b) In all cases when it is shown that a criminal defendant has been previously convicted of any two felonies that are Class A, Class B, or Class C felonies and after such convictions has committed another Class A, Class B, or Class C felony, he or she must be punished as follows:

(1) On conviction of a Class C felony, he or she must be punished for a Class A felony.

(2) On conviction of a Class B felony, he or she must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

(3) On conviction of a Class A felony, he or she must be punished by imprisonment for life or for any term of not less than 99 years.

(c) In all cases when it is shown that a criminal defendant has been previously convicted of any three felonies that are Class A, Class B, or Class C felonies and after such convictions has committed another Class A, Class B, or Class C felony, he or she must be punished as follows:

(1) On conviction of a Class C felony, he or she must be punished by imprisonment for life or for any term of not more than 99 years but not less than 15 years.

(2) On conviction of a Class B felony, he or she must be punished by imprisonment for life or any term of not less than 20 years.

(3) On conviction of a Class A felony, where the defendant has no prior convictions for any Class A felony, he or she must be punished by imprisonment for life or life without the possibility of parole, in the discretion of the trial court.

(4) On conviction of a Class A felony, where the defendant has one or more prior convictions for any Class A felony, he or she must be punished by imprisonment for life without the possibility of parole.

(d) In all cases when it is shown that a criminal defendant has been previously convicted of any two or more felonies that are Class A or Class B felonies and after such convictions has committed a Class D felony, upon conviction, he or she must be punished for a Class C felony.

(e) In all cases when it is shown that a criminal defendant has been previously convicted of any three or more felonies and after such convictions has committed a Class D felony, upon conviction, he or she must be punished for a Class C felony.

(Acts 1977, No. 607, p. 812, § 1235; Acts 1979, No. 79–664, p. 1163, § 1; Act 2000–759, p. 1736, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–5–9.1. Retroactive application of Section 13A–5–9. Repealed by Act 2014–165, p. 472, § 1, effective March 13, 2014.

§ 13A–5–10. Habitual felony offenders — Proof; restriction on imposition of penalty.

(a) The court may conduct a hearing upon the issue of whether a defendant is a repeat or habitual offender under Section 13A–5–9, according to procedures established by rule of court.

(b) Section 13A–5–9 does not apply to a corporation.

(Acts 1977, No. 607, p. 812, § 1237.)

§ 13A–5–10.1. Habitual felony offenders — Proof; certified copies of case action summary sheets, docket sheets, etc.

(a) Certified copies of case action summary sheets, docket sheets or other records of the court are admissible for the purpose of proving prior convictions of a crime, if the prior conviction is otherwise admissible under the laws of this state.

(b) If the trial court determines that the defendant would be prejudiced by the admission of the documents described in subsection (a) the court may admit into evidence and inform the jury of the fact of the conviction but not allow the jury to view the prejudicial documents.

(c) If the document described in subsection (a) indicates that the defendant was represented by an attorney, it is presumed that the attorney was present in court with the defendant at all critical stages of the proceeding.

(Acts 1987, No. 87–604, p. 1051, §§ 1–3.)

§ 13A–5–11. Fines for felonies.

(a) A sentence to pay a fine for a felony shall be for a definite amount, fixed by the court, within the following limitations:

(1) For a Class A felony, not more than $60,000;

(2) For a Class B felony, not more than $30,000;

(3) For a Class C felony, not more than $15,000;

(4) For a Class D felony, not more than $7,500; or

(5) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

(b) As used in this section, ''gain'' means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. ''Value'' shall be determined by the standards established in subdivision (14) of Section 13A–8–1.

(c) The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.

(d) This section shall not apply if a higher fine is otherwise authorized by law for a specific crime.

(Acts 1977, No. 607, p. 812, § 1240; Act 2006–197, p. 284, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–5–12. Fines for misdemeanors and violations.

(a) A sentence to pay a fine for a misdemeanor shall be for a definite amount, fixed by the court, within the following limitations:

(1) For a Class A misdemeanor, not more than $6,000;

(2) For a Class B misdemeanor, not more than $3,000;

(3) For a Class C misdemeanor, not more than $500; or

(4) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

(b) A sentence to pay a fine for a violation shall be for a definite amount, fixed by the court, not to exceed $200, or any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

(c) As used in this section, ''gain'' means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. ''Value'' shall be determined by the standards established in subdivision (14) of Section 13A–8–1.

(d) The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.

(Acts 1977, No. 607, p. 812, § 1245; Acts 1979, No. 79–471, p. 862, § 1; Act 2006–197, p. 284, § 1.)

§ 13A–5–12.1. Fines for certain additional misdemeanors. Repealed by Act 2011–680, p. 2004, § 2, effective June 14, 2011.

§ 13A–5–13. Crimes motivated by victim's race, color, religion, national origin, ethnicity, or physical or mental disability.

(a) The Legislature finds and declares the following:

(1) It is the right of every person, regardless of race, color, religion, national origin, ethnicity, or physical or mental disability, to be secure and protected from threats of reasonable fear, intimidation, harassment, and physical harm caused by activities of groups and individuals.

(2) It is not the intent, by enactment of this section, to interfere with the exercise of rights protected by the Constitution of the State of Alabama or the United States.

(3) The intentional advocacy of unlawful acts by groups or individuals against other persons or groups and bodily injury or death to persons is not constitutionally protected when violence or civil disorder is imminent, and poses a threat to public order and safety, and such conduct should be subjected to criminal sanctions.

(b) The purpose of this section is to impose additional penalties where it is shown that a perpetrator committing the underlying offense was motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability.

(c) A person who has been found guilty of a crime, the commission of which was shown beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, shall be punished as follows:

(1) Felonies:

a. On conviction of a Class A felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than 15 years.

b. On conviction of a Class B felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than 10 years.

c. On conviction of a Class C felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national

origin, ethnicity, or physical or mental disability, the sentence shall not be less than two years.

d. On conviction of a Class D felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the sentence shall not be less than 18 months.

e. For purposes of this subdivision, a criminal defendant who has been previously convicted of any felony and receives an enhanced sentence pursuant to this section is also subject to enhanced punishment under the Alabama Habitual Felony Offender Act, Section 13A–5–9.

(2) Misdemeanors:

On conviction of a misdemeanor which was found beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, the defendant shall be sentenced for a Class A misdemeanor, except that the defendant shall be sentenced to a minimum of three months.

(Acts 1994, No. 94–581, §§ 1–3; Act 2015–185, p. 476, § 2.)

§ 13A–5–14. Crimes motivated by victim's role as an election official.

(a) A person who has been found guilty of a crime, the commission of which was shown beyond a reasonable doubt to have been motivated by the victim's actual or perceived role as an election official, shall be punished as follows:

(1) On conviction of a Class A felony, the sentence shall not be less than 15 years.

(2) On conviction of a Class B felony, the sentence shall not be less than 10 years.

(3) On conviction of a Class C felony, the sentence shall not be less than two years.

(4) On conviction of a Class D felony, the sentence shall not be less than 18 months.

(5) On conviction of any misdemeanor, the defendant shall be sentenced for a Class A misdemeanor and shall be sentenced to a minimum of three months.

(b) For purposes of subsection (a), a defendant who has been previously convicted of any felony and receives an enhanced sentence pursuant to this section is also subject to enhanced punishment under the Alabama Habitual Felony Offender Act, Section 13A–5–9.

(c) For purposes of this section, an ''election official'' is any absentee election manager, clerk, inspector, poll worker, registrar, judge of probate or his or her employee, or the Secretary of State or his or her employee.

(Act 2024–341, § 1, eff. Oct. 1, 2024.)

ARTICLE 2.

DEATH PENALTY AND LIFE IMPRISONMENT WITHOUT PAROLE.

§ 13A–5–30. Limitation on imposition of death penalty or life sentence without parole. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–31. Aggravated offenses for which death penalty to be imposed; felony-murder doctrine not to be used to supply intent; discharge of defendant upon finding of not guilty; mistrials; reindictment after mistrial. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–32. Hearing as to imposition of death penalty or life sentence without parole after conviction; admissibility of evidence; right of state and defendants to present arguments. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–33. Determination of sentence by court; court not bound by punishment fixed by jury. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–34. Conviction and sentence of death subject to automatic review. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–35. Aggravating circumstances. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–36. Mitigating circumstances. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–37. Appointment of experienced counsel for indigent defendants. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–38. Effective date. Repealed by Acts 1981, No. 81–178, p. 203, § 20, effective July 1, 1981.

§ 13A–5–39. Definitions.

As used in this article, these terms shall be defined as follows:

(1) CAPITAL OFFENSE. An offense for which a defendant shall be punished by a sentence of death or life imprisonment without parole, or in the case of a defendant who establishes that he or she was under the age of 18 years at the time of the capital offense, life imprisonment, or life imprisonment without parole, according to the provisions of this article.

(2) DURING. The term as used in Section 13A–5–40(a) means in the course of or in connection with the commission of, or in immediate flight from the commission of the underlying felony or attempt thereof.

(3) EXPLOSIVES and EXPLOSION. The terms shall have the meanings provided in Section 13A–7–40(2) and (3).

(4) BURDEN OF INTERJECTING THE ISSUE. Shall be defined as provided in Section 13A–1–2(14).

(5) MURDER and MURDER BY THE DEFENDANT. Shall be defined as provided in Section 13A–5–40(b).

(6) PREVIOUSLY CONVICTED and PRIOR CRIMINAL ACTIVITY. As used in Sections 13A–5–49(2) and 13A–5–51(1), these terms refer to events occurring before the date of the sentence hearing.

(7) UNDER SENTENCE OF IMPRISONMENT. As used in Section 13A–5–49(1), the term means while serving a term of imprisonment, while under a suspended sentence, while on probation or parole, or while on work release, furlough, escape, or any other type of release or freedom while or after serving a term of imprisonment, other than unconditional release and freedom after expiration of the term of sentence.

(Acts 1981, No. 81–178, p. 203, § 1; Act 2016–360, p. 895, § 1.)

§ 13A–5–40. Capital offenses.

(a) The following are capital offenses:

(1) Murder by the defendant during a kidnapping in the first degree or an attempt thereof committed by the defendant.

(2) Murder by the defendant during a robbery in the first degree or an attempt thereof committed by the defendant.

(3) Murder by the defendant during a rape in the first or second degree or an attempt thereof committed by the defendant; or murder by the defendant during sodomy in the first or second degree or an attempt thereof committed by the defendant.

(4) Murder by the defendant during a burglary in the first or second degree or an attempt thereof committed by the defendant.

(5) Murder of any police officer, sheriff, deputy, state trooper, federal law enforcement officer, or any other state or federal peace officer of any kind, or prison or jail guard, while the officer or guard is on duty, regardless of whether the defendant knew or should have known the victim was an officer or guard on duty, or because of some official or job-related act or performance of the officer or guard.

(6) Murder committed while the defendant is under sentence of life imprisonment.

(7) Murder done for a pecuniary or other valuable consideration or pursuant to a contract or for hire.

(8) Murder by the defendant during sexual abuse in the first or second degree or an attempt thereof committed by the defendant.

(9) Murder by the defendant during arson in the first or second degree committed by the defendant; or murder by the defendant by means of explosives or explosion.

(10) Murder wherein two or more persons are murdered by the defendant by one act or pursuant to one scheme or course of conduct.

(11) Murder by the defendant when the victim is a state or federal public official or former public official and the murder stems from or is caused by or is related to his official position, act, or capacity.

(12) Murder by the defendant during the act of unlawfully assuming control of any aircraft by use of threats or force with intent to obtain any valuable consideration for the release of the aircraft or any passenger or crewmen thereon, to direct the route or movement of the aircraft, or otherwise exert control over the aircraft.

(13) Murder by a defendant who has been convicted of any other murder in the 20 years preceding the crime; provided that the murder which constitutes the capital crime shall be murder as defined in subsection (b); and provided further that the prior murder conviction referred to shall include murder in any degree as defined at the time and place of the prior conviction.

(14) Murder when the victim is subpoenaed, or has been subpoenaed, to testify, or the victim had testified, in any preliminary hearing, grand jury proceeding, criminal trial or criminal proceeding of whatever nature, or civil trial or civil proceeding of whatever nature, in any municipal, state, or federal court, when the murder stems from, is caused by, or is related to the capacity or role of the victim as a witness.

(15) Murder when the victim is less than fourteen years of age.

(16) Murder committed by or through the use of a deadly weapon fired or otherwise used from outside a dwelling while the victim is in a dwelling.

(17) Murder committed by or through the use of a deadly weapon while the victim is in a vehicle.

(18) Murder committed by or through the use of a deadly weapon fired or otherwise used within or from a vehicle.

(19) Murder by the defendant where a court had issued a protective order for the victim, against the defendant, pursuant to Section 30–5–1 et seq., or the protective order was issued as a condition of the defendant's pretrial release.

(20) Murder by the defendant in the presence of a child under the age of 14 years at the time of the offense, if the victim was the parent or legal guardian of the child. For purposes of this subsection, ''in the presence of a child'' means in the physical presence of a child or having knowledge that a child is present and may see or hear the act.

(21) Murder when the victim is a first responder who is operating in an official capacity. For the purposes of this subdivision, first responder includes emergency medical services personnel licensed by the Alabama Department of Public Health and firefighters and volunteer firefighters as defined by Section 36–32–1.

(b) Except as specifically provided to the contrary in the last part of subdivision (a)(13), the terms ''murder'' and ''murder by the defendant'' as used in this section to define capital offenses mean murder as defined in Section 13A–6–2(a)(1), but not as defined in Section 13A–6–2(a)(2) and (3). Subject to the provisions of Section 13A–5–41, murder as defined in Section 13A–6–2(a)(2) and (3), as well as murder as defined in Section 13A–6–2(a)(1), may be a lesser included offense of the capital offenses defined in subsection (a).

(c) A defendant who does not personally commit the act of killing which constitutes the murder is not guilty of a capital offense defined in subsection (a) unless that defendant is legally accountable for the murder because of complicity in the murder itself under the provisions of Section 13A–2–23, in addition to being guilty of the other elements of the capital offense as defined in subsection (a).

(d) To the extent that a crime other than murder is an element of a capital offense defined in subsection (a), a defendant's guilt of that other crime may also be established under Section 13A–2–23. When the defendant's guilt of that other crime is established under Section 13A–2–23, that crime shall be deemed to have been ''committed by the defendant'' within the meaning of that phrase as it is used in subsection (a).

(Acts 1981, No. 81–178, p. 203, § 2; Acts 1982, No. 82–567, p. 945, § 1; Acts 1987, No. 87–709, p. 1252, § 3; Acts 1992, No. 92–601, p. 1247, § 1; Acts 1994, No. 94–649, § 1; Act 2014–435, p. 1610, § 2; Act 2018–537, § 2; Act 2019–514, § 2.)

§ 13A–5–41. Lesser included offenses.

Subject to the provisions of Section 13A–1–9(b), the jury may find a defendant indicted for a crime defined in Section 13A–5–40(a) not guilty of the capital offense but guilty of a lesser included offense or offenses. Lesser included offenses shall be defined as provided in Section 13A–1–9(a), and when there is a rational basis for such a verdict, include but are not limited to, murder as defined in Section 13A–6–2(a), and the accompanying other felony, if any, in the provision of Section 13A–5–40(a) upon which the indictment is based.

(Acts 1981, No. 81–178, p. 203, § 3; Acts 1982, No. 82–567, p. 945, § 1.)

§ 13A–5–42. Guilty plea; burden of proof upon state; waiver; sentencing.

A defendant who is indicted for a capital offense may plead guilty to it, but the state, only in cases where the death penalty is to be imposed, must prove

the defendant's guilt of the capital offense beyond a reasonable doubt to a jury. The guilty plea may be considered in determining whether the state has met that burden of proof. The guilty plea shall have the effect of waiving all non-jurisdictional defects in the proceeding resulting in the conviction except the sufficiency of the evidence. A defendant convicted of a capital offense after pleading guilty to it shall be sentenced according to the provisions of Section 13A–5–43(d).

(Acts 1981, No. 81–178, p. 203, § 4; Act 2013–354, p. 1267, § 1.)

§ 13A–5–43. Trial of capital offenses; discharge of defendant; lesser included offenses; sentencing.

(a) In the trial of a capital offense the jury shall first hear all the admissible evidence offered on the charge or charges against the defendant. It shall then determine whether the defendant is guilty of the capital offense or offenses with which he is charged or of any lesser included offense or offenses considered pursuant to Section 13A–5–41.

(b) If the defendant is found not guilty of the capital offense or offenses with which he is charged, and not guilty of any lesser included offense or offenses considered pursuant to Section 13A–5–41, the defendant shall be discharged.

(c) If the defendant is found not guilty of the capital offense or offenses with which he is charged, and is found guilty of a lesser included offense or offenses considered pursuant to Section 13A–5–41, sentence shall be determined and imposed as provided by law.

(d) If the defendant is found guilty of a capital offense or offenses with which he is charged and the defendant does not establish to the court by a preponderance of the evidence that he or she was under the age of 18 years at the time of the capital offense or offenses with which he or she is found guilty, the sentence shall be determined as provided in Sections 13A–5–45 through 13A–5–53.

(e) If the defendant is found guilty of a capital offense or offenses with which he or she is charged and the defendant establishes to the court by a preponderance of the evidence that he or she was under the age of 18 years at the time of the capital offense or offenses, the sentence shall be either life without the possibility of parole or, in the alternative, life, and the sentence shall be determined by the procedures set forth in the Alabama Rules of Criminal Procedure for judicially imposing sentences within the range set by statute without a jury, rather than as provided in Sections 13A–5–45 to 13A–5–53, inclusive. The judge shall consider all relevant mitigating circumstances.

If the defendant is sentenced to life on a capital offense, the defendant must serve a minimum of 30 years, day for day, prior to first consideration of parole.

(Acts 1981, No. 81–178, p. 203, § 5; Act 2016–360, p. 895, § 1.)

§ 13A–5–43.1. Life imprisonment for certain crimes by persons under 18 years of age.

Notwithstanding any other provision of law, if a defendant is found guilty of any non-homicide crime for which the only sentence provided by law is life imprisonment without the possibility of parole and that defendant proves by a preponderance of the evidence that he or she was under the age of 18 years at the time of the offense, the sentence shall be life imprisonment.

(Act 2016–360, p. 895, § 2.)

§ 13A–5–43.2. Applicability of certain provisions to persons under 18 years of age.

Act 2016–360 shall apply to any person under the age of 18 years at the time an offense was committed who was sentenced to life without the possibility of parole under Section 13A–5–2, 13A–5–39, 13A–5–43, or 13A–6–2, whether the person is currently incarcerated or hereinafter convicted.

(Act 2016–360, p. 895, § 3.)

§ 13A–5–44. Jury selection and separation; waiver by defendant of jury participation in sentence hearing.

(a) The selection of the jury for the trial of a capital case shall include the selection of at least two alternate jurors chosen according to procedures specified by law or court rule.

(b) The separation of the jury during the pendency of the trial of a capital case shall be governed by applicable law or court rule.

(c) Notwithstanding any other provision of law, the defendant with the consent of the state and with the approval of the court may waive the participation of a jury in the sentence hearing provided in Section 13A–5–46. Provided, however, before any such waiver is valid, it must affirmatively appear in the record that the defendant himself has freely waived his right to the participation of a jury in the sentence proceeding, after having been expressly informed of such right.

(Acts 1981, No. 81–178, p. 203, § 6.)

§ 13A–5–45. Sentence hearing — Delay; statements and arguments; admissibility of evidence; burden of proof; mitigating and aggravating circumstances.

(a) Upon conviction of a defendant for a capital offense, the trial court shall conduct a separate sentence hearing to determine whether the defendant shall be sentenced to life imprisonment without parole or to death. The sentence hearing shall be conducted as soon as practicable after the defendant is convicted. Provided, however, if the sentence hearing is to be conducted before the trial judge without a jury or before the trial judge and a jury other than the trial jury, as provided elsewhere in this article, the trial court with

the consent of both parties may delay the sentence hearing until it has received the pre-sentence investigation report specified in Section 13A–5–47(b). Otherwise, the sentence hearing shall not be delayed pending receipt of the pre-sentence investigation report.

(b) The state and the defendant shall be allowed to make opening statements and closing arguments at the sentence hearing. The order of those statements and arguments and the order of presentation of the evidence shall be the same as at trial.

(c) At the sentence hearing evidence may be presented as to any matter that the court deems relevant to sentence and shall include any matters relating to the aggravating and mitigating circumstances referred to in Sections 13A–5–49, 13A–5–51, and 13A–5–52. Evidence presented at the trial of the case may be considered insofar as it is relevant to the aggravating and mitigating circumstances without the necessity of re-introducing that evidence at the sentence hearing, unless the sentence hearing is conducted before a trial judge other than the one before whom the defendant was tried or a jury other than the trial jury before which the defendant was tried.

(d) Any evidence which has probative value and is relevant to sentence shall be received at the sentence hearing regardless of its admissibility under the exclusionary rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements. This subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the State of Alabama.

(e) At the sentence hearing the state shall have the burden of proving beyond a reasonable doubt the existence of any aggravating circumstances. Provided, however, any aggravating circumstance which the verdict convicting the defendant establishes was proven beyond a reasonable doubt at trial shall be considered as proven beyond a reasonable doubt for purposes of the sentence hearing.

(f) Unless at least one aggravating circumstance as defined in Section 13A–5–49 exists, the sentence shall be life imprisonment without parole.

(g) The defendant shall be allowed to offer any mitigating circumstance defined in Sections 13A–5–51 and 13A–5–52. When the factual existence of an offered mitigating circumstance is in dispute, the defendant shall have the burden of interjecting the issue, but once it is interjected the state shall have the burden of disproving the factual existence of that circumstance by a preponderance of the evidence.

(Acts 1981, No. 81–178, p. 203, § 7; Act 2017–131, § 1.)

§ 13A–5–46. Sentence hearing — Conducted before jury unless waived; trial jury to sit unless impossible or impracticable; separation of jury; instructions to jury; advisory verdicts; vote required; mistrial; waiver of right to advisory verdict.

(a) Unless both parties with the consent of the court waive the right to have the sentence hearing conducted before a jury as provided in Section

13A–5–44(c), it shall be conducted before a jury which shall return a verdict as provided by subsection (e) of this section. If both parties with the consent of the court waive the right to have the hearing conducted before a jury, the trial judge shall proceed to determine sentence without a verdict from a jury. Otherwise, the hearing shall be conducted before a jury as provided in the remaining subsections of this section.

(b) If the defendant was tried and convicted by a jury, the sentence hearing shall be conducted before that same jury unless it is impossible or impracticable to do so. If it is impossible or impracticable for the trial jury to sit at the sentence hearing, or if the case on appeal is remanded for a new sentence hearing before a jury, a new jury shall be impanelled to sit at the sentence hearing. The selection of that jury shall be according to the laws and rules governing the selection of a jury for the trial of a capital case.

(c) The separation of the jury during the pendency of the sentence hearing, and if the sentence hearing is before the same jury which convicted the defendant, the separation of the jury during the time between the guilty verdict and the beginning of the sentence hearing, shall be governed by the law and court rules applicable to the separation of the jury during the trial of a capital case.

(d) After hearing the evidence and the arguments of both parties at the sentence hearing, the jury shall be instructed on its function and on the relevant law by the trial judge. The jury shall then retire to deliberate concerning the verdict it is to return.

(e) After deliberation, the jury shall return a verdict as follows:

(1) If the jury determines that no aggravating circumstances as defined in Section 13A–5–49 exist, it shall return a verdict of life imprisonment without parole;

(2) If the jury determines that one or more aggravating circumstances as defined in Section 13A–5–49 exist but do not outweigh the mitigating circumstances, it shall return a verdict of life imprisonment without parole;

(3) If the jury determines that one or more aggravating circumstances as defined in Section 13A–5–49 exist and that they outweigh the mitigating circumstances, if any, it shall return a verdict of death.

(f) The decision of the jury to return a verdict recommending a sentence of life imprisonment without parole must be based on a vote of a majority of the jurors. The decision of the jury to recommend a sentence of death must be based on a vote of at least 10 jurors. The verdict of the jury must be in writing and must specify the vote.

(g) If the jury is unable to reach a verdict recommending a sentence, or for other manifest necessity, the trial court may declare a mistrial of the sentence hearing. Such a mistrial shall not affect the conviction. After such a mistrial or mistrials another sentence hearing shall be conducted before another jury, selected according to the laws and rules governing the selection of a jury for the trial of a capital case. Provided, however, that, subject to the provisions of Section 13A–5–44(c), after one or more mistrials both parties with the

consent of the court may waive the right to have a verdict from a jury, in which event the issue of sentence shall be submitted to the trial court without a recommendation from a jury.

(Acts 1981, No. 81–178, p. 203, § 8; Act 2017–131, § 1.)

§ 13A–5–47. Determination of sentence by court; presentation of arguments on aggravating and mitigating circumstances; court to enter written findings.

(a) After the sentence hearing has been conducted, and after the jury has returned a verdict, or after such a verdict has been waived as provided in Section 13A–5–46(a) or Section 13A–5–46(g), the trial court shall impose sentence. Where the jury has returned a verdict of death, the court shall sentence the defendant to death. Where a sentence of death is not returned by the jury, the court shall sentence the defendant to life imprisonment without parole. This code section shall not affect a trial court's power to sentence in accordance with a guilty plea.

(b) Where the sentencing jury is waived pursuant to Section 13A–5–44 and before imposing sentence the trial court shall permit the parties to present arguments concerning the existence of aggravating and mitigating circumstances and the proper sentence to be imposed in the case. The order of the arguments shall be the same as at the trial of a case. The trial court, based upon evidence presented at trial and the evidence presented during the sentence hearing and any evidence submitted in connection with it, shall enter specific written findings concerning the existence or nonexistence of each aggravating circumstance enumerated in Section 13A–5–49, each mitigating circumstance enumerated in Section 13A–5–51, and any additional mitigating circumstances offered pursuant to Section 13A–5–52. The trial court shall also enter written findings of facts summarizing the crime and the defendant's participation in it. In deciding upon the sentence, the trial court shall determine whether the aggravating circumstances it finds to exist outweigh the mitigating circumstances it finds to exist.

(Acts 1981, No. 81–178, p. 203, § 9; Act 2017–131, § 1.)

§ 13A–5–47.1. Application of provisions prohibiting court from overriding jury verdict in capital cases.

Sections 13A–5–45, 13A–5–46, and 13A–5–47 shall apply to any defendant who is charged with capital murder after April 11, 2017, and shall not apply retroactively to any defendant who has previously been convicted of capital murder and sentenced to death prior to April 11, 2017.

(Act 2017–131, § 2.)

§ 13A–5–48. Process of weighing aggravating and mitigating circumstances defined.

The process described in Sections 13A–5–46(e)(2), 13A–5–46(e)(3) and Section 13A–5–47(e) of weighing the aggravating and mitigating circumstances to

determine the sentence shall not be defined to mean a mere tallying of aggravating and mitigating circumstances for the purpose of numerical comparison. Instead, it shall be defined to mean a process by which circumstances relevant to sentence are marshalled and considered in an organized fashion for the purpose of determining whether the proper sentence in view of all the relevant circumstances in an individual case is life imprisonment without parole or death.

(Acts 1981, No. 81–178, p. 203, § 10.)

§ 13A–5–49. Aggravating circumstances.

Aggravating circumstances shall be any of the following:

(1) The capital offense was committed by a person under sentence of imprisonment.

(2) The defendant was previously convicted of another capital offense or a felony involving the use or threat of violence to the person.

(3) The defendant knowingly created a great risk of death to many persons.

(4) The capital offense was committed while the defendant was engaged or was an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit, rape, robbery, burglary, or kidnapping.

(5) The capital offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(6) The capital offense was committed for pecuniary gain.

(7) The capital offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(8) The capital offense was especially heinous, atrocious, or cruel compared to other capital offenses.

(9) The defendant intentionally caused the death of two or more persons by one act or pursuant to one scheme or course of conduct.

(10) The capital offense was one of a series of intentional killings committed by the defendant.

(11) The capital offense was committed when the victim was less than 14 years of age.

(12) The capital offense was committed by the defendant in the presence of a child under the age of 14 years at the time of the offense, if the victim was the parent or legal guardian of the child. For the purposes of this subdivision, ''in the presence of a child'' means in the physical presence of a child or having knowledge that a child is present and may see or hear the act.

(13) The victim of the capital offense was any police officer, sheriff, deputy, state trooper, federal law enforcement officer, or any other state or federal peace officer of any kind, or prison or jail guard, while the officer or

guard was on duty, regardless of whether the defendant knew or should have known the victim was an officer or guard on duty, or because of some official or job-related act or performance of the officer or guard.

(14) The victim of the capital offense was a first responder who was operating in an official capacity. For the purposes of this subdivision, first responder includes emergency medical services personnel licensed by the Alabama Department of Public Health, as well as firefighters and volunteer firefighters as defined by Section 36–32–1.

(Acts 1981, No. 81–178, p. 203, § 11; Acts 1982, No. 82–567, p. 945, § 1; Act 99–403, p. 683, § 1; Act 2018–537, § 2; Act 2019–514, § 2.)

§ 13A–5–50. Consideration of aggravating circumstances in sentence determination.

The fact that a particular capital offense as defined in Section 13A–5–40(a) necessarily includes one or more aggravating circumstances as specified in Section 13A–5–49 shall not be construed to preclude the finding and consideration of that relevant circumstance or circumstances in determining sentence. By way of illustration and not limitation, the aggravating circumstance specified in Section 13A–5–49(4) shall be found and considered in determining sentence in every case in which a defendant is convicted of the capital offenses defined in subdivisions (1) through (4) of subsection (a) of Section 13A–5–40.

(Acts 1981, No. 81–178, p. 203, § 12; Acts 1982, No. 82–567, p. 945, § 1.)

§ 13A–5–51. Mitigating circumstances — Generally.

Mitigating circumstances shall include, but not be limited to, the following:

(1) The defendant has no significant history of prior criminal activity;

(2) The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance;

(3) The victim was a participant in the defendant's conduct or consented to it;

(4) The defendant was an accomplice in the capital offense committed by another person and his participation was relatively minor;

(5) The defendant acted under extreme duress or under the substantial domination of another person;

(6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired; and

(7) The age of the defendant at the time of the crime.

(Acts 1981, No. 81–178, p. 203, § 13.)

§ 13A–5–52. Mitigating circumstances — Inclusion of defendant's character, record, etc.

In addition to the mitigating circumstances specified in Section 13A–5–51, mitigating circumstances shall include any aspect of a defendant's character

or record and any of the circumstances of the offense that the defendant offers as a basis for a sentence of life imprisonment without parole instead of death, and any other relevant mitigating circumstance which the defendant offers as a basis for a sentence of life imprisonment without parole instead of death.

(Acts 1981, No. 81–178, p. 203, § 14.)

§ 13A–5–53. Appellate review of death sentence; scope; remand; specific determinations to be made by court; authority of court following review.

(a) In any case in which the death penalty is imposed, in addition to reviewing the case for any error involving the conviction, the Alabama Court of Criminal Appeals, subject to review by the Alabama Supreme Court, shall also review the propriety of the death sentence. This review shall include the determination of whether any error adversely affecting the rights of the defendant was made in the sentence proceedings, whether the trial court's findings concerning the aggravating and mitigating circumstances were supported by the evidence, and whether death was the proper sentence in the case. If the court determines that an error adversely affecting the rights of the defendant was made in the sentence proceedings or that one or more of the trial court's findings concerning aggravating and mitigating circumstances were not supported by the evidence, it shall remand the case for new proceedings to the extent necessary to correct the error or errors. If the appellate court finds that no error adversely affecting the rights of the defendant was made in the sentence proceedings and that the trial court's findings concerning aggravating and mitigating circumstances were supported by the evidence, it shall proceed to review the propriety of the decision that death was the proper sentence.

(b) In determining whether death was the proper sentence in the case the Alabama Court of Criminal Appeals, subject to review by the Alabama Supreme Court, shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

(2) Whether an independent weighing of the aggravating and mitigating circumstances at the appellate level indicates that death was the proper sentence; and

(3) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(c) The Court of Criminal Appeals shall explicitly address each of the three questions specified in subsection (b) of this section in every case it reviews in which a sentence of death has been imposed.

(d) After performing the review specified in this section, the Alabama Court of Criminal Appeals, subject to review by the Alabama Supreme Court, shall be authorized to:

(1) Affirm the sentence of death;

(2) Set the sentence of death aside and remand to the trial court for correction of any errors occurring during the sentence proceedings and for imposition of the appropriate penalty after any new sentence proceedings that are necessary, provided that such errors shall not affect the determination of guilt and shall not preclude the imposition of a sentence of death where it is determined to be proper after any new sentence proceedings that are deemed necessary; or

(3) In cases in which the death penalty is deemed inappropriate under subdivision (b)(2) or (b)(3) of this section, set the sentence of death aside and remand to the trial court with directions that the defendant be sentenced to life imprisonment without parole.

(Acts 1981, No. 81–178, p. 203, § 15.)

§ 13A–5–53.1. Appeals of capital punishment.

(a) Rule 32.2(c) of the Alabama Rules of Criminal Procedure shall not apply to cases in which a criminal defendant is convicted of capital murder and sentenced to death, and files a petition for post-conviction relief under the grounds specified in Rule 32.1(a), (e), or (f) of the Alabama Rules of Criminal Procedure.

(b) Post-conviction remedies sought pursuant to Rule 32 of the Alabama Rules of Criminal Procedure in death penalty cases shall be pursued concurrently and simultaneously with the direct appeal of a case in which the death penalty was imposed. In all cases where the defendant is deemed indigent or as the trial judge deems appropriate, the trial court, within 30 days of the entry of the order pronouncing the defendant's death sentence, shall appoint the defendant a separate counsel for the purposes of post-conviction relief under this section. Appointed counsel shall be compensated pursuant to Chapter 12 of Title 15; provided, however, that notwithstanding any provision of that chapter to the contrary, the total fee awarded shall not exceed seventy-five hundred dollars ($7,500), which may be waived by the Director of the Office of Indigent Defense Services for good cause shown.

(c) A circuit court shall not entertain a petition for post-conviction relief from a case in which the death penalty was imposed on the grounds specified in Rule 32.1(a) of the Alabama Rules of Criminal Procedure unless the petition, including any amendments to the petition, is filed within 365 days of the filing of the appellant defendant's first brief on direct appeal of a case in which the death penalty was imposed pursuant to the Alabama Rules of Appellate Procedure.

(d) A circuit court, before the filing date applicable to the defendant under subsection (c), for good cause shown and after notice and an opportunity to be heard from the Attorney General, or other attorney representing the State of Alabama, may grant one 90–day extension that begins on the filing date applicable to the defendant under subsection (c).

(e) Within 90 days of the filing of the state's answer to a properly filed petition for post-conviction relief, the circuit court shall issue an order setting forth those claims in the petition that should be summarily dismissed and those claims, if any, that should be set for an evidentiary hearing. If the properly filed petition for post-conviction relief is still pending at the time of the issuance of the certificate of judgment on direct appeal, the court in which the petition is pending shall issue a final order on the petition or appeal within 180 days.

(f) If post-conviction counsel files an untimely petition or fails to file a petition before the filing date applicable under this section, the circuit court shall direct post-conviction counsel to show good cause demonstrating extraordinary circumstances as to why the petition was not properly filed. After post-conviction counsel's response, the circuit court may do any of the following:

(1) Find that good cause has been shown and permit counsel to continue representing the defendant and set a new filing deadline for the petition, which may not be more than 30 days from the date the court permits counsel to continue representation.

(2) Find that good cause has not been shown and dismiss any untimely filed petition.

(3) Appoint new and different counsel to represent the defendant and establish a new filing deadline for the petition, which may not be more than 270 days after the date the circuit court appoints new counsel. In the instance that this subdivision is applicable and new counsel is appointed, the circuit court in which the petition is pending shall issue a final order on the petition or appeal within 180 days of the filing of the petition.

(g) The time for filing a petition for post-conviction relief under Rule 32.1(f) in a case in which the death penalty was imposed shall be six months from the date the petitioner discovers the dismissal or denial, irrespective of the deadlines specified in this section. This provision shall not extend the deadline of a previously filed petition under Rule 32.1 of the Alabama Rules of Criminal Procedure.

(h) Any petition for post-conviction relief filed pursuant to this section after the filing date that is applicable to the defendant under this section is untimely. Rule 32.7(b) of the Alabama Rules of Criminal Procedure shall not apply to any amendments to a petition for post-conviction relief filed pursuant to this section after the filing date that is applicable to the defendant under this section. Any amendments to a petition for post-conviction relief filed pursuant to this section filed after the filing date that is applicable to the defendant under this section shall be treated as a successive petition under Rule 32.2(b) of the Alabama Rules of Criminal Procedure.

(i) The circuit court shall not entertain a petition in a case in which the death penalty has been imposed based on the grounds specified in Rule 32.1(e) of the Alabama Rules of Criminal Procedure unless the petition for post-conviction relief is filed within the time period specified in subsection (c) or

(d), or within six months after the discovery of the newly discovered material facts, whichever is later.

(j) This section shall apply to any defendant who is sentenced to death after August 1, 2017.

(Act 2017–417, §§ 2, 3.)

§ 13A–5–54. Appointment of experienced counsel for indigent defendants.

Each person indicted for an offense punishable under the provisions of this article who is not able to afford legal counsel must be provided with court appointed counsel having no less than five years' prior experience in the active practice of criminal law.

(Acts 1981, No. 81–178, p. 203, § 16.)

§ 13A–5–55. Conviction and sentence of death subject to automatic review.

In all cases in which a defendant is sentenced to death, the judgment of conviction shall be subject to automatic review. The sentence of death shall be subject to review as provided in Section 13A–5–53.

(Acts 1981, No. 81–178, p. 203, § 17.)

§ 13A–5–56. Supreme Court to promulgate indictment forms, verdict forms and jury instructions.

The Alabama Supreme Court shall promulgate pattern indictment forms for use in cases in which indictments charging offenses defined in Section 13A–5–40(a) are thereafter returned. The Alabama Supreme Court shall also promulgate pattern verdict forms and pattern jury instructions for the trial and sentencing aspects of cases tried thereafter under this article, insofar as such verdicts and instructions relate to the particularities of cases tried under this article.

(Acts 1981, No. 81–178, p. 203, § 18.)

§ 13A–5–57. Application of article to conduct after effective date.

(a) This article applies only to conduct occurring after 12:01 A.M. on July 1, 1981. Conduct occurring before 12:01 A.M. on July 1, 1981 shall be governed by pre-existing law.

(b) Sections 13A–5–30 through 13A–5–38 are hereby repealed. All other laws or parts of laws in conflict with this article are hereby repealed. This repealer shall not affect the application of pre-existing law to conduct occurring before 12:01 A.M. on July 1, 1981.

(Acts 1981, No. 81–178, p. 203, §§ 19, 20.)

§ 13A–5–58. Interpretation of article.

This article shall be interpreted, and if necessary reinterpreted, to be constitutional.

(Acts 1981, No. 81–178, p. 203, § 21.)

§ 13A–5–59. Application of article upon finding of unconstitutionality.

It is the intent of the Legislature that if the death penalty provisions of this article are declared unconstitutional and if the offensive provision or provisions cannot be reinterpreted so as to provide a constitutional death penalty, or if the death penalty is ever declared to be unconstitutional per se, that the defendants who have been sentenced to death under this article shall be resentenced to life imprisonment without parole. It is also the intent of the Legislature that in the event that the death penalty provisions of this article are declared unconstitutional and if they cannot be reinterpreted to provide a constitutional death penalty, or if the death penalty is ever declared to be unconstitutional per se, that defendants convicted thereafter for committing crimes specified in Section 13A–5–40(a) shall be sentenced to life imprisonment without parole.

(Acts 1981, No. 81–178, p. 203, § 23.)

CHAPTER 6.

OFFENSES INVOLVING DANGER TO THE PERSON.

ARTICLE 1.

HOMICIDE.

§ 13A–6–1. Definitions.

(a) As used in Article 1 and Article 2, the following terms shall have the meanings ascribed to them by this section:

(1) CRIMINAL HOMICIDE. Murder, manslaughter, or criminally negligent homicide.

(2) HOMICIDE. A person commits criminal homicide if he intentionally, knowingly, recklessly or with criminal negligence causes the death of another person.

(3) PERSON. The term, when referring to the victim of a criminal homicide or assault, means a human being, including an unborn child in utero at any stage of development, regardless of viability.

(b) Article 1 or Article 2 shall not apply to the death or injury to an unborn child alleged to be caused by medication or medical care or treatment provided to a pregnant woman when performed by a physician or other licensed health care provider.

Mistake, or unintentional error on the part of a licensed physician or other licensed health care provider or his or her employee or agent or any person acting on behalf of the patient shall not subject the licensed physician or other licensed health care provider or person acting on behalf of the patient to any criminal liability under this section.

Medical care or treatment includes, but is not limited to, ordering, dispensation or administration of prescribed medications and medical procedures.

(c) A victim of domestic violence or sexual assault may not be charged under Article 1 or Article 2 for the injury or death of an unborn child caused by a crime of domestic violence or rape perpetrated upon her.

(d) Nothing in Article 1 or Article 2 shall permit the prosecution of (1) any person for conduct relating to an abortion for which the consent of the pregnant woman or a person authorized by law to act on her behalf has been obtained or for which consent is implied by law or (2) any woman with respect to her unborn child.

(e) Nothing in this section shall make it a crime to perform or obtain an abortion that is otherwise legal. Nothing in this section shall be construed to make an abortion legal which is not otherwise authorized by law.

(Acts 1977, No. 607, p. 812, § 2001; Act 2006–419, p. 1042, §§ 1, 2.)

§ 13A–6–2. Murder.

(a) A person commits the crime of murder if he or she does any of the following:

(1) With intent to cause the death of another person, he or she causes the death of that person or of another person.

(2) Under circumstances manifesting extreme indifference to human life, he or she recklessly engages in conduct which creates a grave risk of death to a person other than himself or herself, and thereby causes the death of another person.

(3) He or she commits or attempts to commit arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree, aggravated child abuse under Section 26–15–3.1, or any other felony clearly dangerous to human life and, in the course of and in furtherance of the crime that he or she is committing or attempting to commit, or in immediate flight therefrom, he or she, or another participant if there be any, causes the death of any person.

(4) He or she commits the crime of arson and a qualified governmental or volunteer firefighter or other public safety officer dies while performing his or her duty resulting from the arson.

(b) A person does not commit murder under subdivisions (a)(1) or (a)(2) of this section if he or she was moved to act by a sudden heat of passion caused by provocation recognized by law, and before there had been a reasonable time for the passion to cool and for reason to reassert itself. The burden of

injecting the issue of killing under legal provocation is on the defendant, but this does not shift the burden of proof. This subsection does not apply to a prosecution for, or preclude a conviction of, manslaughter or other crime.

(c) Murder is a Class A felony; provided, that the punishment for murder or any offense committed under aggravated circumstances by a person 18 years of age or older, as provided by Article 2 of Chapter 5 of this title, is death or life imprisonment without parole, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any amendments thereto. The punishment for murder or any offense committed under aggravated circumstances by a person under the age of 18 years, as provided by Article 2 of Chapter 5, is either life imprisonment without parole, or life, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any amendments thereto and the applicable Alabama Rules of Criminal Procedure.

If the defendant is sentenced to life on a capital offense, the defendant must serve a minimum of 30 years, day for day, prior to first consideration of parole.

(Acts 1977, No. 607, p. 812, § 2005; Act 2006–427, p. 1057, § 1; Act 2016–29, p. 51, § 2; Act 2016–360, p. 895, § 1.)

§ 13A–6–3. Manslaughter.

(a) A person commits the crime of manslaughter if he or she does any of the following:

(1) Recklessly causes the death of another person.

(2) Causes the death of another person under circumstances that would constitute murder under Section 13A–6–2; except, that he or she causes the death due to a sudden heat of passion caused by provocation recognized by law, and before a reasonable time for the passion to cool and for reason to reassert itself.

(3)a. Knowingly sells, furnishes, gives away, delivers, or distributes a controlled substance in violation of Section 13A–12–211, which contains fentanyl, any mixture containing fentanyl, any synthetic controlled substance fentanyl, or any synthetic controlled substance fentanyl analogue as described in Sections 20–2–23 and 20–2–25, and the person to whom the controlled substance is sold, furnished, given, delivered, or distributed dies as a proximate result of the use of the controlled substance; provided, nothing in this subdivision shall be construed to apply to a licensed physician engaged in the practice of medicine, a licensed pharmacist engaged in the practice of pharmacy, or a licensed dentist engaged in the practice of dentistry.

b. It is not a defense to this subdivision that the person who sold, furnished, gave away, delivered, or distributed the controlled substance had no knowledge that the controlled substance contained fentanyl, any mixture containing fentanyl, any synthetic controlled substance fentanyl,

or any synthetic controlled substance fentanyl analogue as described in Section 20–2–23 and 20–2–25.

(b) Manslaughter is a Class B felony.

(Acts 1977, No. 607, p. 812, § 2010; Acts 1987, No. 87–713, p. 1260; Act 2023–387, § 1, eff. Sept. 1, 2023; Act 2024–103, § 1, eff. April 23, 2024.)

§ 13A–6–4. Criminally negligent homicide.

(a) A person commits the crime of criminally negligent homicide if he or she causes the death of another person by criminal negligence.

(b) The jury may consider statutes and ordinances regulating the actor's conduct in determining whether the actor is culpably negligent under subsection (a).

(c) Criminally negligent homicide is a Class A misdemeanor, except in cases in which the criminally negligent homicide is caused by the driver or operator of a vehicle or vessel who is driving or operating the vehicle or vessel in violation of Section 32–5A–191 or 32–5A–191.3; in these cases, criminally negligent homicide is a Class C felony.

(Acts 1977, No. 607, p. 812, § 2015; Acts 1979, No. 79–664, p. 1163, § 1; Acts 1988, 1st Sp. Sess., No. 88–916, p. 510, § 1; Act 2014–427, p. 1574, § 1.)

ARTICLE 2.

ASSAULTS.

§ 13A–6–20. Assault in the first degree.

(a) A person commits the crime of assault in the first degree if:

(1) With intent to cause serious physical injury to another person, he or she causes serious physical injury to any person by means of a deadly weapon or a dangerous instrument; or

(2) With intent to disfigure another person seriously and permanently, or to destroy, amputate, or disable permanently a member or organ of the body of another person, he or she causes such an injury to any person; or

(3) Under circumstances manifesting extreme indifference to the value of human life, he or she recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to any person; or

(4) In the course of and in furtherance of the commission or attempted commission of arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree, or any other felony clearly dangerous to human life, or of immediate flight therefrom, he or she causes a serious physical injury to another person; or

(5) While driving under the influence of alcohol or a controlled substance or any combination thereof in violation of Section 32–5A–191 or

32–5A–191.3, he or she causes serious physical injury to the person of another with a vehicle or vessel.

(b) Assault in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 2101; Acts 1987, No. 87–712, p. 1259; Act 2014–427, p. 1574, § 1.)

§ 13A–6–21. Assault in the second degree.

(a) A person commits the crime of assault in the second degree if the person does any of the following:

(1) With intent to cause serious physical injury to another person, he or she causes serious physical injury to any person.

(2) With intent to cause physical injury to another person, he or she causes physical injury to any person by means of a deadly weapon or a dangerous instrument.

(3) He or she recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument.

(4)a. With intent to prevent a peace officer, as defined in Section 36–21–60, a detention or correctional officer at any municipal or county jail or state penitentiary, emergency medical personnel, a utility worker, or a firefighter from performing a lawful duty, he or she intends to cause physical injury and he or she causes physical injury to any person.

b. For the purpose of this subdivision, a person who is a peace officer who is employed or under contract while off duty by a private or public entity is a peace officer performing a lawful duty when the person is working in his or her approved uniform while off duty with the approval of his or her employing law enforcement agency. Provided, however, that nothing contained in this subdivision shall be deemed or construed as amending, modifying, or extending the classification of a peace officer as off-duty for workers' compensation purposes or any other benefits to which a peace officer may otherwise be entitled to under law when considered on-duty. Additionally, nothing contained in this subdivision shall be deemed or construed as amending, modifying, or extending the tort liability of any municipality as a result of any action or inaction on the part of an off-duty police officer.

(5) With intent to cause physical injury to a teacher or to an employee of a public educational institution during or as a result of the performance of his or her duty, he or she causes physical injury to any person.

(6) With intent to cause physical injury to a health care worker, including a nurse, physician, technician, or any other person employed by or practicing at a hospital as defined in Section 22–21–20; a county or district health department; a long-term care facility; a physician's office, clinic, or outpatient treatment facility during the course of or as a result of the performance of the duties of the health care worker or other person employed by or practicing at the hospital; the county or district health department; any

health care facility owned or operated by the State of Alabama; the long-term care facility; the physician's office, clinic, or outpatient treatment facility; or a pharmacist, pharmacy technician, pharmacy intern, pharmacy extern, or pharmacy cashier; he or she causes physical injury to any person. This subdivision shall apply to assaults on home health care workers while they are in a private residence. This subdivision shall not apply to assaults by patients who are impaired by medication.

(7) For a purpose other than lawful medical or therapeutic treatment, he or she intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to him or her, without his or her consent, a drug, substance or preparation capable of producing the intended harm.

(8) With intent to cause physical injury to a Department of Human Resources employee or any employee performing social work, as defined in Section 34–30–1, during or as a result of the performance of his or her duty, he or she causes physical injury to any person.

(9) With intent to cause physical injury to a letter carrier, as defined in Section 32–6–380, during or as a result of the performance of his or her duty, he or she causes physical injury to any person.

(b) Assault in the second degree is a Class C felony.

(c) For the purposes of this section, ''utility worker'' means any person who is employed by an entity that owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, production, supply, distribution, sale, storage, conveyance, delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or telephone service, including two or more utilities rendering joint service.

(Acts 1977, No. 607, p. 812, § 2102; Acts 1994, 1st Ex. Sess., No. 94–794, § 1; Acts 1996, No. 96–533, p. 744, § 1; Act 2006–565, p. 1312, § 1; Act 2009–586, p. 1722, § 1; Act 2010–565, p. 1145, § 1; Act 2011–550, p. 1015, § 1; Act 2022–416, § 1; Act 2024–91, § 1, eff. Oct. 1, 2024.)

§ 13A–6–22. Assault in the third degree.

(a) A person commits the crime of assault in the third degree if:

(1) With intent to cause physical injury to another person, he causes physical injury to any person; or

(2) He recklessly causes physical injury to another person; or

(3) With criminal negligence he causes physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(4) With intent to prevent a peace officer from performing a lawful duty, he causes physical injury to any person.

(b) Assault in the third degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2103.)

§ 13A–6–23. Menacing.

(a) A person commits the crime of menacing if, by physical action, he intentionally places or attempts to place another person in fear of imminent serious physical injury.

(b) Menacing is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 2110.)

§ 13A–6–24. Reckless endangerment.

(a) A person commits the crime of reckless endangerment if he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(b) Reckless endangerment is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2115.)

§ 13A–6–25. Criminal coercion.

(a) A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act.

(b) Criminal coercion is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2125.)

§ 13A–6–26. Compelling streetgang membership.

(a) For purposes of this section, the term ''streetgang'' means any combination, confederation, alliance, network, conspiracy, understanding, or other similar arrangement in law or in fact, of three or more persons that, through its membership or through the agency of any member, engages in a course or pattern of criminal activity.

(b) A person who expressly or by implication threatens to do bodily harm or does bodily harm to a person, a family member or a friend of the person, or any other person, or uses any other unlawful criminal means to solicit or cause any person to join or remain in a streetgang is guilty of the crime of compelling streetgang membership.

(c) The crime of compelling streetgang membership is a Class C felony.

(d) Notwithstanding subsection (c), the crime of compelling streetgang membership is a Class A felony if the defendant is over the age of 18 years and the other person is under the age of 18 years.

(e) This section shall not be construed to repeal other criminal laws. Whenever conduct proscribed by this section is also proscribed by any other

provision of law, the provision which carries the more serious penalty shall apply.

(Act 98–490, p. 942, §§ 1, 2.)

§ 13A–6–27. Use of pepper spray, etc.

(a) The crime of criminal use of a defense spray is committed if the perpetrator uses a defense spray including, but not limited to pepper spray, foam and any other self-defense chemical spray against another person in the commission of a crime or against a law enforcement officer while the law enforcement officer is performing his or her official duties.

(b) Criminal use of a defense spray is a Class C felony.

(Act 98–488, p. 932, § 1.)

§ 13A–6–28. Cross or American flag burning.

(a) A person commits the crime of cross or the American flag burning if he or she, with the intent to intimidate any person or group of persons, burns, or causes to be burned, a cross or the American flag on the property of another, a highway, or other public place.

(b) As used in this section, ''intent to intimidate'' means the intent to place a person or a group of persons in fear of bodily harm.

(c) The crime of cross or the American flag burning is a Class C felony.

(Act 2003–338, p. 845, § 1.)

§ 13A–6–29. Administration of medication by owner, operator, or employee of child care facility.

(a) As used in this section, the following terms shall have the following meanings:

(1) MEDICALLY PRESCRIBED. In accordance with a physician's prescription or in accordance with age-appropriate directions for the over-the-counter medication.

(2) NEAR FATALITY. An act that, as certified by a physician, places the child in serious or critical condition.

(b) There is established the crime of administration of medication by the owner, operator, or employee of a child care facility with the intent to drug the child or alter the child's behavior beyond what is medically prescribed or with the reckless disregard for the health, safety, and welfare of the child.

(c) A violation of subsection (b) is punishable as follows:

(1) A violation which does not cause or contributes to the death, near fatality, dismemberment, or permanent disability of a child is a Class C felony.

(2) A violation which causes a near fatality, dismemberment, or permanent disability of a child is a Class B felony.

(3) A violation which causes the death of a child is a Class A felony.

(Act 2004–538, p. 1136, § 1; Act 2018–278, § 2.)

§ 13A–6–30. Chemical endangerment of a first responder.

(a) A person commits the crime of chemical endangerment of a first responder if he or she knowingly, recklessly, or intentionally causes or permits a first responder, as defined in Section 11–98–1, or a coroner or a deputy coroner, to be exposed to, to ingest or inhale, or to have contact with a Schedule I controlled substance, as provided in Section 20–2–23, or chemical substance, as defined in Section 26–15–2, or a mixture or combination thereof while performing his or her duties.

(b) For the purposes of this section, in addition to the definition contained in Section 13A–1–2, ''serious physical injury'' includes ingestion, inhalation, or contact with fentanyl, any mixture containing fentanyl, any synthetic controlled substance fentanyl, and any synthetic controlled substance fentanyl analogue as described in Sections 20–2–23 and 20–2–25.

(c)(1) Chemical endangerment of a first responder that causes physical injury is a Class C felony.

(2) Chemical endangerment of a first responder that causes serious physical injury is a Class B felony.

(3) Chemical endangerment of a first responder that results in the death of the first responder is a Class A felony.

(Act 2023–486, § 1, eff. Sept. 1, 2023.)

ARTICLE 3.

KIDNAPPING, UNLAWFUL IMPRISONMENT, AND RELATED OFFENSES.

§ 13A–6–40. Definitions.

The following definitions apply in this article:

(1) RESTRAIN. To intentionally or knowingly restrict a person's movements unlawfully and without consent, so as to interfere substantially with his liberty by moving him from one place to another, or by confining him either in the place where the restriction commences or in a place to which he has been moved. Restraint is ''without consent'' if it is accomplished by:

a. Physical force, intimidation or deception, or

b. Any means, including acquiescence of the victim, if he is a child less than 16 years old or an incompetent person and the parent, guardian or other person or institution having lawful control or custody of him has not acquiesced in the movement or confinement.

(2) ABDUCT. To restrain a person with intent to prevent his liberation by either:

a. Secreting or holding him in a place where he is not likely to be found, or

b. Using or threatening to use deadly physical force.

(3) RELATIVE. A parent or stepparent, ancestor, sibling, uncle or aunt or other lawful custodian, including an adoptive relative of the same degree through marriage or adoption.

(Acts 1977, No. 607, p. 812, § 2201.)

§ 13A–6–41. Unlawful imprisonment in the first degree.

(a) A person commits the crime of unlawful imprisonment in the first degree if he restrains another person under circumstances which expose the latter to a risk of serious physical injury.

(b) Unlawful imprisonment in the first degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2205.)

§ 13A–6–42. Unlawful imprisonment in the second degree.

(a) A person commits the crime of unlawful imprisonment in the second degree if he restrains another person.

(b) A person does not commit a crime under this section if:

(1) The person restrained is a child less than 18 years old, and

(2) The actor is a relative of the child, and

(3) The actor's sole purpose is to assume lawful control of the child.

The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(c) Unlawful imprisonment in the second degree is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 2206.)

§ 13A–6–43. Kidnapping in the first degree.

(a) A person commits the crime of kidnapping in the first degree if he abducts another person with intent to

(1) Hold him for ransom or reward; or

(2) Use him as a shield or hostage; or

(3) Accomplish or aid the commission of any felony or flight therefrom; or

(4) Inflict physical injury upon him, or to violate or abuse him sexually; or

(5) Terrorize him or a third person; or

(6) Interfere with the performance of any governmental or political function.

(b) A person does not commit the crime of kidnapping in the first degree if he voluntarily releases the victim alive, and not suffering from serious physical injury, in a safe place prior to apprehension. The burden of injecting the issue of voluntary safe release is on the defendant, but this does not shift

the burden of proof. This subsection does not apply to a prosecution for or preclude a conviction of kidnapping in the second degree or any other crime.

(c) Kidnapping in the first degree is a Class A felony.

(Acts 1977, No. 607, p. 812, § 2210.)

§ 13A–6–44. Kidnapping in the second degree.

(a) A person commits the crime of kidnapping in the second degree if he abducts another person.

(b) A person does not commit a crime under this section if:

(1) The abduction is not coupled with intent to use or to threaten to use deadly force,

(2) The actor is a relative of the person abducted, and

(3) The actor's sole purpose is to assume lawful control of that person.

The burden of injecting the issue of defense under this subsection is on the defendant, but this does not shift the burden of proof.

(c) Kidnapping in the second degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 2211.)

§ 13A–6–45. Interference with custody.

(a) A person commits the crime of interference with custody if he knowingly takes or entices:

(1) Any child under the age of 18 from the lawful custody of its parent, guardian or other lawful custodian, or

(2) Any committed person from the lawful custody of its parent, guardian or other lawful custodian. ''Committed person'' means, in addition to anyone committed under judicial warrant, any neglected, dependent or delinquent child, mentally defective or insane person or any other incompetent person entrusted to another's custody by authority of law.

(b) A person does not commit a crime under this section if the actor's sole purpose is to assume lawful control of the child.

The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(c) Interference with custody is a Class C felony.

(Acts 1977, No. 607, p. 812, § 2215; Acts 1983, No. 83–571, p. 877.)

ARTICLE 4.

SEXUAL OFFENSES.

§ 13A–6–60. Definitions.

The following definitions apply in this article:

(1) FORCIBLE COMPULSION. Use or threatened use, whether express or implied, of physical force, violence, confinement, restraint, physical injury,

or death to the threatened person or to another person. Factors to be considered in determining an implied threat include, but are not limited to, the respective ages and sizes of the victim and the accused; the respective mental and physical conditions of the victim and the accused; the atmosphere and physical setting in which the incident was alleged to have taken place; the extent to which the accused may have been in a position of authority, domination, or custodial control over the victim; or whether the victim was under duress. Forcible compulsion does not require proof of resistance by the victim.

(2) INCAPACITATED. The term includes any of the following:

a. A person who suffers from a mental or developmental disease or disability which renders the person incapable of appraising the nature of his or her conduct.

b. A person is temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance and the condition was known or should have been reasonably known to the offender.

c. A person who is unable to give consent or who is unable to communicate an unwillingness to an act because the person is unconscious, asleep, or is otherwise physically limited or unable to communicate.

(3) SEXUAL CONTACT. Any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party. The term does not require skin to skin contact.

(4) SEXUAL INTERCOURSE. Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.

(5) SODOMY. Any sexual act involving the genitals of one person and the mouth or anus of another person.

(Acts 1977, No. 607, p. 812, § 2301; Acts 1988, No. 88–339, p. 515; Act 2019–465, § 1.)

§ 13A–6–61. Rape in the first degree.

(a) A person commits the crime of rape in the first degree if he or she does any of the following:

(1) Engages in sexual intercourse with another person by forcible compulsion.

(2) Engages in sexual intercourse with another person who is incapable of consent by reason of being incapacitated.

(3) Being 16 years old or older, engages in sexual intercourse with another person who is less than 12 years old.

(b) Rape in the first degree is a Class A felony.

(Acts 1977, No. 607, p. 812, § 2310; Act 2000–726, p. 1557, § 1; Act 2019–465, § 1.)

§ 13A–6–62. Rape in the second degree.

(a) A person commits the crime of rape in the second degree if, being 16 years old or older, he or she engages in sexual intercourse with another person who is 12 years old or older, but less than 16 years old; provided, however, the actor is at least two years older than the other person.

(b) Rape in the second degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 2311; Acts 1979, No. 79–471, p. 862, § 1; Acts 1987, No. 87–607, p. 1056, § 2; Act 2000–726, p. 1557, § 1; Act 2019–465, § 1.)

§ 13A–6–63. Sodomy in the first degree.

(a) A person commits the crime of sodomy in the first degree if he or she does any of the following:

(1) Engages in sodomy with another person by forcible compulsion.

(2) Engages in sodomy with another person who is incapable of consent by reason of being incapacitated.

(3) Being 16 years old or older, engages in sodomy with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony.

(Acts 1977, No. 607, p. 812, § 2315; Act 2019–465, § 1.)

§ 13A–6–64. Sodomy in the second degree.

(a) A person commits the crime of sodomy in the second degree if, being 16 years old or older, he or she engages in sodomy with another person 12 years old or older, but less than 16 years old; provided, however, the actor is at least two years older than the other person.

(b) Sodomy in the second degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 2316; Acts 1979, No. 79–471, p. 862, § 1; Acts 1987, No. 87–607, p. 1056, § 3; Act 2019–465, § 1.)

§ 13A–6–65. Sexual misconduct.

(a) A person commits the crime of sexual misconduct if he or she does any of the following:

(1) Engages in sexual intercourse with another person without his or her consent, under circumstances other than those covered by Sections 13A–6–61 and 13A–6–62; or with consent where consent was obtained by the use of any fraud or artifice.

(2) Engages in sodomy with another person, without his or her consent, under circumstances other than those covered by Sections 13A–6–63 and 13A–6–64; or with consent where consent was obtained by the use of fraud or artifice.

(3) Engages in sexual contact with another person without his or her consent under circumstances other than those under Sections 13A–6–66, 13A–6–67, and 13A–6–69.1; or with consent where consent was obtained by the use of fraud or artifice.

(b) Sexual misconduct is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2318; Act 2019–465, § 1.)

§ 13A–6–65.1. Sexual torture.

(a) A person commits the crime of sexual torture if he or she does any of the following:

(1) Penetrates the vagina, anus, or mouth of another person with an inanimate object, by forcible compulsion, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(2) Penetrates the vagina, anus, or mouth of a person who is incapable of consent by reason of being incapacitated, with an inanimate object, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(3) Penetrates the vagina, anus, or mouth of a person who is less than 12 years old, with an inanimate object, by a person who is 16 years old or older with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(4) By inflicting physical injury, including, but not limited to, burning, crushing, wounding, mutilating, or assaulting the sex organs or intimate parts of another person, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(b) The crime of sexual torture is a Class A felony.

(Acts 1993, No. 93–606, § 1; Act 2019–465, § 1.)

§ 13A–6–66. Sexual abuse in the first degree.

(a) A person commits the crime of sexual abuse in the first degree if he or she does either of the following:

(1) Subjects another person to sexual contact by forcible compulsion.

(2) Subjects another person to sexual contact who is incapable of consent by reason of being incapacitated.

(b) Sexual abuse in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 2320; Act 2006–575, p. 1512, § 2; Act 2019–465, § 1.)

§ 13A–6–67. Sexual abuse in the second degree.

(a) A person commits the crime of sexual abuse in the second degree if he or she does either of the following:

(1) Subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old.

(2) Being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in the second degree is a Class A misdemeanor, except as provided in subsection (c), or if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony.

(c) If a person violates subdivision (a)(2), and he or she is at least 15 years older than the victim, the offense shall be a Class C felony.

(Acts 1977, No. 607, p. 812, § 2321; Act 2000–728, p. 1566, § 1; Act 2019–465, § 1; Act 2019–516, § 1.)

§ 13A–6–68. Indecent exposure.

(a) A person commits the crime of indecent exposure if, with intent to arouse or gratify sexual desire of himself or herself, or of any person other than his or her spouse, he or she exposes his or her genitals under circumstances in which he or she knows the conduct is likely to cause affront or alarm.

(b) Indecent exposure is a Class A misdemeanor except a third or subsequent conviction shall be a Class C felony.

(Acts 1977, No. 607, p. 812, § 2325; Act 2011–534, p. 887, § 1; Act 2019–465, § 1.)

§ 13A–6–69. Enticing child to enter vehicle, house, etc., for immoral purposes.

(a) It shall be unlawful for any person with lascivious intent to entice, allure, persuade, or invite, or attempt to entice, allure, persuade, or invite, any child under 16 years of age to enter any vehicle, room, house, office, or other place for the purpose of proposing to such child the performance of an act of sexual intercourse or an act which constitutes the offense of sodomy or for the purpose of proposing the fondling or feeling of the sexual or genital parts of such child or the breast of such child, or for the purpose of committing an aggravated assault on such child, or for the purpose of proposing that such child fondle or feel the sexual or genital parts of such person.

(b) A violation of this section is a Class C felony.

(Acts 1967, No. 388, p. 976; Code 1975, § 13–1–114; Act 2005–301, 1st Sp. Sess. p. 571, § 1.)

§ 13A–6–69.1. Sexual abuse of a child less than 12 years old.

(a) A person commits the crime of sexual abuse of a child less than 12 years old if he or she, being 16 years old or older, subjects another person who is less than 12 years old to sexual contact.

(b) Sexual abuse of a child less than 12 years old is a Class B felony.

(Act 2006–575, p. 1512, § 1.)

§ 13A–6–70. Lack of consent.

(a) Unless otherwise stated, an element of every offense defined in this article is that the sexual act was committed without the consent of the victim.

(b) Lack of consent results from either of the following:

(1) Forcible compulsion.

(2) Being incapable of consent.

(c) A person is deemed incapable of consent if he or she is either:

(1) Less than 16 years old.

(2) Incapacitated.

(d) Consent to engage in sexual intercourse, sodomy, sexual acts, or sexual contact may be communicated by words or actions. The existence of a current or previous marital, dating, social, or sexual relationship with the defendant is not sufficient to constitute consent. Evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device or sexually transmitted disease protection, without additional evidence of consent, is not sufficient to constitute consent.

(Acts 1977, No. 607, p. 812, § 2330; Act 2019–465, § 1.)

§ 13A–6–71. Foster parent engaging in a sex act, etc., with a foster child.

(a) A person commits the crime of engaging in a sex act with a foster child if he or she is a foster parent and engages in sexual intercourse or sodomy, as defined by Section 13A–6–60, with a foster child under the age of 19 years who is under his or her care or supervision. Engaging in a sex act with a foster child is a Class B felony.

(b) A person commits the crime of engaging in a sexual contact with a foster child if he or she is a foster parent and engages in a sexual contact, pursuant to Section 13A–6–60, with a foster child under the age of 19 years who is under his or her care or supervision. Engaging in sexual contact with a foster child is a Class C felony.

(c) A person commits the crime of soliciting a sex act or sexual contact with a foster child if he or she is a foster parent and solicits, persuades, encourages, harasses, or entices a foster child under the age of 19 years to engage in a sex act including, but not limited to, sexual intercourse, sodomy, or sexual contact, as defined by Section 13A–6–60. The crime of soliciting a sex act or sexual contact with a foster child is a Class A misdemeanor.

(d) Consent is not a defense to a charge under subsections (a), (b), or (c).

(e) For the purposes of this section a foster parent is an individual approved or licensed by the Department of Human Resources or other child placing agencies who provides care and supervision to a foster child under the temporary or permanent custody of the department.

(Act 2016–354, p. 867, § 4; Act 2019–465, § 1.)

ARTICLE 4A.

SEXUAL OFFENSES BY SCHOOL EMPLOYEES INVOLVING A STUDENT.

§ 13A–6–80. Applicability; definitions.

(a) For purposes of this article, school employee includes a teacher, school administrator, student teacher, safety or resource officer, coach, adult volunteer in a position of authority or any other school employee who has contact with a student in his or her official capacity as a school employee.

(b) For purposes of this article, a student is defined as any person under the age of 19 years enrolled or attending classes in a licensed or accredited public, private, or church school that offers instruction in grades K–12, regardless of whether school is in session.

(Act 2010–497, p. 766, § 4; Act 2016–354, p. 867, § 2.)

§ 13A–6–81. School employee engaging in a sex act with a student who is under the age of 19 years or is a protected person under the age of 22 years.

(a) A person commits the crime of a school employee engaging in a sex act with a student under the age of 19 years or engaging in a sex act with a student who is a protected person, as defined in Section 15–25–1, under the age of 22 years if he or she is a school employee and engages in sexual intercourse or sodomy, as defined in Section 13A–6–60, with a student, or student protected person, regardless of whether the student or student protected person is male or female. Consent is not a defense to a charge under this section.

(b) The crime of a school employee engaging in a sex act with a student or student protected person is a Class B felony.

(Act 2010–497, p. 766, § 1; Act 2016–354, p. 867, § 2; Act 2019–465, § 1; Act 2022–201, § 3.)

§ 13A–6–82. School employee having sexual contact with a student who is under the age of 19 years or is a protected person under the age of 22 years.

(a) A person commits the crime of a school employee having sexual contact with a student under the age of 19 years or having sexual contact with a student who is a protected person, as defined in Section 15–25–1, under the age of 22 years if he or she is a school employee and engages in sexual contact,

as defined by Section 13A–6–60, with a student or student protected person, regardless of whether the student is male or female. Consent is not a defense to a charge under this section. The crime of a school employee having sexual contact with a student or student protected person is a Class C felony.

(b) A person commits the crime of a school employee soliciting a sex act with a student under the age of 19 years or soliciting a sex act with a student who is a protected person, as defined in Section 15–25–1, under the age of 22 years if he or she is a school employee and solicits, persuades, encourages, harasses, or entices a student or student protected person to engage in a sex act including, but not limited to, sexual intercourse, sodomy, or sexual contact, as defined by Section 13A–6–60. The crime of soliciting a student or a student protected person to perform a sex act is a Class A misdemeanor.

(Act 2010–497, p. 766, § 2; Act 2016–354, p. 867, § 2; Act 2018–406, § 1(b)(3); Act 2019–465, § 1; Act 2022–201, § 3.)

§ 13A–6–82.1. School employee distributing or soliciting obscene material to or from a student.

(a) It shall be unlawful for a school employee to do either of the following:

(1) Distribute or transmit, by any means, obscene matter that depicts sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct to a student.

(2) Solicit a student to transmit, by any means, obscene matter that depicts sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct to any person.

(b) A school employee distributing or soliciting obscene material to or from a student in violation of subsection (a) is guilty of a Class A misdemeanor.

(Act 2016–354, p. 867, § 1; Act 2021–538, § 1.)

§ 13A–6–83. Paid administrative leave; disciplinary action. Repealed by Act 2018–140, § 1, effective February 27, 2018.

ARTICLE 4B.

SEXUAL OFFENSES BY CLERGY MEMBERS INVOLVING A CHILD.

§ 13A–6–85. Definitions.

For the purposes of this article the following terms have the following meanings:

(1) CHILD. A person under 19 years of age or a protected person under 22 years of age, as defined in Section 15–25–1.

(2) CLERGY MEMBER. Any of the following in a position of trust or authority over the child: A duly ordained, licensed, or commissioned minister, pastor, priest, rabbi, or practitioner of any bona fide established church or religious organization or any person who regularly, as a vocation,

devotes a substantial portion of his or her time and abilities to the service of his or her church or religious organization.

(Act 2024–189, § 1, eff. May 3, 2024.)

§ 13A–6–86. Clergy member engaging in sexual intercourse or sodomy with a child.

(a) It shall be unlawful for a clergy member to engage in sexual intercourse or sodomy, as defined in Section 13A–6–60, with the child. Consent is not a defense to a charge under this section.

(b) A violation of subsection (a) is a Class B felony.

(Act 2024–189, § 1, eff. May 3, 2024.)

§ 13A–6–87. Clergy member engaging in a sexual contact with a child.

(a)(1) It shall be unlawful for a clergy member to engage in sexual contact, as defined in Section 13A–6–60, with the child. Consent is not a defense to a charge under this section.

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

(b)(1) It shall be unlawful for a clergy member to solicit, persuade, encourage, harass, or entice a child to engage in a sex act including, but not limited to, sexual intercourse, sodomy, or sexual contact, as defined in Section 13A–6–60. Consent is not a defense to a charge under this section.

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

(Act 2024–189, § 1, eff. May 3, 2024.)

§ 13A–6–88. Clergy member distributing or soliciting obscene material to or from a child.

(a) It shall be unlawful for a clergy member to do either of the following:

(1) Distribute or transmit, by any means, obscene matter that depicts sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct to a child.

(2) Solicit a child to transmit, by any means, obscene matter that depicts sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct to any person.

(b) A violation of subsection (a) is Class C felony.

(Act 2024–189, § 1, eff. May 3, 2024.)

ARTICLE 5.

STALKING AND AGGRAVATED STALKING.

§ 13A–6–90. Stalking in the first degree.

(a) A person who intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm is guilty of the crime of stalking in the first degree.

(b) The crime of stalking in the first degree is a Class C felony.

(Acts 1992, 2nd Ex. Sess., No. 92–675, p. 54, § 1; Act 2012–380, p. 1004, § 2.)

§ 13A–6–90.1. Stalking in the second degree.

(a) A person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct is guilty of the crime of stalking in the second degree.

(b) The crime of stalking in the second degree is a Class B misdemeanor.

(Act 2012–380, p. 1004, § 3.)

§ 13A–6–91. Aggravated stalking in the first degree.

(a) A person who violates the provisions of Section 13A–6–90(a) and whose conduct in doing so also violates any court order or injunction is guilty of the crime of aggravated stalking in the first degree.

(b) The crime of aggravated stalking in the first degree is a Class B felony.

(Acts 1992, 2nd Ex. Sess., No. 92–675, p. 54, § 2; Act 2012–380, p. 1004, § 2.)

§ 13A–6–91.1. Aggravated stalking in the second degree.

(a) A person who violates the provisions of Section 13A–6–90.1 and whose conduct in doing so also violates any court order or injunction is guilty of the crime of aggravated stalking in the second degree.

(b) The crime of aggravated stalking in the second degree is a Class C felony.

(Act 2012–380, p. 1004, § 3.)

§ 13A–6–92. Definitions.

As used in this article, the following terms have the following meanings:

(1) COURSE OF CONDUCT. A pattern of conduct composed of a series of acts over a period of time which evidences a continuity of purpose.

(2) CREDIBLE THREAT. A threat, expressed or implied, made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to fear for his or her safety or the safety of a family member and to cause reasonable mental anxiety, anguish, or fear.

(3) ELECTRONIC TRACKING DEVICE. An electronic or mechanical device that permits the tracking of the movement of a person or object.

(4) HARASSES. Engages in an intentional course of conduct directed at a specified person which alarms or annoys that person, or interferes with the freedom of movement of that person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress. Constitutionally protected conduct is not included within the definition of this term.

(5) OWNER. An individual, other than the defendant, who has possession of or any other interest in the property involved and without whose consent the defendant has no authority to exert control over the property.

(Acts 1992, 2nd Ex. Sess., No. 92–675, p. 54, § 3; Acts 1994, No. 94–305, § 1; Act 2023–481, § 1, eff. Sept. 1, 2023.)

§ 13A–6–93. Relationship to other laws.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

(Acts 1992, 2nd Ex. Sess., No. 92–675, § 4.)

§ 13A–6–94. Article construed to sustain constitutionality.

This article shall be construed and, if necessary, reconstrued to sustain its constitutionality.

(Acts 1992, 2nd Ex. Sess., No. 92–675, p. 54, § 5.)

§ 13A–6–95. Electronic stalking in the first degree.

(a) A person who, without the consent of the owner or except as otherwise authorized by law, places any electronic tracking device on the property of another person with the intent to surveil, stalk, or harass, or for any other unlawful purpose, is guilty of the crime of electronic stalking in the first degree.

(b)(1) Except as otherwise provided in subdivision (2), a violation of this section is a Class C felony.

(2) A person who violates this section and whose conduct violates an existing domestic violence protection order, elder abuse protection order, temporary restraining order, or any other court order, shall be guilty of a Class B felony.

(c) In any criminal proceeding brought pursuant to this section, the crime shall be considered to have been committed in all of the following:

(1) The county in which any part of the crime took place.

(2) The county where the electronic tracking device was discovered.

(3) The county of residence of the owner of the property.

(d) The statute of limitations shall begin at the time of the discovery of the electronic tracking device.

(Act 2023–481, § 2, eff. Sept. 1, 2023.)

§ 13A–6–96. Electronic stalking in the second degree.

(a) A person who, without the consent of the owner or except as otherwise authorized by law, places any electronic tracking device on the property of another person is guilty of the crime of electronic stalking in the second degree.

(b) A violation of this section is a Class A misdemeanor.

(c) In any criminal proceeding brought pursuant to this section, the crime shall be considered to have been committed in all of the following:

(1) The county in which any part of the crime took place.

(2) The county where the electronic tracking device was discovered.

(3) The county of residence of the owner of the property.

(d) The statute of limitations shall begin at the time of the discovery of the electronic tracking device.

(Act 2023–481, § 2, eff. Sept. 1, 2023.)

Article 6.

Sex Offenses By Computer Use Involving a Child.

§ 13A–6–110. Soliciting a child by computer. Repealed by Act 2009–745, p. 2233, § 9, effective May 22, 2009.

§ 13A–6–111. Transmitting obscene material to a child by computer.

(a) A person is guilty of transmitting obscene material to a child if the person transmits, by means of any computer communication system allowing the input, output, examination, or transfer of computer programs from one computer to another, material which, in whole or in part, depicts actual or simulated nudity, sexual conduct, or sadomasochistic abuse, for the purpose of initiating or engaging in sexual acts with the child.

(b) For the purposes of this section, a ''child'' includes any person under 17 years of age.

(c) For purposes of determining jurisdiction, the offense is committed in this state if the transmission that constitutes the offense either originates in this state or is received in this state.

(d) A person charged under this section shall be tried as an adult and the record of the proceeding shall not be sealed nor subject to expungement.

(e) Transmitting obscene material of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit to a child is a Class B felony.

(Acts 1997, No. 97–486, p. 844, § 2; Act 2023–464, § 1, eff. Sept. 1, 2023.)

§ 13A–6–112. No violation of article.

No person shall be held to have violated this article solely for providing access or connection to or from a facility, system, or network not under the control of the person, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing access or connection that do not include the creation of the communication unless:

(1) The person is a conspirator with an entity actively involved in the creation of the obscene material.

(2) The person knowingly distributed a communication that violates this article.

(3) The person knowingly advertises the availability of the communication.

(4) The person knowingly provides access or connection to a facility, system, or network engaged in the violation of this article that is owned or controlled by the person.

(Acts 1997, No. 97–486, p. 844, § 3.)

§ 13A–6–113. No liability for employer.

No employer shall be held liable under this article for the action of an employee or agent unless the conduct of the employee or agent is within the scope of his or her employment or agency and the employer having knowledge of the conduct, authorizes or ratifies the conduct or recklessly disregards the conduct.

(Acts 1997, No. 97–486, p. 844, § 4.)

ARTICLE 6A.

SOLICITATION OF CHILDREN BY ELECTRONIC MEANS.

§ 13A–6–120. Definitions.

For the purposes of this article, a child is defined as a person under 16 years of age.

(Act 2009–745, p. 2233, § 1.)

§ 13A–6–121. Facilitating solicitation of unlawful sexual conduct with a child.

A person who knowingly compiles, enters into, or transmits by use of computer or otherwise; makes, prints, publishes, or reproduces by computerized or other means; knowingly causes or allows to be entered into or transmitted by use of computer or otherwise; or buys, sells, receives, exchanges, or disseminates any notice, statement, or advertisement of any child's name, telephone number, place of residence, other geographical location, physical characteristics, or other descriptive or identifying information for the purpose of facilitating, encouraging, offering, or soliciting unlawful sexual conduct of or with any child, or the visual depiction of such conduct, is guilty of facilitating solicitation of unlawful sexual conduct with a child. Any person who violates this section commits a Class C felony.

(Act 2009–745, p. 2233, § 2.)

§ 13A–6–122. Electronic solicitation of a child.

A person who knowingly entices, induces, persuades, seduces, prevails, advises, coerces, lures, or orders, or attempts to entice, induce, persuade, seduce, prevail, advise, coerce, lure, or order, by means of a computer, on-line service, Internet service, Internet bulletin board service, weblog, cellular phone, video game system, personal data assistant, telephone, facsimile machine, camera, universal serial bus drive, writable compact disc, magnetic storage device, floppy disk, or any other electronic communication or storage device, a child who is at least three years younger than the defendant, or another person believed by the defendant to be a child at least three years younger than the defendant to meet with the defendant or any other person for the purpose of engaging in sexual intercourse, sodomy, sexual contact, sexual performance, obscene sexual performance, sexual conduct, or genital mutilation, or directs a child to engage in sexual intercourse, sodomy, sexual contact, sexual performance, obscene sexual performance, sexual conduct, or genital mutilation is guilty of electronic solicitation of a child. Any person who violates this section commits a Class B felony.

(Act 2009–745, p. 2233, § 3; Act 2017–414, § 5; Act 2019–465, § 1.)

§ 13A–6–123. Facilitating the on-line solicitation of a child.

Any owner or operator of a computer on-line service, weblog, Internet service, or Internet bulletin board service, who knowingly aids and abets another person or who, with the purpose of facilitating or encouraging the on-line solicitation of the child, permits any person to use the service to commit a violation of this article is guilty of facilitating the on-line solicitation of a child. Any person who violates this section commits a Class B felony.

(Act 2009–745, p. 2233, § 4.)

§ 13A–6–124. Traveling to meet a child for an unlawful sex act.

Any person who travels either within this state, to this state, or from this state by any means, who attempts to do so, or who knowingly causes another to do so or to attempt to do so for the purpose of engaging in any unlawful sex act with a child, including sexual intercourse, sodomy, a sexual performance, obscene sexual performance, or other sexual conduct for his or her benefit or for the benefit of another shall be guilty of traveling to meet a child for an unlawful sex act. Any person who violates this section commits a Class A felony. Notwithstanding any law to the contrary, a conviction under this section shall be considered a criminal sex offense under Section 15–20–21.

(Act 2009–745, p. 2233, § 5.)

§ 13A–6–125. Facilitating the travel of a child for an unlawful sex act.

Any person who facilitates, arranges, provides, or pays for the transport of a child for the purposes of engaging in an unlawful sex act with a child, including sexual intercourse, sodomy, a sexual performance, obscene sexual performance, or other sexual conduct for his or her benefit or for the benefit of another shall be guilty of facilitating the transport of a child for an unlawful sex act. Any person who violates this section commits a Class A felony.

(Act 2009–745, p. 2233, § 6.)

§ 13A–6–126. Jurisdiction.

For purposes of determining jurisdiction of this article, the offense is committed in this state if any of the acts committed under Sections 13A–6–121, 13A–6–122, or 13A–6–123 either originate in or are received in this state. The purpose of this section is to confer jurisdiction upon the courts of this state to the maximum extent allowable under the Constitution of the United States of America and the Constitution of Alabama of 1901.

(Act 2009–745, p. 2233, § 7.)

§ 13A–6–127. Defenses.

(a) It shall not be a defense to prosecution under this article:

(1) That an undercover operative or law enforcement officer was involved in the detection and investigation of an offense; or

(2) That a meeting as described in this article did not occur.

(b) An owner or operator of a computer on-line service, weblog, Internet service, or Internet bulletin board service shall not be liable for facilitating the on-line solicitation of a child for permitting an undercover operative or law enforcement officer to use an on-line service to detect and investigate unlawful activity related to the on-line solicitation of a child.

(Act 2009–745, p. 2233, § 8.)

ARTICLE 7.

DOMESTIC VIOLENCE AND RELATED OFFENSES.

§ 13A–6–130. Domestic violence — First degree.

(a)(1) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A–6–20; aggravated stalking pursuant to Section 13A–6–91; or burglary in the first degree pursuant to Section 13A–7–5 and the victim is a current or former spouse, parent, step-parent, child, step-child, grandparent, step-grandparent, grandchild, step-grandchild, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant.

(2) For the purposes of this section, a household member excludes non-romantic or non-intimate co-residents, and a dating relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.

(b) Domestic violence in the first degree is a Class A felony, except that the defendant shall serve a minimum term of imprisonment of one year without consideration of probation, parole, good time credits, or any other reduction in time for any second or subsequent conviction under this subsection.

(c) The minimum term of imprisonment imposed under subsection (b) shall be double without consideration of probation, parole, good time credits, or any reduction in time if either of the following occurs:

(1) A defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violating the order commits domestic violence in the first degree.

(2) The offense was committed in the presence of a child under the age of 14 years at the time of the offense, who is the victim's child or step-child, the defendant's child or step-child, or who is a child residing in or visiting the household of the victim or defendant. For purposes of this subsection, ''in the presence of a child'' means that the child was in a position to see or hear the act.

(d) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication, of whether or not the act was committed in the presence of a child. If a defendant has a trial by jury and the jury finds the defendant guilty, the jury shall also render a special verdict as to whether or not the defendant committed the act in the presence of a child.

(Act 2000–266, p. 411, § 1; Act 2011–581, p. 1273, § 1; Act 2015–493, p. 1679, § 2; Act 2018–538, § 1; Act 2019–252, § 1; Act 2023–494, § 1, eff. Sept. 1, 2023.)

§ 13A–6–131. Domestic violence — Second degree.

(a)(1) A person commits the crime of domestic violence in the second degree if the person commits the crime of assault in the second degree pursuant to Section 13A–6–21; the crime of intimidating a witness pursuant to Section 13A–10–123; the crime of stalking pursuant to Section 13A–6–90; the crime of burglary in the second or third degree pursuant to Sections 13A–7–6 and 13A–7–7; or the crime of criminal mischief in the first degree pursuant to Section 13A–7–21 and the victim is a current or former spouse, parent, step-parent, child, step-child, grandparent, step-grandparent, grandchild, step-grandchild, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant.

(2) For the purposes of this section, a household member excludes non-romantic or non-intimate co-residents, and a dating relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.

(b) Domestic violence in the second degree is a Class B felony, except the defendant shall serve a minimum term of imprisonment of six months without consideration of probation, parole, good time credits, or any reduction in time for any second or subsequent conviction under this subsection.

(c) The minimum term of imprisonment imposed under subsection (b) shall be double without consideration of probation, parole, good time credits, or any reduction in time if either of the following applies:

(1) A defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violating the order commits domestic violence in the second degree.

(2) The offense was committed in the presence of a child under the age of 14 years at the time of the offense, who is the victim's child or step-child, the defendant's child or step-child, or who is a child residing in or visiting the household of the victim or defendant. For purposes of this subsection, ''in the presence of a child'' means that the child was in a position to see or hear the act.

(d) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication, of whether or not the act was

committed in the presence of a child. If a defendant has a trial by jury and the jury finds the defendant guilty, the jury shall also render a special verdict as to whether or not the defendant committed the act in the presence of a child.

(Act 2000–266, p. 411, § 2; Act 2011–581, p. 1273, § 1; Act 2015–493, p. 1679, § 2; Act 2018–538, § 1; Act 2019–252, § 1; Act 2023–494, § 1, eff. Sept. 1, 2023.)

§ 13A–6–132. Domestic violence — Third degree.

(a)(1) A person commits domestic violence in the third degree if the person commits the crime of assault in the third degree pursuant to Section 13A–6–22; the crime of menacing pursuant to Section 13A–6–23; the crime of reckless endangerment pursuant to Section 13A–6–24; the crime of criminal coercion pursuant to Section 13A–6–25; the crime of harassment pursuant to subsection (a) of Section 13A–11–8; the crime of criminal surveillance pursuant to Section 13A–11–32; the crime of harassing communications pursuant to subsection (b) of Section 13A–11–8; the crime of criminal trespass in the third degree pursuant to Section 13A–7–4; the crime of criminal mischief in the second or third degree pursuant to Sections 13A–7–22 and 13A–7–23; or the crime of arson in the third degree pursuant to Section 13A–7–43; and the victim is a current or former spouse, parent, step-parent, child, step-child, grandparent, step-grandparent, grandchild, step-grandchild, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant.

(2) For the purpose of this section, a household member excludes non-romantic or non-intimate co-residents, and a dating relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.

(b) Domestic violence in the third degree is a Class A misdemeanor. The minimum term of imprisonment imposed under subsection (a) shall be 30 days without consideration of reduction in time if a defendant willfully violates a protection order issued by a court of competent jurisdiction and in the process of violating the order commits domestic violence in the third degree.

(c) A second conviction under subsection (a) is a Class A misdemeanor, except the defendant shall serve a minimum term of imprisonment of 10 days in a city or county jail or detention facility without consideration for any reduction in time.

(d) A third or subsequent conviction under subsection (a) is a Class C felony.

(e) If the defendant has a previous conviction for domestic violence in the first degree pursuant to Section 13A–6–130, domestic violence in the second degree pursuant to Section 13A–6–131, domestic violence by strangulation or

suffocation pursuant to Section 13A–6–138, or a domestic violence conviction or other substantially similar conviction from another state or jurisdiction, a conviction under subsection (a) is a Class C felony.

(f) For purposes of determining second, third, or subsequent number of convictions, convictions in municipal court shall be included.

(Act 2000–266, p. 411, § 3; Act 2011–581, p. 1273, § 1; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1; Act 2023–494, § 1, eff. Sept. 1, 2023.)

§ 13A–6–133. Arrest without warrant — Generally.

For the purposes of an arrest without a warrant pursuant to Section 15–10–3, the crimes of domestic violence in the first, second, and third degrees, and domestic violence by strangulation or suffocation shall be an offense involving domestic violence. A warrantless arrest for an offense involving domestic violence made pursuant to subdivision (8) of subsection (a) of Section 15–10–3, shall include a charge of a crime of domestic violence under this article.

(Act 2000–266, p. 411, § 4; Act 2011–581, p. 1273, § 1.)

§ 13A–6–134. Arrest without warrant — Determination of predominant aggressor; notice requirements; liability of officer.

(a) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, or if both parties have injuries, the officer shall evaluate each complaint separately to determine who was the predominant aggressor. If the officer determines that one person was the predominant physical aggressor, that person may be arrested; however, a person who acts in a reasonable manner to protect himself or herself or another family or household member from domestic violence may not be arrested for a violation of Section 13A–6–130, 13A–6–131, 13A–6–132, or 13A–6–138. In determining whether a person is the predominant aggressor, the officer shall consider all of the following:

(1) Prior complaints of domestic violence.

(2) The relative severity of the injuries inflicted on each person, including whether the injuries are offensive versus defensive in nature.

(3) The likelihood of future injury to each person.

(4) Whether the person had reasonable cause to believe he or she was in imminent danger of becoming a victim of any act of domestic violence.

(5) Whether one of the persons acted in self-defense.

(b) A law enforcement officer shall not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage the request for intervention by law enforcement by any party or base the decision to arrest or not to arrest on either of the following:

(1) The specific consent or request of the victim.

(2) The officer's perception of the willingness of a victim of or witness to the domestic violence to testify or otherwise participate in a judicial proceeding.

(c)(1) In addition to victim information services required pursuant to Section 15–23–62, a law enforcement officer, at the time of initial investigation, shall give a victim of domestic violence notice of the legal rights and remedies available on a standard form developed and distributed by the Alabama State Law Enforcement Agency pursuant to subdivision (2).

(2) The agency shall develop a ''Legal Rights and Remedies Notice to Victims'' that includes a general summary of the provisions of the Protection From Abuse Act using language a layperson may understand and the statewide domestic violence hotline number, and shall distribute the notice to all law enforcement agencies throughout the state.

(d) A law enforcement officer is not liable in any civil action filed by any party for an arrest based on probable cause, enforcement of a court order, or service of process arising from an alleged incident of domestic violence, pursuant to Sections 36–1–12 and 6–5–338, as applicable.

(Act 2000–266, p. 411, § 5; Act 2011–581, p. 1273, § 1; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1.)

§ 13A–6–135. Relation to abuse laws.

For the purposes of Chapter 5 of Title 30, the crimes of domestic violence in the first, second, and third degrees shall be included as acts, attempts, or threats of abuse as defined pursuant to Section 30–5–2.

(Act 2000–266, p. 411, § 6.)

§ 13A–6–136. Relation to domestic or family abuse laws.

For the purposes of Article 6, Chapter 3 of Title 30, the definition of ''domestic or family abuse'' includes an incident of domestic violence in the first, second, or third degrees pursuant to this article.

(Act 2000–266, p. 411, § 7.)

§ 13A–6–137. Interference with a domestic violence emergency call.

(a) A person commits the crime of interference with a domestic violence emergency call if he or she intentionally hinders, obstructs, disconnects, or in any way prevents the victim from calling for assistance.

(b) Interference with a domestic violence emergency call is a Class B misdemeanor.

(Act 2011–581, p. 1273, § 2.)

§ 13A–6–138. Domestic violence by strangulation or suffocation.

(a) For the purposes of this section, the following terms have the following meanings:

(1) STRANGULATION. Intentionally causing asphyxia by closure or compression of the blood vessels or air passages of the neck as a result of external pressure on the neck.

(2) SUFFOCATION. Intentionally causing asphyxia by depriving a person of air or by preventing a person from breathing through the inhalation of toxic gases or by blocking or obstructing the airway of a person, by any means other than by strangulation.

(b) A person commits the crime of domestic violence by strangulation or suffocation if he or she commits an assault with intent to cause physical harm or commits the crime of menacing pursuant to Section 13A–6–23, by strangulation or suffocation or attempted strangulation or suffocation and the victim is a current or former spouse, parent, step-parent, child, step-child, grandparent, step-grandparent, grandchild, step-grandchild, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant. For the purpose of this section, a household member excludes non-romantic or non-intimate co-residents, and a dating relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.

(c) Domestic violence by strangulation or suffocation is a Class B felony punishable by law.

(Act 2011–581, p. 1273, § 3; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1; Act 2023–494, § 1, eff. Sept. 1, 2023.)

§ 13A–6–139. Costs of prosecution or warrant recall of domestic violence, stalking, or sexual assault offenses.

Notwithstanding any other provision of law, no court costs shall be assessed against any victim of domestic violence, stalking, or sexual assault in connection with the prosecution or warrant recall of a domestic violence, stalking, or sexual assault offense.

(Act 2011–581, p. 1273, § 4.)

§ 13A–6–139.1. Definitions.

Repealed by Act 2019–252, § 2, effective May 23, 2019.

§ 13A–6–139.2. Recordkeeping.

Each agency in the state that is involved with the enforcement, monitoring, or prosecution of crimes of domestic violence shall collect and maintain records of each domestic violence incident for access by investigators preparing for bond hearings and prosecutions for acts of domestic violence.

(Act 2015–493, p. 1679, § 3.)

ARTICLE 7A.

DOMESTIC VIOLENCE PROTECTION ORDER ENFORCEMENT ACT.

§ 13A–6–140. Short title; purpose.

(a) This article shall be known as the Domestic Violence Protection Order Enforcement Act.

(b) The purpose of this article is to define the crime of violation of a domestic violence protection order.

(Acts 1993, No. 93–325, p. 495, § 1; § 30–5A–1; Act 2011–691, p. 2113, § 1; Act 2015–493, p. 1679, § 2.)

§ 13A–6–141. Definitions.

As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) DOMESTIC VIOLENCE PROTECTION ORDER. A domestic violence protection order is any protection from abuse order issued pursuant to the Protection from Abuse Act, Sections 30–5–1 to 30–5–11, inclusive. The term includes the following:

a. A restraining order, injunctive order, or order of release from custody which has been issued in a circuit, district, municipal, or juvenile court in a domestic relations or family violence case;

b. An order issued by municipal, district, or circuit court which places conditions on the pre-trial release on defendants in criminal cases, including provisions of bail pursuant to Section 15–13–190;

c. An order issued by another state or territory which may be enforced under Sections 30–5B–1 through 30–5B–10. Restraining or protection orders not issued pursuant to the Protection From Abuse Act, Sections 30–5–1 to 30–5–11, inclusive, must specify that a history of violence or abuse exists for the provisions of this chapter to apply.

(2) VIOLATION. The knowing commission of any act prohibited by a domestic violence protection order or any willful failure to abide by its terms.

(Acts 1993, No. 93–325, p. 495, § 2; § 30–5A–2; Act 2011–691, p. 2113, § 1; Act 2015–493, p. 1679, § 2.)

§ 13A–6–142. Violation of a domestic violence protection order; penalties.

(a) A person commits the crime of violation of a domestic violence protection order if the person knowingly commits any act prohibited by a domestic violence protection order or willfully fails to abide by any term of a domestic violence protection order.

(b) A violation of a domestic violence protection order is a Class A misdemeanor which shall be punishable as provided by law. A second conviction

for violation of a domestic violence protection order, in addition to any other penalty or fine, shall be punishable by a minimum of 30 days imprisonment which may not be suspended. A third or subsequent conviction is a Class C felony.

(c) In addition to any other fine or penalty provided by law, the court shall order the defendant to pay an additional fine of fifty dollars ($50) for a violation of a domestic violence protection order to be distributed to the Domestic Violence Trust Fund, established by Section 30–6–11.

(Acts 1993, No. 93–325, p. 495, § 3; Acts 1996, No. 96–527, p. 684, § 1; § 30–5A–3; Act 2011–691, p. 2113, § 1; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1.)

§ 13A–6–143. Arrest for violation of article.

A law enforcement officer may arrest any person for the violation of this article if the officer has probable cause to believe that the person has violated any provision of a valid domestic violence protection order, whether temporary or permanent. The presentation of a domestic violence protection order constitutes probable cause for an officer to believe that a valid order exists. For purposes of this article, the domestic violence protection order may be inscribed on a tangible copy or may be stored in an electronic or other medium if it is retrievable in a detectable form. Presentation of a certified copy of the domestic violence protection order is not required for enforcement or to allow a law enforcement officer to effect a warrantless arrest. If a domestic violence protection order is not presented to or otherwise confirmed by a law enforcement officer, the officer may consider other information in determining whether there is probable cause to believe that a valid domestic violence protection order exists. The law enforcement officer may arrest the defendant without a warrant although he or she did not personally see the violation. Knowledge by the officer of the existence or contents of, or both, or presentation to the officer by the complainant of, a domestic violence protection order shall constitute prima facie evidence of the validity of the order.

If a law enforcement officer of this state determines that an otherwise valid domestic violence protection order cannot be enforced because the defendant has not been notified or served with the domestic violence protection order, the law enforcement officer shall inform the defendant of the order and allow the person a reasonable opportunity to comply with the order's provisions before enforcing the order. In the event the law enforcement officer provides notice of the domestic violence protection order to the defendant, the officer shall document this fact in the written report.

(Acts 1993, No. 93–325, p. 495, § 4; § 30–5A–4; Act 2011–691, p. 2113, § 1; Act 2015–493, p. 1679, § 2.)

ARTICLE 8.

HUMAN TRAFFICKING.

§ 13A–6–150. Short title.

This article shall be known and may be cited as the Representatives Jack Williams and Merika Coleman Act.

(Act 2010–705, p. 1708, § 1.)

§ 13A–6–151. Definitions.

As used in this article, the following terms shall have the following, or any combination of the following, meanings ascribed to them by this section:

(1) COERCION. Any of the following:

a. Causing or threatening to cause physical injury or mental suffering to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer physical injury, mental suffering, physical restraint, or confinement.

b. Implementing any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in physical injury, mental suffering, or physical restraint of any person.

c. Destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's or any person's actual or purported government records, immigration documents, identifying information, or personal or real property.

d. Exposing or threatening to expose any fact or information that if revealed would tend to subject a person to criminal prosecution, criminal or immigration proceedings, hatred, contempt, or ridicule.

e. Threatening to report the person or another person to immigration officials or to other law enforcement officials or otherwise blackmailing or extorting the person or another person.

f. Use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person or another person to take some action or refrain from taking some action.

g. Controlling a person's access to medications or a controlled substance, as the term is defined in Section 20–2–2.

h. Rape, sodomy, or any other sex offense pursuant to Section 15–20A–5, or attempted or threatened rape, sodomy, or any other sex offense pursuant to Section 15–20A–5 of any person.

(2) DECEPTION. Any of the following:

a. Creating or confirming an impression of any existing fact or past event which is false and which the accused knows or believes to be false.

b. Exerting financial control over the person or another person by placing the person or another person under the actor's control as a security or payment of a debt, if the value of the services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined or the principal amount of the debt does not reasonably reflect the value of the items or services for which debt was incurred or by preventing a person from acquiring information pertinent to the disposition of the debt, referenced in this paragraph.

c. Promising benefits or the performance of services that the accused does not intend to be delivered. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this article.

d. Using any scheme, plan, or pattern, whether overt or subtle, intended to cause any person to believe that, if the person did not perform such labor, services, acts, or performances, the person or another person would suffer physical injury or mental suffering.

(3) LABOR SERVITUDE. Work or service of economic or financial value which is performed or provided by another person and is induced or obtained by coercion or deception.

(4) MENTAL SUFFERING. A high degree of mental pain or emotional disturbances, such as distress, anxiety, public humiliation, or psychosomatic physical symptoms. It is more than mere disappointment, anger, resentment, wounded pride, or embarrassment and must be a direct result of the crime of human trafficking.

(5) MINOR. A person under the age of 19.

(6) PHYSICAL INJURY. Impairment of physical condition or substantial pain.

(7) SEXUAL CONDUCT. Any of the following acts:

a. Sexual Intercourse. This term shall have its ordinary meaning and occurs upon a penetration, however slight; emission is not required.

b. Sodomy. As defined under Section 13A–6–60.

c. Sexual Contact. As defined under Section 13A–6–60.

d. Sexual Torture. As defined under Section 13A–6–65.1.

e. Sexually Explicit Performances. An act or show intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, videotaped, or projected over the Internet.

f. Commercial Sex Acts. Any sex act on account of which anything of value is given, promised to, or received, directly or indirectly, by any person.

(8) SEXUAL SERVITUDE.

a. Except as provided in paragraph b., any sexual conduct for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception from a person.

b. If the sexual conduct is with a minor or with any person who is incapable of consent by reason of being incapacitated, as defined in Section 13A–6–60, no coercion or deception is required.

(9) TRAFFICKING VICTIM. Any person, including minors, subjected to labor servitude, sexual servitude, or involuntary servitude.

(Act 2010–705, p. 1708, § 2; Act 2018–506, § 1; Act 2022–435, § 1.)

§ 13A–6–152. Human trafficking in the first degree.

(a) A person commits the crime of human trafficking in the first degree if:

(1) He or she knowingly subjects another person to labor servitude or sexual servitude;

(2) He or she knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude; or

(3) He or she knowingly gives, or attempts to give, monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual he or she believes to be a minor.

(b) For purposes of this section, it is not required that the defendant have knowledge of a minor victim's age, nor is reasonable mistake of age a defense to liability under this section.

(c) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the first degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

(d) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class A felony.

(e) Human trafficking in the first degree is a Class A felony. In any prosecution under this section where the defendant is nineteen years old or older and there is a minor trafficking victim, the court shall sentence the defendant to a minimum of life imprisonment.

(Act 2010–705, p. 1708, § 3; Act 2018–385, § 1; Act 2018–506, § 1; Act 2024–87, § 2, eff. Oct. 1, 2024.)

§ 13A–6–153. Human trafficking in the second degree.

(a) A person commits the crime of human trafficking in the second degree if:

(1) A person knowingly benefits, financially or by receiving anything of value, from participation in a venture or engagement for the purpose of sexual servitude or labor servitude.

(2) A person knowingly recruits, entices, solicits, induces, harbors, transports, holds, restrains, provides, maintains, subjects, or obtains by any means another person for the purpose of labor servitude or sexual servitude.

(3) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the second degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

(4) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class B felony.

(b) Human trafficking in the second degree is a Class B felony.

(Act 2010–705, p. 1708, § 4; Act 2018–385, § 1.)

§ 13A–6–154. Evidence of certain facts or conditions not deemed a defense.

Evidence of the following facts or conditions shall not constitute a defense in a prosecution for human trafficking in the first or second degree, nor shall the evidence preclude a finding of a violation:

(1) A human trafficking victim's sexual history or history of commercial sexual activity.

(2) A human trafficking victim's connection by blood or marriage to a defendant in the case or to anyone involved in the victim's trafficking.

(3) Consent of or permission by a victim of human trafficking or anyone else on the victim's behalf to any commercial sex act or sexually explicit performance.

(4) Age of consent to sex, an act defined by paragraph b. of subdivision (7) of Section 13A–6–151 of the definition for sexual servitude, legal age of marriage, or other discretionary age.

(5) Mistake as to the human trafficking victim's age, even if the mistake is reasonable.

(Act 2010–705, p. 1708, § 5.)

§ 13A–6–155. Mandatory restitution.

(a) A person or entity convicted of any violation of this article shall be ordered to pay mandatory restitution to the victim, prosecutorial, or law enforcement entity, with the proceeds from property forfeited under Section 13A–6–156 applied first to payment of restitution. Restitution under this section shall include items covered under Article 4A, commencing with Section 15–18–65 of Chapter 18 of Title 15, and any of the following:

(1) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court's discretion.

(2) Costs of necessary transportation, temporary housing, and child care, at the court's discretion.

(3) Cost of the investigation and prosecution, attorney's fees, and other court-related costs such as victim advocate fees.

(4) The greater of a. the value of the human trafficking victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act; or b. the gross income or value to the defendant of the victim's labor servitude or sexual servitude engaged in by the victim while in the human trafficking situation.

(5) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair.

(6) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or household or family members, or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(7) Any and all other losses suffered by the victim as a result of any violation of this article.

(b) For purposes of this section, the return of the victim to his or her home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving restitution.

(Act 2010–705, p. 1708, § 6.)

§ 13A–6–156. Forfeiture of profits or proceeds and interest in property.

A person who commits the offense of human trafficking in the first degree or human trafficking in the second degree shall forfeit to the State of Alabama any profits or proceeds and any interest in property that he or she has acquired or maintained that the sentencing court determines to have been acquired or maintained as a result of committing human trafficking in the first degree or human trafficking in the second degree. Any assets seized

shall first be used to pay restitution to trafficking victims and subsequently to pay any damages awarded to victims in a civil action. Any remaining assets shall go toward the cost of the investigation and prosecution and the remaining assets shall be remitted to funding the Alabama Crime Victims Compensation Fund.

(Act 2010–705, p. 1708, § 7.)

§ 13A–6–157. Civil action by victim; venue; relief awarded.

(a) An individual who is a victim of human trafficking may bring a civil action in the appropriate state court.

(b) Venue for any action brought under this section shall be in the county in which the offense was committed or in any other county into or through which the person upon whom it was committed may have been carried in the commission of the offense. If venue is proper in more than one county, venue shall be in either county.

(c) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where defendant's acts were willful and malicious.

(d) The court shall award a prevailing plaintiff attorney's fees and costs.

(e) Upon commencement of any action brought under this section, the clerk of the court shall mail a copy of the complaint or other initial pleading to the office of the Attorney General and, upon entry of any injunction, judgment, or decree in the action, shall mail a copy of the injunction, judgment, or decree to the office of the Attorney General.

(f) This section does not preclude any other remedy available to the victim under federal law or the laws of this state.

(Act 2010–705, p. 1708, § 8; Act 2018–506, § 1.)

§ 13A–6–157.1. Action by Attorney General; venue.

(a) In addition to any other remedy under this article, if the Attorney General has reason to believe that any person, corporation, or any other legal entity is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful by this article, the Attorney General may bring an action in the name of the state in the appropriate state court against the person, corporation, or entity to restrain by temporary restraining order, or temporary or permanent injunction, the acts or practices.

(b) In addition to any other remedy under this article, the Attorney General may bring a civil action on behalf of the state in the appropriate state court to recover actual damages for victims of acts or practices performed in violation of this article.

(c) Venue for any action brought under this section is in the county in which the offense was committed or in any other county into or through which the person upon whom it was committed may have been carried in the commission of the offense. If venue is proper in more than one county, venue shall be in either county.

(Act 2018–506, § 2.)

§ 13A–6–158. Limitation period.

(a)(1) Except as provided in subsection (c), an action for an offense defined by this article where the victim is not a minor shall be brought within five years from the date the victim was removed or escaped from the human trafficking situation.

(2) Any statute of limitations that would otherwise preclude prosecution for an offense involving the trafficking of a minor, or the physical or sexual abuse of a minor, shall be tolled until such time as the victim has reached the age of 19 years.

(3) The running of the statute of limitations shall be suspended where a person entitled to bring a claim of an offense defined by this article could not have reasonably discovered the crime due to circumstances resulting from the human trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(b) Any statute of limitation period imposed for the filing of a civil action under this article will not begin to run until the plaintiff discovers both that the sex trade act occurred and that the defendant caused, was responsible for, or profited from the sex trade act.

(1) If the plaintiff is a minor, then the limitation period will not commence running until he or she has reached the age of majority.

(2) If the plaintiff is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him or her to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(3) If the plaintiff's injury is caused by two or more acts that are part of a continuing series of sex trade acts by the same defendant, then the limitation period will not commence running until the last sex trade act in the continuing series occurs.

(4) If the plaintiff is subject to threats, intimidation, manipulation, or fraud perpetrated by the defendant or by any person acting in the interest of the defendant, then the time when these acts occur will not be part of the time limited for the commencement of this action.

(c) There shall be no limitation period for civil actions brought under this article by the Attorney General.

(Act 2010–705, p. 1708, § 9; Act 2018–506, § 3.)

§ 13A–6–159. Affirmative defense.

In a prosecution for prostitution, or a sexually explicit performance defined in this article, of a human trafficking victim for the victim's illegal acts engaged in or performed as a result of labor servitude or sexual servitude, it shall be an affirmative defense that the person was a victim of human trafficking.

(Act 2010–705, p. 1708, § 10.)

§ 13A–6–160. Concurrent prosecuting authority; separate offenses.

(a) District attorneys and the Attorney General shall have concurrent authority to prosecute any criminal cases arising under this article and to perform any duty that necessarily appertains to this section.

(b) Each violation under this article shall constitute a separate offense.

(Act 2010–705, p. 1708, § 11.)

§ 13A–6–161. Subpoena power of Attorney General; discovery.

Before the Attorney General commences any action under this article, the Attorney General may issue subpoenas to any person to appear and produce relevant papers, documents, and physical evidence, and administer an oath or affirmation to any person, in aid of any investigation or inquiry into possible violations of this article. The subpoenas shall be served in accordance with the appropriate Alabama Rules of Civil Procedure. Upon failure of a person without lawful excuse to obey such subpoena, the Attorney General may apply to a court of competent jurisdiction for an order compelling compliance. After an action is commenced, discovery may proceed in accordance with the Alabama Rules of Civil Procedure.

(Act 2018–506, § 4.)

§ 13A–6–162. Violations; penalties.

(a) Any person, corporation, or other legal entity who engages in any act or practice that violates this article is liable for a civil penalty of up to fifty thousand dollars ($50,000) for each violation.

(b) Any person, corporation, or other legal entity who violates the terms of an injunction or order issued under this article shall forfeit and pay a civil penalty of not more than seventy-five thousand dollars ($75,000) per violation and shall be adjudged in contempt. For the purpose of this section, any court issuing an injunction or order under this article shall retain jurisdiction, and in such cases the Attorney General may petition for recovery of civil penalties.

(c) Upon a second or continuing violation of an injunction after imposition of the sanctions in subsection (b), and upon petition by the Attorney General, the circuit court of general jurisdiction of a county may order the dissolution or suspension or forfeiture of the franchise of any corporation, partnership, or

sole proprietorship that willfully violates the terms of any injunction issued pursuant to this article.

(d) In any successful action brought by the Attorney General under this section, the court shall award the office of the Attorney General reasonable attorney's fees and costs.

(e) All penalties recovered in actions brought under this section shall be deposited into the State Treasury to the credit of the Attorney General's Special Revenue Account for the purpose of implementing and enforcing this article. Amounts deposited into the Special Revenue Account shall be budgeted and allotted in accordance with Sections 41–4–80 through 41–4–96 and Sections 41–19–1 through 41–19–12.

(Act 2018–506, § 4.)

§ 13A–6–163. Prosecution of human trafficking offenses against minors.

(a) Any violation of this article or any violation of Section 13A–12–111, 13A–12–112, 13A–12–113, 13A–12–121, or 13A–12–121.1, may only be prosecuted in circuit or district court.

(b) Notwithstanding any provision of law to the contrary, this section supersedes any law or ordinance that provides for the prosecution of the offenses included in subsection (a) in municipal court.

(Act 2018–506, § 9.)

ARTICLE 8A.

NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE NOTICE.

§ 13A–6–170. Posting of National Human Trafficking Resource Center Hotline in certain establishments.

(a) All persons owning any establishment that requires a liquor license or alcoholic beverage license, and that does not also have a food or beverage permit, or both; any hotel that has been cited as a nuisance as defined in Sections 13A–12–110 to 13A–12–122, inclusive; any massage parlor where an employee has been cited with violating Section 45–13–41, or where the establishment has been cited as a nuisance as defined in Section 6–5–140; any airport, train station, or bus station; and any business that provides entertainment commonly called stripteasing or topless entertaining or entertainment that has employees who are not clad both above and below the waist shall post in a location conspicuous to the public at the entrance of the business or where such posters and notices are customarily posted, a poster of no smaller than 8 ½ by 11 inches in size that states the following:

> ''If you or someone you know is being forced to engage in any activity and cannot leave — whether it is commercial sex, housework, farm work, or any other activity — call the National Human Trafficking Resource Center Hotline at 1–888–373–7888 to access help and services.

''(1) Victims of human trafficking are protected under U.S. law.

''(2) The Toll-free Hotline is:

''a. Available 24 hours a day, 7 days a week.

''b. Operated by a nonprofit, nongovernmental organization.

''c. Anonymous and confidential.

''d. Accessible in 170 languages.

''e. Able to provide help, referral to services, training, and general information.''

This subsection shall not apply to businesses providing entertainment in theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

(b) The poster shall be available on the Internet website of all of the following:

(1) The Alabama Alcoholic Beverage Control Board where documents associated with obtaining a liquor license or alcoholic beverage license are customarily located.

(2) The Alabama Public Service Commission.

(3) The Alabama Department of Labor.

(c) The owners shall print the poster from any of the Internet websites in subsection (b) or ask that the poster be mailed for the cost of printing and first class postage and post the sign in compliance with subsection (a).

(d) The Alcoholic Beverage Control Board, the Public Service Commission, and the Department of Labor shall post the sign on its Internet site in English, Spanish, and any other language deemed appropriate by the Commissioner of Labor. The owners shall obtain and post the posters in English, Spanish, and any other languages deemed appropriate by the Commissioner of Labor.

(e) The Alcoholic Beverage Control Board, the Public Service Commission, and the Department of Labor shall provide each applicable business or establishment with notice of mandatory compliance of this section.

(f) A person who violates this section shall be subject to a warning on the first violation and a fine not to exceed fifty dollars ($50) for each subsequent violation. The violation or noncompliance with this section, and each day's continuance thereof, shall constitute a separate and distinct violation.

(Act 2012–265, p. 511, § 1.)

ARTICLE 8B.

ALABAMA HUMAN TRAFFICKING SAFE HARBOR ACT.

§ 13A–6–180. Short title.

This article and Sections 12–15–701, 13A–12–123, and 15–5–61 shall be known and may be cited as the Alabama Human Trafficking Safe Harbor Act.

(Act 2016–282, p. 713, § 1.)

§ 13A–6–181. Fines; counseling or educational training programs; pretrial diversion program.

(a)(1) Notwithstanding any other fines, restitution, court costs, or docket fees, upon conviction for the offense of promoting prostitution under Division 1 of Article 3 of Chapter 12, or a violation of subsection (b) or (d) of Section 13A–12–121, a mandatory fine of five hundred dollars ($500) shall be assessed. The court shall order the five hundred dollar ($500) fine to be paid to the clerk of court to be distributed to a court-certified therapeutic counseling entity that provides education, treatment, and prevention counseling to adult persons convicted of prostitution offenses.

(2) Any fine imposed by the court for a second or subsequent conviction under subdivision (1) shall increase by 50 percent for each subsequent conviction through a fourth conviction.

(b) A court may order an adult person convicted of an offense under Division 1 of Article 3 of Chapter 12 or subsection (b) or (d) of Section 13A–12–121 to successfully attend counseling or an educational training program designed to reduce recidivism rates for these violations. Attendance of such programs shall be at the cost and expense of the person convicted of the offense.

(c) An adult person who is charged with an offense under subsection (b) or (d) of Section 13A–12–121 and has no prior arrest or convictions for an offense under Sections 13A–12–111, 13A–12–112, 13A–12–113, and 13A–12–121, or an offense in any other state that has the same or similar elements as those sections, may be accepted into a pretrial diversion program, provided the adult person satisfied the requirements of subsections (a) and (b), as well as any other conditions imposed pursuant to the pretrial diversion program.

(d) Under no circumstance may an adult person be admitted into a pretrial diversion program if he or she has been previously convicted of an offense under Sections 13A–12–111, 13A–12–112, 13A–12–113, and 13A–12–121, or an offense in any other state which has the same or similar elements as those sections.

(e) A person charged with an offense defined under 13A–12–120, in violation of subsection (a) or (c) of Section 13A–12–121, may be accepted in a pretrial diversion program, provided that he or she meets the requirements of

a pretrial diversion program within the jurisdiction where the offense occurred.

(Act 2016–282, p. 713, § 4.)

§ 13A–6–182. Prosecution of misdemeanor prostitution offenses.

Notwithstanding Section 12–14–1, a misdemeanor offense under Article 3 of Chapter 12 of this title, relating to prostitution offenses, including the attempt of any of the misdemeanor offenses included in Article 13, shall be prosecuted in the district court in the county where the offense occurred.

(Act 2016–282, p. 713, § 5.)

§ 13A–6–183. Custody of arrestee; access to resources; photographs.

(a) For the safety and well-being of a person arrested for the crime of prostitution under Division 2 of Article 3 of Chapter 12 he or she may be held in custody for up to 72 hours. The person shall be brought before a court of competent jurisdiction as soon as possible within a 48–hour period to conduct an inquiry into the person's access to resources, such as, but not limited to, health care, shelter, mental health counseling, or financial aid. The court may issue an order to assist the person in obtaining the services and resources needed pursuant to the court's inquiry.

(b) A photograph of a person taken by a law enforcement agency upon the arrest of a person for the crime of prostitution under Division 2 of Article 3 of Chapter 12, is not a public record and may not be published in any printed or electronic media or provided to any person without an order of a district court judge with jurisdiction over the person's criminal case.

(Act 2016–282, p. 713, § 6.)

§ 13A–6–184. Registration of escort business of companionship.

(a) By August 31, 2016, a domestic or interstate business engaging in an escort business of companionship in this state must register with the Secretary of State.

(b)(1) A violation of subsection (a) is a Class A misdemeanor.

(2) A second or subsequent violation of subsection (a) is a Class D felony.

(Act 2016–282, p. 713, § 7.)

ARTICLE 9.

PROTECTING ALABAMA'S ELDERS ACT.

§ 13A–6–190. Short title.

This article shall be known and may be cited as the Protecting Alabama's Elders Act.

(Act 2013–307, p. 1037, § 1; § 38–9E–1; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–191. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) CAREGIVER. An individual who has the responsibility for the care of an elderly person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, for pecuniary gain, by contract, or as a result of the ties of friendship.

(2) DECEPTION. Deception occurs when a person knowingly:

a. Creates or confirms another's impression which is false and which the defendant does not believe to be true.

b. Fails to correct a false impression which the defendant previously has created or confirmed.

c. Fails to correct a false impression when the defendant is under a duty to do so.

d. Prevents another from acquiring information pertinent to the disposition of the property involved.

e. Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is not a matter of official record.

f. Promises performance which the defendant does not intend to perform or knows will not be performed.

(3) ELDERLY PERSON. A person 60 years of age or older.

(4) EMOTIONAL ABUSE. The intentional or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care of any elderly person.

(5) FINANCIAL EXPLOITATION. The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly person's property with the intent to deprive the elderly person of his or her property or the breach of a fiduciary duty to an elderly person by the person's guardian, conservator, or agent under a power of attorney which results in an unauthorized appropriation, sale, or transfer of the elderly person's property.

(6) INTIMIDATION. A threat of physical or emotional harm to an elderly person, or the communication to an elderly person that he or she will be deprived of food and nutrition, shelter, property, prescribed medication, or medical care or treatment.

(7) NEGLECT. The failure of a caregiver to provide food, shelter, clothing, medical services, medication, or health care for an elderly person.

(8) PERSON. A human being.

(9) UNDUE INFLUENCE. Domination, coercion, manipulation, or any other act exercised by another person to the extent that an elderly person is prevented from exercising free judgment and choice.

(Act 2013–307, p. 1037, § 2; § 38–9E–2; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–192. Elder abuse and neglect — First degree.

(a) A person commits the crime of elder abuse and neglect in the first degree if he or she intentionally abuses or neglects any elderly person and the abuse or neglect causes serious physical injury to the elderly person.

(b) Elder abuse and neglect in the first degree is a Class A felony.

(Act 2013–307, p. 1037, § 3; § 38–9E–3; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–193. Elder abuse and neglect — Second degree.

(a) A person commits the crime of elder abuse and neglect in the second degree if he or she does any of the following:

(1) Intentionally abuses or neglects any elderly person and the abuse or neglect causes physical injury to the elderly person.

(2) Recklessly abuses or neglects any elderly person and the abuse or neglect causes serious physical injury to the elderly person.

(3) Recklessly abuses or neglects or emotionally abuses any elderly person having been previously convicted of elder abuse and neglect in the third degree in any court.

(b) Elder abuse and neglect in the second degree is a Class B felony.

(Act 2013–307, p. 1037, § 4; § 38–9E–4; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–194. Elder abuse and neglect — Third degree.

(a) A person commits the crime of elder abuse and neglect in the third degree if he or she does any of the following:

(1) Recklessly abuses or neglects any elderly person and the abuse or neglect causes physical injury.

(2) Recklessly emotionally abuses any elderly person.

(b) Elder abuse and neglect in the third degree is a Class A misdemeanor.

(Act 2013–307, p. 1037, § 5; § 38–9E–5; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–195. Financial exploitation of an elderly person — First degree.

(a) The financial exploitation of an elderly person in which the value of the property taken exceeds two thousand five hundred dollars ($2,500) constitutes financial exploitation of the elderly person in the first degree.

(b) Financial exploitation of an elderly person in the first degree is a Class B felony.

(Act 2013–307, p. 1037, § 6; § 38–9E–6; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–196. Financial exploitation of an elderly person — Second degree.

(a) The financial exploitation of an elderly person in which the value of the property taken exceeds five hundred dollars ($500) but does not exceed two thousand five hundred dollars ($2,500) constitutes financial exploitation of the elderly person in the second degree.

(b) Financial exploitation of an elderly person in the second degree is a Class C felony.

(Act 2013–307, p. 1037, § 7; § 38–9E–7; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–197. Financial exploitation of an elderly person — Third degree.

(a) The financial exploitation of an elderly person in which the value of the property taken does not exceed five hundred dollars ($500) constitutes financial exploitation of the elderly person in the third degree.

(b) Financial exploitation of an elderly person in the third degree is a Class A misdemeanor.

(Act 2013–307, p. 1037, § 8; § 38–9E–8; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–198. Financial exploitation of an elderly person — Prosecution.

(a) In any prosecution brought for financial exploitation of an elderly person, the crime shall be considered to be committed in any county in which any part of the crime took place, regardless of whether the defendant was ever actually present in that county, or in the county of residence of the person who is the subject of the financial exploitation.

(b) Any prosecution brought for financial exploitation of an elderly person shall be commenced within seven years after the commission of the offense.

(c) It shall not be a defense to financial exploitation of an elderly person that the accused reasonably believed that the victim was not an elderly person.

(Act 2013–307, p. 1037, § 9; § 38–9E–9; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–199. Liability of persons reporting or investigating violations.

Any person or entity acting pursuant to this article in reporting or investigating any report of abuse, neglect, or financial exploitation of an elderly person, or participating in a judicial proceeding resulting therefrom, shall be immune from any civil liability that might otherwise be incurred or imposed as a result of the report, investigation, or participation, unless the person or entity acted recklessly, in bad faith, or with malicious purpose.

(Act 2013–307, p. 1037, § 10; § 38–9E–10; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–200. Remedies.

Nothing in this article shall be construed to limit the remedies available to the victim pursuant to any state law relating to domestic violence, the Adult Protective Services Act of 1976, or any other applicable law.

(Act 2013–307, p. 1037, § 11; § 38–9E–11; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

§ 13A–6–201. Liability of physicians.

No physician, as defined under Section 34–24–50.1, who is licensed to practice medicine in this state, shall be subject to Sections 13A–6–192, 13A–6–193, and 13A–6–194 for any acts or omissions constituting the practice of medicine.

(Act 2013–307, p. 1037, § 12; § 38–9E–12; renumbered by Act 2014–346, p. 1289, § 1(b)(7).)

ARTICLE 10.

BESTIALITY.

§ 13A–6–220. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) SEXUAL CONDUCT. Any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer

or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.

(2) SEXUAL CONTACT. Any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal for the purpose of sexual gratification or sexual arousal of the person.

(Act 2014–275, p. 879, § 1.)

§ 13A–6–221. Bestiality.

(a) A person commits the crime of bestiality if he or she:

(1) Knowingly engages in or submits to any sexual conduct or sexual contact with an animal.

(2) Knowingly causes, aids, or abets another in engaging in any sexual conduct or sexual contact with an animal.

(3) Knowingly permits any sexual conduct or sexual contact with an animal upon premises under his or her control.

(4) Knowingly organizes, promotes, conducts, advertises, aids, abets, observes, or performs any service furthering an act involving sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(b) Bestiality is a Class A misdemeanor.

(c) This article shall not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medicine practices.

(Act 2014–275, p. 879, § 2.)

ARTICLE 11.

ADDITIONAL SEXUAL OFFENSES.

§ 13A–6–240. Distributing a private image; creating a private image.

(a)(1) A person commits the crime of distributing a private image if he or she knowingly posts, emails, texts, transmits, or otherwise distributes a private image when the depicted individual has not consented in writing to the transmission and the depicted individual had a reasonable expectation of privacy against transmission of the private image.

(2) A person commits the crime of creating a private image if he or she knowingly creates, records, or alters a private image when the depicted individual has not consented to the creation, recording, or alteration and the depicted individual had a reasonable expectation of privacy against the creation, recording, or alteration of the private image.

(b)(1) For purposes of this section, ''private image'' means a photograph, digital image, video, film, or other recording of an individual who is

identifiable from the recording itself or from the circumstances of its transmission and who is engaged in any act of sexually explicit conduct, as defined in Section 13A–12–190.

(2) The term includes both of the following:

a. A recording that has been edited, altered, or otherwise manipulated from its original form.

b. A recording that a reasonable person would believe actually depicts an identifiable individual, regardless of whether any portion of the recording depicts another individual or is artificially generated.

(c)(1) For purposes of this section, a ''reasonable expectation of privacy'' includes, but is not limited to, either of the following circumstances:

a. The individual depicted in the private image created it or consented to its creation believing that it would remain confidential.

b. The sexual conduct depicted in the image was involuntary.

(2) There is no reasonable expectation of privacy against the transmission of a private image made voluntarily in a public setting or made with prior written consent in a commercial setting.

(d) It is a defense to distributing a private image if the distribution of the private image was made in the public interest, including, but not limited to, the reporting of unlawful conduct; the lawful and common practices of law enforcement, legal proceedings, or medical treatment; or a bona fide attempt to prevent further distribution of the private image.

(e) The crimes of distributing a private image and creating a private image shall be considered to be committed in any county in which any part of the crime took place, in the county of residence of the victim or defendant, or any county where the image is received.

(f) A violation of this section is a Class A misdemeanor. A subsequent adjudication or conviction under this section is a Class C felony.

(g) If the Attorney General has reason to believe a person has engaged in, or is engaging in, a violation of this section, the Attorney General may petition for an emergency injunction or other necessary relief to enjoin the violation, and may order the person to provide a copy of the written consent required by this section.

(h) No Internet service provider, search engine, cloud service provider, or affiliate or subsidiary of any of the same, shall be held to have violated this section solely for providing access or connection to or from a website, other information or content on the Internet, or a facility, system, or network not under the control of the provider, including, but not limited to, the transmission, download, intermediate storage, or access software of content that is a private image or is child sexual abuse material to the extent the provider is not responsible for the creation of the content of the communication that constitutes the private image or child sexual abuse material.

(i) No developer or provider of technology shall be held to have violated this section solely for providing or developing technology used by another person to violate this section.

(Act 2017–414, § 1; Act 2023–464, § 1, eff. Sept. 1, 2023; Act 2024–96, § 1, eff. Oct. 1, 2024; Act 2024–97, § 11, eff. Oct. 1, 2024; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–6–241. Sexual extortion.

(a) A person commits the crime of sexual extortion if he or she knowingly causes or attempts to cause another person to engage in sexual intercourse, sodomy, sexual contact, or in a sexual act or to produce any photograph, digital image, video, film, or other recording of any person, whether recognizable or not, engaged in any act of sadomasochistic abuse, sexual intercourse, sodomy, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct by communicating any threat to injure the body, property, or reputation of any person.

(b) Sexual extortion is a Class B felony.

(Act 2017–414, § 2; Act 2019–465, § 1.)

§ 13A–6–242. Assault with bodily fluids.

(a) A person commits the crime of assault with bodily fluids if he or she knowingly causes or attempts to cause another person to come into contact with a bodily fluid unless the other person consented to the contact or the contact was necessary to provide medical care.

(b) For purposes of this section, a bodily fluid is blood, saliva, seminal fluid, mucous fluid, urine, or feces.

(c) Assault with bodily fluids is a Class A misdemeanor; provided, however, a violation of this section is a Class C felony if the person commits the crime of assault with bodily fluids knowing that he or she has a communicable disease.

(Act 2017–414, § 3.)

§ 13A–6–243. Directing a child to engage in sexual intercourse or sodomy.

(a)(1) A person commits the crime of directing a child to engage in sexual intercourse or sodomy if he or she knowingly entices, allures, persuades, induces, or directs any person under the age of 12 years to engage in sexual intercourse or sodomy with another person.

(2) Directing a child to engage in sexual intercourse or sodomy is a Class A felony.

(b)(1) A person commits the crime of directing a child to engage in sexual contact if he or she knowingly entices, allures, persuades, induces, or directs

any person under the age of 12 years to engage in sexual contact with another person.

(2) A violation of this section is a Class B felony.

(Act 2017–414, § 4; Act 2019–465, § 1.)

ARTICLE 12.

CRIMINAL ENTERPRISES.

§ 13A–6–260. Definitions.

For the purposes of this article, the following terms have the following meanings:

(1) CRIMINAL ENTERPRISE. Any combination, confederation, alliance, network, conspiracy, understanding, or other similar arrangement in law or in fact, including a streetgang as defined in Section 13A–6–26, of three or more persons, through its membership or through the agency of any member, that engages in a course or pattern of criminal activity.

(2) CRIMINAL ENTERPRISE MEMBER. An individual who meets three or more of the following at the time of the planning or commission of the underlying offense:

a. Admits to criminal enterprise membership.

b. Is voluntarily identified as a criminal enterprise member by a parent or guardian.

c. Is identified as a criminal enterprise member by a reliable informant.

d. Adopts the style of dress of a criminal enterprise.

e. Adopts the use of a hand sign identified as used by a criminal enterprise.

f. Has a tattoo identified as used by a criminal enterprise.

g. Associates with one or more known criminal enterprise members.

h. Is identified as a criminal enterprise member by physical evidence.

i. Has been observed in the company of one or more known criminal enterprise members four or more times. Observation in a custodial setting requires a willful association. This paragraph may be used to identify criminal enterprise members who recruit and organize in jails, prisons, and other detention settings.

j. Has authored any communication indicating responsibility for the commission of any crime by a criminal enterprise. Where a single act or factual transaction satisfied the requirements of more than one of the criteria in this subdivision, each of those criteria has been satisfied for the purposes of this subdivision.

(3) DESTRUCTIVE DEVICE. The same meaning as in Section 13A–10–190.

(4) FIREARM. Any of the following:

a. Any weapon which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive or the frame or receiver of any such weapon.

b. A firearm silencer.

c. A destructive device.

(5) FIREARMS SILENCER. Any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer, and any part intended only for use in such assembly or fabrication.

(6) MACHINE GUN. Any weapon that shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(7) SHORT–BARRELED RIFLE. The same meaning as in Section 13A–11–62.

(8) SHORT–BARRELED SHOTGUN. The same meaning as in Section 13A–11–62.

(Act 2023–416, § 1, eff. Sept. 1, 2023.)

§ 13A–6–261. Sentence enhancement for benefiting, promoting, or furthering the interest of a criminal enterprise.

Upon a finding, beyond a reasonable doubt, that a criminal enterprise member has committed the charged offense for the purpose of benefiting, promoting, or furthering the interest of a criminal enterprise, the following sentencing enhancements shall apply:

(1) On conviction of a Class A felony, he or she shall be punished not less than 25 years.

(2) On conviction of a Class B felony, he or she shall be punished for a Class A felony.

(3) On conviction of a Class C felony, he or she shall be punished for a Class B felony.

(Act 2023–416, § 1, eff. Sept. 1, 2023.)

§ 13A–6–262. Knowingly possessing, using, or carrying firearm during the commission of a criminal act benefiting, promoting, or furthering the interest of a criminal enterprise.

(a) Any individual who knowingly possesses, uses, or carries a firearm during the commission of any criminal act intended to benefit, promote, or further the interest of a criminal enterprise shall be punished as follows:

(1) To a term of imprisonment of not less than five years.

(2) If the firearm is brandished, to a term of imprisonment of not less than seven years.

(3) If the firearm is discharged, to a term of imprisonment of not less than 10 years.

(4) If the firearm possessed is a short-barreled rifle or short-barreled shotgun, to a term of imprisonment of not less than 10 years.

(5) If the firearm possessed is a machine gun, a destructive device, or is equipped with a firearm silencer, to a term of imprisonment of not less than 30 years.

(b) The term of imprisonment imposed under subsection (a) shall be served day for day and shall not be reduced or suspended by any provision of law.

(c) No term of imprisonment imposed on a person pursuant to this section shall run concurrently with any term of imprisonment, including any term of imprisonment imposed pursuant to Section 13A–6–261.

(d) An offender sentenced pursuant to Section 13A–6–261, who is also convicted of a violation under this section, shall serve the term of imprisonment imposed pursuant to this section before serving the term of imprisonment imposed pursuant to Section 13A–6–261.

(Act 2023–416, § 1, eff. Sept. 1, 2023.)

§ 13A–6–263. Annual report.

The Attorney General, in coordination with the district attorneys, shall annually report to the Legislature the number of convictions secured under this article.

(Act 2023–416, § 1, eff. Sept. 1, 2023.)

Article 13.

Alabama Adults with Disabilities Protection Act.

§ 13A–6–280. Short title.

This article shall be known as and may be cited as the Alabama Adults with Disabilities Protection Act.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–281. Definitions.

For the purposes of this article, the following terms have the following meanings:

(1) Adult with a disability. Any of the following: (i) an individual 18 years of age or older who has physical or mental impairment that substantially limits one or more major life activities; and (ii) any protected person as defined in Section 38–9–2.

(2) CAREGIVER. An individual who has the responsibility for the care of an adult with a disability as a result of a family relationship or who has assumed the responsibility for the care of the individual voluntarily, for pecuniary gain, by contract, or as a result of the ties of friendship.

(3) FINANCIAL EXPLOITATION. Any of the following:

a. The wrongful or unauthorized taking, appropriating, or use of money, assets, or property of an adult with a disability.

b. Any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an adult with a disability, to:

1. Obtain control through deception, intimidation, or undue influence over the money, assets, or property of an adult with a disability to deprive the adult with a disability of the ownership, use, benefit, or possession of his or her money, assets, or property; or

2. Convert money, assets, or property of the adult with a disability to deprive the adult with a disability of the ownership, use, benefit, or possession of his or her money, assets, or property.

(4) INTIMIDATION. A threat of physical or emotional harm to an adult with a disability, or the communication to an adult with a disability, that he or she will be deprived of food and nutrition, shelter, property, prescribed medication, or medical care or treatment.

(5) NEGLECT. The failure of a caregiver to provide food, shelter, clothing, medical services, medication, or health care for an adult with a disability.

(6) PERSON. A human being.

(7) UNDUE INFLUENCE. Domination, coercion, manipulation, or any other act exercised by another person to the extent that an adult with a disability is prevented from exercising free judgment and choice.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–282. Abuse and neglect of an adult with a disability — First degree.

(a) A person commits the crime of abuse and neglect of an adult with a disability in the first degree if he or she intentionally abuses or neglects any adult with a disability and the abuse or neglect causes serious physical injury to the adult with a disability.

(b) Abuse and neglect of an adult with a disability in the first degree is a Class A felony.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–283. Abuse and neglect of an adult with a disability — Second degree.

(a) A person commits the crime of abuse and neglect of an adult with a disability in the second degree if he or she does any of the following:

(1) Intentionally abuses or neglects any adult with a disability and the abuse or neglect causes physical injury to the adult with a disability.

(2) Recklessly abuses or neglects any adult with a disability and the abuse or neglect causes serious injury to the adult with a disability.

(3) Recklessly abuses or neglects any adult with a disability having been previously convicted of abuse and neglect of an adult with a disability in the third degree in any court.

(b) Abuse and neglect of an adult with a disability in the second degree is a Class B felony.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–284. Abuse and neglect of an adult with a disability — Third degree.

(a) A person commits the crime of abuse and neglect of an adult with a disability in the third degree if he or she recklessly abuses or neglects any adult with a disability and the abuse or neglect causes physical injury.

(b) Abuse and neglect of an adult with a disability in the third degree is a Class A misdemeanor.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–285. Financial exploitation of an adult with a disability — First degree.

(a) The financial exploitation of an adult with a disability in which the value of the property taken exceeds two thousand five hundred dollars ($2,500) constitutes financial exploitation of an adult with a disability in the first degree.

(b) Financial exploitation of an adult with a disability in the first degree is a Class B felony.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–286. Financial exploitation of an adult with a disability — Second degree.

(a) The financial exploitation of an adult with a disability in which the value of the property taken exceeds five hundred dollars ($500) but does not exceed two thousand five hundred dollars ($2,500) constitutes financial exploitation of an adult with a disability in the second degree.

(b) Financial exploitation of an adult with a disability in the second degree is a Class C felony.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–287. Financial exploitation of an adult with a disability — Third degree.

(a) The financial exploitation of an adult with a disability in which the value of the property taken does not exceed five hundred dollars ($500) constitutes financial exploitation of an adult with a disability in the third degree.

(b) Financial exploitation of an adult with a disability in the third degree is a Class A misdemeanor.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–288. Financial exploitation of an adult with a disability — Prosecution.

(a) In any prosecution brought for financial exploitation of an adult with a disability, the crime shall be considered to be committed in any county in which any party to the offense was located at the time of the commission of the offense, regardless of whether the defendant was ever actually present in that county, or in the county of residence of the person who is the victim of the financial exploitation.

(b) Any prosecution brought for financial exploitation of an adult with a disability shall be commenced within seven years after the date of discovery of the offense.

(c) It shall not be a defense to financial exploitation of an adult with a disability that the accused reasonably believed that the victim was not an adult with a disability.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

§ 13A–6–289. Remedies.

Nothing in this article shall be construed to limit the remedies available to the victims pursuant to any state law relating to domestic violence, the Adult Protective Services Act of 1976, Chapter 9 of Title 38, or any other applicable law.

(Act 2024–348, § 1, eff. Oct. 1, 2024.)

CHAPTER 7.

OFFENSES INVOLVING DAMAGE TO AND INTRUSION UPON PROPERTY.

ARTICLE 1.

BURGLARY AND CRIMINAL TRESPASS.

§ 13A–7–1. Definitions.

The following definitions are applicable to this article:

(1) BUILDING. Any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and such term includes any vehicle, aircraft or watercraft used for the lodging of persons or carrying on business therein, and such term includes any railroad box car or other rail equipment or trailer or tractor trailer or combination thereof. Where a building consists of two or more units separately occupied or secure, each shall be deemed both a separate building and a part of the main building.

(2) DWELLING. A building which is used or normally used by a person for sleeping, living or lodging therein.

(3) ENTER OR REMAIN UNLAWFULLY. A person ''enters or remains unlawfully'' in or upon premises when he is not licensed, invited or privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of such premises or other authorized person. A license or privilege to enter or remain in a building which is partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privileges unless notice against trespass is personally communicated to him by the owner of such land or other authorized person, or unless such notice is given by posting in a conspicuous manner.

(4) POSTING IN A CONSPICUOUS MANNER. A sign or signs posted on the property, reasonably likely to come to the attention of intruders, indicating that entry is forbidden or the placement of identifying purple paint marks on trees or posts on the property, provided that the marks satisfy all of the following:

a. Are vertical lines of not less than eight inches in length and not less than one inch in width.

b. Are placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground.

c. Are placed at locations that are readily visible to any person approaching the property and are no more than 100 feet apart on forest land or 1,000 feet apart on land other than forest land.

(5) PREMISES. Such term includes any ''building,'' as herein defined, and any real property.

(Acts 1977, No. 607, p. 812, § 2601; Acts 1983, No. 83–742, p. 1222; Act 2016–402, p. 1073, § 1.)

§ 13A–7–2. Criminal trespass in the first degree.

(a) A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a dwelling or on the premises of any

cultivator or processor, as those terms are defined in Section 20–2A–3, or on the premises of any cultivation or processing operation that is part of an integrated facility, as defined in Section 20–2A–3.

(b) Criminal trespass in the first degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2605; Act 2021–450, § 5.)

§ 13A–7–3. Criminal trespass in the second degree.

(a) A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in a building or upon real property which is fenced or enclosed in a manner designed to exclude intruders.

(b) Criminal trespass in the second degree is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 2606.)

§ 13A–7–4. Criminal trespass in the third degree.

(a) A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises.

(b) Criminal trespass in the third degree is a violation.

(Acts 1977, No. 607, p. 812, § 2607.)

§ 13A–7–4.1. Criminal trespass by motor vehicle.

(a) A person commits the offense of criminal trespass by motor vehicle when the person, after having been requested not to do so by a uniformed law enforcement officer or by a properly identified owner or an authorized agent of the owner, parks or stands an occupied or unoccupied motor vehicle in, or repeatedly drives a motor vehicle through or within, a parking area which is located on privately owned property and is provided by a merchant, a group of merchants, or a shopping center or other similar facility for customers if:

(1) The parking area is identified by at least one sign as specified in this paragraph, and if the parking area contains more than 150 parking spaces, then by at least one such sign for every 150 parking spaces, each such sign shall be substantially as follows:

Notice

Private Property

Entry restricted to our tenants, their customers, employees and invitees. Remaining after proper use is prohibited. Violators may be charged with trespassing.

Owner of Shopping Center

(2) And the motor vehicle is parked, is standing, or is being operated other than for the purpose of:

a. Transporting some person to or from the interior of the place of business of a merchant identified by the sign or signs in the parking area

or to or from the interior of the shopping center or other facility so identified;

b. Making use of a telephone, vending machine, automatic teller machine, or other similar facility located in the parking area;

c. Meeting the requirements of a situation in which it has unexpectedly become impossible or impractical for the motor vehicle to continue to travel on the public roads; or

d. Carrying out an activity for which express permission has been given by the owner of the parking area or an authorized representative of the owner.

(b) A person who commits the offense of criminal trespass by motor vehicle shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine:

(1) Not to exceed $50.00 for the first such offense;

(2) Not to exceed $100.00 for the second such offense; and

(3) Not to exceed $150.00 for the third or subsequent such offense.

(Acts 1990, No. 90–664, p. 1280, §§ 1, 2.)

§ 13A–7–4.2. Trespass on a school bus in the first degree.

(a) This section shall be known and may be cited as the Charles ''Chuck'' Poland, Jr., Act.

(b) A person commits the crime of trespass on a school bus in the first degree if he or she is found guilty of doing any of the following:

(1) Intentionally demolishing, destroying, defacing, injuring, burning, or damaging any public school bus.

(2) Entering a public school bus while the door is open to load or unload students without a lawful purpose, while at a railroad grade crossing, or after being forbidden from doing so by the authorized school bus driver in charge of the bus, or upon demand of a principal of a school to which the bus is assigned or other duly authorized school system official.

(3) As an occupant of a public school bus, refusing to leave the bus on demand of the authorized school bus driver in charge of the bus, or upon demand of a principal of a school to which the bus is assigned or other duly authorized school system official.

(4) Intentionally stopping, impeding, delaying, or detaining any public school bus being operated for public school purposes with the intent to commit a crime therein.

(c) The crime of trespass on a school bus in the first degree is a Class A misdemeanor.

(d) Subdivisions (2), (3), and (4) of subsection (b) do not apply to a child who is less than 12 years of age or to authorized school personnel who are boarding the school bus as a part of their job assignment.

(Act 2013–347, p. 1245, §§ 1, 2.)

§ 13A–7–4.3. Unauthorized entry of a critical infrastructure facility.

(a) For the purposes of this section, the following words have the following meanings:

(1) CRITICAL INFRASTRUCTURE. A system or asset, whether physical or virtual, so vital to the United States that the incapacity or destruction of the system or asset would have a debilitating impact on security, national economic security, national public health, or national public safety.

(2) CRITICAL INFRASTRUCTURE FACILITY. The term includes, but is not limited to, any of the following, including any critical infrastructure located on or in any of the following types of facilities:

a. A chemical, polymer, or rubber manufacturing facility.

b. A pipeline.

c. A refinery.

d. An electrical power generating facility.

e. The area surrounding an electrical power generating facility.

f. An electrical transmission tower.

g. An electrical substation or distribution substation.

h. An electric utility control center.

i. Electrical communication equipment.

j. An electrical switching station.

k. Electric power lines, power storage equipment, or other utility equipment.

l. Any portion of a public water system or public wastewater treatment system.

m. A natural gas transmission compressor station.

n. A liquefied natural gas (LNG) terminal or storage facility.

o. A natural gas distribution facility, including, but not limited to, a pipeline interconnection, a city gate or town border station, a metering station, aboveground piping, a regular station, or a natural gas or hydrocarbon storage or production facility.

p. A mining operation.

q. Beneficiation infrastructure or mining infrastructure.

r. A transportation facility such as a port, airport, railroad operating facility, or trucking terminal.

s. Wireline or wireless communications infrastructure.

t. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids.

u. A steelmaking facility that uses an electric arc furnace.

v. A dam that is regulated by the state or federal government.

w. A crude oil or refined products storage or distribution facility, including, but not limited to, a valve site, a pipeline interconnection, a pump station, a metering station, below ground piping, above ground piping, or a truck loading or offloading facility.

(3) FRAUDULENT DOCUMENTS FOR IDENTIFICATION PURPOSES. A document that is presented as being a bona fide document that provides personal identification information but which, in fact, is false, forged, altered, or counterfeit.

(4) PERSON. An individual, trust, estate, corporation, partnership, limited partnership, limited liability partnership, limited liability company, or unincorporated nonprofit association having a separate legal existence under state law.

(5) UNMANNED AIRCRAFT SYSTEM. A powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, may fly autonomously through an onboard computer or be piloted remotely, and may be expendable or recoverable. The term does not include a satellite orbiting the Earth or a spacecraft beyond Earth's atmosphere and may not be construed to implicate the provider of a telecommunications link between an owner or operator of an unmanned aircraft system and the unmanned aircraft system.

(b) A person commits the crime of unauthorized entry of a critical infrastructure facility if the person does any of the following:

(1) Intentionally enters without authority into any structure or onto any premises belonging to another that constitutes in whole or in part a critical infrastructure facility that is completely enclosed by any type of physical barrier or clearly marked with a sign or signs that are posted in a conspicuous manner and indicate that unauthorized entry is forbidden.

(2) Uses or attempts to use a fraudulent document for identification for the purpose of entering a critical infrastructure facility.

(3) Remains on the premises of a critical infrastructure facility after having been forbidden to do so, either orally or in writing, by any owner, lessee, or custodian of the property or by any other authorized person.

(4) Intentionally enters into a restricted area of a critical infrastructure facility which is marked as a restricted or limited access area that is completely enclosed by any type of physical barrier when the person is not authorized to enter the restricted or limited access area.

(c) A person who commits the crime of unauthorized entry of a critical infrastructure facility is guilty of a Class A misdemeanor.

(d) If, during the commission of the crime of unauthorized entry of a critical infrastructure facility, the person injures, removes, destroys, or breaks critical infrastructure property, or otherwise interrupts or interferes with the operations of a critical infrastructure asset, the person is guilty of a Class C felony.

(e) A person who commits the crime of unauthorized entry of a critical infrastructure facility while possessing or operating an unmanned aircraft

system with an attached weapon, firearm, explosive, destructive device, or ammunition is guilty of a Class C felony.

(f) Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including, but not limited to, any labor dispute between any employer and its employee.

(g) Nothing in this section shall be construed to prohibit the state, a county, or a municipality from taking any lawful action on their respective rights-of-way.

(Act 2016–390, p. 1045, § 1; Act 2022–34, § 1; Act 2024–395, § 1, eff. Oct. 1, 2024.)

§ 13A–7–5. Burglary in the first degree.

(a) A person commits the crime of burglary in the first degree if he or she knowingly and unlawfully enters or remains unlawfully in a dwelling with intent to commit a crime therein, and, if, in effecting entry or while in dwelling or in immediate flight therefrom, the person or another participant in the crime:

(1) Is armed with explosives; or

(2) Causes physical injury to any person who is not a participant in the crime; or

(3) In effecting entry, is armed with a deadly weapon or dangerous instrument or, while in the dwelling or immediate flight from the dwelling, uses or threatens the immediate use of a deadly weapon or dangerous instrument against another person. The use of or threatened use of a deadly weapon or dangerous instrument does not include the mere acquisition of a deadly weapon or dangerous instrument during the burglary.

(b) Burglary in the first degree is a Class A felony.

(Acts 1977, No. 607, p. 812, § 2610; Acts 1979, No. 79–471, p. 862, § 1; Act 2006–198, p. 286, § 1.)

§ 13A–7–6. Burglary in the second degree.

(a) A person commits the crime of burglary in the second degree if he or she knowingly enters or remains unlawfully in a building with intent to commit theft or a felony therein and, if in effecting entry or while in the building or in immediate flight therefrom, the person or another participant in the crime:

(1) Is armed with explosives; or

(2) Causes physical injury to any person who is not a participant in the crime; or

(3) In effecting entry, is armed with a deadly weapon or dangerous instrument or, while in the building or in immediate flight from the building, uses or threatens the immediate use of a deadly weapon or

dangerous instrument against another person. The use of or threatened use of a deadly weapon or dangerous instrument does not include the mere acquisition of a deadly weapon or dangerous instrument during the burglary.

(b) In the alternative to subsection (a) of this section, a person commits the crime of burglary in the second degree if he or she unlawfully enters a lawfully occupied dwelling-house with intent to commit a theft or a felony therein.

(c) Burglary in the second degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 2611; Acts 1978, No. 770, p. 1110, § 1; Acts 1979, No. 79–471, p. 862, § 1; Act 2006–198, p. 286, § 1.)

§ 13A–7–7. Burglary in the third degree.

(a) A person commits the crime of burglary in the third degree if any of the following occur:

(1) He or she knowingly enters or remains unlawfully in a dwelling with the intent to commit a crime therein.

(2) He or she knowingly enters or remains unlawfully in an occupied building with the intent to commit a crime therein.

(3) He or she knowingly enters or remains unlawfully in an unoccupied building with the intent to commit a crime therein.

(4) He or she knowingly enters or remains unlawfully in a dwelling and intentionally causes one thousand dollars ($1,000) or more in damage to the dwelling.

(b) Burglary in the third degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 2612; Acts 1979, No. 79–471, p. 862, § 1; Act 2015–185, p. 476, § 2; Act 2024–237, § 2, eff. June 1, 2024.)

§ 13A–7–8. Possession of burglar's tools.

(a) A person commits the crime of possession of burglar's tools if he:

(1) Possesses any explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking; and

(2) Intends to use the thing possessed in the commission of an offense of the nature described in subdivision (a) (1) of this section.

(b) Possession of burglar's tools is a Class C felony.

(Acts 1977, No. 607, p. 812, § 2615.)

ARTICLE 2.

CRIMINAL DAMAGE TO PROPERTY.

§ 13A–7–20. Definitions.

The definitions contained in Sections 13A–7–40 and 13A–8–1 are applicable in this article unless the context otherwise requires.

(Acts 1977, No. 607, p. 812, § 2701.)

§ 13A–7–21. Criminal mischief in the first degree.

(a) A person commits the crime of criminal mischief in the first degree if, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, he or she inflicts damages to property:

(1) In an amount exceeding two thousand five hundred dollars ($2,500); or

(2) By means of an explosion.

(b) Criminal mischief in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 2705; Act 2003–355, p. 962, § 1.)

§ 13A–7–22. Criminal mischief in the second degree.

(a) A person commits the crime of criminal mischief in the second degree if, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, he or she inflicts damages to property in an amount which exceeds five hundred dollars ($500) but does not exceed two thousand five hundred dollars ($2,500).

(b)(1) Criminal mischief in the second degree is a Class A misdemeanor punishable as provided by law.

(2) Upon a second conviction of criminal mischief in the second degree within a five-year period involving damage to a church or other religious building, or damage to property in a church or other religious building, the defendant shall be sentenced to a mandatory minimum sentence of not less than 10 days in jail and upon a third or subsequent conviction of criminal mischief in the second degree within a five-year period involving damage to a church or other religious building, or damage to property in a church or other religious building, the defendant shall be sentenced to a mandatory minimum sentence of not less than 30 days in jail.

(3) Upon conviction for criminal mischief in the second degree involving a church or other religious building or damage to property in a church or other religious building, the court shall order restitution as a first priority before the payment of fines, court costs, or other court ordered payments.

(Acts 1977, No. 607, p. 812, § 2706; Act 2003–355, p. 962, § 1; Act 2015–78, p. 282, § 1.)

§ 13A–7–23. Criminal mischief in the third degree.

(a) A person commits the crime of criminal mischief in the third degree if, with intent to damage property, and having no right to do so or any reasonable ground to believe that he or she has such a right, he or she inflicts damages to property in an amount not exceeding five hundred dollars ($500).

(b) Criminal mischief in the third degree is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 2707; Act 2003–355, p. 962, § 1.)

§ 13A–7–23.1. Desecration, defacement, etc., of memorial of dead; invasion or mutilation of corpse.

(a) Any person who willfully or maliciously injures, defaces, removes, or destroys any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or any enclosure for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead, or any person who willfully and wrongfully or maliciously destroys, removes, cuts, breaks, or injures any tree, shrub, plant, flower, decoration, or other real or personal property within any cemetery or graveyard shall be guilty of a Class A misdemeanor.

(b) Any person who willfully or maliciously desecrates, injures, defaces, removes, or destroys any tomb, monument, structure, or container of human remains, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, and invades or mutilates the human corpse or remains shall be guilty of a Class C felony and upon conviction the person shall be punished as provided by law.

(c) The provisions of subsections (a) and (b) shall not apply to any person holding a permit issued by the Alabama Historical Commission pursuant to subsection (d), to anyone operating a cemetery under standard rules and regulations and maintenance procedures, or to any person otherwise authorized by law to remove or disturb a tomb, monument, grave marker, burial mound, earthen or shell monument, or similar structure, or its contents, as described in subsections (a) and (b), nor shall subsections (a) and (b) apply to any person authorized to take any action on municipal property.

(d) The Alabama Historical Commission, to provide for the lawful preservation, investigation, restoration, or relocation of human burial remains, human skeletal remains, or funerary objects, shall promulgate rules and regulations for the issuance of a permit and may issue a permit to persons or companies who seek to restore, preserve, or relocate human burial remains, human skeletal remains, funerary objects, or otherwise disturb, a place of burial.

(Acts 1980, No. 80–706, p. 1424; Acts 1993, No. 93–770, § 1; Acts 1993, 1st Ex. Sess., No. 93–905, p. 201, § 1; Act 2010–723, p. 1798, § 1.)

§ 13A–7–24. Criminal tampering — Definitions.

The following definitions apply to Sections 13A–7–25 and 13A–7–26:

(1) TAMPER. To improperly interfere, meddle with or make an unwarranted alteration in the condition of property of another.

(2) PROPERTY. As used in the context of Sections 13A–7–25 and 13A–7–26, such term means any tangible or intangible property, real or personal, public or private, and includes the commodities and services of a utility nature, such as gas, electricity, steam and water.

(3) UTILITY. An enterprise which provides gas, electric, steam, water, sewage, transportation or communication services, cable and broadband services, and any institution that provides health and safety protection or other public services; it may be either publicly or privately owned.

(Acts 1977, No. 607, p. 812, § 2710; Act 2013–74, p. 155, § 1.)

§ 13A–7–25. Criminal tampering in the first degree.

(a) A person commits the crime of criminal tampering in the first degree if the person does any of the following:

(1) Having no right to do so or any reasonable ground to believe that he or she has such a right, intentionally causes substantial interruption or impairment of a service rendered to the public by a utility.

(2) Threatens an individual with a deadly weapon or dangerous instrument with the intent to obstruct the operation of a utility. This subdivision only applies if the individual is working under the procedures and within the scope of his or her duties as an employee of the utility and has properly identified himself or herself when asked by stating his or her name, employer, and purpose of work.

(b) Criminal tampering in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 2711; Act 2013–74, p. 155, § 1.)

§ 13A–7–26. Criminal tampering in the second degree.

(a) A person commits the crime of criminal tampering in the second degree if, having no right to do so or any reasonable ground to believe that he has such a right, he:

(1) Intentionally tampers with property of another for the purpose of causing substantial inconvenience to that person or to another; or

(2) Intentionally tampers or makes connection with property of a utility.

(b) Criminal tampering in the second degree is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 2712.)

§ 13A–7–27. Criminal use of noxious substance.

(a) A person commits the crime of criminal use of a noxious substance if he knowingly deposits on the land or in the building or vehicle of another,

without his consent, any stink bomb or device, irritant or offensive-smelling substance, with the intent to interfere with another's use of the land, building or vehicle.

(b) Criminal use of a noxious substance is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2715.)

§ 13A–7–28. Criminal possession of noxious substances.

(a) A person commits the crime of criminal possession of noxious substances if he possesses, manufactures or transports any stink bomb or device, irritant, offensive-smelling or injurious substance, and intends that the injurious article or substance be used in the commission of any crime.

(b) Criminal possession of noxious substances is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2720.)

§ 13A–7–29. Criminal littering.

(a) A person commits the crime of criminal littering if he or she engages in any of the following acts:

(1) Knowingly deposits in any manner litter on any public or private property or in any public or private waters without permission to do so. For purposes of this subdivision, any series of items found in the garbage, trash, or other discarded material including, but not limited to, bank statements, utility bills, bank card bills, and other financial documents, clearly bearing the name of a person shall constitute a rebuttable presumption that the person whose name appears on the material knowingly deposited the litter. Advertising, marketing, and campaign materials and literature shall not be sufficient to constitute a rebuttable presumption of criminal littering under this subsection.

(2) Negligently deposits, in any manner, glass or other dangerously pointed or edged objects on or adjacent to water to which the public has lawful access for bathing, swimming, or fishing, or on or upon a public highway or within the right-of-way.

(3) Discharges sewage, oil products, or litter into a river, inland lake, or stream within the state or within territorial waters of the state.

(4)a. Throws, drops, or permits to be thrown or dropped any litter upon or alongside any highway, road, street, or public right-of-way and does not immediately remove the same or cause it to be removed; or

b. Removes a wrecked or damaged vehicle from a highway and does not remove glass or other injurious substance dropped upon the highway from the vehicle.

(b) For the purposes of this section, litter means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris, plastic, cigarettes, cigars, containers of urine, food containers, rubber tires, or any foreign substance. Any agricultural product

in its natural state that is unintentionally deposited on a public highway, road, street, or public right-of-way is not litter for purposes of this section or Section 32–5–76. Any other law or ordinance to the contrary notwithstanding, the unintentional depositing of an agricultural product in its natural state on a public highway, road, street, or right-of-way shall not constitute unlawful littering or any similarly prohibited activity.

(c) It is no defense under subdivisions (a)(3) and (a)(4) that the actor did not intend, or was unaware of, the act charged.

(d)(1) Criminal littering is a Class B misdemeanor. The fine for the first conviction shall be up to five hundred dollars ($500). The punishment for the second and any subsequent conviction shall include either a fine of up to one thousand dollars ($1,000) and up to 100 hours of community service in the form of picking up litter along highways, roads, streets, public rights-of-way, public sidewalks, public walkways, or public waterways, or by a fine of not less than two thousand dollars ($2,000) and not more than three thousand dollars ($3,000).

(2) In addition to the penalties provided in subdivision (1), littering of any of the following in violation of subsection (a) shall result in an additional fine of up to five hundred dollars ($500) per violation:

a. Cigarettes or cigars.

b. Containers of urine.

c. Food containers.

(e) Fifty percent of the fine from a conviction under this section shall be distributed by the court to the state General Fund and 50 percent to the municipality or county, or both, following a determination by the court of whose law enforcement agencies or departments have been a participant in the arrest or citation resulting in the fine. The award and distribution to the county and municipality shall be made on the basis of the percentage as determined by the court, which the respective agency or department contributed to the police work resulting in the arrest, and shall be spent by the governing body on law and litter enforcement purposes only. Litter enforcement may include, but not be limited to, anti-littering education, publication and distribution of related educational materials, and anti-littering advertising.

(f) No action for criminal littering based on evidence that creates a rebuttable presumption under subdivision (a)(1) shall be brought against a person by or on behalf of a county or municipal governing body unless he or she has been given written notice by a designee of the governing body that items found in an accumulation of garbage, trash, or other discarded materials contain his or her name, and that, under subdivision (a)(1), there is a rebuttable presumption that he or she knowingly deposited the litter. The notice shall advise the person that criminal littering is a Class B misdemeanor, and shall provide that, unless the person can present satisfactory information or evidence to rebut the presumption to the designee of the governing body within 15 days from the date of the notice, an action for criminal

littering may be filed against him or her in the appropriate court. If the person responds to the notice and presents information or evidence to the designee of the governing body, the designee shall review the information or evidence presented and make a determination as to whether or not an action should be brought against the person for criminal littering. The designee shall provide written notice to the person of its determination, and if the intent is to proceed with an action for criminal littering, the notice shall be sent before any action is filed.

(g) Upon approval of the county commission, the county license inspector and his or her deputies employed under Section 40–12–10 shall have the same authority to issue citations against persons violating this section as county license inspectors have with regard to persons violating revenue laws as provided in Section 40–12–10. In addition, the county solid waste officer, as defined in subsection (b) of Section 22–27–3, shall have the same authority to issue citations against persons violating this section as solid waste officers have with regard to persons violating the Solid Wastes Disposal Act pursuant to subsection (b) of Section 22–27–3.

(h) Nothing in this section shall authorize a county license inspector or solid waste officer to take any person into custody pursuant to this section unless the inspector or officer is a law enforcement officer employed by a law enforcement agency as defined in Section 36–21–40.

(Acts 1977, No. 607, p. 812, § 2725; Acts 1990, No. 90–585, p. 1020; Acts 1997, No. 97–712, p. 1475, § 1; Act 98–494, p. 954, § 1; Act 2001–469, p. 623, § 1; Act 2010–260, p. 468, § 1; Act 2019–530, § 1.)

ARTICLE 3.

ARSON AND EXPLOSIVES.

§ 13A–7–40. Definitions.

The following definitions are applicable to this article:

(1) BUILDING. As used in this article, such term means any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and includes any vehicle, railway car, aircraft or watercraft used for the lodging of persons or for carrying on business therein. Where a building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building.

(2) EXPLOSIVES. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by detonator or by chemical action of any part of the compound or mixture may cause a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(3) EXPLOSION. A rapid, sudden and violent expansion of air or relinquishment of energy with resultant pressures that are capable of producing destructive effects on contiguous objects or of destroying life or limb. ''Explosion'' includes, but is not limited to, a sudden and rapid combustion, causing violent expansion of the air, or the sudden bursting or breaking up or in pieces from an internal or other force. ''Explosion'' is not limited to cases caused by combustion or fire, but it may result from decomposition or chemical action.

(Acts 1977, No. 607, p. 812, § 2801.)

§ 13A–7–41. Arson in the first degree.

(a) A person commits the crime of arson in the first degree if he intentionally damages a building by starting or maintaining a fire or causing an explosion, and when:

(1) Another person is present in such building at the time, and

(2) The actor knows that fact, or the circumstances are such as to render the presence of a person therein a reasonable possibility.

(b) Arson in the first degree is a Class A felony.

(Acts 1977, No. 607, p. 812, § 2805.)

§ 13A–7–42. Arson in the second degree.

(a) A person commits the crime of arson in the second degree if he intentionally damages a building by starting or maintaining a fire or causing an explosion.

(b) A person does not commit a crime under subsection (a) if:

(1) No person other than himself has a possessory or proprietary interest in the building damaged; or if other persons have those interests, all of them consented to his conduct; and

(2) His sole intent was to destroy or damage the building for a lawful and proper purpose.

(c) The burden of injecting the issue of justification in subsection (b) is on the defendant, but this does not shift the burden of proof.

(d) A person commits the crime of arson in the second degree if he intentionally starts or maintains a fire or causes an explosion which damages property in a detention facility or a penal facility, as defined in Section 13A–10–30, with reckless disregard (because of the nature or extent of the damage caused or which would have been caused but for the intervention of others) for the safety of others.

(e) Arson in the second degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 2806; Acts 1983, 2nd Ex. Sess., No. 83–177, p. 346.)

§ 13A–7–43. Arson in the third degree.

(a) A person commits the crime of arson in the third degree if he recklessly damages a building by a fire or an explosion.

(b) A person does not commit a crime under this section if no person other than himself has a possessory or proprietary interest in the damaged building.

(c) The burden of injecting the issue of justification in subsection (b) is on the defendant, but this does not shift the burden of proof.

(d) Arson in the third degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 2807.)

§ 13A–7–44. Criminal possession of explosives. Repealed by Act 2009–718, p. 2115, § 23, effective August 1, 2009.

ARTICLE 4.

MISCELLANEOUS OFFENSES.

§ 13A–7–60. Unlawfully taking possession of or going back into possession of real estate after dispossession under legal process.

Any person having no title or bona fide claim of title thereto or right of possession, who enters upon any land, and on demand of the owner or person entitled to the possession thereof, refuses to surrender such possession, or any person or his privy, who, having been dispossessed of any real estate by an officer under legal process from any court having jurisdiction of the subject matter; or any person or his privy, who voluntarily surrenders possession of the lands as a result of a judgment of a court of competent jurisdiction and goes back into the possession of such real estate by force or otherwise; or who, having regained possession of such real estate, holds the same by force or threats without having been restored to the possession of such real estate by an order of a court of competent jurisdiction, shall, on conviction, be fined not less than $200.00 nor more than $1,000.00, and imprisoned in the county jail for not less than six months; and one half of the fine shall go to the person for whose benefit the writ of possession is issued.

(Code 1896, § 5608; Code 1907, § 7829; Code 1923, § 5556; Code 1940, T. 14, § 428; Code 1975, § 13–2–102.)

§ 13A–7–61. Allowing stock to run at large under common fence.

Any one of several persons occupying or cultivating lands under a common fence who turns stock of any kind into such inclosure, or knowingly suffers such stock to go at large therein without the consent of all the persons owning or cultivating such lands, shall, on conviction, be punished by a fine of not less than $5.00 nor more than $50.00, and also the amount of damages inflicted by the stock, which damages shall be held as a part of the penalty imposed by the court, and shall go to the party injured.

Whenever a conviction shall be had under this section, unless the full amount of the penalty is immediately paid, it shall be the duty of the sheriff, or other officer charged with the execution of the judgment of the court, to seize and hold the stock committing the trespass, and after giving five days' notice by posting at three or more public places in the neighborhood, to sell the same, and out of the proceeds to collect the amount of such penalty and costs; and the surplus shall be paid to the owner of such stock.

(Code 1876, §§ 4414, 4415; Code 1886, §§ 3878, 3879; Code 1896, §§ 5614, 5615; Code 1907, §§ 7835, 7836; Code 1923, §§ 5562, 5563; Code 1940, T. 14, §§ 434, 435; Code 1975, § 13–2–106.)

ARTICLE 5.

LOOTING.

§ 13A–7–80. Definitions; penalties.

(a) For the purposes of this section, the following words have the following meaning:

(1) BUILDING. Any structure that may be entered and utilized by persons for business, public use, lodging, or the storage of goods. The term includes any vehicle, aircraft, or watercraft used for the lodging of persons or carrying on business therein and includes any railroad boxcar or other rail equipment or trailer or tractor trailer, or combination thereof. Where a building consists of two or more units separately occupied or secure, each shall be deemed both a separate building and a part of the main building.

(2) STATE OF EMERGENCY. When the Governor duly proclaims the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by fire, flood, storm, epidemic, technological failure or accident, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, earthquake, explosion, terrorism, man-made disaster, or other conditions, other than conditions resulting from a labor controversy or conditions causing a state of war emergency, which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city, or county and city and require the combined forces of a mutual aid region or regions to combat or an energy shortage which requires extraordinary measures beyond the authority vested in the Alabama Public Service Commission.

(b) A person commits the crime of looting if the person intentionally enters without authorization any building or real property during a state of emergency and obtains, exerts control over, damages, or removes the property of another person without lawful authority.

(c) The crime of looting is a Class C felony.

(d) The fact that a person may be subject to prosecution under this section shall not bar his or her prosecution or punishment for any other offense.

(Act 2012–316, p. 714, § 1.)

ARTICLE 6.

OPERATION OF UNMANNED AIRCRAFT SYSTEM OVER DEPARTMENT OF CORRECTIONS FACILITY.

§ 13A–7–90. Definitions.

For the purposes of this article, the following terms have the following meanings:

(1) FACILITY. Any of the following:

a. Any facility, as defined in Section 14–2–1, including existing facilities and facilities in the process of being constructed.

b. Any real property owned or leased by the Alabama Department of Corrections or its contractors to the outermost conspicuous physical barrier of the real property.

c. Any public road within 100 yards from the outermost conspicuous physical barrier of real property owned or leased by the Alabama Department of Corrections or its contractors.

(2) OPERATE. Any of the following actions in relation to an unmanned aircraft system:

a. Conducting flight operations.

b. Launching.

c. Landing or otherwise allowing an unmanned aircraft system to make contact with any person or real or personal property.

d. Flying.

e. Causing an unmanned aircraft system to drop any payload.

f. Causing an unmanned aircraft system to deploy or discharge an attached weapon, firearm, explosive, destructive device, or ammunition.

(3) PERSON. As defined in Section 13A–7–4.3.

(4) UNMANNED AIRCRAFT SYSTEM. As defined in Section 13A–7–4.3.

(Act 2024–222, § 2, eff. June 1, 2024.)

§ 13A–7–91. Operation of an unmanned aircraft system over a Department of Corrections facility prohibited in certain circumstances; exceptions.

(a) Except as provided in subsection (b), a person may not:

(1) Operate an unmanned aircraft system within a horizontal distance of 500 feet or a vertical distance of 200 feet from a facility; or

(2) Operate an unmanned aircraft system to conduct surveillance of or photograph or otherwise record images of a facility.

(b) Subsection (a) does not apply to the use of an unmanned aircraft system by:

(1) The Alabama Department of Corrections;

(2) A person authorized by federal regulations to operate an unmanned aircraft system and who is operating the system in a lawful manner and consistent with federal regulations;

(3) The Armed Forces of the United States of America;

(4) The Alabama National Guard; or

(5) Any of the following with prior written permission from the Commissioner of the Department of Corrections:

a. A contractor working on behalf of the Department of Corrections;

b. Any state or federal law enforcement agency or public safety agency responding to an emergency;

c. A person engaged in official emergency functions or emergency management; or

d. Any state or federal public utility.

(c) A violation of this section is a Class C felony and a person violating this section shall be fined not less than two thousand five hundred dollars ($2,500). The sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the Department of Corrections or county jail for not less than 30 days.

(Act 2024–222, § 2, eff. June 1, 2024.)

§ 13A–7–92. Introduction of contraband into a facility via unmanned aircraft system.

(a) A person may not introduce or attempt to introduce any contraband, as defined in Section 13A–10–30, into a facility via operation of an unmanned aircraft system.

(b) A violation of this section is a Class C felony and a person violating this section shall be fined not less than two thousand five hundred dollars ($2,500). The sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the Department of Corrections or county jail for not less than 30 days.

(Act 2024–222, § 2, eff. June 1, 2024.)

§ 13A–7–93. Introduction of pieces of an unmanned aircraft system into a facility.

(a) A person may not introduce or attempt to introduce any individual piece of an unmanned aircraft system into a facility.

(b) A violation of this section is a Class C felony and a person violating this section shall be fined not less than two thousand five hundred dollars ($2,500). The sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the Department of Corrections or a county jail for not less than 30 days.

(Act 2024–222, § 2, eff. June 1, 2024.)

§ 13A–7–94. Confiscation of unmanned aircraft system and any property, weapons, and contraband attached to or dropped therefrom in violation of article.

(a) The Department of Corrections may confiscate an unmanned aircraft system and any property, weapons, and contraband attached to or dropped from an unmanned aircraft system used in violation of this article.

(b) Any unmanned aircraft system and any property, weapons, and contraband attached to or dropped from an unmanned aircraft system is subject to civil forfeiture. The procedure for the seizure, forfeiture, condemnation, and disposition shall be the same as set out in Section 20–2–93.

(Act 2024–222, § 2, eff. June 1, 2024.)

§ 13A–7–95. Rulemaking authority.

The Commissioner of the Department of Corrections shall adopt regulations as necessary to implement this article.

(Act 2024–222, § 2, eff. June 1, 2024.)

CHAPTER 8.

OFFENSES INVOLVING THEFT.

ARTICLE 1.

THEFT AND RELATED OFFENSES.

§ 13A–8–1. Definitions.

The following definitions are applicable in this article unless the context otherwise requires:

(1) DECEPTION occurs when a person knowingly:

a. Creates or confirms another's impression which is false and which the defendant does not believe to be true; or

b. Fails to correct a false impression which the defendant previously has created or confirmed; or

c. Fails to correct a false impression when the defendant is under a duty to do so; or

d. Prevents another from acquiring information pertinent to the disposition of the property involved; or

e. Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property when the defendant is under a duty to do so, whether that impediment is or is not valid, or is not a matter of official record; or

f. Promises performance which the defendant does not intend to perform or knows will not be performed. Failure to perform, standing alone, however, is not proof that the defendant did not intend to perform.

The term ''deception'' does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons. ''Puffing'' means an exaggerated commendation of wares or services.

(2) To ''Deprive. . .'' means:

a. To withhold property or cause it to be withheld from a person permanently or for such period or under such circumstances that all or a portion of its use or benefit would be lost to him or her; or

b. To dispose of the property so as to make it unlikely that the owner would recover it; or

c. To retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

d. To sell, give, pledge, or otherwise transfer any interest in the property; or

e. To subject the property to the claim of a person other than the owner.

(3) FIFTH WHEEL. Coupling between a trailer and a vehicle used for towing.

(4) FINANCIAL INSTITUTION. A bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(5) FIREARM. A weapon from which a shot is discharged by gunpowder.

(6) GOVERNMENT. The United States, any state or any county, municipality, or other political unit within territory belonging to the United States, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government, or any corporation or agency formed pursuant to interstate compact or international treaty.

As used in this definition ''state'' includes any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(7) OBTAINS. Such term means:

a. In relation to property, to bring about a transfer or purported transfer of a legally recognized interest in the property, whether to the obtainer or another; or

b. In relation to labor or service, to secure performance thereof.

(8) OBTAINS OR EXERTS CONTROL or OBTAINS OR EXERTS UNAUTHORIZED CONTROL over property includes, but is not necessarily limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to, or interest in, or possession of, property, and includes but is not necessarily limited to conduct heretofore defined or known as common law larceny by trespassory

taking, common law larceny by trick, larceny by conversion, embezzlement, extortion, or obtaining property by false pretenses.

(9) OWNER. A person, other than the defendant, who has possession of or any other interest in the property involved, even though that interest or possession is unlawful, and without whose consent the defendant has no authority to exert control over the property.

A secured party, as defined in Section 7–9A–102(a)(72), is not an owner in relation to a defendant who is a debtor, as defined in Section 7–9A–102(a)(28), in respect of property in which the secured party has a security interest, as defined in Section 7–1–201(37).

(10) PROPELLED VEHICLE. Any propelled device in, upon, or by which any person or property is transported on land, water, or in the air, and such term includes motor vehicles, motorcycles, motorboats, aircraft, and any vessel propelled by machinery, whether or not that machinery is the principal source of propulsion.

(11) PROPERTY. Any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents, although the rights represented hereby have no physical location), contract right, chose-in-action, interest in a claim to wealth, credit, or any other article or thing of value of any kind.

Commodities of a public utility nature, such as gas, electricity, steam, and water, constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property.

(12) RECEIVING. Such term includes, but is not limited to, acquiring possession, control, or title and taking a security interest in the property.

(13) STOLEN. Obtained by theft, theft by appropriating lost property, robbery, or extortion.

(14) THREAT. A menace, however communicated, to:

a. Cause physical harm to the person threatened or to any other person; or

b. Cause damage to property; or

c. Subject the person threatened or any other person to physical confinement or restraint; or

d. Engage in other conduct constituting a crime; or

e. Accuse any person of a crime or cause criminal charges to be instituted against any person; or

f. Expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

g. Reveal any information sought to be concealed by the person threatened; or

h. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

i. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or

j. Bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

k. Do any other act which would not in itself substantially benefit the actor but which is calculated to harm substantially another person with respect to his or her health, safety, business, calling, career, financial condition, reputation, or personal relationships.

(15) VALUE. The market value of the property at the time and place of the criminal act.

Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities shall be evaluated as follows:

a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.

b. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

When the value of property cannot be ascertained pursuant to the standards set forth above, its value shall be deemed to be an amount not exceeding five hundred dollars ($500).

Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense; provided, that only one conviction may be had and only one sentence enforced for all thefts included in such aggregate.

(Acts 1977, No. 607, p. 812, § 3280; Acts 1978, No. 770, p. 1110; Act 2001–481, p. 647, § 2; Act 2003–355, p. 962, § 1; Act 2016–109, p. 166, § 1.)

§ 13A–8–2. Theft of property — Definition; limitations period.

(a) A person commits the crime of theft of property if he or she:

(1) Knowingly obtains or exerts unauthorized control over the property of another, with intent to deprive the owner of his or her property;

(2) Knowingly obtains by deception control over the property of another, with intent to deprive the owner of his or her property;

(3) Knowingly obtains or exerts control over property in the custody of a law enforcement agency which was explicitly represented to the person by an agent of the law enforcement agency as being stolen; or

(4) Knowingly obtains or exerts unauthorized control over any donated item left on the property of a charitable organization or in a drop box or trailer, or within 30 feet of a drop box or trailer, belonging to a charitable organization.

(b) The limitations period for any prosecution under subdivision (2) of subsection (a) does not commence or begin to accrue until the discovery of the facts constituting the deception, after which the prosecution shall be commenced within five years.

(Acts 1977, No. 607, p. 812, § 3201; Act 2003–355, p. 962, § 1; Act 2004–297, p. 419, § 1; Act 2014–348, p. 1293, § 1.)

§ 13A–8–2.1. Aggravated theft by deception.

(a) A person commits the crime of aggravated theft by deception if he or she does any of the following:

(1) He or she commits a theft of foreign or domestic funds, cash, or cash equivalent, that includes, but is not limited to, stocks, bonds, investments, or retirement accounts, that exceeds two hundred thousand dollars ($200,000) in value, if obtained by deception.

(2) He or she commits a theft of public funds or revenue of any state, county, or municipal government agency or department, or any governmental or political subdivision that exceeds one hundred thousand dollars ($100,000) in value, if obtained by deception.

(b) The limitations period for any prosecution under this section does not commence or begin to accrue until the discovery of the facts constituting the deception, after which the prosecution shall be commenced within six years.

(c) Aggravated theft by deception is a felony with a range of punishment of five to 30 years' imprisonment and a fine of up to sixty thousand dollars ($60,000) per violation.

(d) Notwithstanding any other law, the maximum probation period shall not exceed 10 years unless otherwise authorized by law.

(e) A conviction for aggravated theft by deception shall be treated as a Class A or Class B felony for purposes of Section 15–18–8.

(f) A person may be charged with attempt, criminal solicitation, or criminal conspiracy to commit aggravated theft by deception if he or she engages in the conduct defined in Sections 13A–4–1, 13A–4–2, or 13A–4–3. A violation shall be punished the same as if the crime was completed pursuant to this section.

(Act 2019–513, § 1.)

§ 13A–8–3. Theft of property in the first degree.

(a) The theft of property which exceeds two thousand five hundred dollars ($2,500) in value, or property of any value taken from the person of another, constitutes theft of property in the first degree.

(b) The theft of a motor vehicle, regardless of its value, constitutes theft of property in the first degree.

(c)(1) The theft of property which involves all of the following constitutes theft of property in the first degree:

a. The theft is a common plan or scheme by one or more persons; and

b. The object of the common plan or scheme is to sell or transfer the property to another person or business that buys the property with knowledge or reasonable belief that the property is stolen; and

c. The aggregate value of the property stolen is at least one thousand dollars ($1,000) within a 180–day period.

(2) If the offense under this subsection involves two or more counties, prosecution may be commenced in any one of those counties in which the offense occurred or in which the property was disposed.

(d) Theft of property in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 3202; Acts 1978, No. 770, p. 1110; Act 2003–355, p. 962, § 1; Act 2006–561, p. 1298, § 1.)

§ 13A–8–4. Theft of property in the second degree.

(a) The theft of property between one thousand five hundred dollars ($1,500) in value and two thousand five hundred dollars ($2,500) in value, and which is not taken from the person of another, constitutes theft of property in the second degree.

(b) Theft of property in the second degree is a Class C felony.

(c) The theft of a firearm, rifle, or shotgun, regardless of its value, constitutes theft of property in the second degree.

(d) The theft of any substance controlled by Chapter 2 of Title 20 or any amendments thereto, regardless of value, constitutes theft of property in the second degree.

(e) The theft of any livestock which includes cattle, swine, equine or equidae, or sheep, regardless of their value, constitutes theft of property in the second degree.

(Acts 1977, No. 607, p. 812, § 3203; Acts 1978, No. 770, p. 1110, § 1; Acts 1979, No. 79–471, p. 862, § 1; Acts 1992, 2nd Ex. Sess., No. 92–682, p. 68, § 1; Act 2003–355, p. 962, § 1; Act 2004–627, p. 1421, § 1; Act 2006–297, p. 608, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–8–4.1. Theft of property in the third degree.

(a) The theft of property that exceeds five hundred dollars ($500) in value but does not exceed one thousand four hundred and ninety-nine dollars

($1,499) in value, and which is not taken from the person of another, constitutes theft of property in the third degree.

(b) Theft of property in the third degree is a Class D felony.

(c) The theft of a credit card or a debit card, regardless of its value, constitutes theft of property in the third degree.

(Act 2015–185, p. 476, § 6.)

§ 13A–8–5. Theft of property in the fourth degree.

(a) The theft of property which does not exceed five hundred dollars ($500) in value and which is not taken from the person of another constitutes theft of property in the fourth degree.

(b) Theft of property in the fourth degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 3204; Acts 1978, No. 770, p. 1110; Acts 1992, 2nd Ex. Sess., No. 92–682, p. 68, § 2; Act 2003–355, p. 962, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–8–6. Theft of lost property — Definition.

A person commits the crime of theft of lost property if he actively obtains or exerts control over the property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or the amount of the property, and with intent to deprive the owner permanently of it, he fails to take reasonable measures to discover and notify the owner.

(Acts 1977, No. 607, p. 812, § 3205.)

§ 13A–8–7. Theft of lost property in the first degree.

(a) The theft of lost property which exceeds two thousand five hundred dollars ($2,500) in value constitutes theft of lost property in the first degree.

(b) Theft of lost property in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 3206; Act 2003–355, p. 962, § 1.)

§ 13A–8–8. Theft of lost property in the second degree.

(a) The theft of lost property between one thousand five hundred dollars ($1,500) in value and two thousand five hundred dollars ($2,500) in value constitutes theft of lost property in the second degree.

(b) Theft of lost property in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 3207; Acts 1978, No. 770, p. 1110; Act 2003–355, p. 962, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–8–8.1. Theft of lost property in the third degree.

(a) The theft of lost property which exceeds five hundred dollars ($500) in value but does not exceed one thousand four hundred and ninety-nine dollars ($1,499) in value constitutes theft of lost property in the third degree.

(b) Theft of lost property in the third degree is a Class D felony.

(Act 2015–185, p. 476, § 6.)

§ 13A–8–9. Theft of lost property in the fourth degree.

(a) The theft of lost property which does not exceed five hundred dollars ($500) in value constitutes theft of lost property in the fourth degree.

(b) Theft of lost property in the fourth degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 3208; Acts 1978, No. 770, p. 1110; Act 2003–355, p. 962, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–8–10. Theft of services — Definition.

(a) A person commits the crime of theft of services if:

(1) He intentionally obtains services known by him to be available only for compensation by deception, threat, false token or other means to avoid payment for the services; or

(2) Having control over the disposition of services of others to which he is not entitled, he knowingly diverts those services to his own benefit or to the benefit of another not entitled thereto.

(b) ''Services'' includes but is not necessarily limited to labor, professional services, transportation, telephone or other public services, accommodation in motels, hotels, restaurants or elsewhere, admission to exhibitions, computer services and the supplying of equipment for use.

(c) Where compensation for services is ordinarily paid immediately upon the rendering of them, as in the case of motels, hotels, restaurants and the like, absconding without payment or bona fide offer to pay is prima facie evidence under subsection (a) that the services were obtained by deception.

(d) If services are obtained under subdivision (a) (1) from a hotel, motel, inn, restaurant or cafe, no prosecution can be commenced after 120 days from the time of the offense.

(Acts 1977, No. 607, p. 812, § 3210; Acts 1978, No. 770, p. 1110, § 1; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–8–10.1. Theft of services in the first degree.

(a) The theft of services which exceeds two thousand five hundred dollars ($2,500) in value constitutes theft of services in the first degree.

(b) Theft of services in the first degree is a Class B felony.

(Acts 1978, No. 770, p. 1110; Act 2003–355, p. 962, § 1.)

§ 13A–8–10.2. Theft of services in the second degree.

(a) The theft of services between one thousand five hundred dollars ($1,500) in value and two thousand five hundred dollars ($2,500) in value constitutes theft of services in the second degree.

(b) Theft of services in the second degree is a Class C felony.

(Acts 1978, No. 770, p. 1110; Act 2003–355, p. 962, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–8–10.25. Theft of services in the third degree.

(a) The theft of services which exceeds five hundred dollars ($500) in value but does not exceed one thousand four hundred and ninety-nine dollars ($1,499) in value constitutes theft of services in the third degree.

(b) Theft of services in the third degree is a Class D felony.

(Act 2015–185, p. 476, § 7.)

§ 13A–8–10.3. Theft of services in the fourth degree.

(a) The theft of services which does not exceed five hundred dollars ($500) in value constitutes theft of services in the fourth degree.

(b) Theft of services in the fourth degree is a Class A misdemeanor.

(Acts 1978, No. 770, p. 1110; Act 2003–355, p. 962, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–8–10.4. Theft of trademarks or trade secrets.

(a) For purposes of this section:

(1) ARTICLE. Any object, material, device, or substance or any copy thereof, including a writing, recording, drawing, sample, specimen, prototype, model, photograph, microorganism, blueprint, or map.

(2) COPY. A facsimile, replica, photograph, or other reproduction of an article or a note, drawing, or sketch made of or from an article.

(3) REPRESENTING. Describing, depicting, containing, constituting, reflecting, or recording.

(4) TRADE SECRET. The whole or any part of any scientific or technical information, design, process, procedure, formula, or improvement that has value and that the owner has taken measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes.

(5) TRADEMARK. Any word, name, symbol, or device adopted and used by any person or business entity to identify his goods or services, and to distinguish them from the goods or services of others.

(b) A person commits the crime of ''theft of trade secrets or trademarks'' if, without the owner's effective consent, he knowingly:

(1) Steals a trade secret;

(2) Makes a copy of an article representing a trade secret;

(3) Communicates or transmits a trade secret;

(4) Makes a copy or reproduction of a trademark for any commercial purpose; or

(5) Sells an article on which a trademark is reproduced knowing said trademark was used without the owner's consent.

(c) Theft of trade secrets or trademarks is a Class C felony.

(Acts 1983, No. 83–563, p. 864; Acts 1984, No. 84–278, p. 465, § 1.)

§ 13A–8–10.5. Theft of valor.

(a) For the purposes of this section, the following terms shall have the following meanings:

(1) CONGRESSIONAL MEDAL OF HONOR. Includes any of the following:

a. A Medal of Honor awarded under Section 3741, 6241, or 8741 of Title 10 or Section 491 of Title 14 of the United States Code.

b. A duplicate Medal of Honor issued under Section 3754, 6256, or 8754 of Title 10 or Section 504 of Title 14 of the United States Code.

c. A replacement of a Medal of Honor provided under Section 3747, 6253, or 8747 of Title 10 or Section 501 of Title 14 of the United States Code.

(2) MATERIAL GAIN. Something of value received, bestowed, conferred, presented, granted, contributed, funded, gifted, donated, bequeathed, decided, or approved, regardless of the monetary, rumunerative, or tangible value. This includes, but is not limited to, food, lodging, compensation, travel expenses, placards, public benefits, public relief, financial relief, or anything in which or for which a tangible benefit was gained, even if the value of such is de minimis.

(b) A person commits the crime of theft of valor if he or she does any of the following:

(1) Knowingly wears, purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barters, or exchanges anything of value for any of the following and receives a material gain, unless the person is authorized under applicable state or federal regulations or law:

a. Any decoration or medal authorized by Congress for the Armed Forces of the United States.

b. A service medal or badge awarded to a member of the Armed Forces of the United States.

c. A ribbon, button, or rosette of any badge, decoration or medal, or any colorable imitation thereof.

(2) Falsely represents himself or herself, verbally or in writing, to have been awarded any of the following in order to receive, or attempt to receive, a material gain:

a. Any decoration or medal authorized by Congress for the Armed Forces of the United States.

b. A service medal or badge awarded to a member of the Armed Forces of the United States.

c. A ribbon, button, or rosette of any badge, decoration or medal, or any colorable imitation thereof.

(c)(1) Except as provided in subdivisions (2) and (3), theft of valor is a Class B misdemeanor.

(2) If any of the following decorations or medals, including a duplicate or replacement thereof, are the subject of an offense under subsection (b), the offense is a Class A misdemeanor and a minimum fine of five thousand dollars ($5,000) shall be imposed:

a. A Distinguished–Service Cross awarded under Section 3742 of Title 10 of the United States Code.

b. A Navy Cross awarded under Section 6242 of Title 10 of the United States Code.

c. An Air Force Cross awarded under Section 8742 of Section 10 of the United States Code.

d. A Silver Star awarded under Section 3746, 6244, or 8746 of Title 10 of the United States Code.

e. A Purple Heart awarded under Section 1129 of Title 10 of the United States Code.

(3) If a Congressional Medal of Honor is the subject of an offense under subsection (b), the offense is a Class C felony.

(d) Notwithstanding any other law, the limitation period for any prosecution under this section does not commence or begin to accrue until the discovery of the facts constituting the offense.

(Act 2015–69, p. 255, § 2.)

§ 13A–8–10.6. Cargo theft.

(a) A person commits the crime of cargo theft if the person knowingly obtains or exerts unauthorized control over either of the following:

(1) A vehicle engaged in commercial transportation of cargo or an appurtenance thereto, including, without limitation, a trailer, semitrailer, container, railcar, or other associated equipment, or the cargo being transported therein or thereon, which is the property of another, with the intention of depriving the other person of the property, regardless of the manner in which the property is taken or appropriated.

(2) A trailer, semitrailer, container, railcar, or other associated equipment, or the cargo being transported therein or thereon, which is the property of another, with the intention of depriving the other person of the property, regardless of the manner in which the property is taken or appropriated.

(b)(1) Cargo theft that has a collective value in excess of fifty thousand dollars ($50,000) is a Class B felony, except the punishment shall be a term of imprisonment of not less than 10 years nor more than 20 years and a fine not to exceed one hundred fifty thousand dollars ($150,000).

(2) Cargo theft that has a collective value exceeding ten thousand dollars ($10,000), but not exceeding fifty thousand dollars ($50,000), is a Class C felony, except the offense shall be punishable by a term of imprisonment of not less than five years nor more than 10 years and a fine not to exceed seventy-five thousand dollars ($75,000).

(3) Cargo theft that has a collective value exceeding five hundred dollars ($500), but does not exceed ten thousand dollars ($10,000), is a Class D felony, except the offense shall be punishable by a term of imprisonment of not less than two years and a fine not to exceed twenty thousand dollars ($20,000).

(4) Cargo theft that has a collective value of five hundred dollars ($500) or less, is a Class A misdemeanor.

(5) A person convicted of cargo theft may also be disqualified from driving a commercial motor vehicle for a period of one year for the first conviction and for life for the second or subsequent conviction, subject to possible reduction as provided in subsection (c) of Section 32–6–49.11.

(Act 2016–109, p. 166, § 2.)

§ 13A–8–10.7. Fifth wheel tampering.

(a) A person commits the crime of fifth wheel tampering if the person, with the intent to commit cargo theft does either of the following:

(1) Modifies, alters, or attempts to alter a fifth wheel or the antitheft locking device attached.

(2) Sells, possesses, offers to sell, moves, or causes to be moved on the highways of this state a modified or altered fifth wheel.

(b) Fifth wheel tampering is a Class C felony.

(Act 2016–109, p. 166, § 2.)

§ 13A–8–11. Unauthorized use of vehicle; unlawful breaking and entering a vehicle.

(a) A person commits the crime of unauthorized use of a vehicle if:

(1) Knowing that he does not have the consent of the owner, he takes, operates, exercises control over or otherwise uses a propelled vehicle; or

(2) Having custody of propelled vehicle pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of the vehicle, he intentionally uses or operates it, without the consent of the owner, for his own purpose in a manner constituting a gross deviation from the agreed purpose; or

(3) Having custody of a propelled vehicle pursuant to an agreement with the owner thereof whereby it is to be returned to the owner at a specified time, he knowingly retains or withholds possession thereof, without the consent of the owner, for so lengthy a period beyond the specified time as to render the retention or possession a gross deviation from the agreement.

(4) Unauthorized use of a vehicle is a Class A misdemeanor, except that if a person by force or threat of force takes, operates, usurps or exercises control over a propelled vehicle with an operator or one or more passengers aboard he is guilty of a Class B felony.

(b) A person commits the crime of unlawful breaking and entering a vehicle if, without the consent of the owner, he breaks into and enters a vehicle or any part of a vehicle with the intent to commit any felony or theft. For the purposes of this section, ''enters'' means to intrude:

(1) Any part of the body; or

(2) Any physical object connected with the body.

(3) Unlawful breaking and entering a vehicle is a Class C felony.

(Acts 1977, No. 607, p. 812, § 3225; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–8–12. Defenses to prosecutions for theft and unauthorized use of vehicle.

(a) It is a defense to a prosecution under Sections 13A–8–2 through 13A–8–11 (theft of property, theft of lost property, theft of services and unauthorized use of vehicle) that the actor honestly believed that he had a claim to the property or services involved which he was entitled to assert in the manner which forms the basis for the charge against him.

(b) The burden of injecting the issue of claim of right is on the defendant, but this does not shift the burden of proof.

(Acts 1977, No. 607, p. 812, § 3230; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–8–13. Extortion — Definition.

A person commits the crime of extortion if he knowingly obtains by threat control over the property of another, with intent to deprive him of the property.

(Acts 1977, No. 607, p. 812, § 3235.)

§ 13A–8–14. Extortion in the first degree.

(a) Extortion by means of a threat, as defined in paragraphs (14)a or (14)c of Section 13A–8–1, constitutes extortion in the first degree.

(b) Extortion in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 3236; Act 2019–470, § 1(b)(1).)

§ 13A–8–15. Extortion in the second degree.

(a) Extortion by means of a threat, as defined in paragraphs (14)b. or (14)d. through (14)k. of Section 13A–8–1, constitutes extortion in the second degree.

(b) A person is not liable under this section for a threat, as defined in paragraph (14)e. of Section 13A–8–1, if he honestly claims the property as restitution or indemnification for harm done in the circumstances to which the threat relates, or as compensation for property or lawful services. The burden of injecting the issue of claim of right is on the defendant, but this does not shift the burden of proof.

(c) Extortion in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 3237; Acts 2019–470, § 1(b)(2).)

§ 13A–8–16. Receiving stolen property — Definition.

(a) A person commits the crime of receiving stolen property if he intentionally receives, retains or disposes of stolen property knowing that it has been stolen or having reasonable grounds to believe it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(b) If a person:

(1) On two separate occasions within a year prior to the commission of the instant offense of receiving stolen property is found in possession or control of stolen property; or

(2) Possesses goods or property which have been recently stolen; or

(3) Regularly buys, sells, uses or handles in the course of business property of the sort received, and acquired the property without making reasonable inquiry whether the person selling or delivering the property to him had a legal right to do so, this shall be prima facie evidence that he has the requisite knowledge or belief.

(c) The fact that the person who stole the property has not been convicted, apprehended or identified is not a defense to a charge of receiving stolen property.

(Acts 1977, No. 607, p. 812, § 3240; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–8–17. Receiving stolen property in the first degree.

(a) Receiving stolen property which exceeds two thousand five hundred dollars ($2,500) in value constitutes receiving stolen property in the first degree.

(b) Receiving stolen property in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 3241; Act 2003–355, p. 962, § 1.)

§ 13A–8–18. Receiving stolen property in the second degree.

(a) Any of the following constitutes receiving stolen property in the second degree:

(1) Receiving stolen property that is between one thousand five hundred dollars ($1,500) in value and two thousand five hundred dollars ($2,500) in value.

(2) Receiving stolen property of any value under the circumstances described in subdivision (b)(3) of Section 13A–8–16.

(3) Receiving stolen property that is a firearm, rifle, or shotgun, regardless of its value.

(b) Receiving stolen property in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 3242; Acts 1979, No. 79–471, p. 812, § 1; Act 2003–355, p. 962, § 1; Act 2015–185, p. 476, § 2; Act 2019–521, § 1.)

§ 13A–8–18.1. Receiving stolen property in the third degree.

(a) Receiving stolen property which exceeds five hundred dollars ($500) in value but does not exceed one thousand four hundred and ninety-nine dollars ($1,499) in value constitutes receiving stolen property in the third degree.

(b) Receiving stolen property in the third degree is a Class D felony.

(Act 2015–185, p. 476, § 6.)

§ 13A–8–19. Receiving stolen property in the fourth degree.

(a) Receiving stolen property which does not exceed five hundred dollars ($500) in value constitutes receiving stolen property in the fourth degree.

(b) Receiving stolen property in the fourth degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 3243; Acts 1979, No. 79–471, p. 862, § 1; Act 2003–355, p. 962, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–8–20. Bringing stolen property into this state.

Any person who fraudulently brings into this state any personal property which he knew was stolen elsewhere shall, on conviction, be punished as if he had stolen it in this state.

(Code 1852, § 167; Code 1867, § 3713; Code 1876, § 4368; Code 1886, § 3793; Code 1896, § 5053; Code 1907, § 7328; Code 1923, § 4911; Code 1940, T. 14, § 337; Code 1975, § 13–3–54.)

§ 13A–8–21. Bringing into state property obtained by false pretense elsewhere.

Any person who brings or causes to be brought into this state any money or other personal property obtained from another by any false pretense, with intent to defraud, shall, on conviction, be punished as if he had stolen the same.

(Code 1886, § 3818; Code 1896, § 4736; Code 1907, § 6926; Code 1923, § 4140; Code 1940, T. 14, § 218; Code 1975, § 13–3–96.)

§ 13A–8–22. Obscuring identity of vehicle.

(a) A person commits the crime of obscuring identity of a vehicle if:

(1) He obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any vehicle or component part thereof, except tires, with intent to render it unidentifiable; or

(2) He possesses a vehicle or component part thereof knowing that the manufacturer's serial number or other identification number or mark has been obscured unless he legally acquired ownership of the vehicle or part before the manufacturer's serial number was obscured or before he knew it was obscured.

(b) ''Obscure'' means to remove, deface, cover, alter, destroy or otherwise render unidentifiable.

(c) ''Vehicle'' means any propelled device in, upon or by which any person or property is transported on land, water or in the air, including stationary rails or tracks, and includes motor vehicles, motorboats, vessels and aircraft.

(d) Proof that a person has obscured the manufacturer's serial number or other distinguishing identification number or mark on a vehicle is prima facie evidence that he did so with the intent to render it unidentifiable within the meaning of subdivision (a)(1) of this section.

(e) Possession of a vehicle held for sale in the course of business on which the serial number or other identification number or mark has been obscured is prima facie evidence of knowledge of that fact.

(f) A report by the defendant to the police or other appropriate government agency before arrest is a defense to a charge of violating subdivision (a)(2) of this section. The burden of injecting this issue is on the defendant, but this does not shift the burden of proof.

(g) Obscuring identity of a vehicle is a Class C felony.

(Acts 1977, No. 607, p. 812, § 3250; Acts 1978, No. 770, p. 1110.)

§ 13A–8–22.1. Advertisement for purchase of a salvage or junk branded motor vehicle.

(a) A person, as defined in Section 32–8–2, who advertises in a newspaper, on a website, on a public display or sign, or through an online service, for the purchase of a salvage or junk branded motor vehicle shall clearly and conspicuously disclose on the advertisement his or her true and correct company name, physical address, telephone number, and current license number issued under, and registered in accordance with, Article 8 or Article 9, Chapter 12, Title 40, or Chapter 8, Title 13A.

(b)(1) A person who advertises in violation of subsection (a) commits a Class A misdemeanor.

(2) A person required by state law to be licensed as a motor vehicle dealer, who is not licensed, and who advertises in violation of subsection (a), commits a Class A misdemeanor.

(3) One half of any fines assessed and collected for violations of this subsection shall be deposited into the General Fund and one half of any fines assessed and collected for violations of this subsection shall be deposited with the local law enforcement agency that has jurisdiction over the crime committed.

(c) Subsections (a) and (b) do not apply to either of the following:

(1) A person who offers to purchase a motor vehicle on his or her behalf for personal purposes other than rebuilding, dismantling, or recycling into metallic scrap as provided by Section 32–8–87, or a motor vehicle that meets the conditions set forth in paragraph f. of subdivision (2) of subsection (s) of Section 32–8–87.

(2) A motor vehicle dealer with an advertisement that is physically attached to the outside of its physical address or location, located on dealership property, or on an easement directly adjacent to dealership property.

(d) This section does not apply to any of the following:

(1) A person conducting a private transaction seeking to sell his or her own personal vehicle.

(2) A person licensed under Article 8 or Article 9, Chapter 12, Title 40.

(3) A person registered in accordance with Article 1A, Chapter 8, Title 13A.

(Act 2017–191, § 1.)

§ 13A–8–23. Tampering with availability of gas, electricity, or water.

(a) The following terms shall have the meanings ascribed thereto unless the context clearly indicates otherwise:

(1) OWNER. Includes any part owner, joint owner, tenant-in-common, joint tenant, or tenant by the entirety of the whole or part of any building.

(2) PERSON. Includes a corporation, firm, company, or association.

(3) TENANT or OCCUPANT. Shall include any person who occupies the whole or a part of any building whether alone or with others and shall include the owner.

(4) UTILITY. Any public or private utility authorized to provide electricity, natural gas, or water or any combination thereof for sale to consumers in any particular service area.

(5) UTILITY SERVICES. The products, commodities, and services provided by a utility to its customers.

(b) It shall be unlawful for a tenant, occupant, or any other person to commit any of the following acts which could, or in fact does, make gas, electricity, or water unlawfully available to such tenant, occupant, or person, or to another:

(1) To connect any tube, pipe, wire, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, or water in

such a manner as to permit the use of said gas, electricity, or water without the same passing through a meter or other instrument recording the usage for billing.

(2) To alter, injure, turn on, or prevent the action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, or water.

(3) To break, deface, or cause to be broken or defaced any seal, locking device, or other parts that make up a metering device for recording usage of gas, electricity, or water or a security system for the recording device.

(4) To remove a metering device for measuring quantities of gas, electricity, or water.

(5) To transfer from one location to another a metering device for measuring utilities of gas, electricity, or water.

(6) To use a metering device belonging to the utility that has not been assigned to the location and installed by the utility.

(7) To adjust the indicated consumption, to jam the measuring device, to bypass the meter or measuring device with a jumper so that it does not indicate use or registers incorrectly, or to otherwise obtain quantities of gas, electricity, or water from the utility without same passing through a metering device for measuring quantities of consumption for billing.

(8) To fabricate or to use a device to pick or otherwise tamper with the locks used to deter current diversion, meter tampering, and meter thefts.

(9) To otherwise take any action resulting in the diversion or unauthorized use of gas, electricity, or water.

(c) Any property on which it is found to have electric, gas, or water utilities tampered with in violation of this section and capable of receiving gas, electricity, or water as a result of the use of any method of diversion prohibited herein shall be prima facie evidence and create against the tenant, occupant, or other person a presumption of intent to tamper or divert in violation of this section.

(d) Any occupant, tenant, or other person who violates this section, and any person who aids and abets in such prohibited acts, who shall be deemed a principal to such acts, shall be guilty of a Class C felony if the theft amount exceeds five hundred dollars ($500) in value and a Class A misdemeanor if the theft amount is less than or equal to five hundred dollars ($500) in value, as provided by the state criminal code, and upon conviction, be punished as prescribed by law.

(e) The provisions of this section are supplemental to the provisions of the offense of theft of services as provided in Section 13A–8–10, and shall in no way repeal or modify Section 13A–8–10.

(Acts 1986, No. 86–429, p. 795; Act 2003–355, p. 962, § 1.)

ARTICLE 1A.

SECONDARY METAL RECYCLING.

§ 13A–8–30. Definitions.

As used in this article, the following terms have the following meanings:

(1) FERROUS METALS. Any metals containing significant quantities of iron or steel, excluding motor vehicles purchased in accordance with Section 32–8–87.

(2) LAW ENFORCEMENT OFFICER. A duly constituted and certified peace officer of the State of Alabama or of any county or municipality within the state.

(3) METAL PROPERTY. Metals as defined in this section as either ferrous or nonferrous metals.

(4) NONFERROUS METALS. Metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum other than aluminum cans, bronze, lead, zinc, nickel, stainless steel, and alloys thereof, including stainless steel beer kegs.

(5) PERSON. An individual, partnership, corporation, joint venture, trust, association, or any other legal entity.

(6) PERSONAL IDENTIFICATION CARD. A driver's license or identification card issued by the Alabama State Law Enforcement Agency or a similar card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the U.S. Citizenship and Immigration Services of the Department of Homeland Security.

(7) PHOTOGRAPH. A still photographic image, including an image captured in digital format, which is of such quality that the persons and objects depicted are identifiable.

(8) PURCHASE TRANSACTION. A transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property.

(9) SECONDARY METALS RECYCLER. Any person, whether licensed or not licensed, who is engaged, from a fixed location or otherwise, in the business of paying compensation for ferrous or nonferrous metals, whether or not engaged in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value. The term does not include a pawnbroker licensed pursuant to Chapter 19A of Title 5, or a licensed automotive dismantler and parts recycler as defined in Section 40–12–410, unless the entities engage in the business of paying compensation for ferrous or nonferrous metals.

(10) VERIFIABLE DOCUMENTATION. Written evidence of ownership which may be verified, including, but not limited to, receipts, bills of sale, titles, certificates of title, purchase agreements, shipping manifests, work orders, etc.

(Act 2007–451, p. 930, § 1; Act 2010–508, p. 836, § 1; Act 2012–426, p. 1149, § 1.)

§ 13A–8–31. Record of purchases.

(a) A secondary metals recycler shall maintain a legible record of all purchase transactions of ferrous or nonferrous metals to which the secondary metals recycler is a party. The record shall include all of the following information:

(1) The name and address of the secondary metals recycler.

(2) The name or identification of the employee responsible for making the purchase on behalf of the secondary metals recycler.

(3) The date and time of the transaction.

(4) The weight, quantity, or volume and a description of the type of metal property purchased in a purchase transaction. For purposes of this subdivision, the term ''type of metal property'' shall include a general physical description, such as wire, tubing, extrusions, or casting.

(5) The amount of consideration given in a purchase transaction for the metal property.

(6) A signed statement from the person receiving consideration in the purchase transaction stating that he or she is the rightful owner of the metal property or is authorized to sell the metal property being sold.

(7) The name and address of the person delivering the metal property to the secondary metals recycler.

(8) A photocopy or scanned copy of the personal identification card of the person delivering the metal property to the secondary metals recycler, including the distinctive number from, and type of, the personal identification card of the person delivering the metal property to the secondary metals recycler.

(9) The vehicle license tag number and state of issue, or the vehicle identification number if no vehicle license tag is available, and the type of vehicle used to deliver the metal property to the secondary metals recycler. For purposes of this subdivision, the term ''type of vehicle'' shall mean an automobile, pickup truck, van, or truck.

(10) A digital photograph or video recording of the person delivering or receiving consideration for the metal property delivered to the secondary metals recycler in which the person's facial features are clearly visible and a photograph or video recording of the metal property as delivered or sold in which the type of metal property is identifiable. The time and date shall be digitally recorded on the photograph or video recording.

(b) A secondary metals recycler shall maintain or cause to be maintained the information required by subsection (a) for not less than one year from the date of the purchase transaction.

(c) Any person who intentionally violates the requirements of subsections (a) or (b) shall be guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class C felony for a third or subsequent offense within a 10-year period.

(d) It shall be unlawful for any person to give false information and receive money or other consideration from a secondary metals recycler in return for metal property. Any person in violation of this subsection shall be guilty of a Class C felony.

(Act 2007–451, p. 930, § 2; Act 2010–508, p. 836, § 1; Act 2012–426, p. 1149, § 1.)

§ 13A–8–31.1. Payment and purchase limitations.

(a) A secondary metals recycler may not enter into any cash transactions in excess of fifty dollars ($50) for copper, copper/aluminum air conditioning coils, or catalytic converters, or any items described in subdivision (a)(2) or (a)(10) of Section 13A–8–37, or any cash transaction in excess of five hundred dollars ($500) for all other metals in payment for the purchase of metal property. Payment by check may be made payable only to the person whose information was recorded pursuant to Section 13A–8–31.

(b) It shall be unlawful for a secondary metals recycler to purchase metal property from a person younger than 18 years of age.

(c) Metal property may not be purchased between the hours of 9:00 p.m. and 6:00 a.m.

(d) Any person who intentionally violates the requirements of this section shall be guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class C felony for a third or subsequent offense within a 10–year period.

(Act 2012–426, p. 1149, § 2; Act 2022–114, § 3.)

§ 13A–8–31.2. Registration and reporting requirements.

(a) All secondary metals recyclers subject to this article shall register with the Alabama Criminal Justice Information Center (ACJIC) by August 31, 2012, and shall pay an annual registration fee of two hundred fifty dollars ($250) to ACJIC. In the event the electronic reporting system is not fully implemented by August 31, 2012, the record maintenance and reporting requirements of the current law shall remain in full force and effect until such time as the ACJIC electronic reporting system is fully implemented. The registration shall include the name of the business, address of the business, telephone number, and the name of the owner or owners of the business.

(b)(1) Prior to January 1, 2013, secondary metals recyclers shall continue to abide by any reporting requirements currently in effect and followed by the recyclers.

(2) Effective January 1, 2013, secondary metals recyclers shall enter the information required by subdivisions (1), (3), (4), (5), (7), and (9) of subsection (a) of Section 13A–8–31 into a database maintained by the ACJIC and shall transmit such information electronically to the database no later than 9:00 P.M. on the day of a purchase transaction. The ACJIC Commission in consultation with the members of the Alabama Recycling

Association shall promulgate rules, regulations, and policies for the receipt and dissemination of the information in the database through ACJIC information systems. All information reported by secondary metals recyclers pursuant to this section shall be considered to be confidential and privileged and exempt from disclosure under Section 41–13–1. The ACJIC Commission shall ensure that adequate safeguards are incorporated and maintained so that the data may be accessed and used only by properly authorized law enforcement agencies for the purpose of investigating thefts of metal property. Any person releasing or using this data in an unauthorized manner shall be subject to the provisions of Section 13A–10–82.

(c) Any person who intentionally violates the requirements of this section shall be guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class C felony for a third or subsequent offense within a 10-year period.

(Act 2012–426, p. 1149, § 2.)

§ 13A–8–32. Inspections.

During the usual and customary business hours of a secondary metals recycler, a law enforcement officer, after properly identifying himself or herself as a law enforcement officer, shall have the right to inspect:

(1) All purchased metal property in the possession of the secondary metals recycler.

(2) All records required to be maintained under Section 13A–8–31.

(Act 2007–451, p. 930, § 3; Act 2012–426, p. 1149, § 1.)

§ 13A–8–33. Law enforcement officers authorized to place hold on certain sales of metals.

(a)(1) Whenever a law enforcement officer has reasonable suspicion to believe that any item of metal property in the possession of a secondary metals recycler has been stolen, the law enforcement officer, may issue a hold notice to the secondary metals recycler. The hold notice shall be in writing, shall be delivered to the secondary metals recycler, shall specifically identify those items of metal property that are believed to have been stolen and that are subject to the notice, and shall inform the secondary metals recycler of the information contained in this section.

(2) Upon receipt of the notice, the secondary metals recycler may not process or remove the items of metal property identified in the notice, or any portion thereof, from the place of business of the secondary metals recycler for 15 calendar days after receipt of the notice by the secondary metals recycler, unless sooner released by a law enforcement officer.

(b)(1) No later than the expiration of the 15–day period, a law enforcement officer after receiving additional substantive evidence may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice shall be in writing, shall be delivered

to the secondary metals recycler, shall specifically identify those items of metal property that are believed to have been stolen and that are subject to the extended hold notice, and shall inform the secondary metals recycler of the information contained in this section.

(2) Upon receipt of the extended hold notice, the secondary metals recycler may not process or remove the items of metal property identified in the notice, or any portion thereof, from the place of business of the secondary metals recycler for 30 calendar days after receipt of the extended hold notice by the secondary metals recycler, unless sooner released by a law enforcement officer.

(c) At the expiration of the hold period or, if extended in accordance with this section, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the metal property unless other disposition has been ordered by a court of competent jurisdiction.

(d) Any person who intentionally violates the requirements of subsection (a) or (b) shall be guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class C felony for a third or subsequent offense within a 10-year period.

(Act 2007–451, p. 930, § 4; Act 2012–426, p. 1149, § 1.)

§ 13A–8–34. Contesting identification or ownership of metal property.

(a) If the secondary metals recycler contests the identification or ownership of the metal property, the party other than the secondary metals recycler claiming ownership of any metal property in the possession of the secondary metals recycler may, provided that a timely report of the theft of the metal property was made to the proper authorities, bring an action in the circuit court of the county in which the secondary metals recycler is located. The petition for the action shall include a description of the means of identification of the metal property utilized by the petitioner to determine ownership of the metal property in the possession of the secondary metals recycler. If the person who sold the metal property to the secondary metals recycler is convicted of theft of property or criminal mischief related to the removal of the metal property, the court shall order the defendant to make full restitution to the victim including, without limitation, attorney fees, court costs, and property damage which resulted from the theft of property, and other expenses.

(b) When a lawful owner recovers stolen metal property from a secondary metals recycler who has complied with this article, and the person who sold the metal property to the secondary metals recycler is convicted of a violation of this article, or theft by receiving stolen property, the court shall order the defendant to make full restitution, including, without limitation, attorneys' fees, court costs, and other expenses to the secondary metals recycler.

(Act 2007–451, p. 930, § 5; Act 2012–426, p. 1149, § 1.)

§ 13A–8–35. Exceptions.

This article shall not apply to purchases of metal property from any of the following:

(1) A law enforcement officer acting in an official capacity unless the law enforcement officer is investigating a compliance issue pursuant to this article or is presenting metal property for sale.

(2) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler.

(3) Any public official acting under a court order who has presented proof of such status to the secondary metals recycler.

(4) A sale or the execution, or by virtue, of any process issued by a court if proof thereof has been presented to the secondary metals recycler.

(5) A manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.

(6) A municipal, county, state, federal, or other governmental entity.

(7) A utility company.

(8) A funeral home or the owner or operator of a cemetery.

(Act 2007–451, p. 930, § 6; Act 2012–426, p. 1149, § 1.)

§ 13A–8–35.1. Liability for injuries.

(a) A public or private owner of metal property is not civilly liable to a person who is injured during the theft or attempted theft of metal property in any amount by the person or a third party.

(b) A public or private owner of metal property is not civilly liable for a person's injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner's metal property in any amount when the owner of the metal property did not know and could not have reasonably known of the dangerous condition.

(c) This section does not create or impose a duty of care upon an owner of metal property that would not otherwise exist under common law.

(Act 2012–426, p. 1149, § 2.)

§ 13A–8–36. Damage or destruction of property.

(a) It is unlawful for a person with the intent to damage property and having no right to do so or any reasonable ground to believe that he or she has such a right, damages or destroys any of the following:

(1) Telecommunications, cable communications, or electric power transmission pedestal or pole owned or operated by a telecommunications, cable, or electric power company or cooperative, or electric power supplier, or railroad.

(2) Telecommunications, cable communications, or electric power grounding or any other equipment or materials used in the delivery of electricity,

wire, fiber insulator, power supply transformer, ground wire, or other apparatus, equipment, or fixture used in the transmission of telecommunications, cable communications, or electric power owned or operated by a telecommunications, cable, or electric power company or cooperative, or electric power supplier, or railroad.

(3) Equipment used in the transmission of wireless communications or related to wireless communications.

(4) Equipment used at any facility of over the air broadcast companies.

(5) Railroad materials and lading, including, but not limited to, any rail telecommunications; cable communications; power and signal equipment and wires; road/rail crossing signals, equipment, and wires; metal property lading being transported by a railroad; and any railroad track and other operating materials, including switch component, spike, angle bar, tie plate or bolt of the type used in constructing railroads.

(6) Electric power line, gas line, water line, wire or fiber insulators, electric motors or other apparatus, heating and cooling systems, and environmental control systems that are connected to farm shops, on-farm grain drying and storage complexes, animal production facilities, irrigation systems, greenhouse facilities, or other agricultural, forestry, or food-related activities, equipment, structures, systems, or vehicles.

(7) Any electric power line, gas line, water line, wire or fiber insulators, fencing, gates, security structures, electric motors or other apparatus, metering instruments, communications antenna, environmental control systems, and processing plants that are connected to oil, natural gas, coalbed methane, shale gas, or other petroleum producing properties, equipment, structures, systems, or vehicles.

(8) Any metal property from a school, place of worship, or a secondary metals recycler's premises.

(9) A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless any one of the following criteria are satisfied:

a. The condenser coils are being sold by a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided at the time of sale and copied or scanned by the secondary metals recycler at the time of sale.

b. The condenser coils are being sold by a person with verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor.

(10) Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(11) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized or any other metal historic markers or monuments or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(b) Any person in violation of this section shall be guilty of a Class C felony.

(c) Any person in violation of this section shall be guilty of a Class B felony if the damage or destruction causes imminent danger to the health and safety of the public, a metal owner's employees, first responders, law enforcement officers, or utility workers, or cause an interruption in communications services or electric utility services. For purposes of this subsection, ''imminent danger'' means the existence of any condition that could hinder or disrupt the normal operation of equipment, systems, or services provided for the health and safety of the public, metal owner's employees, first responders, law enforcement officers, or utility workers or cause an interruption in communications services or electric utility services.

(d) At the time of sentencing of any person convicted under this section, the judge may order restitution in an amount determined by the court; provided, however, the amount shall not be less than the value of the metal property determined to have been damaged or stolen and shall include the cost of replacement and the cost to repair any and all damage caused during the commission of the crime for which the person is convicted.

(Act 2007–451, p. 930, § 7; Act 2012–426, p. 1149, § 1.)

§ 13A–8–37. Possession or control of stolen property.

(a) It is unlawful for a person to possess or control the following property knowing that it has been stolen or having reasonable grounds to believe it has been stolen, unless the property is possessed or controlled with intent to restore it to the owner:

(1) Metal property marked with the initials of an electrical company, a telephone company, a cable company, another public utility, a railroad, or a brewer.

(2) Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(3) Street light poles and fixtures, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(4) Road and bridge guard rails unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(5) Highway or street signs, traffic light signals, and traffic directional and control signs unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(6) Water meter covers unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(7) Metal beer kegs including those made of stainless steel that are clearly marked as being the property of a beer manufacturer unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(8) Metal property marked with the name of a government entity.

(9) Unused and undamaged building construction or utility materials consisting of copper, pipe, tubing or wiring, aluminum wire, or historical markers.

(10) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(11) A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless any one of the following criteria are satisfied:

a. The condenser coils are being sold by a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided at the time of sale and copied or scanned by the secondary metals recycler at the time of sale.

b. The condenser coils are being sold by a person with verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor.

(b) Any person who violates the requirements of subdivision (a)(2) or (a)(10) shall be guilty of a Class C felony for a first offense, a Class B felony for a second offense, and a Class A felony for a third or subsequent offense within a 10-year period.

(c) Any person who violates the requirements of subdivision (1), (3), (4), (5), (6), (7), (8), or (9) of subsection (a) shall be guilty of a Class B misdemeanor for a first offense, a Class A misdemeanor for a second offense, and a Class C felony for a third or subsequent offense within a 10-year period.

(Act 2007–451, p. 930, § 8; Act 2010–508, p. 836, § 1; Act 2012–426, p. 1149, § 1.)

§ 13A–8–37.1. Ownership documentation required for purchase of certain property.

(a) It is unlawful for a secondary metals recycler to purchase the following property unless a copy of verifiable documentation in addition to the signed statement required by subdivision (a)(6) of Section 13A–8–31 is provided to the secondary metals recycler that the seller is the owner of the property:

(1) Catalytic converters that are not part of an entire motor vehicle.

(2) Metal property of a telephone company, an electric company, a cable company, a water company, another utility, or a railroad marked or otherwise identified as such.

(3) Copper wire that has been burned to remove the insulation, unless verifiable documentation is provided that the source of the copper wire was in a building destroyed by fire.

(4) A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless any one of the following criteria are satisfied:

a. The condenser coils are being sold by a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided at the time of sale and copied or scanned by the secondary metals recycler at the time of sale.

b. The condenser coils are being sold by a person with verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor.

(5) Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(6) Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized or any other metal historic markers or monuments or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

(7) Any metal property that has been brightly painted or marked to deter theft of the property.

(8) Ventilation fans or similar fans designed to supply fresh air to workers in confined spaces, such as underground mines or other similar circumstances.

(b) Any person in violation of this section shall be guilty of a Class B felony.

(Act 2012–426, p. 1149, § 2; Act 2022–114, § 3.)

§ 13A–8–37.2. Lawful possession of metal property.

Compliance by a secondary metals recycler with Sections 13A–8–31, 13A–8–31.1, 13A–8–31.2, and 13A–8–37.1, with regard to a purchase of metal property shall be recognized by law enforcement agencies and the Alabama state courts as evidence that the possession of the metal property is lawful.

(Act 2012–426, p. 1149, § 2.)

§ 13A–8–37.3. Purchase, possession, and sale of certain catalytic converters — Requirements.

(a) It is unlawful for any person to purchase, or otherwise acquire, a used, detached catalytic converter, or any nonferrous part thereof, unless all of the following apply:

(1) The person is registered as a secondary metals recycler under Section 13A–8–31.2.

(2) The sale or purchase occurs at the fixed business address of a secondary metals recycler that is a party to the transaction. For purposes of this subdivision, ''fixed business address'' of the secondary metals recycler means the address of the business that is registered with the Alabama Criminal Justice Information Center pursuant to Section 13A–8–31.2; provided, however, the term may also include the licensed address of a secondary metals recycler, new or used motor vehicle dealer, automotive repair service, motor vehicle manufacturer, licensed automotive dismantler and parts recycler, or distributor of catalytic converters, who sells or purchases the used, detached catalytic converter.

(3) The person has maintained all of the information required under Section 13A–8–31 regarding the transaction.

(b)(1) It is unlawful for a person to sell or possess a used, detached catalytic converter unless either of the following:

a. The person is a registered secondary metals recycler, licensed new or used motor vehicle dealer, licensed automotive repair service, motor vehicle manufacturer, licensed automotive dismantler and parts recycler, or licensed distributor of catalytic converters, and a copy of the seller's valid business license is received and maintained by the person at the time of the transaction.

b. The person provides the purchaser with all of the following information for the motor vehicle from which the catalytic converter or part thereof was taken:

1. The name of the person that removed the catalytic converter.

2. The name of the person for whom the removal was completed.

3. The make and model of the vehicle from which the catalytic converter was removed.

4. The vehicle identification number of the vehicle from which the catalytic converter was removed.

5. The part number or other identifying number of the catalytic converter that was removed.

6. A copy of the driver's license or nondriver identification card of the seller of the catalytic converter.

7. A copy of the certificate of title or certificate of registration showing the seller's ownership interest in the vehicle.

(2) Before each purchase or acquisition of a used, detached catalytic converter or part thereof, the secondary metals recycler, including an agent, employee, or representative thereof, shall do both of the following:

a. Verify, by obtaining the applicable documentation, that the person transferring or selling the used, detached catalytic converter acquired it legally and has the right to transfer it or sell it.

b. Retain a record of the applicable verification and other information required under Section 13A–8–31, and note in the business records of the secondary metals recycler any obvious markings on the used, detached catalytic converter, such as paint, labels, or engravings, that would aid in the identification of the catalytic converter.

(c) Each catalytic converter that is purchased, possessed, obtained, sold, transported, or otherwise acquired in violation of this section is a separate violation of this section.

(d) A person who violates this section is guilty of a Class A misdemeanor on a first violation. On a second or subsequent violation within a 10–year period, the person is guilty of a Class C felony.

(e) A used, detached catalytic converter possessed in violation of this section is contraband, subject to seizure and forfeiture as provided pursuant to Section 20–2–93.

(f) For purposes of this section, a used, detached catalytic converter does not include a catalytic converter that has been tested, certified, and labeled for reuse in accordance with applicable U.S. Environmental Protection Agency Clean Air Act regulations.

(Act 2022–114, § 1.)

§ 13A–8–37.4. Purchase, possession, and sale of certain catalytic converters — Providing false, fraudulent, altered, or counterfeit information or documentation.

(a) It is unlawful for a possessor or seller of a used, detached catalytic converter, or any nonferrous part of a catalytic converter, to provide any false, fraudulent, altered, or counterfeit information or documentation as required by Section 13A–8–37.3.

(b) A person who commits a violation of this section is guilty of a Class A misdemeanor. On a second or subsequent violation within a 10–year period, the person is guilty of a Class C felony.

(Act 2022–114, § 2.)

§ 13A–8–38. Construction.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any

other provision of law, the provision which carries the more serious penalty shall be applied.

(Act 2007–451, p. 930, § 9.)

§ 13A–8–39. Application.

This article shall apply to all businesses regulated under this article without regard to the location within the State of Alabama and shall take precedence over any and all local ordinances governing purchase transactions of metal property by a secondary metals recycler.

(Act 2007–451, p. 930, § 10; Act 2010–508, p. 836, § 1; Act 2012–426, p. 1149, § 1.)

ARTICLE 2.

ROBBERY.

§ 13A–8–40. Definitions.

(a) The definitions contained in Section 13A–8–1 are applicable to this article unless the context otherwise requires.

(b) ''In the course of committing a theft'' embraces acts which occur in an attempt to commit or the commission of theft, or in immediate flight after the attempt or commission.

(Acts 1977, No. 607, p. 812, § 3301.)

§ 13A–8–41. Robbery in the first degree.

(a) A person commits the crime of robbery in the first degree if he violates Section 13A–8–43 and he:

(1) Is armed with a deadly weapon or dangerous instrument; or

(2) Causes serious physical injury to another.

(b) Possession then and there of an article used or fashioned in a manner to lead any person who is present reasonably to believe it to be a deadly weapon or dangerous instrument, or any verbal or other representation by the defendant that he is then and there so armed, is prima facie evidence under subsection (a) of this section that he was so armed.

(c) Robbery in the first degree is a Class A felony.

(Acts 1977, No. 607, p. 812, § 3305.)

§ 13A–8–42. Robbery in the second degree.

(a) A person commits the crime of robbery in the second degree if he violates Section 13A–8–43 and he is aided by another person actually present.

(b) Robbery in the second degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 3306.)

§ 13A–8–43. Robbery in the third degree.

(a) A person commits the crime of robbery in the third degree if in the course of committing a theft he:

(1) Uses force against the person of the owner or any person present with intent to overcome his physical resistance or physical power of resistance; or

(2) Threatens the imminent use of force against the person of the owner or any person present with intent to compel acquiescence to the taking of or escaping with the property.

(b) Robbery in the third degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 3307.)

§ 13A–8–44. Claim of right not defense in robbery prosecution.

No person may submit in defense against a prosecution for robbery in any of its degrees that there was no theft because the taking was under a claim of right. Claim of right is not a defense under this article.

(Acts 1977, No. 607, p. 812, § 3310.)

ARTICLE 2A.

PHARMACY ROBBERY.

§ 13A–8–50. Short title.

This article shall be known and cited as ''The Pharmacy Robbery Act of 1982.''

(Acts 1982, No. 82–434, § 1.)

§ 13A–8–51. Definitions.

When used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) PHARMACY. Any building, warehouse, physician's office, hospital, pharmaceutical house or other structure used in whole or in part for the sale, storage and/or dispensing of any controlled substance as defined in Section 20–2–2 as amended.

(2) PHARMACY ROBBERY. A person commits the offense of ''pharmacy robbery'' under this article if in the course of committing a theft of any controlled substance as defined in Section 20–2–2 such person violates Section 13A–8–41.

(Acts 1982, No. 82–434, § 2.)

§ 13A–8–52. Penalty for violation of article.

(a) Upon conviction of the criminal offense of ''pharmacy robbery'' as defined in Section 13A–8–51(2), the offender shall be imprisoned at hard labor

for not less than 10 years nor more than 99 years and shall be ineligible for consideration for parole, probation or suspension of sentence.

(b) On a second or subsequent conviction under this article, the offender shall be imprisoned for the remainder of his natural life and shall be ineligible for consideration for parole, probation or suspension of sentence.

(Acts 1982, No. 82–434, § 3.)

ARTICLE 3.

SHOPPING CARTS.

§ 13A–8–60. Defined.

The term ''shopping cart,'' when used in this article, shall mean those pushcarts of the type or types which are commonly provided by grocery stores, drugstores or other merchant stores or markets for the use of the public in transporting commodities in stores and markets and incidentally from the store to a place outside the store.

(Acts 1973, No. 1240, p. 2087, § 1; Code 1975, § 13–3–130.)

§ 13A–8–61. Removal from premises without consent of owner; ''premises'' defined.

It shall be unlawful for any person to remove a shopping cart from the premises, posted as provided in Section 13A–8–63, of the owner of such shopping cart without the consent, given at the time of such removal, of the owner or of his agent, servant or employee. For the purpose of this section, the ''premises'' shall include all the parking area set aside by the owner, or on behalf of the owner, for the parking of cars for the convenience of the patrons of the owner.

(Acts 1973, No. 1240, p. 2087, § 2; Code 1975, § 13–3–131.)

§ 13A–8–62. Abandonment on public streets, sidewalks, parking lots, etc.

It shall be unlawful for any person to abandon a shopping cart upon any public street, sidewalk, way or parking lot, other than a parking lot on the premises of the owner.

(Acts 1973, No. 1240, p. 2087, § 3; Code 1975, § 13–3–132.)

§ 13A–8–63. Posting of article in stores.

The owner of the store in which the shopping cart is used shall post in at least three prominent places in his store, and at each exit therefrom, a printed copy of this article, which copy shall be printed in type no smaller than 12 points.

(Acts 1973, No. 1240, p. 2087, § 5; Code 1975, § 13–3–133.)

§ 13A–8–64. Penalty for violation of article.

Any person convicted of a violation under this article shall be deemed guilty of a Class C misdemeanor and shall be punished as prescribed by law under Sections 13A–5–7 and 13A–5–12.

(Acts 1973, No. 1240, p. 2087, § 4; Code 1975, § 13–3–134.)

ARTICLE 3A.

TRAFFIC SIGNS.

§ 13A–8–70. ''Traffic sign'' defined.

As used in this article, the term ''traffic sign'' shall mean any traffic sign, traffic signal, warning sign, guideboard, milepost, road marker, emergency telephone sign, or any similar sign, signal, or device used by the state or any political subdivision of the state on the highways, roads, bridges, or streets of this state for the warning, instruction, or information of the public.

(Acts 1993, 1st Ex. Sess., No. 93–887, p. 157, § 1.)

§ 13A–8–71. Possession of traffic sign; notification; destruction, defacement, etc., of traffic sign or traffic control device; defacement of public building or property.

(a) No person may unlawfully possess any traffic sign erected by the state, a county, or a municipality.

(b) Any person who voluntarily notifies a law enforcement agency of the presence on their property of a traffic sign shall not be guilty of violating the provisions of subsection (a).

(c) It shall be unlawful for any person to intentionally destroy, knock down, remove, deface, or alter any letters or figures on a traffic sign, or in any way damage any traffic control device, erected on a highway, public road, or right of way of this state, by the Department of Transportation, a county, or municipality.

(d) It shall be unlawful for any person to intentionally deface any public building or public property.

(Acts 1993, 1st Ex. Sess., No. 93–887, p. 157, § 2; Acts 1996, No. 96–425, p. 539, § 1.)

§ 13A–8–72. Penalties.

(a) A person who is convicted of violating subsection (a) of Section 13A–8–71 shall be fined not more than fifty dollars ($50).

(b) A person who is convicted of intentionally destroying, knocking down, removing, defacing, or altering a traffic sign pursuant to subsection (c) of Section 13A–8–71 or defacing a public building or public property pursuant to

subsection (d) of Section 13A–8–71, where the damage inflicted is more than two thousand five hundred dollars ($2,500), is guilty of a Class C felony.

(c) A person who is convicted of intentionally destroying, knocking down, removing, defacing, or altering a traffic sign pursuant to subsection (c) of Section 13A–8–71 or defacing a public building or public property pursuant to subsection (d) of Section 13A–8–71, where the damage inflicted is more than five hundred dollars ($500), but less than two thousand five hundred dollars ($2,500), is guilty of a Class A misdemeanor.

(d) A person who is convicted of intentionally destroying, knocking down, removing, defacing, or altering a traffic sign pursuant to subsection (c) of Section 13A–8–71 or defacing a public building or public property pursuant to subsection (d) of Section 13A–8–71, where the damage inflicted is less than five hundred dollars ($500) is guilty of a Class B misdemeanor.

(e) The parents of a minor under the age of 18 years with whom the minor is living and who have custody of the minor shall be liable for actual damages, plus court costs, for the destruction or defacement of any public road sign or the defacement of any public building or public property by the intentional acts of the minor.

(f) Any minor who is convicted of violating this article shall be ordered by the court to correct or clean up any destruction or defacement of which the minor has been convicted.

(Acts 1993, 1st Ex. Sess., No. 93–887, p. 157, § 3; Acts 1996, No. 96–425, p. 539, § 1; Acts 1997, No. 97–216, p. 331, § 1; Act 2003–355, p. 962, § 1.)

§ 13A–8–73. Fines to be deposited in general fund.

Any fines collected pursuant to this article shall be deposited in the general fund of the county and distributed as follows: one-half shall be designated for law enforcement purposes and one-half shall be designated to the county road and bridge fund.

(Acts 1993, 1st Ex. Sess., No. 93–887, p. 157, § 4.)

ARTICLE 3B.

THEFT OF CONSIGNED MOTOR FUELS.

§ 13A–8–75. Consigned motor fuels defined.

As used in this article, the term consigned motor fuels means all grades of gasoline including gasohol or any gasoline blend, number 1 diesel, number 2 diesel, kerosene, and all aviation fuels delivered to a merchant by another for the purpose of sale and the merchant deals in goods of that kind. Consigned motor fuels are not owned by the party to whom the fuels are delivered for sale, but remain the property of the company delivering or having the motor fuels delivered. The merchant agrees to sell the consigned motor fuels belonging to another for a commission or other compensation.

(Act 2015–439, p. 1414, § 1.)

§ 13A–8–76. Written consignment agreement.

(a) There shall be a written agreement between the person delivering or having the consigned motor fuels delivered for sale, hereinafter designated the consignor, and the merchant, hereinafter designated as the consignee, reflecting not only the consignment agreement between the parties, but that title to the consigned motor fuels and to the proceeds from the sale of the consigned motor fuels is always vested in the consignor and never the consignee.

(b) Nothing in this section shall be construed to create a new or additional element necessary to prove the commission of theft of property in any degree.

(Act 2015–439, p. 1414, § 1.)

§ 13A–8–77. Taking of consigned motor fuels without consent of owner.

It shall be unlawful for any person to take, use, sell, or dispose of consigned motor fuels or the proceeds from the sale of consigned motor fuels without the consent of the owner and in violation of the written agreement required in Section 13A–8–76.

(Act 2015–439, p. 1414, § 1.)

§ 13A–8–78. Penalties.

A person who violates this article shall be guilty of the crime of theft of property and subject to those penalties provided in Section 13A–8–3, 13A–8–4, or 13A–8–5, based on value of the property taken.

(Act 2015–439, p. 1414, § 1.)

ARTICLE 4.

COPYING AND SALE OF RECORDED DEVICES.

§ 13A–8–80. ''Owner'' defined.

Unless the context clearly requires otherwise, the term ''owner,'' as used in this article, shall mean the person who owns, or has the exclusive license in the United States to reproduce or the exclusive license in the United States to distribute to the public copies of the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films, videocassettes or other articles now known or later developed on which sound is recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or to authorize the recording of a live performance.

(Acts 1975, No. 1063, p. 2125, § 1; Code 1975, § 13–3–150; Acts 1989, No. 89–532, p. 1089, § 1.)

§ 13A–8–81. Transfer, manufacture, distribution, etc., of certain sounds without consent prohibited; applicability; penalties; recording rights; evidence of performer's consent.

(a) It shall be a felony for any person to:

(1) Knowingly transfer or cause to be transferred, directly or indirectly, by any means, any sounds recorded on a phonograph record, disc, wire, tape, film, videocassette or other article now known or later developed on which sounds are recorded, with the intent, for commercial advantage or private financial gain, to sell or rent, or cause to be sold or rented, or to be used for profit through public performance, such article on which sounds are so transferred, without consent of the owner;

(2) Knowingly transfer or cause to be transferred, directly or indirectly, by any means, onto any phonograph record, disc, wire, tape, film, videocassette or other article now known or later developed, any live performance, for commercial advantage or private financial gain, without the consent of the owner; or

(3) Manufacture, distribute, transport or wholesale any article with the knowledge that the sounds or performances are so transferred without consent of the owner.

(b) The provisions of this section shall not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds other than from the sound track of a motion picture intended for, or in connection with broadcast or telecast transmission or related uses, or for archival purposes.

(c) Penalties for violations hereof are prescribed in Section 13A–8–86(a).

(d) Subdivision (a)(1) of this section applies only to sound recordings that were initially fixed prior to February 15, 1972.

(e) In the absence of a written agreement or operation of law to the contrary, the performer or performers of the live performance shall be presumed to own the rights to record or authorize the recording of the live performance. In any proceeding where a performer's consent is in issue, a person who is authorized to maintain custody and control over business records reflecting consent shall be considered a proper witness, subject to all rules of evidence relating to competency and admissibility.

(Acts 1975, No. 1063, p. 2125, § 2; Code 1975, § 13–3–151; Acts 1989, No. 89–532, p. 1089, § 1.)

§ 13A–8–82. Possession, sale, rental, etc., of recorded device in violation of article prohibited; penalties.

(1) It shall be unlawful for any person to knowingly sell, rent, cause to be sold or rented, or possess for the purpose of selling or renting any recorded device that has been produced, manufactured, distributed or acquired in violation of any provision of this article.

(2) Penalties for violations hereof are prescribed in Section 13A–8–86(b).

(Acts 1975, No. 1063, p. 2125, § 3; Code 1975, § 13–3–152; Acts 1989, No. 89–532, p. 1089, § 1.)

§ 13A–8–83. Manufacturer's name required on package.

Every recorded device sold, rented or transferred for commercial advantage or private financial gain, or possessed for the purpose of sale, rental or transfer by any manufacturer, distributor or wholesale or retail merchant shall contain on its packaging the true name and address of the manufacturer; provided, that the term ''manufacturer'' shall not include the manufacturer of the cartridge or casing itself, but shall mean the manufacturer of the actual recorded material. The term ''recorded device'' means the tangible medium upon which sounds or images are recorded or otherwise stored, and includes any phonograph record, disc, wire, tape, videocassette, film, or other medium now known or later developed on which sounds or images are recorded or otherwise stored.

(Acts 1975, No. 1063, p. 2125, § 4; Code 1975, § 13–3–153; Acts 1989, No. 89–532, p. 1089, § 1.)

§ 13A–8–84. Confiscation of nonconforming recordings, equipment and components.

It shall be the duty of any state, county or local law enforcement officer to confiscate all recorded material that does not conform to the provisions of this article and all equipment and components used or intended to be used in the manufacture of the infringing recordings and to deliver the nonconforming recorded devices, equipment and components to the State Attorney General or the appropriate local district attorney of the judicial district in which the confiscation was made. The provisions of this section shall apply to any nonconforming recording, regardless of lack of knowledge or intent on the part of the retail seller.

(Acts 1975, No. 1063, p. 2125, § 5; Code 1975, § 13–3–154; Acts 1989, No. 89–535, p. 1097, § 1.)

§ 13A–8–85. Damages in civil action.

(a) Any owner of recorded material whose material has allegedly been illegally reproduced as provided herein shall have a cause of action in the circuit courts of this state for all damages resultant therefrom, including actual, compensatory and incidental damages, as well as punitive damages of not more than three times the amount of the total cost of producing the illegally recorded material.

(b) Any lawful producer of recorded material, as set forth in this article, whose product is allegedly the subject of a violation of the provisions of this article shall have a cause of action in the circuit courts of this state for all damages resultant therefrom, including actual, compensatory and incidental

damages, as well as punitive damages not exceeding three times the amount of the total cost of producing the recorded materials.

(Acts 1975, No. 1063, p. 2125, § 7; Code 1975, § 13–3–155.)

§ 13A–8–86. Penalties for manufacture, sale, rental, possession for sale or rental, etc., in contravention of article; forfeiture.

(a) Each separate manufacture, distribution, sale or transfer at wholesale of any unauthorized recording in contravention of the provisions of this article shall upon conviction constitute a separate offense punishable as follows:

(1) If the offense involves not less than 1,000 unlawful sound recordings or not less than 65 audio visual recordings, by imprisonment not less than three years, nor more than ten years, or by a fine of not more than $250,000.00 or both.

(2) For any other offense not described in subdivision (a)(1), by imprisonment not less than one year, nor more than three years, or by fine of not more than $25,000.00 for the first offense, or both, and by imprisonment not less than three years nor more than 10 years, or by fine of not more than $100,000.00, or both, for any subsequent offense.

(b) Each separate sale, rental or possession for sale or rental of any recording, not described in subsection (a), in contravention of the provisions of this article shall upon conviction constitute a separate offense punishable as follows:

(1) If the offense involves not less than 100 unlawful sound recordings or not less than seven unlawful audio visual recordings, or if the offense is a subsequent offense, by imprisonment not less than one year nor more than five years, or by a fine of not more than $250,000.00 or both.

(2) For any other offense not described in subdivision (b)(1), by imprisonment for not more than one year, or by a fine of not more than $25,000.00 or both.

(c) If a person is convicted of any offense under this article, the court in its judgment of conviction shall order the forfeiture and destruction or other disposition of all infringing recordings and of all equipment and components used or intended to be used in the manufacture of the infringing recordings, as provided in Section 13A–8–84.

(Acts 1975, No. 1063, p. 2125, § 6; Code 1975, § 13–3–156; Acts 1989, No. 89–532, p. 1097, § 1.)

ARTICLE 4A.

UNLAWFUL OPERATION OF A RECORDING DEVICE IN MOTION PICTURE THEATER.

§ 13A–8–90. Violations; penalties.

(a) For purposes of this section, the following words have the following meanings:

(1) AUDIOVISUAL IMAGE. A series of related images which are intended to impart an impression of motion when shown in succession by means of a machine or device.

(2) AUDIOVISUAL RECORDING FUNCTION. The capability of a device to record or transmit a motion picture or any part thereof.

(3) MOTION PICTURE THEATER. A movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

(4) COMMERCIALLY DISTRIBUTE. To sell, lease, rent, or distribute for pecuniary gain.

(b) Any person who knowingly operates the audiovisual recording function of any device in a motion picture theater for the purpose of recording a motion picture with the intent to violate the property rights of the owner of the motion picture commits the crime of unlawful operation of a recording device. For purposes of this subsection, to record or transmit one or more audiovisual images from the on-screen exhibition of a motion picture, or to transmit the audio sounds accompanying the motion picture, is presumptive proof of intent to violate the property rights of the owner of the motion picture.

(c) Unlawful operation of a recording device in violation of subsection (b) is a Class A misdemeanor on the first offense. Any subsequent conviction of unlawful operation of a recording device in violation of subsection (b) is a Class C felony.

(d) Unlawful operation of a recording device in violation of subsection (b) with intent to commercially distribute the recording is a Class C felony.

(e) The owner or lessee of a motion picture theater, or the authorized agent or employee of the owner or lessee, who in good faith notifies a law enforcement agency of an alleged violation of this section shall not be liable, absent negligence or willfulness and wantonness, in any civil action arising out of measures taken by the owner, lessee, agent, or employee in the course of subsequently detaining a person that the owner, lessee, agent, or employee in good faith believed to have violated this section while awaiting the arrival of law enforcement authorities.

(f) This section does not prevent any lawfully authorized investigative, law enforcement, protective, or intelligence gathering employee or agent of local, state, or federal government from operating any audiovisual recording device in a motion picture theater as part of any lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

(g) This section does not prevent prosecution for any acts violating this section under any other provision of law providing for a greater penalty.

(Act 2008–272, p. 397, § 1.)

ARTICLE 5.

ALABAMA COMPUTER CRIME ACT.

§§ 13A–8–100 through 13A–8–103. Repealed by Act 2012–432, p. 1192, § 11, effective August 1, 2012.

ARTICLE 5A.

THE ALABAMA DIGITAL CRIME ACT.

§ 13A–8–110. Short title.

This article may be cited as The Alabama Digital Crime Act.

(Act 2012–432, p. 1192, § 1.)

§ 13A–8–111. Definitions.

As used in this article, the following terms shall have the following meanings:

(1) ACCESS. To gain entry to, instruct, communicate with, store data in, retrieve or intercept data from, alter data or computer software in, or otherwise make use of any resource of a computer, computer system, or computer network.

(2) COMPUTER. An electronic, magnetic, optical, electrochemical, or other high speed data processing device or system that performs logical, arithmetic, or memory functions by the manipulations of electronic or magnetic impulses and includes all input, output, processing, storage, or communication facilities that are connected or related to the device.

(3) COMPUTER NETWORK. The interconnection of two or more computers or computer systems that transmit data over communication circuits connecting them.

(4) COMPUTER PROGRAM. An ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data or perform specific functions.

(5) COMPUTER SECURITY SYSTEM. The design, procedures, or other measures that the person responsible for the operation and use of a computer employs to restrict the use of the computer to particular persons or uses or that the owner or licensee of data stored or maintained by a computer in which the owner or licensee is entitled to store or maintain the data employs to restrict access to the data.

(6) COMPUTER SERVICES. The product of the use of a computer, the information stored in the computer, or the personnel supporting the computer, including computer time, data processing, and storage functions.

(7) COMPUTER SOFTWARE. A set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specific functions.

(8) COMPUTER SYSTEM. A set of related or interconnected computer or computer network equipment, devices and software.

(9) DATA. A representation of information, knowledge, facts, concepts, or instructions, which are prepared and are intended for use in a computer, computer system, or computer network. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit.

(10) ELECTRONIC MAIL MESSAGE. A message sent to a unique destination that consists of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which such message can be sent or delivered.

(11) EXCEEDS AUTHORIZATION OF USE. Accessing a computer, computer network, or other digital device with actual or perceived authorization, and using such access to obtain or alter information that the accessor is not entitled to obtain or alter.

(12) FINANCIAL INSTRUMENT. Includes, but is not limited to, any check, cashier's check, draft, warrant, money order, certificate of deposit, negotiable instrument, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computer system representation thereof.

(13) HARM. Partial or total alteration, damage, or erasure of stored data, interruption of computer services, introduction of a virus, or any other loss, disadvantage, or injury that might reasonably be suffered as a result of the actor's conduct.

(14) IDENTIFICATION DOCUMENT. Any document containing data that is issued to an individual and which that individual, and only that individual, uses alone or in conjunction with any other information for the primary purpose of establishing his or her identity or accessing his or her financial information or benefits. Identification documents specifically include, but are not limited to, the following:

a. Government issued driver's licenses or identification cards.

b. Payment cards such as credit cards, debit cards, and ATM cards.

c. Passports.

d. Health insurance or benefit cards.

e. Identification cards issued by educational institutions.

f. Identification cards for employees or contractors.

g. Benefit cards issued in conjunction with any government supported aid program.

h. Library cards issued by any public library.

(15) IDENTIFYING INFORMATION. Specific details that can be used to access a person's financial accounts, obtain identification, or to obtain goods or services, including, but not limited to:

a. Social Security number.

b. Driver's license number.

c. Bank account number.

d. Credit card or debit card number.

e. Personal identification number (PIN).

f. Automated or electronic signature.

g. Unique biometric data.

h. Account password.

(16) INTEGRATED CIRCUIT CARD. Also known as a smart card or chip card, a pocket sized, plastic card with embedded integrated circuits used for data storage or special purpose processing used to validate personal identification numbers (PINs), authorize purchases, verify account balances and store personal records. When inserted into a reader, it transfers data to and from a central computer.

(17) OWNER. An owner or lessee of a computer or a computer network, or an owner, lessee, or licensee of computer data, computer programs, or computer software.

(18) PROPERTY. Includes a financial instrument, data, databases, data while in transit, computer software, computer programs, documents associated with computer systems and computer programs, or copies whether tangible or intangible.

(19) RADIO FREQUENCY IDENTIFICATION (RFID). A technology that uses radio waves to transmit data remotely from an RFID tag, through a reader, from identification documents. It is used in contactless integrated circuit cards, also known as proximity cards.

(20) RADIO FREQUENCY IDENTIFICATION (RFID) TAGS. Also known as RFID labels, the hardware for an RFID system that electronically stores and processes information, and receives and transmits the signal.

(21) REENCODER. An electronic device that places encoded information from the magnetic strip, integrated circuit, RFID tag of an identification document onto the magnetic strip, integrated circuit, or RFID tag of a different identification document.

(22) SCANNING DEVICE. A scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip, integrated circuit, or RFID tag of an identification document.

(23) VIRUS. Means an unwanted computer program or other set of instructions inserted into a computer's memory, operating system, or program that is specifically constructed with the ability to replicate itself or to affect the other programs or files in the computer by attaching a copy of the unwanted program or other set of instructions to one or more computer programs or files.

(24) WEB PAGE. A location that has a single uniform resource locator or other single location with respect to the Internet.

(Act 2012–432, p. 1192, § 2.)

§ 13A–8–112. Computer tampering.

(a) A person who acts without authority or who exceeds authorization of use commits the crime of computer tampering by knowingly:

(1) Accessing and altering, damaging, or destroying any computer, computer system, or computer network.

(2) Altering, damaging, deleting, or destroying computer programs or data.

(3) Disclosing, using, controlling, or taking computer programs, data, or supporting documentation residing in, or existing internal or external to, a computer, computer system, or network.

(4) Directly or indirectly introducing a computer contaminator or a virus into any computer, computer system, or network.

(5) Disrupting or causing the disruption of a computer, computer system, or network services or denying or causing the denial of computer or network services to any authorized user of a computer, computer system, or network.

(6) Preventing a computer user from exiting a site, computer system, or network-connected location in order to compel the user's computer to continue communicating with, connecting to, or displaying the content of the service, site, or system.

(7) Obtaining any information that is required by law to be kept confidential or any records that are not public records by accessing any computer, computer system, or network that is operated by this state, a political subdivision of this state, or a medical institution.

(8) Giving a password, identifying code, personal identification number, debit card number, bank account number, or other confidential information about a computer security system to another person without the consent of the person using the computer security system to restrict access to a computer, computer network, computer system, or data.

(b)(1) Except as otherwise provided in this subsection, the offense of computer tampering is a Class A misdemeanor, punishable as provided by law. Subsection (a) does not apply to any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his of her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) If the actor's intent is to commit an unlawful act or obtain a benefit, or defraud or harm another, the offense is a Class C felony, punishable as provided by law.

(3) If any violation results in a victim expenditure of greater than two thousand five hundred dollars ($2,500), or if the actor's intent is to obtain a benefit, commit an unlawful act, or defraud or harm another and there is an interruption or impairment of governmental operations or public communication, transportation, or supply of water, gas, or other public or utility service, the offense is a Class B felony, punishable as provided by law.

(4) If any violation results in a victim expenditure of greater than one hundred thousand dollars ($100,000), or if the committed offense causes physical injury to any person who is not involved in the act, the offense is a Class A felony, punishable as provided by law.

(5) If any violation relates to access to an Alabama Criminal Justice Information Center information system or to data regulated under the authority of the Alabama Justice Information Commission, the offense is a Class B felony, punishable as provided by law. Misuse of each individual record constitutes a separate offense under this subsection.

(c) A prosecution for a violation of this section may be tried in any of the following:

(1) The county in which the victimized computer, computer system, or network is located.

(2) The county in which the computer, computer system, or network that was used in the commission of the offense is located or in which any books, records, documents, property, financial instruments, computer software, data, access devices, or instruments of the offense were used.

(3) The county in which any authorized user was denied service or in which an authorized user's service was interrupted.

(4) The county in which critical infrastructure resources were tampered with or affected.

(Act 2012–432, p. 1192, § 3.)

§ 13A–8–113. Encoded data fraud.

(a) A person commits the crime of encoded data fraud by:

(1) Knowingly and with the intent to commit an unlawful act or to defraud, possessing a scanning device; or knowingly and with intent to commit an unlawful act or defraud, using or attempting to use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on an identification document by means of magnetic strip, integrated circuit, or radio frequency identification tag without the permission of the authorized user or issuer of the identification document.

(2) Knowingly and with the intent to commit an unlawful act or to defraud, possessing a reencoder; or knowingly and with intent to commit an unlawful act or defraud, using or attempting to use a reencoder to place encoded information on an identification document by means of magnetic

strip, integrated circuit, or radio frequency identification tag without the permission of the authorized user or issuer of the identification document from which the information is being reencoded.

(3) Knowingly and with intent to commit an unlawful act or to defraud, possess any purported credit or debit card that was not legitimately issued by a financial institution, company, governmental agency, or other card issuer. If any credit or debit card contains conflicting identifying information, this conflict shall create a rebuttable presumption of intent to commit an unlawful act or to defraud and that the credit or debit card was not legitimately issued.

(b) Any person violating this section, upon conviction, shall be guilty of a Class C felony. For the purposes of charges under subdivision (3) of subsection (a), the possession of each credit or debit card shall be charged as a separate count.

(c) Any scanning device, reencoder, or credit or debit card owned by the defendant and possessed or used in violation of this section may be seized and be destroyed as contraband by the investigating law enforcement agency by which the scanning device, reencoder, or credit or debit card was seized. (Act 2012–432, p. 1192, § 4; Act 2016–359, p. 893, § 1.)

§ 13A–8–114. Phishing.

(a) A person commits the crime of phishing if the person by means of an Internet web page, electronic mail message, or otherwise using the Internet, solicits, requests, or takes any action to induce another person to provide identifying information by representing that the person, either directly or by implication, is a business, without the authority or approval of the business.

(b) Any person violating this section, upon conviction, shall be guilty of a Class C felony. Multiple violations resulting from a single action or act shall constitute one violation for the purposes of this section.

(c) The following persons may bring an action against a person who violates or is in violation of this section:

(1) A person who is engaged in the business of providing Internet access service to the public, owns a web page, or owns a trademark, and is adversely affected by a violation of this section.

(2) An individual who is adversely affected by a violation of this section.

(d) In any criminal proceeding brought pursuant to this section, the crime shall be considered to be committed in any county in which any part of the crime took place, regardless of whether the defendant was ever actually present in that county, or in the county of residence of the person who is the subject of the identification documents or identifying information.

(e) The Attorney General or the district attorney may file a civil action in circuit court to enforce this section and to enjoin further violations of this section. The Attorney General or the district attorney may recover actual

damages or twenty-five thousand dollars ($25,000), whichever is greater, for each violation of subsection (a).

(f) In a civil action under subsection (e), the court may increase the damage award to an amount equal to not more than three times the award provided in subsection (d) if the court determines that the defendant has engaged in a pattern and practice of violating subsection (a).

(g) Proceeds from an action under subsection (e) shall first be used for payment of all proper expenses, including court costs, of the proceedings for the civil action with the remaining proceeds payable first towards the restitution of any victims, as determined by the court. Any remaining proceeds shall be awarded equally between the State General Fund and the office of the Attorney General, the office of the district attorney bringing the action, or both.

(h) An interactive computer service provider shall not be held liable or found in violation of this section for identifying, removing, or disabling access to an Internet web page or other online location that such provider reasonably believes by clear and convincing evidence that it is being used to engage in a violation of this section.

(Act 2012–432, p. 1192, § 5.)

§ 13A–8–115. Disclosure of stored wire or electronic communications, transactional records, etc.

(a) A law enforcement officer, a prosecuting attorney, or the Attorney General may require the disclosure of stored wire or electronic communications, as well as transactional records and subscriber information pertaining thereto, to the extent and under the procedures and conditions provided for by the laws of the United States.

(b) A provider of electronic communication service or remote computing service shall provide subscriber information as well as the contents of, and transactional records pertaining to, wire and electronic communications in its possession or reasonably accessible thereto when a requesting law enforcement officer, a prosecuting attorney, or the Attorney General complies with the provisions for access thereto set forth by the laws of the United States.

(c) Warrants or appropriate orders for production of stored wire or electronic communications and transactional records pertaining thereto shall have statewide application or application as provided by the laws of the United States when issued by a judge with jurisdiction over the criminal offense under investigation or to which such records relate.

(d) This section specifically authorizes any law enforcement official, prosecuting attorney, or the Attorney General to issue a subpoena to obtain any stored electronic records governed by 18 U.S.C. § 2703(b) et seq., and any successor statute. The subpoena shall be issued with a showing that the subpoenaed material relates to an investigation.

(e) Intentional violation of this section shall be punishable as contempt.

(Act 2012–432, p. 1192, § 6.)

§ 13A–8–116. Warrants from other states.

(a) An Alabama corporation or business entity that provides electronic communication services or remote computing services to the general public, when served with a warrant issued by another state to produce records that could reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if that warrant had been issued by an Alabama court.

(b) Intentional violation of this section shall be punishable as contempt.

(Act 2012–432, p. 1192, § 7.)

§ 13A–8–117. Forfeiture of certain computers, software, etc.

(a) On conviction of a violation of this article or any other violation of the criminal laws of Alabama, the court shall order that any computer, computer system, computer network, instrument of communication, software or data that was owned or used by the defendant with the owner's knowledge of the unlawful act or where the owner had reason to know of the unlawful act, and that was used in the commission of the offense be forfeited to the State of Alabama and sold, destroyed, or otherwise properly disposed. If the defendant is a minor, it also includes the above listed property of the parent or guardian of the defendant. The manner, method, and procedure for the forfeiture and condemnation or forfeiture of such thing shall be the same as that provided by law for the confiscation or condemnation or forfeiture of automobiles, conveyances, or vehicles in which alcoholic beverages are illegally transported. If the computer, computer system, computer network, instrument of communication, software, or data that was used by a defendant, in conjunction with a violation of this article, is owned or leased by the defendant's employer or a client or vendor of the defendant's employer and such owner or lessor did not authorize the activity violating this article, this section shall not apply.

(b) When property is forfeited under this article or any other violation of the criminal laws of Alabama, the court may award the property to any state, county, or municipal law enforcement agency or department who participated in the investigation or prosecution of the offense given rise to the seizure. The recipient law enforcement agency shall use such property for law enforcement purposes but, at its discretion, may transfer the tangible property to another governmental department or agency to support crime prevention. The agencies may sell that which is not required to be destroyed and which is not harmful to the public. The proceeds from a sale authorized by this article shall be used first for payment of all proper expenses of the proceedings for

forfeiture and sale and the remaining proceeds from the sale shall be awarded and distributed by the court to the participating agencies to be used exclusively for law enforcement purposes.

(c) Pursuant to Section 15–18–67, and in addition to any other cost ordered pursuant to law, the district attorney may request and the court may order the defendant to pay the cost of prosecution or investigation, or both. Restitution shall include any and all costs associated with the violation of the criminal laws of this state.

(Act 2012–432, p. 1192, § 8.)

§ 13A–8–118. Prosecution.

A person who is subject to prosecution under this article and any other law of this state may be prosecuted under either or both laws.

(Act 2012–432, p. 1192, § 9.)

§ 13A–8–119. Activities of law enforcement agencies, political subdivisions, etc.

Nothing in this article prohibits any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of this state or a political subdivision of this state or a law enforcement agency of the United States or of an intelligence agency of the United States.

(Act 2012–432, p. 1192, § 10.)

Article 6.

Theft of Cable Television Services.

§ 13A–8–120. "Cable television company" defined.

As used in this article, unless the context requires otherwise, "cable television company" or "company" means any franchised or other duly licensed company which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable or other device or means for accomplishing such redistribution, to members of the public who subscribe to such service, or distributing through such company's antennae, poles, wires, cables, conduits or other property used in providing service to its subscribers and customers any television signals whether broadcast or not.

(Acts 1986, No. 86–228, p. 335, § 1.)

§ 13A–8–121. Acts punishable as misdemeanors.

It shall be a misdemeanor for any person to knowingly:

(1) Obtain or attempt to obtain cable television service from a company by trick, artifice, deception or other fraudulent means with the intent to

deprive such company of any or all lawful compensation for rendering each type of service obtained;

(2) Assist or instruct any other person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing such service;

(3) Make or maintain a connection or connections, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of cable television without authority from the cable television company;

(4) Make or maintain any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by such company which such person is not authorized by such company to receive;

(5) Manufacture, import into this state, distribute, sell, lease or offer, possess, or advertise for sale or lease any device, or any plan or kit for a device or for a printed circuit designed in whole or in part to decode, descramble or otherwise make intelligible any encoded, scramble or other nonstandard signal carried by a cable television company with the intent that such device, plan or kit be used for the theft of such company's services;

(6) Provided, however, that nothing in this section shall be construed to prohibit the manufacture, importation, sale, lease or possession of any television device possessing the internal hardware necessary to receive cable television signals without the use of a converter device or box, or of any television advertised as ''cable ready'';

(7) Manufacture, import into this state, distribute, sell, offer for sale, rent or use any device, plan or kit for a device, designed in whole or in part to unlawfully perform or facilitate the unlawful performance of any of the acts set out in subdivisions (1)-(5) of this section;

(8) Provided, that nothing in this section shall be construed to limit a subscriber's equipment selection to that of the cable company, so long as all equipment is properly installed and meets all local and FCC requirements.

Any person violating the provisions of this section shall, upon conviction, be guilty of a Class B misdemeanor.

(Acts 1986, No. 86–228, p. 335, § 2.)

§ 13A–8–122. Possession of certain devices constitutes prima facie evidence of intent to violate article.

In a prosecution for a violation of this article, the existence on the property and in the actual possession of the defendant of (1) any connection, wire conductor or any device whatsoever, which is connected in such a manner as would permit the receipt of cable television service without such service being reported for payment to and specifically authorized by the cable television company or (2) the existence on the property and in the actual possession of

the defendant, where the totality of the circumstances, including quantities or volumes, surrounding the defendant's arrest indicate possession for resale, of any device designed in whole or in part to facilitate the performance of any of the illegal acts set out in Section 13A–8–121, shall constitute prima facie evidence of the defendant's intent to violate the provisions of this article.

(Acts 1986, No. 86–228, p. 335, § 3.)

§ 13A–8–123. Civil liability for violations of Section 13A–8–121.

(a) Any person who violates the provisions of subdivision (5) of Section 13A–8–121 shall, in addition to the criminal penalties provided in this article, be civilly liable to the aggrieved cable television company for an amount not to exceed the greater of the following amounts:

(1) One thousand dollars; or

(2) Double the amount of actual damages, if any, sustained by the cable television company.

(b) Any person who violates the provisions of any subsection of Section 13A–8–121 for a second or subsequent time shall, in addition to the criminal penalties provided by this article, be civilly liable to the aggrieved cable television company for an amount not to exceed the greater of the following amounts:

(1) Two thousand dollars; or

(2) Double the amount of actual damages, if any, sustained by the cable television company.

(Acts 1986, No. 86–228, p. 335, § 4.)

§ 13A–8–124. Injunctive relief; damages; proof of actual damages not prerequisite.

(a) Any cable television company may, in accordance with the Alabama Rules of Civil Procedure, bring an action to enjoin and restrain any violation of the provisions of this article, and may in the same action seek damages as provided in Section 13A–8–123.

(b) It is not a necessary prerequisite to a civil action pursuant to this article that the cable television company prove it has suffered, or is threatened with, actual damages.

(Acts 1986, No. 86–228, p. 335, § 5.)

§ 13A–8–125. Equipment used to violate article is contraband; seizure and forfeiture.

Any electronic or communications equipment or any other such devices used to violate the provisions of this article shall be considered contraband subject to seizure and forfeiture to the state.

(Acts 1986, No. 86–228, p. 335, § 6.)

§ 13A–8–126. Satellite reception dishes.

The provisions of this article shall have no application to satellite reception dishes nor related equipment or accessories used in connection with satellite reception dishes.

(Acts 1986, No. 86–228, p. 335, § 7.)

Article 7.

Theft by Fraudulent Leasing or Rental of Property.

§ 13A–8–140. Elements of offense of theft by fraudulent leasing or rental.

The crime of theft by fraudulent leasing or rental of property is committed if a person, herein called ''lessee'', signs a written lease or rental contract with a person licensed to rent or lease tangible personal property under the provisions of Article 4, Chapter 12, Title 40, herein called ''lessor'', and obtains or exerts control over tangible personal property by reason of such rental contract, with the intent, knowledge or expectation that he will not perform the terms, covenants and agreements of the lessee provided in such rental contract.

(Acts 1986, No. 86–392, p. 576, § 1.)

§ 13A–8–141. Prima facie evidence of fraudulent leasing or rental.

For the purposes of Section 13A–8–140 of this article, it is prima facie evidence that a lessee fraudulently leased or rented property, and intended, knew or expected that he would not perform the terms and obligations of the lessee under a rental contract if:

(1) The name or address of the lessee appearing on the written agreement shall, at the time it is signed, be false or fictitious, and if the lessee fails to return the leased property to the lessor within seven days after lessor makes written demand for its return, notwithstanding that the term under the rental contract has not expired; or

(2) The rental contract provides for the return of the leased property to a particular place, at a particular time, and the lessee shall fail to return the leased property to the place and within the time specified in the said rental contract, and the lessor thereafter makes written demand for the return of the leased property to the place specified in the rental contract within 48 hours from the time the written demand is delivered to the lessee, and the lessee fails to return said property to the lessor within the said 48 hour period; or

(3) A lessee obtains or exerts control over personal property by executing a rental contract which provides for the return of said property to a particular place, or at a particular time, and thereafter abandons said

property, secretes, converts, sells or attempts to sell the same or any part thereof.

(Acts 1986, No. 86–392, p. 576, § 2.)

§ 13A–8–142. Written demand for return of leased property; form of notice.

For the purposes of Section 13A–8–141 of this article:

(1) A written demand for the return of leased property may be made by personally delivering a copy thereof to the lessee; such demand may also be delivered to a lessee by certified United States mail, directed to lessee at his address shown on the rental contract, and the return receipt shall be deemed sufficient evidence that the demand was received by the lessee, on the date shown on the receipt.

(2) The form of notice to be given under subdivision (1) of Section 13A–8–141 shall be sufficient if substantially as follows:

''This statutory notice is provided pursuant to Section _____ of the Code of Alabama. You are hereby notified that the name or address given by you, as lessee, and appearing on the rental contract dated _____, wherein _____ is the lessor, was fictitious or false. Pursuant to Alabama law you have seven (7) days from receipt of this demand to return the property rented or leased under the said rental contract to the lessor at the place designated in the rental contract, and to pay all accrued lease or rental charges. Unless the said property is so returned, and accrued rental charges paid, all as provided by the said rental contract, within the time specified above, the lessor may assume that you leased the said property with intent, knowledge or expectation that you, as the lessee would not perform the terms, covenants and agreements appearing in the said rental contract at the time you executed the same, and, therefore that you intended to defraud the lessor. In such case the lessor may turn over the rental contract and all other available information relating to this incident to the proper authorities for criminal prosecution.''

(3) The form of notice to be given under subdivision (2) of Section 13A–8–141 above shall be sufficient if substantially as follows:

''This statutory notice is provided pursuant to Section _____ of the Code of Alabama. You are hereby notified that you have failed to return that certain personal property leased by you under a written rental contract dated _____, wherein _____ is the lessor, to the particular place or at the particular time provided by the said rental contract. Pursuant to Alabama law, you have forty-eight (48) hours from the receipt of this demand to return the leased property to the lessor at the address specified in the rental contract. Unless the said property is returned to the lessor at the address specified in the rental contract within the time specified above, the lessor may assume that at the time you entered into

the said rental contract you intended, knew or expected that you would not perform the terms, covenants and agreements of the lessee thereunder, and that you intended to defraud the lessor. In such case the lessor may turn over the rental contract and all other available information relating to this incident to the proper authorities for criminal prosecution.''

(Acts 1986, No. 86–392, p. 576, § 3.)

§ 13A–8–143. Immunity from liability for giving of notice.

Any lessor under a written lease or rental agreement having given notice in substantially similar form to that provided in this article shall be immune from civil or criminal liability for the giving of such notice and for proceeding under the forms of such notice.

(Acts 1986, No. 86–392, p. 576, § 4.)

§ 13A–8–144. Penalties.

The crime of theft by fraudulent leasing or rental of property shall be a Class A misdemeanor if the subject matter of the lease or rental agreement had a value of five hundred dollars ($500) or less; if the value of such property was in excess of five hundred dollars ($500), the crime shall be a Class C felony.

(Acts 1986, No. 86–392, p. 576, § 5; Act 2003–355, p. 962, § 1.)

Article 8.

Telecommunication Equipment or Plans, Prohibited Possession, Distribution, Use.

§ 13A–8–150. Definitions.

For the purposes of this article, the following definitions shall apply:

(1) Manufacture of an unlawful telecommunication device. The production or assembly of an unlawful telecommunication device or the modification, alteration, programming, or reprogramming of a telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider.

(2) Publish. The communication or dissemination of information to any one or more persons, either orally in person, or by telephone, computer network, radio, television, or in a writing of any kind, including, without limitation, a letter or memorandum, circular, handbill, newspaper, magazine article, or book.

(3) Telecommunication device. Any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic, electronic, or radio communications, or any part of such instrument, device,

machine or equipment, or any computer circuit, computer chip, electronic mechanism, or other component that is capable of facilitating the transmission or reception of telephonic, electronic, or radio communication.

(4) TELECOMMUNICATION SERVICE. Any service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, data, writings, images, sounds, or intelligence of any nature by telephone, including cellular telephones, wire, radio, electromagnetic, photoelectronic, or photo-optical system.

(5) TELECOMMUNICATION SERVICE PROVIDER. A person or entity providing telecommunication service including, but not limited to, a cellular, paging, or other wireless communications company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunication service.

(6) UNLAWFUL TELECOMMUNICATION DEVICE. Any electronic serial number, mobile identification number, personal identification number, or any telecommunication device that is capable, or has been altered, modified, programmed, or reprogrammed alone or in conjunction with another access device or other equipment so as to be capable of acquiring or facilitating the acquisition of a telecommunication service without the consent of the telecommunication service provider. The term includes, but is not limited to, telecommunication devices altered to obtain service without the consent of the telecommunication service provider, tumbler phones, counterfeit or illegally cloned microchips, scanning receivers of wireless telecommunication service of a telecommunication service provider, and other instruments capable of disguising their identity or location or of gaining access to a communication system operated by a telecommunication service provider. Excluded from being classified as unlawful is a common piece of telephone installation and maintenance equipment known as a dial set or butt-in-ski.

(Acts 1996, No. 96–499, p. 630, § 1.)

§ 13A–8–151. Unlawful acts with respect to telecommunication devices; seizure and destruction unlawful devices, plans, etc.

(a) It shall be unlawful for any person to knowingly do any of the following:

(1) To make, manufacture, distribute, possess, use, or assemble an unlawful telecommunication device or modify, alter, program, or reprogram a telecommunication device designed, adapted, or which is used:

a. For commission of a theft of telecommunication service or to acquire or facilitate the acquisition of telecommunication service without the consent of the telecommunication service provider in violation of this article.

b. To conceal, or assist another to conceal, from any supplier of telecommunication service provider or from any lawful authority the existence, place of origin, or destination of any telecommunication.

(2) To sell, possess, distribute, give, transport, or otherwise transfer to another or offer or advertise for sale any of the following:

a. An unlawful telecommunication device, or plans or instructions for making or assembling the same under circumstances evincing an intent to use or employ the unlawful telecommunication device, or to allow the same to be used or employed, for a purpose described in paragraph a. or paragraph b. above, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling such unlawful telecommunication device.

b. The material, including hardware, cables, tools, data, computer software or other information or equipment, knowing that the purchaser or a third person intends to use the material in the manufacture of an unlawful telecommunication device.

(3) To publish plans or instructions for making or assembling or using any unlawful telecommunication device.

(4) To publish the number or code of an existing, cancelled, revoked or nonexistent telephone number, credit number, or other credit device, or method of numbering or coding which is employed in the issuance of telephone numbers, credit numbers or other credit devices with knowledge or reason to believe that it may be used to avoid the payment of any lawful telephone or telegraph toll charge under circumstances evincing an intent to have such telephone number, credit number, credit device or method of numbering or coding so used.

(b) Any unlawful telecommunication device, plans, instructions, or publications described in this section may be seized under warrant or incident to a lawful arrest for a violation of this section, and, upon the conviction of a person for a violation of this section, the unlawful telecommunication device, plans, instructions, or publication may be destroyed as contraband by the sheriff of the county in which the person was convicted or turned over to the person providing telephone or telegraph service in the territory in which the same was seized.

(Acts 1996, No. 96–499, p. 630, § 2.)

§ 13A–8–152. Penalties.

(a) Any person violating any of the provisions of this article shall be guilty of a Class B misdemeanor. However, if the offense involves five or more unlawful telecommunication devices, the person shall be guilty of a Class C felony.

(b) The court shall, in addition to any sentence authorized by law, sentence a person convicted of violating this article to make restitution to any telecommunication service provider wishing restitution.

(c) A telecommunication service provider aggrieved by a violation of this article may, in a civil action in any court of competent jurisdiction, obtain

appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation expenses, costs of suit, and attorney fees as are provided by law.

(Acts 1996, No. 96–499, p. 630, § 3.)

ARTICLE 9.

LEAVING PREMISES OF GASOLINE SALES ESTABLISHMENT WITHOUT REMITTING PAYMENT.

§ 13A–8–170. Violation and penalties.

(a) No person shall drive his or her motor vehicle off the premises of an establishment where gasoline is offered for retail sale after dispensing gasoline into the fuel tank of his or her motor vehicle if the person fails to remit payment or make an authorized charge for the gasoline that was dispensed.

(b) A person who violates this section shall be guilty of a Class A misdemeanor.

(c) The driver's license of a person convicted for a second or subsequent offense of violating this section shall be suspended as follows:

(1) On a second conviction, the driver's license of the person shall be suspended for a period of six months.

(2) On a third or subsequent conviction, the driver's license of the person shall be suspended for a period of one year.

(d) The person shall submit the driver's license to the court upon conviction and the court shall forward the driver's license to the Alabama State Law Enforcement Agency.

(Act 99–567, p. 1219, § 1.)

ARTICLE 10.

THE CONSUMER IDENTITY PROTECTION ACT.

§ 13A–8–190. Short title.

This article shall be known as ''The Consumer Identity Protection Act.''

(Act 2001–312, p. 399, § 1.)

§ 13A–8–191. Definitions.

For purposes of this article, the following words shall have the following meanings:

(1) IDENTIFICATION DOCUMENTS. Any papers, cards, or other documents issued by federal, state, or local governmental authorities that are used specifically to identify a person. Identification documents include, but are not limited to, driver's licenses, military identification cards, passports,

birth certificates, Social Security cards, and other government-issued identification cards.

(2) IDENTIFYING INFORMATION. Any information, used either alone or in conjunction with other information, that specifically identifies a person or a person's property, and includes, but is not limited to, any of the following information related to a person:

a. Name.

b. Date of birth.

c. Social Security number.

d. Driver's license number.

e. Financial services account numbers, including checking and savings accounts.

f. Credit or debit card numbers.

g. Personal identification numbers (PIN).

h. Electronic identification codes.

i. Automated or electronic signatures.

j. Biometric data.

k. Fingerprints.

l. Passwords.

m. Parent's legal surname prior to marriage.

n. Any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain goods or services.

(3) VICTIM. A person whose identification documents or identifying information are used to perpetrate a crime created by this article.

(Act 2001–312, p. 399, § 2.)

§ 13A–8–192. Identity theft.

(a) A person commits the crime of identity theft if, without the authorization, consent, or permission of the victim, and with the intent to defraud for his or her own benefit or the benefit of a third person, he or she does any of the following:

(1) Obtains, records, or accesses identifying information that would assist in accessing financial resources, obtaining identification documents, or obtaining benefits of the victim.

(2) Obtains goods or services through the use of identifying information of the victim.

(3) Obtains identification documents in the victim's name.

(4) Obtains employment through the use of identifying information of the victim.

(b) Identity theft is a Class B felony.

(c) This section shall not apply when a person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.

(d) Any prosecution brought pursuant to this article shall be commenced within seven years after the commission of the offense.

(Act 2001–312, p. 399, § 3; Act 2003–355, p. 962, § 1; Act 2006–148, p. 218, § 1; Act 2012–368, p. 919, § 1.)

§ 13A–8–193. Trafficking in stolen identities.

(a) A person commits the crime of trafficking in stolen identities when, without the authorization, consent, or permission of the victim, he or she manufactures, sells, transfers, purchases, or possesses, with intent to manufacture, sell, transfer, or purchase, identification documents or identifying information for the purpose of committing identity theft.

(b) Possession of five or more identification documents of the same person, or possession of identifying information of five or more separate persons, without the authorization, consent, or permission of the person or persons, shall create an inference that the identities are possessed with intent to manufacture, sell, transfer, or purchase identification documents or identifying information for the purpose of committing identity theft.

(c) Trafficking in stolen identities is a Class B felony.

(Act 2001–312, p. 399, § 4.)

§ 13A–8–194. Obstructing justice using a false identity.

(a) A person commits the crime of obstructing justice using a false identity if he or she uses identification documents or identifying information of another person or a fictitious person to avoid summons, arrest, prosecution, or to impede a criminal investigation.

(b) Obstructing justice using a false identity is a Class C felony.

(Act 2001–312, p. 399, § 5.)

§ 13A–8–195. Restitution for financial loss.

Upon conviction for any crime in this article, in addition to any other punishment, a person found guilty shall be ordered by the court to make restitution for financial loss caused by the criminal violation of this article to any person whose identifying information was appropriated. Financial loss may include any costs incurred by the victim in correcting the credit history or credit rating of the victim or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligations resulting from the theft of the victim's identification documents or identifying information, including lost wages and attorney's fees. The court may order restitution for financial loss to any other person or entity that suffers a loss from the violation. Additionally, persons convicted of violation of this article

shall be assessed an amount of twenty-five dollars ($25) per day and medical expenses for time spent in county or municipal jails or in a state prison facility.

(Act 2001–312, p. 399, § 6.)

§ 13A–8–196. Situs of crime.

In any criminal proceeding brought pursuant to this article, the crime shall be considered to be committed in any county in which any part of the crime took place, regardless of whether the defendant was ever actually present in that county, or in the county of residence of the person who is the subject of the identification documents or identifying information.

(Act 2001–312, p. 399, § 7.)

§ 13A–8–197. Court records to reflect innocence of victim.

In any case in which a person obtains identification documents or identifying information of another person in violation of this article and uses the documents or information to commit a crime in the name of another person, the court records for the crime shall reflect that the victim of this act did not commit the crime.

(Act 2001–312, p. 399, § 8.)

§ 13A–8–198. Order to correct records.

(a) Upon a conviction for any crime in violation of this article or conviction of any other offense which the court finds involved identity theft, and at the victim's request, the sentencing court shall issue any orders necessary to correct any public or private record that contains false information as a result of a criminal violation of this article. Any order shall be under seal and may be released only as prescribed by this section. The order shall include the following information:

(1) Information about financial accounts affected by the crime, including, but not limited to, the name of the financial institution, the account number, amount of money involved in the crime, and the date of the crime.

(2) The specific identifying information and identification documents used to commit the crime.

(3) A description of the perpetrator of the crime.

(b) The victim may release the orders as follows:

(1) The victim may submit this order in any civil proceeding to set aside a judgment against the victim involving the specific account and amounts as determined by the criminal sentencing court. The order shall remain sealed in the civil proceeding.

(2) The victim may submit the order to any governmental entity or private business as proof that any financial accounts therein created or altered were a result of the crime and not the actions of the victim.

(Act 2001–312, p. 399, § 9; Act 2006–148, p. 218, § 1.)

§ 13A–8–199. Civil action for violation of chapter.

(a) In addition to any other remedies provided by law, a victim who has suffered loss as a result of a criminal violation of this article may bring an action in his or her county of residence or any county in which any part of the crime took place, regardless of whether the defendant who committed the criminal violation was ever actually present in that county, against the defendant to recover the following:

(1) Five thousand dollars ($5,000) for each incident, or three times the actual damages, whichever is greater.

(2) Reasonable attorney's fees and court costs.

(b) The statute of limitations for cases under this section shall be seven years from the earlier of the date of discovery of the offense or the date when the offense reasonably should have been discovered.

(Act 2001–312, p. 399, § 10; Act 2006–148, p. 218, § 1.)

§ 13A–8–200. Block on false information in credit reports.

(a) As used in this section, the following words shall have the following meanings:

(1) CONSUMER CREDIT REPORT. The term shall mean the same as the term is defined in the Federal Fair Credit Reporting Act, 15 USC Sections 1681a and 1681b, as amended.

(2) CONSUMER REPORTING AGENCY. The term shall mean the same as the term is defined in the Federal Fair Credit Reporting Act, 15 USC Sections 1681a and 1681b, as amended.

(3) PERSON. Any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(b)(1) If a consumer submits to a consumer reporting agency a court order as described in Section 13A–8–198, the consumer reporting agency shall, within 30 days of receipt, employ reasonable procedures to block reporting any information in the consumer's credit report identified in the court order that is the result of a criminal violation of the Consumer Identity Protection Act so that the information cannot be reported and, at the consumer's request, include the fact of the order in the consumer's credit report. The consumer reporting agency shall promptly notify the furnisher of the information that a court order has been filed, that a block has been established, and the effective date of the block.

(2) The block on information may be rescinded only by a subsequent order from the court that originally issued the order pursuant to Section 13A–8–198.

(3) If the block of information is rescinded pursuant to this section, the consumer shall be promptly notified in the same manner as the consumers are notified of the reinsertion of information pursuant to Section 611 of the Federal Fair Credit Reporting Act, 15 USC Section 1681i, as amended.

(4) A consumer harmed by an intentional or reckless violation of this section may maintain an action for actual damages caused by a violation of this section and injunctive relief against the person who violated this section. A judgment in favor of the consumer shall include an award of attorney's fees.

(5) It shall be a defense to any action or proceeding brought under this section that the defendant has established and implemented reasonable practices and procedures to comply with the requirements of this section. No action or proceeding may be brought under this section more than two years after the person bringing the action knew or should have known of the alleged violation in subdivision (4).

(Act 2001–312, p. 399, § 11.)

§ 13A–8–201. Reissuance of identification documents.

Upon request by a victim of a crime created by this article, identification documents issued by a state, county, or municipal agency and used to perpetrate a crime created by this article shall be reissued at no charge to the victim. An agency may require proof of the criminal activity, such as a police report, before reissuing the identification documents.

(Act 2001–312, p. 399, § 12.)

Article 11.

Retail Theft Crime Prevention Act.

§ 13A–8–220. Short title.

This article shall be known and may be cited as the Retail Theft Crime Prevention Act.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–221. Definitions.

As used in this article, the following terms have the following meanings:

(1) Conceal. To place merchandise in a manner that is not visible through ordinary observation.

(2) Organized retail theft. Obtaining or exerting unauthorized control over retail merchandise from a retail merchant, retail establishment, or

premises of a retail establishment with the intent to deprive the owner or retail merchant of his or her property, or reselling, distributing, or otherwise reentering the retail merchandise in commerce, including the transfer of the stolen retail merchandise to another retail merchant or to any other person, whether in person, through the mail, or through any electronic medium, including the Internet, in exchange for anything of value.

(3) PREMISES OF A RETAIL ESTABLISHMENT. The retail establishment, common use areas in shopping centers, and parking areas designated by a merchant or on behalf of a merchant for the parking of motor vehicles for the convenience of the patrons of the retail establishment or where stored for delivery or transport to a retail establishment.

(4) RETAIL ESTABLISHMENT. Any place where merchandise is displayed, held, stored, or offered for sale to the public.

(5) RETAIL MERCHANDISE. Any article, product, commodity, component, or item of tangible personal property displayed, held, stored, or offered for sale within a retail establishment.

(6) RETAIL MERCHANT. An owner or operator of a retail establishment or an agent, employee, lessee, officer, or director of the owner or operator.

(7) RETAIL VALUE. The actual retail price of merchandise prior to the commission of the subject criminal offense.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–222. Actions constituting retail theft.

A person commits the crime of retail theft if, with the intent to obtain or exert unauthorized control over retail merchandise from a retail merchant, retail establishment, or premises of a retail establishment, or with the intent to deprive the owner or retail merchant of his or her retail merchandise of all or some part of the value thereof or without paying for the retail merchandise, he or she knowingly does any of the following:

(1) Conceals upon his or her person or in another manner and takes possession of two or more items of retail merchandise of the retail establishment.

(2) Alters, transfers, or removes the label, price tag, marking, indicia of value, or any other markings that aid in determining the value affixed to retail merchandise in a retail establishment, and purchases, or attempts to purchase, the merchandise at less than its value.

(3) Transfers retail merchandise in a retail establishment from one container to another with the intent to purchase the merchandise at less than its retail value.

(4) Causes the cash register or other sales recording device to reflect less than the retail value of the retail merchandise of a retail establishment.

(5) Fails to scan the barcode and pay for retail merchandise at a cash register or self-checkout register.

(6) Causes the amount paid to be less than the retail merchant's stated price for the retail merchandise.

(7) Alters, bypasses, disables, shields, or removes any security or alarm device attached to or housing retail merchandise prior to the purchase of the merchandise.

(8) Removes or causes the removal of retail merchandise from the premises of a retail establishment.

(9) Collaborates with an employee of the retail establishment to commit any form of retail theft described in this section.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–223. Retail theft in the first degree.

(a)(1) Retail theft that exceeds two thousand five hundred dollars ($2,500) in retail value constitutes retail theft in the first degree.

(2) Retail theft of one or more items of retail merchandise during a 180–day period, the aggregate value of which is one thousand dollars ($1,000) or more constitutes retail theft in the first degree.

(3) Theft of a firearm, rifle, or shotgun, regardless of its value, from a retail merchant constitutes retail theft in the first degree.

(b) Retail theft in the first degree is a Class B felony.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–224. Retail theft in the second degree.

(a) Retail theft that exceeds five hundred dollars ($500) in retail value, but does not exceed two thousand five hundred dollars ($2,500) in retail value, constitutes retail theft in the second degree.

(b) Retail theft in the second degree is a Class C felony.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–225. Retail theft in the third degree.

(a) Retail theft that does not exceed five hundred dollars ($500) in retail value constitutes retail theft in the third degree.

(b) Retail theft in the third degree is a Class A misdemeanor.

(c) A fourth or subsequent conviction for an offense under this article is a Class C felony.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–226. Organized retail theft.

(a) A person commits the crime of organized retail theft when the person, in association with one or more other persons, knowingly does any of the following:

(1) Organizes, supervises, finances, participates, directs, solicits, or otherwise manages or assists another person in committing organized retail theft.

(2) Removes, destroys, deactivates, or knowingly evades any component of an antishoplifting or inventory control device to prevent the activation of that device or to facilitate another person in committing organized retail theft.

(3) Attempts, solicits, or conspires with another person to commit organized retail theft.

(4) Receives, purchases, or possesses retail merchandise for sale or resale knowing or believing the retail merchandise to be stolen is from a retail merchant.

(5) Uses any fraud, artifice, instrument, container, device, or other article to facilitate the commission of organized retail theft.

(6) Remains unlawfully inside a retail establishment after business hours, with the intent to commit a retail theft therein.

(7) Uses a wireless telecommunication device or other digital or electronic device to facilitate the theft of retail merchandise.

(8) Uses a rental or stolen motor vehicle or vehicle of another in the course of committing retail theft for the purposes of the concealment of his or her identity.

(9) Receives, retains, or disposes of retail merchandise knowing that it has been stolen or having reasonable grounds to believe it has been stolen.

(b)(1) Theft of one or more items of retail merchandise, the aggregate value of which exceeds two thousand five hundred dollars ($2,500) in retail value, during a one-year or longer period, constitutes organized retail theft.

(2) Theft of retail merchandise consisting of one or more items of retail merchandise during a 180–day period, the aggregate value of which is one thousand dollars ($1,000) or more, constitutes organized retail theft.

(3) Theft or retail merchandise consisting of one or more items of retail merchandise during a 30–day period, the aggregate value of which is five hundred dollars ($500) or more, constitutes organized retail theft.

(c) It shall be prima facie evidence that a person who violates this section acts knowingly when any of the following apply:

(1) On two or more separate occasions within a year prior of the commission of the instant offense of organized retail theft, the person is found in possession or control of stolen retail merchandise.

(2) The person possesses retail merchandise that has been recently stolen.

(3) The person regularly buys, sells, uses, or handles in the course of business retail merchandise of the sort received, and acquired the retail merchandise without making reasonable inquiry whether the individual

selling or delivering the retail merchandise to him or her had a legal right to do so.

(d) The fact that the person or persons who acted in association with the person charged under this article have not been charged, convicted, apprehended, or identified is not a defense to a charge of organized retail theft.

(e) Organized retail theft is a Class B felony.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–227. Forfeiture and restitution for organized retail theft.

(a) Any proceeds, property obtained by proceeds, or instruments of the crimes of organized retail theft or retail theft may be subject to forfeiture pursuant to the procedures set forth in Section 20–2–93.

(b) When a person is convicted of organized retail theft, upon request of the district attorney, the court shall order the defendant to make restitution as follows:

(1) To the retail merchant victim, pursuant to the procedures set forth in Section 15–18–67.

(2) To the primary investigative law enforcement and prosecutorial entities for any legitimate cost incurred in the course of the investigation or prosecution, pursuant to the procedures set forth in Section 20–2–190(j), or an amount agreed upon by the district attorney.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–228. Defense precluded upon explicit representation of property as stolen, embezzled, or converted.

It is not a defense to a charge under this article that the property was not stolen, embezzled, or converted property at the time of the violation if the property was explicitly represented to the accused person as being stolen, embezzled, or converted property.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–229. Violations arising out of the same criminal transaction.

Nothing in this article prohibits a person from being charged with, convicted of, or sentenced for any violation of law arising out of the same criminal transaction that violates this article.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–230. Arrest, detention, and prosecution.

(a) Any violation of this article may only be prosecuted in the circuit or district court.

(b) In any criminal proceeding brought pursuant to this article, the crime shall be considered to be committed in any county in which any part of the

crime took place, regardless of whether the defendant was ever actually present in that county, or in the county of residence of the person who is the subject of the theft by retail theft or organized retail theft.

(c) Any arrest or detention by a retail merchant shall be subject to the requirements and protections as provided in Section 15–10–14.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–231. Prima facie evidence.

(a) The fact that a person conceals merchandise for which he or she has not paid the full value, and the retail merchandise has been taken beyond the area within the retail establishment or premises of a retail establishment where payment for it is to be made, shall be prima facie evidence that the person possessed, carried away, or transferred the retail merchandise with the intention of depriving the retail merchant of all or part of the full value of the retail merchandise without paying the full value of the retail merchandise in violation of this article.

(b)(1) A violation of this article shall be deemed prima facie evidence that the person intended to deprive the retail merchant of all or part of the full retail value of the retail merchandise without paying the full value of the retail merchandise.

(2) The unaltered price tag or other marking on the merchandise, or duly identified photographs of the merchandise, shall be prima facie evidence of the merchandise's actual retail value and ownership.

(c) Nothing in this subsection shall be construed to provide that the mere possession of goods or the production by shoppers of improperly priced merchandise for checkout shall constitute prima facie evidence of guilt.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–232. Warrant.

(a) A warrant for the crime of retail theft or organized retail theft may be sworn and issued by a judge or magistrate remotely, digitally, via video link, or by telephone. The physical presence of the affiant before the judge or magistrate is not required.

(b) Other methods of technology not specifically described in subsection (a) may be used to facilitate the oath and issuance of a criminal warrant pursuant to this article upon the approval of the technology by the presiding judge and district attorney of the judicial circuit.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

§ 13A–8–233. Training for prosecutors and law enforcement agencies.

The Office of Prosecution Services, Office of the Attorney General, Alabama State Law Enforcement Agency, Alabama Association of Chiefs of Police,

Alabama Sheriffs Association, Alabama Grocers Association, and Alabama Retail Association shall make reasonable coordinated efforts to develop training for prosecutors and law enforcement agencies throughout the state to combat organized retail crime, violations of Chapter 41 of Title 8, and other crimes negatively impacting small and large businesses in Alabama and make recommendations to the Alabama Legislature and Governor regarding public safety and the prevention of organized retail crime, enforcement and prosecution of this article and Chapter 41 of Title 8, as well as the impact of organized retail thefts on Alabama businesses and the public.

(Act 2023–531, § 1, eff. Sept. 1, 2023.)

CHAPTER 9.

FORGERY AND FRAUDULENT PRACTICES.

ARTICLE 1.

FORGERY AND RELATED OFFENSES.

§ 13A–9–1. Definitions.

The following definitions are applicable in this article unless the context otherwise requires:

(1) WRITTEN INSTRUMENT. Such term means:

a. Any paper, document or other instrument containing written or printed matter or its equivalent; and

b. Any token, stamp, seal, badge, trademark or other evidence or symbol of value, right, privilege or identification,

which is capable of being used to the advantage or disadvantage of some person.

(2) COMPLETE WRITTEN INSTRUMENT. One which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof.

(3) INCOMPLETE WRITTEN INSTRUMENT. One which contains some matter by way of content or authentication, but which requires additional matter in order to render it a complete written instrument.

(4) FALSELY MAKE. To ''falsely make'' a written instrument means to make or draw a complete written instrument in its entirety, or an incomplete written instrument, which purports to be authentic creation of its ostensible maker, but which is not either because the ostensible maker is fictitious or because, if real, he did not authorize the making or drawing thereof.

(5) FALSELY COMPLETE. To ''falsely complete'' a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without lawful authority, so that

the completed written instrument falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by him.

(6) FALSELY ALTER. To ''falsely alter'' a written instrument means to change, without lawful authority, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, addition or transportation of matter, or in any other manner, so that the instrument so changed falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by him.

(7) FORGED INSTRUMENT. A written instrument which has been falsely made, completed or altered.

(8) INTENT TO DEFRAUD. A purpose to use deception, as defined in Section 13A–8–1(1), or to injure another person's interest which has value, as defined in Section 13A–8–1(14).

(9) PROPERTY. Such term is defined as in Section 13A–8–1(10).

(10) SERVICES. Such term is defined as in Section 13A–8–10(b).

(11) GOVERNMENT. Such term is defined as in Section 13A–8–1(5).

(12) UTTER. To ''utter'' means to directly or indirectly offer, assert, declare or put forth a forged instrument as genuine.

(Acts 1977, No. 607, p. 812, § 4001.)

§ 13A–9–2. Forgery in the first degree.

(a) A person commits the crime of forgery in the first degree if, with intent to defraud, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

(1) Part of an issue or series of stamps, securities or other valuable instruments issued by a government or governmental agency; or

(2) Part of an issue or series of stock, bonds or other instruments representing interests in or claims against a business enterprise or its property.

(b) Forgery in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 4005.)

§ 13A–9–3. Forgery in the second degree.

(a) A person commits the crime of forgery in the second degree if, with intent to defraud, he or she falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

(1) A deed, will, codicil, or contract which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

(2) A public record, or an instrument filed or required or authorized by law to be filed in a public office or with a public employee; or

(3) A written instrument officially issued or created by a public office, public employees or government agency.

(b) Forgery in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4006; Acts 1979, No. 79–471, p. 862, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–9–3.1. Forgery in the third degree.

(a) A person commits the crime of forgery in the third degree if, with intent to defraud, he or she falsely makes, completes, or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed, an assignment or a check, draft, note, or other commercial instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status.

(b) Forgery in the third degree is a Class D felony.

(Act 2015–185, p. 476, § 6.)

§ 13A–9–4. Forgery in the fourth degree.

(a) A person commits the crime of forgery in the fourth degree if, with intent to defraud, he or she falsely makes, completes or alters a written instrument.

(b) Forgery in the fourth degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4007; Act 2015–185, p. 476, § 2.)

§ 13A–9–5. Criminal possession of forged instrument in the first degree.

(a) A person commits the crime of criminal possession of a forged instrument in the first degree if he possesses or utters any forged instrument of a kind specified in Section 13A–9–2 with knowledge that it is forged and with intent to defraud.

(b) Criminal possession of a forged instrument in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 4010.)

§ 13A–9–6. Criminal possession of forged instrument in the second degree.

(a) A person commits the crime of criminal possession of a forged instrument in the second degree if he possesses or utters any forged instrument of a kind specified in Section 13A–9–3 with knowledge that it is forged and with intent to defraud.

(b) Criminal possession of a forged instrument in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4011.)

§ 13A–9–6.1. Criminal possession of forged instrument in the third degree.

(a) A person commits the crime of criminal possession of a forged instrument in the third degree if he or she possesses or utters a forged instrument of a kind covered in Section 13A–9–3.1 with knowledge that it is forged and with intent to defraud.

(b) Criminal possession of a forged instrument in the third degree is a Class D felony.

(Act 2015–185, p. 476, § 6.)

§ 13A–9–7. Criminal possession of forged instrument in the fourth degree.

(a) A person commits the crime of criminal possession of a forged instrument in the fourth degree if he or she possesses or utters a forged instrument of a kind covered in Section 13A–9–4 with knowledge that it is forged and with intent to defraud.

(b) Criminal possession of a forged instrument in the fourth degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4012; Act 2015–185, p. 476, § 2.)

§ 13A–9–8. Limitation on criminal liability for forgery and criminal possession of forged instrument.

A person may not be punished for both the offense of forgery and the offense of criminal possession of a forged instrument with respect to the same instrument, unless arising out of separate and distinct transactions.

(Acts 1977, No. 607, p. 812, § 4015.)

§ 13A–9–9. Criminal possession of forgery device.

(a) A person commits the crime of criminal possession of a forgery device if he makes or possesses with knowledge of its character any plate, die or other device, appliance, apparatus, equipment or article specifically designed or adapted for use in forging written instruments with intent to use it himself, or to aid or permit another to use it for purposes of forgery.

(b) Criminal possession of a forgery device is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4020.)

§ 13A–9–10. Criminal simulation.

(a) A person commits the crime of criminal simulation if:

(1) He makes or alters any object, with intent to defraud, so that it appears to have an antiquity, value, rarity, source or authorship that it does not in fact possess; or

(2) He possesses or utters an object so simulated with knowledge of its true character and with intent to defraud.

(b) Criminal simulation is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4025.)

§ 13A–9–11. Obtaining signature by deception.

(a) A person commits the crime of obtaining a signature by deception if with intent to defraud or to acquire a substantial benefit for himself or another, he causes another by deception to sign or execute a written instrument.

(b) The definition of ''deception'' in Section 13A–8–1(1) applies to this section also.

(c) Obtaining a signature by deception is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4030.)

§ 13A–9–12. Offering false instrument for recording; nullifaction or expungement from record.

(a) A person commits the crime of offering a false instrument for recording if, knowing that a written instrument relating to or affecting real or personal property, or an interest therein, or directly affecting contractual relationships contains a material false statement or material false information, and with intent to defraud, he presents or offers it to a public office or a public employee, with the knowledge that it will be registered, filed or recorded or become a part of the records of that public office or public employee.

(b) Offering a false instrument for recording is a Class A misdemeanor.

(c) A person commits the crime of offering a false instrument for recording against a public servant if the person offers, for recording, a written instrument which relates to or affects the real or personal property, or an interest therein, or a contractual relationship of a public servant, knowing that the written instrument contains a materially false statement or materially false information, with the intent to defraud, intimidate, or harass the public servant, or to impede the public servant in the performance of his or her duties. For the purposes of this subsection, public servant is defined as in Section 13A–10–1.

(d) Offering a false instrument for recording against a public servant is a Class C felony.

(e) A recording official may nullify or expunge from an official record a false or fraudulent lien or instrument. A person or entity whose rights are affected by the filing of a lien or other instrument may petition a recording official to nullify or expunge the filing. If a lien or instrument is recorded with more

than one recording official, then the petitioner may file such a petition with any such recording official, but may file only one such petition and any decision rendered on that petition in accordance with the procedures outlined in this subsection shall be equally applicable to all other filings. Such petition shall be in writing and sworn under oath and based upon the personal knowledge of the petitioner. A copy of such petition shall be delivered via certified and first class mail to the person or entity who filed the lien or instrument or who claims the rights or interests thereby at an address shown on the lien or instrument. Within 14 days of the filing of such a petition, the recording official shall give written notice of the filing of the petition to the person or entity who filed the lien or instrument or who claims the rights or interests thereby. Such notice shall be sent by certified and first class mail, shall be deemed delivered when placed in the mail, and shall state that any additional proof of the validity of the lien or instrument shall be filed with the recording official within 14 days of the date of mailing the notice and that the failure to do so could result in the lien or instrument being nullified or expunged. If the recording official does not grant the petition within 28 days of the date that it is filed, the petition shall be deemed denied. An order granting or denying a petition, if rendered, shall be delivered to the parties by the recording official by certified first class mail, but shall not be enforced, acted upon, or effective before the expiration of 28 days from the date of mailing or the final adjudication of any and all appeals of that decision, at which time any final order granting the petition shall be recorded and indexed in order to provide notice that the lien or instrument has been nullified or expunged. A party may appeal the decision of the recording official to the circuit court of any county where the lien or instrument was filed or to the Circuit Court of Montgomery County, Alabama. Such appeals must be filed within 28 days of the recording official's order or deemed denied. Such appeals shall be filed and commenced as a civil action under the Alabama Rules of Civil Procedure, which shall otherwise apply to such actions on appeal. A notice of the appeal shall also be filed with the recording official, who shall file the notice as a lis pendens filing. The appeal shall be de novo by the circuit court without a jury. The prevailing party on appeal shall be entitled to a judgment against the other party for the prevailing party's attorneys fees and expenses arising out of and relating to the appeal, and court costs shall be taxed against the non-prevailing party. The remedy and procedure provided in this subsection is not exclusive or mandatory. Nothing in this subsection shall prevent the enforcement or challenge of any recorded lien or instrument as may otherwise be allowed by law. Nothing in this section alters or modifies any other requirements for the filing, enforcement, or challenge of any lien or instrument required or allowed by law.

(Acts 1977, No. 607, p. 812, § 4035; Act 2012–209, p. 349, §§ 1, 2.)

§ 13A–9–13. Negotiating worthless negotiable instrument. Repealed by Acts 1980, No. 80–200, p. 279, § 5, effective April 15, 1980.

§ 13A–9–13.1. Negotiating worthless negotiable instrument — Generally.

(a) A person commits the crime of negotiating a worthless negotiable instrument if the person negotiates or delivers a negotiable instrument for a thing of value and with the intent, knowledge, or expectation that it will not be honored by the drawee.

(b) For the purposes of this section, it is prima facie evidence that the maker or drawer intended, knew, or expected that the instrument would not be honored in any of the following instances:

(1) The maker or drawer had no account with the drawee at the time the negotiable instrument was negotiated or delivered, as determined according to Section 7–3–503(2).

(2) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after delivery, and the maker or drawer shall not have paid the holder thereof the amount due thereon, together with a service charge of not more than (fill in appropriate amount as provided by law), within 10 days after receiving written notice from the holder of the instrument that payment was refused upon the instrument, as provided in Section 13A–9–13.2.

(3) Notice that payment was refused is mailed by certified or registered mail and is returned undelivered to the sender, when the notice is mailed within a reasonable time after dishonor to the address printed on the instrument or given by the maker or drawer at the time of issuance of the instrument.

(c) Negotiating a worthless negotiable instrument is a Class A misdemeanor.

(d) The definition of ''negotiable instrument'' in Section 7–3–104 applies to this section and Sections 13A–9–13.2 and 13A–9–13.3. For the purposes only of this section and Sections 13A–9–13.2 and 13A–9–13.3, the term ''negotiable instrument'' shall include electronic drafts.

(e) The definition of ''negotiation'' in Section 7–3–202 applies to this section and Sections 13A–9–13.2 and 13A–9–13.3.

(f) The definition of ''delivery'' in Section 7–1–201 applies to this section and Sections 13A–9–13.2 and 13A–9–13.3.

(Acts 1980, No. 80–200, p. 279, § 1; Acts 1989, No. 89–807, p. 1608, § 2; Acts 1991, No. 91–319, p. 578, § 1; Acts 1997, No. 97–413, p. 679, § 1; Act 2014–444, p. 1659, § 1; Acts 2019–470, § 1(b)(3).)

§ 13A–9–13.2. Negotiating worthless negotiable instrument — Notice of refusal of payment upon instrument.

For purposes of Section 13A–9–13.1:

(1) Notice mailed by certified or registered mail, evidenced by return receipt, to the address printed on the instrument or given at the time of issuance shall be deemed sufficient and equivalent to notice having been

received by the person making, drawing, uttering, or delivering the instrument.

(2) The form of notice shall be substantially as follows:

''This statutory notice is provided pursuant to Section 13A–9–13.2 of the Alabama Code. You are hereby notified that a check or instrument numbered ....., apparently issued by you on ..... (date), drawn upon ..... (name of bank), and payable to ....., has been dishonored. Pursuant to Alabama law, you have 10 days from receipt of this notice to tender payment of the full amount of the check or instrument plus a service charge of not more than (fill in appropriate amount provided by law), the total amount due being $..... Unless this amount is paid in full within the specified time above, the holder of such check or instrument may assume that you delivered the instrument with intent to defraud and may turn over the dishonored instrument and all other available information relating to this incident to the proper authorities for criminal prosecution.''

(3) Any party holding a worthless negotiable instrument and giving notice in substantially similar form to that provided in subdivision (2) of this section shall be immune from civil or criminal liability for the giving of the notice and for proceeding under the forms of the notice.

(Acts 1980, No. 80–200, p. 279, § 2; Acts 1989, No. 89–807, p. 1608, § 2; Acts 1991, No. 91–319, p. 578, § 1; Acts 1997, No. 97–413, p. 679, § 1.)

§ 13A–9–13.3. Negotiating worthless negotiable instrument — Prima facie evidence of identity.

(a) In any prosecution or action under the provisions of Section 13A–9–13.1, a negotiable instrument for which the information required in subsections (b) and (c) of this section is available at the time of issuance shall constitute prima facie evidence of the identity of the party issuing the negotiable instrument and that such person was a party authorized to draw upon the named account.

(b) To establish this prima facie evidence, the following information regarding the identity of the party presenting the negotiable instrument shall be requested by the party receiving such instrument: The presenter's name, residence address, and home phone number. Such information may be provided by either of two methods:

(1) It may be recorded upon the negotiable instrument itself; or

(2) The number of a check-cashing identification card issued by the receiving party may be recorded on the negotiable instrument. Such check-cashing identification card shall be issued only after the information required in this subsection has been placed on file by the receiving party.

(c) In addition to the information required in subsection (b) of this section, the party receiving a negotiable instrument shall witness the signature or

endorsement of the party presenting such negotiable instrument and, as evidence of such, the receiving party shall initial the negotiable instrument.

(Acts 1980, No. 80–200, p. 279, § 3.)

§ 13A–9–14. Illegal possession or fraudulent use of credit card or debit card.

(a) A person commits the crime of illegal possession of a credit or debit card if, knowing that he or she does not have the consent of the owner, he or she takes, exercises control over, or otherwise uses the card.

(b) A person commits the crime of fraudulent use of a credit card or debit card if he or she uses, attempts to use, or allows to be used, a credit card or debit card for the purpose of obtaining property, services, or anything else of value with knowledge that:

(1) The card is stolen; or

(2) The card has been revoked or cancelled; or

(3) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit card or debit card is issued. The mere use by the original issuee of a credit card or debit card which has expired is not within the provisions of subdivision (b)(3) of this section.

(c) ''Credit card'' means any instrument or device, including a card to obtain telecommunication services, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, welfare card, a card used to facilitate the transfer of government benefits such as an electronic benefit transfer card (EBT card) or similar card, or a debit card, or by any other name, including an account number, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, including telecommunication services, on credit or for use in an automated banking device to obtain any of the services offered through the device.

(d) ''Debit card'' means any instrument or writing or other evidence known by any name issued with or without fee by an issuer for the use of a depositor in obtaining money, goods, services, or anything else of value, payment of which is made against funds previously deposited in an account with the issuer.

(e) Illegal possession of or fraudulent use of a credit card or debit card is a Class D felony.

(Acts 1977, No. 607, p. 812, § 4045; Acts 1978, No. 770, p. 1110, § 1; Acts 1979, No. 79–664, p. 1163, § 1; Act 2000–679, p. 1382, § 1; Act 2015–185, p. 476, § 2.)

§ 13A–9–14.1. Fraud by persons authorized to provide goods and services; definitions.

(a) *Definitions.* For purposes of this section, the following terms shall have the meanings ascribed by this subsection:

(1) ACQUIRER. A business organization including without limitation a merchant, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for money, goods, services, or anything else of value.

(2) CARDHOLDER. The person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(3) CREDIT CARD TRANSACTION RECORD. Credit card slips, electronically recorded information or other documentation or evidence evidencing a transaction involving a credit card.

(4) CREDIT CARD. Any instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, or debit card or by any other name, including an account number, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit or for use in an automated banking device to obtain any of the services offered through the device.

(5) EXPIRED CREDIT CARD. A credit card which is no longer valid because the term shown on it has elapsed.

(6) ISSUER. The business organization or financial institution, or its duly authorized agent, which issues a credit card.

(7) REVOKED CREDIT CARD. A credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

(b) *Illegally obtained or illegally possessed credit card; forged, revoked, or expired credit card.* A person who is authorized by an issuer or an acquirer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, the acquirer, or the cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of Section 13A–9–14 or a credit card which such person knows is forged, expired, or revoked violates this subsection (b) and such violation is a Class B felony.

(c) *Misrepresentation to issuer or acquirer.* A person who is authorized by an issuer or an acquirer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, the acquirer, or the cardholder, fails to furnish money, goods, services, or anything else of value which such person represents in writing, electronically or otherwise to the issuer or the acquirer that such person has furnished violates this subsection (c) and such violation is a Class B felony.

(d) *Illegally laundering credit card transactions.* A person who is authorized by an issuer or an acquirer to furnish money, goods, services, or anything else of value upon presentation of a credit card by a cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, the

acquirer or the cardholder, presents for payment a credit card transaction record to the issuer, acquirer, or any other person violates this subsection (d) and such violation is a Class B felony.

(e) *Provisions not exclusive.* This section shall not be construed to preclude the applicability of any other provisions of the criminal laws of this state to any transaction which violates this section, unless such provision is inconsistent with the terms of this section.

(Acts 1989, No. 89–521, p. 1067.)

§ 13A–9–15. Reporting of credit card lost, stolen, or mislaid.

(a) Any person who reports or attempts to report a credit card as being lost, stolen or mislaid knowing the report to be false violates this subsection and shall be fined not more than $1,000.00 or imprisoned not more than one year, or both.

(b) Any cardholder who, with intent to defraud, uses a credit card which has previously been reported lost, stolen, or mislaid violates this subsection and shall be fined not more than $1,000.00 or imprisoned not more than one year, or both.

(Code 1975, § 13–4–37; Acts 1975, No. 1225, p. 2557, § 7.)

§ 13A–9–16. Unlawfully using slugs — Definitions.

The following definitions apply to Section 13A–9–17:

(1) COIN MACHINE. A coin box, turnstile, vending machine or other mechanical or electronic device or receptacle designed:

a. To receive a coin or bill of a certain denomination or a token made for the purpose; and

b. In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.

(2) SLUG. A metallic or other object or article which by virtue of its size, shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper but effective substitute for a genuine coin, bill or token.

(Acts 1977, No. 607, p. 812, § 4050.)

§ 13A–9–17. Unlawfully using slugs — Prohibition.

(a) A person commits the crime of unlawfully using slugs if:

(1) With intent to defraud the supplier, or another person, of property or a service sold or offered by means of a coin machine, he inserts, deposits or uses a slug in that machine; or

(2) He makes, possesses or disposes of a slug with intent that it be used unlawfully in a coin machine as provided in subdivision (a)(1) of this section.

(b) Unlawfully using slugs is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4051.)

§ 13A–9–18. Criminal impersonation.

(a) A person commits the crime of criminal impersonation if he:

(1) Assumes a false identity and does an act in his assumed character with intent to gain an economic benefit for himself or another or to injure or defraud another; or

(2) Pretends to be a representative of some person or organization and does an act in his pretended capacity with intent to gain an economic benefit for himself or another or to injure or defraud another.

(b) Criminal impersonation is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4055.)

§ 13A–9–18.1. Giving of false name or address to a law enforcement officer.

(a) A person commits the crime of giving a false name or address to a law enforcement officer if the person gives a false name or address to a law enforcement officer in the course of the officer's official duties with intent to mislead the officer.

(b) Giving a false name or address to a law enforcement officer is a Class A misdemeanor.

(Acts 1993, No. 93–204, § 1.)

§ 13A–9–19. Change bills — Emitting as money.

Any officer or agent of any private corporation or association or any other person who makes, emits, signs or countersigns, or causes or procures to be made, emitted, signed or countersigned, without authority of law, any paper to answer the purpose of money, or for general circulation, shall, on conviction, be fined not more than $500.00 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than one year.

(Code 1852, § 101; Code 1867, § 3643; Code 1876, § 4433; Code 1886, § 4143; Code 1896, § 5546; Code 1907, § 6426; Code 1923, § 3492; Code 1940, T. 14, § 93; Code 1975, § 13–4–6.)

§ 13A–9–20. Change bills — Circulating.

Any person who passes or circulates in this state any paper issued without authority of law to answer the purpose of money shall, on conviction, be fined not less than $20.00 nor more than $100.00.

(Code 1852, § 102; Code 1867, § 3644; Code 1876, § 4434; Code 1886, § 4144; Code 1896, § 5547; Code 1907, § 6427; Code 1923, § 3493; Code 1940, T. 14, § 94; Code 1975, § 13–4–7.)

§ 13A–9–21. Submitting of false or fraudulent application for certificate of qualification or license to practice medicine.

(a) A person commits the crime of submitting a false or fraudulent application for a certificate of qualification or license to practice medicine if:

(1) In connection with the submission of an application for a certificate of qualification or license to practice medicine, he submits or causes some other person to submit any materially false, fraudulent or deceptive statement in any document connected with the application for certificate of qualification or a license to practice medicine.

(2) In connection with the submission of an application for a certificate of qualification or license to practice medicine, he makes or causes another person to make any false, fraudulent or deceptive statement to the employees, agents or members of the Medical Licensure Commission or Board of Medical Examiners to whom he has submitted an application for a license.

(3) In connection with sitting for an examination administered by the Board of Medical Examiners, he attempts to give assistance to another or attempts to use the assistance of another in answering questions or solving problems contained in the licensing examination.

(4) In connection with sitting for an examination administered by the Board of Medical Examiners, he attempts to use unauthorized notes, symbols of other memorandums to assist him in answering questions or solving problems contained in the licensing examination during the actual administration of the licensing examination.

(5) In connection with sitting for an examination administered by the Board of Medical Examiners, he attempts to use an unauthorized copy of the licensing examination obtained by himself or another person in preparing to sit for the licensing examination.

(6) In connection with an examination administered by the Board of Medical Examiners he attempts to make or obtain an unauthorized copy of the examination or questions of the examination or retains a copy of the examination or a question of the examination which he is directed to return to the board.

(b) Submitting a false or fraudulent application is a Class C felony.

(Acts 1986, No. 86–538, p. 1049.)

§ 13A–9–22. Fraudulent sale or lease of residential real property.

(a) A person commits the crime of fraudulent sale or lease of residential real property if he or she does either of the following:

(1) Lists or advertises residential real property for sale knowing that he or she or the purported seller has no legal title or authority to sell the property.

(2) Rents or leases residential real property to another person knowing that he or she or the purported lessor has no legal ownership or other authority to lease the property.

(b) Fraudulent sale or lease of residential real property is a Class A misdemeanor.

(Act 2024–237, § 3, eff. June 1, 2024.)

ARTICLE 2.

BUSINESS FRAUDS.

§ 13A–9–40. Definitions.

(a) The definitions contained in Sections 13A–8–1 and 13A–9–1 are applicable in this chapter unless the context otherwise requires.

(b) ''Services'' is defined as in Section 13A–8–10(b).

(Acts 1977, No. 607, p. 812, § 4101.)

§ 13A–9–41. Deceptive business practices.

(a) A person commits the crime of deceptive business practices if in the course of engaging in a business, occupation, or profession, he:

(1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or

(2) Sells, offers or exposes for sale, or delivers, less than the represented quantity of any commodity or service; or

(3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or

(4) Sells, offers or exposes for sale adulterated commodities; or

(5) Sells, offers or exposes for sale mislabeled commodities.

(b) It shall be a defense to a prosecution under this section if the actor acts neither knowingly nor recklessly. The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(c) ''Adulterated'' means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation, or if none, as set by established commercial usage.

(d) ''Mislabeled'' means:

(1) Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation, or if none, as set by established commercial usage; or

(2) Represented as being another person's product, though otherwise labeled accurately as to quality and quantity.

(e) Deceptive business practices is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4105.)

§ 13A–9–42. False advertising.

(a) A person commits the crime of false advertising if, in connection with the promotion of a sale, transfer, consumption or use of property or services, he makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.

(b) It is a defense to a prosecution under this section if the actor acts neither knowingly nor recklessly in making the false or misleading statement or in causing it to be made. The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(c) False advertising is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4110.)

§ 13A–9–43. Bait advertising.

(a) A person commits the crime of bait advertising if in any manner, including advertising or other means of communication to the public or to a substantial number of persons, he offers to sell property or services with the intent, plan or purpose not to sell or provide the advertised property or services:

(1) At the price at which he offered them; or

(2) In a quantity sufficient to meet the reasonably expected public demand, unless the advertisement discloses a limitation of quantity; or

(3) At all.

(b) Bait advertising is a Class A misdemeanor.

(Acts 1977, ch. 607, p. 812, § 4115; Acts 1978, No. 770, p. 1110.)

§ 13A–9–44. Limitation on criminal liability for false advertising and bait advertising by broadcasters, publishers, etc.

A television or radio broadcasting station, or a publisher or printer of a newspaper, magazine or other form of printed advertising, which broadcasts, publishes or prints a false advertisement or a bait advertisement of another person or a telephone company which furnishes service to a subscriber, without knowledge of the advertiser's or subscriber's intent, plan or purpose, does not commit a crime under Sections 13A–9–42 and 13A–9–43.

(Acts 1977, No. 607, p. 812, § 4120.)

§ 13A–9–45. Falsifying business records.

(a) A person commits the crime of falsifying business records if, with intent to defraud, he:

(1) Makes or causes a false entry in the business records of an enterprise; or

(2) Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise when he knows the retention or

preservation of a true entry is required by law independent of this section; or

(3) Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which he knows to be imposed upon him by law; or

(4) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise when he knows a true entry is required by law independent of this section.

(b) ''Enterprise'' means any entity of one or more persons, corporate or otherwise, engaged in business, commercial, professional, industrial, eleemosynary, political or social activity.

(c) ''Business record'' means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

(d) Falsifying business records is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4125.)

§ 13A–9–46. Defrauding secured creditors.

(a) A person commits the crime of defrauding secured creditors if he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with intent to hinder enforcement of that interest.

(b) ''Security interest'' means an interest in personal property or fixtures as defined in Section 7–1–201.

(c) Defrauding secured creditors is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4130; Acts 2019–470, § 1(b)(4).)

§ 13A–9–47. Defrauding judgment creditors.

(a) A person commits the crime of defrauding judgment creditors if he:

(1) With fraudulent intent removes property subject to execution from a county to prevent it being levied upon by an execution; or

(2) Secretes, assigns, conveys or otherwise disposes of property with intent to defraud a judgment creditor.

(b) Defrauding judgment creditors is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4135.)

§ 13A–9–48. Fraud in insolvency.

(a) A person commits the crime of fraud in insolvency if, with the intent to defraud a creditor and with knowledge or reason to believe either that proceedings have been or are about to be instituted for the appointment of a receiver or that a composition agreement or other arrangement for the benefit of creditors has been or is about to be made, he:

(1) Conveys, transfers, removes, conceals, destroys, encumbers or otherwise disposes of any part of or any interest in the debtor's estate; or

(2) Presents to any creditor or to the receiver any writing or record relating to the debtor's estate, not otherwise within the coverage of Sections 13A–10–101, 13A–10–102 or 13A–10–109, knowing or having reason to believe that it contains a false material statement; or

(3) Misrepresents or refuses to disclose to the receiver, under circumstances not amounting to a violation of Section 13A–10–4, the existence, amount or location of any part of or an interest in debtor's estate, or any other information that he is legally required to furnish to the administrator.

(b) ''Receiver'' means an assignee or trustee for the benefit of creditors, a conservator, a liquidator or any other person legally entitled to administer property for the benefit of creditors.

(c) Fraud in insolvency is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4140; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–9–49. Issuing false financial statement.

(a) A person commits the crime of issuing a false financial statement if, with intent to defraud, he:

(1) Knowingly makes or utters a written instrument which purports to describe the financial condition or ability of himself or some other person and which is inaccurate in some material respect; or

(2) Represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay is accurate with respect to that person's current financial condition or ability to pay, knowing or having reason to believe the instrument to be materially inaccurate in that respect.

(b) Issuing a false financial statement is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4145; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–9–50. Receiving deposits in failing financial institution.

(a) A person commits the crime of receiving deposits in a failing financial institution, if, as an officer, manager or other person participating in the direction of a financial institution, he knowingly receives or permits the receipt of funds, a general deposit or other investment, knowing or having reason to believe that:

(1) Due to financial difficulties the institution is about to suspend operations or go into receivership or reorganization, and

(2) The person making the deposit or other payment is unaware of the precarious situation of the institution.

(b) Receiving deposits in a failing financial institution is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4150; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–9–51. Misapplication of property.

(a) A person commits the crime of misapplication of property if, with knowledge that he is misapplying and that the misapplication involves substantial risk of loss or detriment to the owner of the property or to a person for whose benefit the property was entrusted, he misapplies or disposes of property that has been entrusted to him as a fiduciary or that is property of the government or a financial institution.

(b) ''Fiduciary'' includes a trustee, guardian, executor, administrator, receiver or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

(c) To ''misapply'' means to deal with the property contrary to law or governmental regulation of the custody or disposition of that property; ''governmental regulation'' includes administrative and judicial rules and orders as well as statutes and ordinances.

(d) Misapplication of property is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4155.)

§ 13A–9–52. Sale and delivery of coal mixed with other substances or materials or with different quality of coal.

(a) Any person who knowingly sells and delivers any coal which has been mixed or loaded in the delivery container together with any substance or material other than coal or together with coal of a different quality with intent to defraud the purchaser of such coal or with the intent to obtain a higher price for such coal by inducing the purchaser to believe that such coal is of a higher quality or different quality than is actually delivered shall be guilty of a Class A misdemeanor and shall, upon conviction, be fined not less than $100.00 nor more than $2,000.00 for each offense, and may also be imprisoned in the county jail for not more than one year for each offense; provided, that the blending of coal with coal of a different quality in order to achieve contract specifications is not prohibited by this section.

(b) For the purposes of this section, the sale and delivery of each delivery container shall constitute a separate offense. A delivery container is a truck, railroad car, barge or any other means or device by which coal is delivered to the purchaser. Sale and delivery is consummated when the container is accepted by the purchaser.

(Code 1975, § 13–4–101; Acts 1978, No. 855, p. 1280.)

ARTICLE 3.

CHARITABLE FRAUD.

§ 13A–9–70. Definitions.

The following words and phrases as used in this article shall have the following meanings unless a different meaning is required by the context:

(1) CHARITABLE ORGANIZATION. Any benevolent, philanthropic, or patriotic person, or one purporting to be such, consistent with the then-controlling definition provided in the Internal Revenue Code of the United States of America, which solicits and collects funds for charitable purposes and includes each local, county, or area division within this state of the charitable organization; provided the local, county, or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization.

(2) CHARITABLE PURPOSE. Any charitable, benevolent, philanthropic, or patriotic purpose which is consistent with the then-controlling definition provided in the Internal Revenue Code of the United States of America.

(3) CIVIL RIGHTS ORGANIZATION. Any charitable organization exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code that is organized to protect the rights of persons against deprivation, discrimination, or denial of their right to equal protection of the laws under the Constitution of the United States of America because of color, race, religion, sex, age, disability, or national origin.

(4) COMMERCIAL CO-VENTURER. Any person who for profit or other commercial consideration conducts, promotes, underwrites, arranges, or sponsors a sale, performance, or event of any kind which is advertised, and which will benefit, to any extent, a charitable or religious organization. However, any such person who will benefit in good will only is not a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance, or event are supervised and controlled by the benefiting charitable or religious organization.

(5) CONTRIBUTION. The promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority. Reference to the dollar amount of ''contributions'' in this article means, in the case of promises to pay, or payments for merchandise or rights of any other description, the value of the total amount promised to be paid for the merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose.

(6) EDUCATIONAL INSTITUTION. A school, college, or other institution which has a defined curriculum, student body, and faculty and which conducts classes on a regular basis.

(7) PERSON. Any individual, organization, group, association, partnership, corporation, trust, or any combination of them.

(8) POLITICAL ORGANIZATION. A party, committee, association, fund, or other organization, whether or not incorporated, which is organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function pursuant to 26 U.S.C. § 527.

(9) PROFESSIONAL FUNDRAISER. Any person who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself or herself out to persons in this state as independently engaged in the business of soliciting contributions for such purposes. A bona fide officer or employee of a charitable organization is not a professional fundraiser unless his or her salary or other compensation is computed on the basis of funds to be raised, or actually raised. This section shall not apply to persons who solicit political campaign contributions on behalf of candidates for public office or initiatives on a ballot.

(10) PROFESSIONAL SOLICITOR. Any person who is employed or retained for compensation by a professional fundraiser to solicit contributions for charitable purposes in this state.

(11) RELIGIOUS ORGANIZATION. Any society, sect, persuasion, mission, church, parish, congregation, temple, convention, or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, or any employee thereof, no part of the net earnings of which inures to the benefit of any private party or individual associated with such an organization and that otherwise qualifies as an exempt organization under Section 501(c)(3) of Title 26, United States Code, as amended.

(Acts 1987, No. 87–605, p. 1052, § 1; Acts 1996, No. 96–547, p. 786, § 1.)

§ 13A–9–71. Registration of charitable organizations, professional fundraisers, commercial co-venturers, etc.; annual report; contract requirements; service of process; use of names, symbols, etc.; violations.

(a) Every charitable organization, except those granted an exemption in subsection (f), which is physically located in this state, and which intends to solicit contributions in or from this state, or to have contributions solicited in this state, on its behalf, by other charitable organizations, paid solicitors, or commercial co-venturers in or from this state, prior to any solicitation, shall file a registration statement with the Attorney General upon a form prescribed by the Attorney General containing all of the following information:

(1) The name of the organization and the name or names under which it intends to solicit contributions.

(2) The names and addresses of the officers, directors, trustees, and executive personnel of the organization.

(3) The addresses of the organization and the addresses of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records.

(4) The place where and the date when the organization was legally established, the form of its organization, and its tax exempt status.

(5) The purposes for which the organization is organized and the purpose or purposes for which the contributions to be solicited will be used.

(6) The date on which the fiscal year of the organization ends.

(7) Whether the organization is authorized by any governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.

(8) The names and addresses of any professional fundraisers and commercial co-venturers who are acting or have agreed to act on behalf of the organization.

(b) With the initial registration only, every charitable organization required to be registered shall also file with the Attorney General a copy of the charitable organizational charter, articles of organization or incorporation, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws, and a statement setting forth the place where and the date when the organization was legally established, the form of this organization, and its tax exemption status attaching federal or state tax exemption determination letters.

(c) The registration form shall be signed by the president or other authorized officer and the chief fiscal officer of the organization.

(d) Every charitable organization required to register shall pay a fee of twenty-five dollars ($25) to the Attorney General at the time of registration.

(e) The registration shall remain in effect unless it is either cancelled as provided in this section or withdrawn by the organization. Every registered organization shall notify the Attorney General within 10 days of any change in the information required to be furnished by the organization under subsection (a).

(f) The following persons shall not be required, pursuant to this article, to register with the Attorney General:

(1) Educational institutions and their authorized and related foundations.

(2) Religious organizations.

(3) Political organizations.

(4) Fraternal, patriotic, benevolent, social, educational, alumni, health care foundation, historical, and civil rights organizations, including fraterni-

ties and sororities and any auxiliaries associated with any such organizations.

(5) Civic leagues and civic organizations that solicit contributions solely from their own membership.

(6) Persons requesting any contributions for the relief of any individual, specified by the name at the time of the solicitation, if all of the contributions collected do not exceed ten thousand dollars ($10,000) and, without any deductions, are turned over to the named beneficiary.

(7) Any charitable organization that does not intend to solicit and receive and does not actually receive contributions in excess of twenty-five thousand dollars ($25,000) during a fiscal year of the organization, provided all of its fundraising functions are carried on by persons who are not paid for such services. If the gross contributions received by a charitable organization during any fiscal year of that organization are in excess of twenty-five thousand dollars ($25,000), within 30 days after the date it receives total contributions in excess of twenty-five thousand dollars ($25,000), the charitable organization shall register with the Attorney General as required by this section.

(8)a. Any charitable organization receiving an allocation from an incorporated community chest or united fund, provided all of the following requirements have been met:

1. The chest or fund is complying with this section relating to registration and filing of annual reports with the Attorney General.

2. The charitable organization does not actually receive, in addition to an allocation, contributions in excess of twenty-five thousand dollars ($25,000) during the fiscal year.

3. All of the fundraising functions of the charitable organization are carried on by persons who are not paid for such services.

b. If the gross contributions other than the allocation received by the charitable organization during any fiscal year of the charitable organization are in excess of twenty-five thousand dollars ($25,000), the charitable organization, within 30 days after the date it receives the contributions in excess of twenty-five thousand dollars ($25,000), shall register with the Attorney General as required by this section.

(9) A local post, camp, chapter, or similarly designated element, or a county unit of such elements of a bona fide veterans organization, which issues charters to local elements throughout this state, or a bona fide organization of volunteer firefighters, ambulance companies, or rescue squads, or a bona fide auxiliary or affiliate of such organizations, provided all of its fundraising activities are carried on by members of the organization, family members of the members of the organization, volunteers, or an affiliate of the organization and the members receive no compensation, directly or indirectly, therefor.

(g) Every charitable organization registered pursuant to subsection (a), within 90 days of the close of its fiscal year ending after the date on which the charitable organization files its initial registration pursuant to subsection (a), shall file an annual written report. Each annual report shall be sworn to under oath, shall be in the form prescribed by the Attorney General, and shall include a financial statement covering the fiscal year, clearly setting forth the gross income, expenses, and net income inuring to the benefit of the charitable organization, a balance sheet as of the close of the fiscal year, and a schedule of the activities carried on by the charitable organization in the performance of its purposes and the amounts expended thereon during the fiscal year. An organization may also meet this requirement by submitting a copy of the Form 990 submitted to the Internal Revenue Service as required by federal law. A fee of twenty-five dollars ($25) payable to the Attorney General shall accompany the report at the time of filing.

(1) The Attorney General shall cancel the registration of any charitable organization that fails within the time prescribed to comply with this subsection, or fails to furnish any additional information requested by the Attorney General within the required time. The Attorney General may extend the time for filing the reports for a period not to exceed 180 days. Notice of cancellation pursuant to this subsection shall be mailed to the registrant at least 15 days before the effective date thereof.

(2) All records, books, and reports maintained by any charitable organization registered or required to register pursuant to subsection (a) shall be available for inspection during normal business hours at the principal office of the organization, by the Attorney General, or the duly authorized representative of the Attorney General.

(h) No person shall act as a professional fundraiser or commercial coventurer either before he or she registers with the Attorney General, or after the expiration or cancellation of his or her registration and prior to renewal thereof. Applications for registration and renewal shall be in writing, under oath, in the form prescribed by the Attorney General, and shall be accompanied by an annual fee in the amount of one hundred dollars ($100).

(1) The applicant shall at the time of making application, file with, and have approved by the Attorney General, a bond in which the applicant shall be the principal obligor in the sum of ten thousand dollars ($10,000) with one or more sureties whose liability in the aggregate as sureties will at least equal that sum. The bond shall run to the Attorney General for the use of the state and to any person who may have a cause of action against the obligor of the bond for any malfeasance or misfeasance in the conduct of the solicitation.

(2) Registration shall be for the period of one year, or a part thereof, expiring on the 30th day of September and may be renewed upon written application under oath, in the form prescribed by the Attorney General, the filing of the bond, and the payment of the fee prescribed for an additional one-year period. Applications, registrations, renewals, and bonds, when

filed with the Attorney General, shall become public records in the Office of the Attorney General.

(3) A professional fundraiser or commercial co-venturer shall maintain accurate and current books and records of his or her activities while required to be registered under this section and until at least two years have elapsed at the end of the effective period of the registration to which they relate. He or she shall keep the books and records in his or her office available for inspection and examination by the Attorney General, or the duly authorized representative of the Attorney General.

(i) All contracts entered into between professional fundraisers or commercial co-venturers and charitable organizations shall be in writing. A true and correct copy of each contract shall be filed by the professional fundraiser or commercial co-venturer with the Attorney General within 10 days after it is executed. No services shall be performed under a contract until the expiration of 15 days from the date the contract is filed with the Attorney General. Within 90 days after the termination of the contract, the professional fundraiser or commercial co-venturer shall file a closing statement with the Attorney General disclosing gross receipts and all expenditures incurred in the performance of the contract.

(j) No person shall act as a professional solicitor in the employ of a professional fundraiser who is required to register pursuant to this section before he or she has registered with the Attorney General or after the expiration or cancellation of the registration or any renewal thereof. Application for registration shall be in writing, under oath, in the form prescribed by the Attorney General and shall be accompanied by a fee in the amount of twenty-five dollars ($25). Registration when effected shall be for a period of one year, or a part thereof, expiring with the 30th day of September and may be renewed upon written application, under oath, in the form prescribed by the Attorney General and the payment of the fee prescribed herein for additional one-year periods. Applications for registration, when filed with the Attorney General, shall become public records in the Office of the Attorney General.

(k) Any charitable organization, professional fundraiser, professional solicitor, or commercial co-venturer that is subject to this article, having its principal place of business outside this state, or organized under and by virtue of the laws of a foreign state, shall be deemed to have irrevocably appointed the Secretary of State as its agent upon whom may be served any summons, subpoena, subpoena duces tecum, or other process directed to the charitable organization, professional fundraiser, professional solicitor, or commercial co-venturer, or any partner, principal officer, or director thereof, in any action or proceeding brought pursuant to this article. Service of process upon the Secretary of State shall be made by personally delivering a copy to the Office of the Secretary of State and depositing it with the Secretary of State or his or her agent. Service shall be sufficient if notice of the service and a copy of the process shall be forthwith sent by the Secretary of State to the charitable organization, professional fundraiser, commercial co-venturer, or other person

to whom it is directed, by registered mail, with return receipt requested, to the last address known to the Secretary of State.

(l) No person, except an officer, director, or trustee of the charitable organization by or for whom contributions are solicited, shall for the purpose of soliciting contributions from persons in this state, use the name of any charitable organization without the consent of the charitable organization.

(m) A person shall be deemed to have used the name of a charitable organization for the purpose of soliciting contributions if the latter charitable organization's name is listed on any stationery, advertisement, brochure, or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his or her name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or endorsed the charitable organization or its activities.

(n) Nothing contained in this section shall prevent the publication of names of contributors without their written consent in an annual or other periodic report issued by a charitable organization for the purpose of reporting its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

(*o*) No charitable organization or professional fundraiser soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.

(p) Every individual in the process of soliciting funds shall identify himself or herself. If the individual is being paid for soliciting, he or she shall so inform the solicitee of his or her being so paid. This information shall be disclosed to the solicitee in a clear manner before attempting any solicitations.

(q) Any solicitor or person who knowingly violates this section shall be guilty of charitable fraud. The initial conviction of charitable fraud shall be a Class A misdemeanor. A second or subsequent conviction of charitable fraud shall be a Class C felony.

(r) In addition to all other remedies provided by law, the Attorney General, or a district attorney, may bring an action to enjoin the violation of this section. The Attorney General, or district attorney, may give at least 15 days written notice by registered or certified mail to the charitable organization, person, or persons violating the provisions hereof. The notice shall require that registration be accomplished or that the solicitation of funds be immediately terminated. The failure to immediately discontinue solicitation, or to register in accordance with this section, shall be unlawful and the charitable organizations or persons committing the violation shall forfeit and pay a penalty of not more than five thousand dollars ($5,000) upon petition by the Attorney General or a district attorney acting in the name of the state. The Attorney General shall have the authority to formulate rules interpreting this section as necessary to the administration and enforcement of its provisions.

(s)(1) Except as required or authorized by federal law, no state agency or state official shall impose any annual filing or reporting requirement on any

charitable organization, professional fundraiser, commercial co-venturer, or professional solicitor, or their agent, or any other entity regulated or specifically exempted from regulation under this article that is more stringent, restrictive, or expansive than the requirements authorized under state law.

(2) Notwithstanding subdivision (1), this subsection does not apply to state grants, state contracts, or state fraud investigations, and does not restrict enforcement actions against specific nonprofit organizations.

(Acts 1987, No. 87–605, p. 1052, § 2; Acts 1996, No. 96–547, p. 786, § 1; Act 2023–277, § 1, eff. Aug. 1, 2023.)

§ 13A–9–72. Theft of property by charitable fraud.

A professional fundraiser or solicitor who commits both of the following acts shall be guilty of theft of property by charitable fraud:

(1) Knowingly represents that he or she is soliciting funds for a charitable organization without the charitable organization's consent.

(2) Receives any contributions which are not delivered to the charitable organization either:

a. Within 30 days after receipt, or

b. Within 10 days upon request therefor by the charitable organization, whichever is sooner.

(Acts 1987, No. 87–605, p. 1052, § 3; Acts 1996, No. 96–547, p. 786, § 1.)

§ 13A–9–73. Charitable fraud in the first degree.

(a) Theft of property by charitable fraud which exceeds two thousand five hundred dollars ($2,500) in value constitutes theft of property by charitable fraud in the first degree.

(b) Theft of property by charitable fraud in the first degree is a Class B felony.

(Acts 1987, No. 87–605, p. 1052, § 4; Act 2003–355, p. 962, § 1.)

§ 13A–9–74. Charitable fraud in the second degree.

(a) Theft of property by charitable fraud which exceeds five hundred dollars ($500) in value but does not exceed two thousand five hundred dollars ($2,500) in value constitutes theft of property by charitable fraud in the second degree.

(b) Theft of property by charitable fraud in the second degree is a Class C felony.

(Acts 1987, No. 87–605, p. 1052, § 5; Act 2003–355, p. 962, § 1.)

§ 13A–9–75. Charitable fraud in the third degree.

(a) Theft of property by charitable fraud which does not exceed five hundred dollars ($500) in value constitutes theft of property by charitable fraud in the third degree.

(b) Theft of property by charitable fraud in the third degree is a Class A misdemeanor.

(Acts 1987, No. 87–605, p. 1052, § 6; Act 2003–355, p. 962, § 1.)

§ 13A–9–76. Enforcement of provisions by injunction, cancellation of registration, etc.; civil penalties.

(a) In addition to any other remedy under this article, the Attorney General of the State of Alabama, the district attorneys of the respective counties of the State of Alabama, or an affected charitable organization may bring an action against a charitable organization, professional fundraiser, professional solicitor, or commercial co-venturer, and any other persons acting for or on their behalf to enjoin the charitable organization and other persons from continuing the solicitation or collection of funds or property or engaging therein or doing any acts in furtherance thereof; and to cancel any registration statement previously filed with the Attorney General whenever the Attorney General or a district attorney shall have reason to believe that the charitable organization is acting in the following manner:

(1) Operating in violation of the provisions of this article.

(2) Refuses or fails, or any of its principal officers refuses or fails, after notice, to produce any records of the charitable organization.

(3) Engages in, or is about to engage in, any solicitation or collection of funds or other property for the charitable organization through the use of any scheme or plan, including any device or artifice, to defraud, or for obtaining money or property by means of false pretense, representation, or promises.

(4) Making, or has made, a material false statement in an application, registration, or statement required to be filed pursuant to this article.

(b) Upon a finding that any person has engaged in or is engaging in any act or practice declared unlawful by this article, the court may make any necessary order or judgment, including, but not limited to, injunctions, restitution, awards of reasonable attorneys' fees, and costs of investigation and litigation, and may award to the state civil penalties up to five thousand dollars ($5,000) for each violation of this article. In requesting injunctive relief, the Attorney General or district attorney shall not be required to establish irreparable harm but only that a violation has occurred or that the requested order promotes the public interest.

(c) Any charitable organization, professional fundraiser, commercial co-venturer, or professional solicitor, their agents or any other person who violates the terms of an injunction or other order entered under this article shall, in addition to other remedies, forfeit and pay to the state a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey

the order, each day of continuance of such failure or neglect shall be deemed a separate offense.

(Acts 1987, No. 87–605, p. 1052, § 7; Acts 1996, No. 96–547, p. 786, § 1.)

ARTICLE 3A.

UNLAWFUL CHARITABLE SOLICITATION.

§ 13A–9–80. Definitions.

The following words and phrases used in this article shall have the following meanings unless a different meaning is required by the context:

(1) CHARITABLE ORGANIZATION. A person or nonprofit corporation who is or holds himself or herself out to be established for a benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental, conservation, civic, or other eleemosynary purpose, or a person who employs a charitable appeal as the basis for any solicitation or appeal that suggests, directly or indirectly, that the solicitation is for a charitable purpose. Charitable organization includes a person, chapter, branch, area office, or a similar affiliate, or agent of any of these, soliciting contributions within the state for a charitable organization or cause that has its principal place of business within or without the state.

(2) CHARITABLE PURPOSE. Any charitable, benevolent, philanthropic, humane, patriotic, scientific, artistic, public health, social welfare, advocacy, environmental, conservation, civic, or other eleemosynary purpose as defined and amended, from time to time, by the Internal Revenue Code.

(3) CONTAINER. Box, carton, package, receptacle, canister, jar, dispenser, or machine that offers a product for sale or distribution, for solicitation purposes.

(4) DISCLOSURE LABEL. A printed or typed notice affixed to a container, in a conspicuous place and accessible to the public, that is easily readable and legible that informs the public of the following:

a. The approximate annual percentage paid, if any, to any individual or organization to maintain, service, or collect the contributions raised by the solicitation.

b. The net percentage or sum annually paid for the most recent calendar year paid to the specific charitable purpose.

c. If the maintenance, service, and collection from the container is done by volunteers or by paid individuals.

(Acts 1995, No. 95–605, p. 1276, § 1.)

§ 13A–9–81. Charitable organizations and other persons required to place disclosure labels on containers used for soliciting funds.

Any container used by any person, nonprofit corporation, or charitable organization, or an agent of any of these, whether paid or not paid, in a public

place to solicit contributions by offering a product for sale or distribution for solicitation purposes shall have a disclosure label as defined by Section 13A–9–80.

(Acts 1995, No. 95–605, p. 1276, § 2.)

§ 13A–9–82. Person or organization who knowingly violates article is guilty of crime.

Any person or organization who knowingly violates this article shall be guilty of unlawful charitable solicitation. Unlawful charitable solicitation is a Class C misdemeanor and shall be punished as provided by law. It is an absolute defense to any criminal prosecution under this section if the charitable organization has given one hundred percent of the receipts generated by the container to the designated charitable organization for whom the person, nonprofit corporation, charitable organization, or an affiliate or branch of either, or solicitor, represented the funds being solicited.

(Acts 1995, No. 95–605, p. 1276, § 3.)

§ 13A–9–83. When disclosure label not required.

No charitable organization shall be liable under this article to place a disclosure label on any container that generates less than one hundred dollars ($100) gross per annum or a charitable organization that generates less than five hundred dollars ($500) per year from all sources for any charitable purpose or purposes combined.

(Acts 1995, No. 95–605, p. 1276, § 4.)

§ 13A–9–84. Construction with other law.

This article shall be construed together with any law relating to charitable fraud or fraudulent practices, except in the event of a direct conflict with this article.

(Acts 1995, No. 95–605, p. 1276, § 6.)

ARTICLE 4.

ILLEGAL POSSESSION OF FOOD STAMPS.

§ 13A–9–90. Definitions.

For the purposes of this article, the following terms shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:

(1) FOOD STAMP COUPON. Any coupon, stamp or type of certificate issued pursuant to the provisions of the Food Stamp Act of 1977.

(2) FOOD STAMP AUTHORIZATION CARD. A document issued by the state agency to an eligible household which shows the total value of coupons the

household is authorized to receive during each month pursuant to the provisions of the Food Stamp Act of 1977.

(Acts 1987, No. 87–710, p. 1255, § 1.)

§ 13A–9–91. Illegal possession of food stamps in the first, second, and third degree.

(a) A person commits the crime of illegal possession of food stamps if:

(1) He or she knowingly uses, transfers, acquires, alters, or possesses food stamp coupons or food stamp authorization cards in any manner not authorized by the Food Stamp Act of 1977, 7 U.S.C. § 2011 et seq., or the regulations issued pursuant to the act; or

(2) He or she presents or causes to be presented food stamp coupons for payment or redemption knowing the same to have been received, transferred, or used in any manner not authorized by the Food Stamp Act of 1977, 7 U.S.C. § 2011 et seq., or the regulations pursuant to the act.

(b) Illegal possession of food stamps which exceed two thousand five hundred dollars ($2,500) in value constitutes illegal possession of food stamps in the first degree and is a Class B felony.

(c) Illegal possession of food stamps which exceed five hundred dollars ($500) in value but do not exceed two thousand five hundred dollars ($2,500) in value constitutes illegal possession of food stamps in the second degree and is a Class C felony.

(d) Illegal possession of food stamps which do not exceed five hundred dollars ($500) in value constitutes illegal possession of food stamps in the third degree and is a Class A misdemeanor.

(Acts 1987, No. 87–710, p. 1255, § 2; Act 2003–355, p. 962, § 1.)

§ 13A–9–92. Revocation of liquor license for illegal possession of food stamps.

Any person, licensed to engage in alcoholic beverage transactions in this state pursuant to the Alcoholic Beverage Licensing Code, Chapter 3A of Title 28, who commits the crime of illegal possession of food stamps, shall, upon conviction thereof, in addition to the criminal penalties provided in this article, have his liquor license revoked by the Alcoholic Beverage Control Board and no future license or permit shall be issued or granted to any such person for a period of one year from the date of the revocation of the license.

(Acts 1987, No. 87–710, p. 1255, § 3.)

ARTICLE 5.

HOME REPAIR FRAUD.

§ 13A–9–110. Definitions.

As used in this article, unless the context clearly requires otherwise, the following words and terms shall have the following meanings:

(1) HOME REPAIR. a. The repairing, replacing, altering, or the construction or renovation of an addition to a building on real property which is or will be primarily used as a residence.

b. Home repair shall include: The construction, installation, replacement, repairing, or renovation of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fallout shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electrical wiring, sewers, plumbing fixtures, storm doors, storm windows, awnings, roofs, insulation, and other improvements to structures within the residence or upon the real property adjacent thereto.

c. Home repair shall not include: The sale, installation, cleaning, or repair of carpets; the sale of goods or materials by a merchant who does not directly or through a subsidiary perform any work or labor in connection with the installation or application of the goods or materials; the repair, installation, replacement, or connection of any home appliance including, but not limited to, disposals, refrigerators, ranges, garage door openers, television cables, antennas or dishes, washing machines, telephones, or other home appliances when the person replacing, installing, repairing, or connecting such home appliance is an employee or agent of the merchant that sold the home appliance; the performance of repairs to a manufactured home or a mobile home pursuant to a manufacturer's or retailer's warranty or service agreement; or landscaping.

d. Home repair shall not include home repair made by not-for-profit charitable organizations.

(2) PERSON. Any individual, partnership, corporation, business, trust, or other legal entity.

(3) RESIDENCE. A single or multiple family dwelling including, but not limited to, a single-family home, apartment building, condominium, duplex, townhouse, or mobile home which is used or intended to be used by its occupants as their dwelling place.

(Act 2006–580, p. 1525, § 1.)

§ 13A–9–111. Elements of the offense.

A person commits the offense of home repair fraud when the person intentionally and knowingly does any of the following:

(1) Enters into an agreement or contract for consideration, written or oral, with a person for home repair, and the offending person knowingly engages in any one or more of the following deceptive activities:

a. Misrepresentation of a material fact relating to the terms of the contract or agreement or the preexisting or existing condition of any portion of the property involved, or the creation or confirmation of another's impression which is false and which the offending person does not believe to be true, or promises performance which the offending person does not intend to perform or knows will not be performed.

b. Use or employment of any deception, false pretense, or false promises in order to induce, encourage, or solicit a person to enter into any contract or agreement.

c. Misrepresentation or concealment of either the offending person's real name or the name of his or her business or business address.

d. Use of deception, coercion, or force to obtain a person's consent to modification of the terms of the original contract or agreement.

(2) Damages the property of a person with the intent to enter into an agreement or contract for home repair.

(3) Misrepresents himself or herself or another person as being an employee or agent of any unit of federal, state, or municipal government or any other governmental unit, or an employee or agent of any public utility, with the intent to cause a person to enter into a contract or agreement for home repair.

(Act 2006–580, p. 1525, § 2.)

§ 13A–9–111.1. Aggravated home repair fraud.

(a) This section shall be known and may be cited as the Alabama State of Emergency Consumer Protection Act.

(b) A person commits the offense of aggravated home repair fraud when the person knowingly does any of the following:

(1) Enters into an agreement or contract for consideration, written or oral, with another person for home repair of a residential structure that is damaged, destroyed, or otherwise in need of repair or services as a result of an event for which the Governor has declared a state of emergency, as defined in Section 31–9–3, and the offending person knowingly does any one or more of the following:

a. Knowingly misrepresents a material fact relating to the terms of the contract or agreement or the preexisting or existing condition of any portion of the property involved.

b. Knowingly creates or confirms another person's impression which is false and which he or she does not believe to be true.

c. Promises performance which he or she does not intend to perform or knows will not be performed.

d. Knowingly uses or employs any deception, false pretense, or false promises in order to induce, encourage, or solicit another person to enter into any contract or agreement.

e. Knowingly misrepresents or conceals either his or her real name or the name of his or her business or business address.

f. Knowingly uses deception, coercion, or force to obtain another person's consent to modification of the terms of the original contract or agreement.

g. After having previously been convicted of a violation of Section 34–14A–14, 34–31–32, 34–36–16, or 34–37–17 for noncompliance with a state occupational license requirement, violates Section 34–14A–14, 34–31–32, 34–36–16, or 34–37–17.

h. Is in violation of Section 34–14A–14, 34–31–32, 34–36–16, or 34–37–17 by knowingly misrepresenting or concealing his or her noncompliance with a state occupational license requirement.

(2) Damages the property of another person with the intent to enter into an agreement or contract for home repair of a residential structure that is damaged, destroyed, or otherwise in need of repair or services as a result of an event for which the Governor has declared a state of emergency, as defined in Section 31–9–3.

(3) Misrepresents himself or herself or another person as being an employee or agent of any unit of federal, state, or municipal government or any other governmental unit, or an employee or agent of any public utility, with the intent to cause another person to enter into a contract or agreement for home repair of a residential structure that does not belong to the offending person and that is damaged, destroyed, or otherwise in need of repair or services as a result of an event for which the Governor has declared a state of emergency, as defined in Section 31–9–3.

(c) A violation of this section is a Class C felony.

(Act 2021–272, § 1.)

§ 13A–9–112. Determination of intent and knowledge.

Intent and knowledge of a person alleged to have committed home repair fraud shall be determined by an evaluation of all circumstances surrounding a home repair and the determination shall not be limited to the time of the origination of the contract or agreement.

(Act 2006–580, p. 1525, § 3.)

§ 13A–9–113. Substantial performance.

Substantial performance of a home repair contract may be used as a mitigating circumstance and may be raised as a defense by a person alleged to have committed home repair fraud. Home repair performed in a manner which is of little or no value, or home repair that fails to materially comply with the appropriate municipal, county, state, or federal building regulations or codes is not substantial performance.

(Act 2006–580, p. 1525, § 4.)

§ 13A–9–114. Penalties.

Except as provided in Section 13A–9–111.1, violations of this article shall be punished as follows:

(1) A first conviction shall be a Class A misdemeanor.

(2) A second or subsequent conviction shall be a Class C felony.

(Act 2006–580, p. 1525, § 5; Act 2021–272, § 2.)

§ 13A–9–115. Restitution.

In addition to any other sentence the court may impose pursuant to Section 13A–9–114, the court shall order the defendant to make restitution to the victim as a condition of probation, either within a specified period of time or in specified installments. The order shall not be enforceable during the period of imprisonment unless the court expressly finds that the defendant has assets to pay the amounts ordered at the time of sentencing. Intentional refusal to make restitution pursuant to a court order may be considered as grounds for revocation of the person's probation or suspension of sentence.

(Act 2006–580, p. 1525, § 6.)

ARTICLE 6.

ALABAMA RESIDENTIAL MORTGAGE FRAUD ACT.

§ 13A–9–130. Residential mortgage fraud.

(a) This article shall be known and may be cited as the Alabama Residential Mortgage Fraud Act.

(b) For the protection of the general public, including borrowers and lending institutions, and for the integrity of the mortgage lending process, the Legislature enacts the ''Alabama Residential Mortgage Fraud Act.''

(c)(1) An individual commits the offense of residential mortgage fraud when with the intent to defraud, he or she does any of the following:

a. Knowingly makes any material deliberate misstatement or misrepresentation, knowing the same to be a misstatement or misrepresentation during the mortgage lending process with the specific intention that it be relied on by a mortgage broker, mortgage lender, mortgage servicer, mortgage processor, borrower, or any other party to the mortgage lending process.

b. Knowingly uses or facilitates the use of any material deliberate and known misstatement or misrepresentation knowing the same to contain a misstatement or misrepresentation during the mortgage lending process with the specific intention that it be relied on by a mortgage broker, mortgage lender, mortgage servicer, mortgage processor, borrower, or any other party to the mortgage lending process.

c. Files or causes to be filed with any public office any document that the person knows to contain a material deliberate misstatement or

misrepresentation with the specific intent to cause a residential mortgage fraud.

(2) For the purposes of venue, any violation of this section shall be considered to have been committed at any of the following:

a. In the county in which the residential property for which a mortgage loan is being sought is located.

b. In any county in which any act was performed in furtherance of this violation.

c. In any county in which any individual alleged to have violated this section had control or possession of any proceeds of this violation.

d. If a closing occurred, in any county in which the closing occurred.

e. In any county in which a document containing a deliberate misstatement, misrepresentation, or omission was filed with a public official.

(3) District attorneys and the Attorney General shall have the authority to conduct the criminal investigations of all cases of residential mortgage fraud under this section.

(4)a. Residential mortgage fraud is a Class C felony.

b. Each residential mortgage transaction subject to a violation of this section shall constitute a separate offense and shall not merge with any other crimes set forth in this section.

(Act 2009–752, p. 2275, §§ 1–3.)

Article 7.

Public Assistance Fraud.

§ 13A–9–150. Public assistance fraud; penalties.

(a) For the purposes of this section, public assistance means money or property provided directly or indirectly to eligible persons through programs of the federal government, the state, or any political subdivision thereof, including any program administered by a public housing authority.

(b) It shall be unlawful for an individual or business entity to knowingly do any of the following:

(1) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used in making a determination as to the qualification of the person to receive public assistance.

(2) Fail to disclose a change in circumstances in order to obtain or continue to receive any public assistance to which he or she is not entitled or in an amount larger than that to which he or she is entitled.

(3) Aid and abet another person in the commission of the prohibitions enumerated in subdivisions (1) and (2).

(4) Use, transfer, acquire, traffic, alter, forge, possess, attempt to use, attempt to transfer, attempt to acquire, attempt to traffic, attempt to alter,

attempt to forge, attempt to possess, or aid and abet another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of a food assistance identification card, an authorization, including, but not limited to, an electronic authorization, for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law, or to re-encode a magnetic strip on any card with information issued by any state or federal agency that grants monetary benefits that were not issued by that agency or that does not match the information on the front of the card.

(5) File, attempt to file, or aid and abet in the filing of a claim for services to, or on behalf of, a recipient of public assistance for services that were not rendered.

(6) File a false claim or a claim for nonauthorized items or services under any state or federally funded public assistance program.

(7) Bill the recipient of public assistance, or his or her family, for an amount in excess of that provided for by law or regulation.

(8) Fail to credit, return, or pay back to the state or its agents any payments received from Social Security, insurance, or other sources of funds paid or administered by any state agency that are in excess of the approved or listed amount or were received or approved based on fraud or fraudulent conduct.

(9) In any way receive, attempt to receive, or aid and abet in the receipt of unauthorized payments or other unauthorized public assistance or authorization or identification to obtain public assistance.

(10) Convert, charge, accept, or in any way take any funds administered by a public assistance program in excess of the listed price plus any applicable taxes.

(11) Receive payment that includes public assistance funds, in any form, for the purchase of items that are not authorized or are prohibited by state or federal law.

(c) In order to commit a violation of subsection (b), a hospital, as defined in Section 22–21–20, or an employee, agent, contractor, subcontractor, or independent contractor of a hospital, or a physician or a physician's employee, agent, contractor, subcontractor, or independent contractor must have specific intent to make a claim or obtain a payment for a health care item or service for which he or she has actual knowledge, as opposed to constructive knowledge, that he or she is not entitled to the claim or payment or that he or she has actual knowledge that his or her patient is not otherwise entitled to coverage under a public assistance program.

(d) It shall be unlawful for any person having duties in the administration of a public assistance program or in the distribution of public assistance or with authorization or identification to obtain public assistance to do any of the following:

(1) Fraudulently misappropriate, attempt to misappropriate, knowingly fail to disclose fraudulent activity, or aid and abet in the misappropriation of a food assistance, an authorization for food assistance, a food assistance identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or any other public assistance program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position.

(2) Knowingly misappropriate, attempt to misappropriate, or aid and abet in the misappropriation of funds given in exchange for food assistance program benefits or for any form of food assistance benefits authorization.

(e)(1) In addition to any other penalty provided by law, an individual or business entity that violates this section in an aggregate value of two hundred dollars ($200) or more shall be guilty of a Class C felony.

(2) In addition to any other penalty provided by law, an individual or business entity that violates this section in an amount less than the aggregate value of two hundred dollars ($200) shall be guilty of a Class A misdemeanor.

(3) Three or more violations of this section shall establish a rebuttable presumption that the individual knowingly violated this section.

(f) The value of a food assistance authorization benefit shall be equal to the cash or exchange value unlawfully obtained by the fraudulent act committed in violation of this section.

(g) For the purposes of this section, public assistance fraud shall include the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, fraudulent billing or charging, and the stealing of financial instruments, data, and other assets.

(h) Repayment of public assistance benefits or services or return of authorization or identification wrongfully obtained is not a defense to, or ground for dismissal of, criminal charges brought under this section. However, in situations in which a hospital, as defined in Section 22–21–20, or an employee, agent, contractor, subcontractor, or independent contractor of a hospital, or a physician or his or her employee, agent, contractor, subcontractor, or independent contractor has overbilled or received an overpayment for a medical or health care service or improperly charted, coded, or billed for any medical or health care service, common practices, including but not limited to, repayment, even years later, may use as a defense to, or ground for dismissal of, a prosecution under this section.

(i) The introduction into evidence of a paid state warrant to the order of the defendant is prima facie evidence that the defendant did receive public assistance from the state.

(j) The introduction into evidence of a transaction history generated by a personal identification number (PIN) establishing a purchase or withdrawal

by electronic benefit transfer is prima facie evidence that the identified recipient received public assistance from the state.

(k)(1) If an original record is admissible in any case or proceeding in a court in the state, a certified copy of the record in the custody of any federal or state agency relating to an investigation of public assistance fraud under this section shall be admissible when certified and affirmed by the custodian of the agency records as provided in subdivision (2), without further proof in any court in the state where admissible. The agency records must satisfy both of the following:

a. Were made and kept in the usual and regular course of business of the agency.

b. Were made at the time that the acts, transactions, occurrences, or events occurred or arose or within a reasonable time thereafter.

(2) The certificate of the custodian of a record under subdivision (1) shall name the parties to the case or proceeding and the name of the court to which made, by appropriate caption. The certificate shall be in the following form:

"I, _____, hereby certify and affirm in writing that I am _____ (title) of the _____ (agency), a governmental agency, located at _____, that I am custodian of the agency records of the agency and that the copy of the records within are an exact, full, true, and correct copy of the records pertaining to _____. These records were made and kept in the usual and regular course of business of the listed agency and it was in the regular course of business of the listed agency to make and keep the records and that the records were made at the time that the acts, transactions, occurrences, or events that occurred or arose, or within a reasonable time thereafter. All of which I hereby certify and affirm on this _____ day of _____, _____"

(l) The Department of Human Resources, the Medicaid Agency, the Housing Finance Authority, and any other state agency that administers public assistance shall create an error-prone or fraud-prone case profile within its public assistance information system and shall screen each application for public assistance, including food assistance, Medicaid, temporary cash assistance, and public housing, against the profile to identify cases that have a potential for error or fraud. Each case identified as having a potential for error or fraud shall be subjected to preeligibility fraud screening. The Department of Human Resources may utilize the Income and Eligibility Verification System to comply with the criteria of this section to address fraud.

The Alabama Medicaid Agency may utilize the Federal Data Services Hub to comply with the criteria of this section.

(m)(1) Any person providing service for which compensation is paid under any state or federally funded public assistance program who solicits, requests, or receives, either actually or constructively, any payment or contribution through a payment, assessment, gift, devise, bequest, or other

means, whether directly or indirectly, from a recipient of public assistance from a public assistance program, or from the family of the recipient, shall notify the Department of Human Resources, on a form provided by the department, of the amount of the payment or contribution and of any other information as specified by the department, within 10 days after the receipt of the payment or contribution, or if the payment or contribution is to become effective at some time in the future, within 10 days of the consummation of the agreement to make the payment or contribution. This subsection shall not apply to a hospital, as defined in Section 22–21–20, that treats Medicaid or Medicare patients, or a physician who treats Medicaid or Medicare patients.

For the purposes of this subsection, the term payment shall not include any copayment paid by a recipient of Medicaid to a medical provider.

(2) Failure to notify the Department of Human Resources within the prescribed time is a Class A misdemeanor.

(n)(1) All funds, proceeds, or property, whether real or personal, used or intended to be used in the commission of any violation of this section, obtained in any way by a violation of this section, or in any way derived from the proceeds of a violation of this section, are subject to forfeiture. This forfeiture provision shall not apply to payments received by a hospital, as defined in Section 22–21–20, for services provided to Medicaid recipients. A forfeiture proceeding shall be by means of an in rem civil action.

(2) Subsections (b) through (e), inclusive, and subsection (h) of Section 20–2–93, are applicable to forfeiture proceeding under this subsection, including all of the following portions of the proceeding:

a. How seizure of funds, proceeds, or property may be made.

b. The promptness of the proceeding.

c. Custody of funds, proceeds, and property.

d. Disposition of property after forfeiture.

e. How a bona fide lien holder's interests are treated.

(3) The standard of proof in a forfeiture proceeding under this subsection is reasonable satisfaction that the funds, proceeds, or property subject to forfeiture were used or intended to be used to violate this section or were obtained based on a violation of this section.

(*o*) Nothing in this section and Section 40–18–100 shall apply to Section 22–1–11.

(Act 2014–424, p. 1553, §§ 1, 3.)

CHAPTER 10.

OFFENSES AGAINST PUBLIC ADMINISTRATION.

ARTICLE 1.

OBSTRUCTION OF PUBLIC ADMINISTRATION.

§ 13A–10–1. Definitions.

The following definitions apply in this article only unless the context otherwise requires:

(1) FIREMAN. Any officer of a fire department, a member of a volunteer fire department, or any other person vested by law with the duty to extinguish fires.

(2) GOVERNMENT. The state, county, municipality, or other political subdivision thereof, including public county and city boards of education, the youth services department district, the Alabama Institute for Deaf and Blind, and all educational institutions under the auspices of the State Board of Education.

(3) GOVERNMENTAL FUNCTION. Any activity which a public servant is legally authorized to undertake on behalf of a government or the fire control activities of a member of a volunteer fire department.

(4) GOVERNMENTAL RECORD. Any record, paper, document, or thing belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government. Any educational attendance, membership, or financial report, or a student's school transcript.

(5) PEACE OFFICER. Any public servant vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.

(6) PROPERTY. Any real or personal property, including books, records, and documents.

(7) PUBLIC SERVANT. Any officer or employee of government, including legislators and judges and any person or agency participating as an adviser, consultant, or otherwise in performing a governmental function.

(Acts 1977, No. 607, p. 812, § 4501; Acts 1987, No. 87–804, p. 1578; Act 2006–423, p. 1049, § 1.)

§ 13A–10–2. Obstructing governmental operations.

(a) A person commits the crime of obstructing governmental operations if, by means of intimidation, physical force or interference or by any other independently unlawful act, he:

(1) Intentionally obstructs, impairs or hinders the administration of law or other governmental function; or

(2) Intentionally prevents a public servant from performing a governmental function.

(b) This section does not apply to the obstruction, impairment or hindrance of the making of an arrest.

(c) Obstructing governmental operations is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4505.)

§ 13A–10–3. Refusal to permit inspection.

(a) A person commits the crime of refusing to permit inspection of property that is owned, possessed or otherwise subject to his control if, a public servant is legally authorized to inspect such property and an attempt is being made to exercise that authority and he:

(1) Refuses to produce the property for a reasonable inspection; or

(2) Refuses to permit a reasonable inspection.

(b) For the purposes of this section, ''legally authorized inspection'' includes any lawful search, sampling, testing or other examination of property, in connection with the regulation of the defendant's business or occupation, that is authorized by law.

(c) Refusing to permit inspection is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 4510; Acts 1979, No. 79–664, p. 1163, § 1.)

§ 13A–10–4. Failing to file required report.

(a) A person commits the crime of failing to file a required report if, knowing that he is required by law to submit a written report to a designated public servant, he intentionally fails to submit the report within the time provided by law.

(b) Failure to submit a report within 10 days after receipt of proper notification that the report legally is due shall constitute prima facie evidence of:

(1) Knowledge of a legal duty to submit the report; and

(2) Intentional failure to submit the report.

(c) This section applies to the failure to submit a specific report only when a separate statutory provision makes such failure subject to the operation of this section.

(d) Failing to file a required report is a violation.

(Acts 1977, No. 607, p. 812, § 4515.)

§ 13A–10–5. Refusing to aid peace officer.

(a) A person commits the crime of refusing to aid a peace officer if, upon command by a peace officer identified to him as such, he fails or refuses to aid such peace officer in:

(1) Effecting or securing a lawful arrest; or

(2) Preventing the commission by another person of any offense.

(b) A person is not liable under this section if the failure or refusal to aid the officer was reasonable under the circumstances. The burden of injecting this issue is on the defendant, but this does not shift the burden of proof.

(c) Refusing to aid a peace officer is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 4520.)

§ 13A–10–5.1. Disarming a law enforcement or corrections officer.

(a) A person commits the crime of disarming a law enforcement or corrections officer if the person intentionally removes a firearm or weapon from a law enforcement or corrections officer or deprives a law enforcement or corrections officer of the use of a firearm or weapon when the officer is acting within the scope of his or her duties and the person knows or reasonably should have known that the individual is a law enforcement or corrections officer.

(b) The crime of disarming a law enforcement or corrections officer is a Class C felony.

(Act 2012–369, p. 921, § 1.)

§ 13A–10–6. Refusing to assist in fire control.

(a) A person commits the crime of refusing to assist in fire control if, upon command by a fireman or peace officer identified to him as such, he intentionally disobeys a reasonable order or regulation made in relation to the conduct of persons in the vicinity of a fire.

(b) Refusing to assist in fire control is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 4525.)

§ 13A–10–7. Compounding.

(a) A person commits the crime of compounding if he gives or offers to give, or accepts or agrees to accept, any pecuniary benefit or other thing of value in consideration for:

(1) Refraining from seeking prosecution of a crime; or

(2) Refraining from reporting to law enforcement authorities the commission or suspected commission of any crime or information relating to the crime.

(b) It is a defense to a prosecution under this section that the pecuniary benefit did not exceed an amount which the actor reasonably believed to be due as restitution or indemnification for harm caused by the offense. The burden of injecting this defense is on the defendant.

(c) Compounding is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4530.)

§ 13A–10–8. Rendering a false alarm.

(a) A person commits the crime of rendering a false alarm if he knowingly causes a false alarm of fire or other emergency involving danger to person or property to be transmitted to or within an official or volunteer fire department or any other governmental agency or to be transmitted to or within a hospital or nursing home or any building housing handicapped or immobile people.

(b) Rendering a false alarm except a false alarm concerning a hospital or nursing home or other building housing handicapped or immobile people to or within an official or volunteer fire department or any other governmental agency is a Class A misdemeanor. Rendering a false alarm concerning or to or within a hospital or nursing home or any building housing handicapped or immobile people shall be a Class C felony.

(Acts 1977, No. 607, p. 812, § 4535; Acts 1979, No. 79–664, p. 1163, § 1; Acts 1981, No. 81–658.)

§ 13A–10–9. False reporting to local, state, or federal law enforcement authorities.

(a) A person commits the crime of false reporting to local, state, or federal law enforcement authorities if he or she knowingly makes a false report or causes the transmission of a false report to local, state, or federal law enforcement authorities of a crime or relating to a crime.

(b) False reporting to local, state, or federal law enforcement authorities is a Class A misdemeanor, unless the false report alleges imminent danger to a person or the public, where the penalty shall be a Class C felony.

(c) A person convicted of a violation of this section, where the false report results in an emergency response or investigation of the commission of false reporting, shall be ordered to pay restitution for the expenses incurred by any local, state, or federal law enforcement or assisting governmental agency. Expenses include any reasonable costs directly incurred, including the costs of police, firefighting, and emergency medical services, and the personnel costs of those persons who respond to the incident.

(Acts 1977, No. 607, p. 812, § 4540; Acts 1979, No. 79–471, p. 862, § 1; Act 2024–345, § 1, eff. Oct. 1, 2024.)

§ 13A–10–9.1. Swatting.

(a) For the purposes of this section, the following terms have the following meanings:

(1) EMERGENCY. Either of the following:

a. Any condition that results in, or is likely to result in, the response of a law enforcement agency or emergency service provider acting in their official capacity.

b. Any condition that jeopardized or is likely to jeopardize public safety and results in, or is likely to result in, the evacuation of any area, building, structure, or vehicle.

(2) EMERGENCY SERVICE PROVIDER. As defined in Section 11–98–1.

(3) LAW ENFORCEMENT AGENCY. As defined in Section 15–5–62.

(b) A person commits the crime of swatting if he or she knowingly reports, or causes to be reported, false or misleading information regarding a crime or emergency to a law enforcement agency or emergency service provider under circumstances where the false or misleading information is likely to cause a response from a law enforcement agency or an emergency service provider.

(1) A violation of this subsection is a Class A misdemeanor if the false or misleading report is of a misdemeanor offense.

(2) A violation of this subsection is a Class C felony if the false or misleading report is of a felony offense or emergency.

(3) A violation of this subsection is a Class B felony if the false or misleading report is of a felony offense or emergency and the emergency response causes physical injury to any person.

(4) A violation of this subsection is a Class A felony if the false or misleading report is of a felony offense or emergency and the emergency response causes serious physical injury or death to any person.

(c) For the purposes of determining venue, a violation of this section shall be considered to be committed in any county: (i) where the false or misleading report was made; (ii) where the false or misleading report was received by a law enforcement agency or emergency service provider; or (iii) in which a law enforcement agency or emergency service provider responded to the false or misleading report.

(d) Any person convicted of this section shall be ordered to pay restitution to any individual, agency, or entity who incurs damages as a proximate result of responding to the false report.

(Act 2024–297, § 1, eff. Oct. 1, 2024.)

§ 13A–10–10. Impersonating public servant.

(a) A person commits the crime of impersonating a public servant if he falsely pretends to be a public servant and does any act in that capacity.

(b) It is no defense to a prosecution under this section that the office the actor pretended to hold did not in fact exist.

(c) Impersonating a public servant is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 4545.)

§ 13A–10–11. Impersonating peace officer.

(a) A person commits the crime of impersonating a peace officer if he or she falsely pretends to be a peace officer and does any act in that capacity.

(b) Impersonating a peace officer is a Class C felony.

(c) For the purposes of this section, ''peace officer'' includes any officer or employee of the federal government vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(Acts 1977, No. 607, p. 812, § 4550; Act 2023–361, § 1, eff. Sept. 1, 2023.)

§ 13A–10–12. Tampering with governmental records.

(a) A person commits the crime of tampering with governmental records if:

(1) He knowingly makes a false entry in or falsely alters any governmental record; or

(2) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise substantially impairs the verity or availability of any governmental record; or

(3) Knowing he lacks the authority to retain a governmental record he refuses to deliver up the record in his possession upon proper request of a person lawfully entitled to receive such record for examination or other purposes.

(b) Tampering with governmental records is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4555.)

§ 13A–10–13. Unlawful use of great seal of state or printing of official identification card.

(a) It is unlawful for anyone to use an image or facsimile of the Great Seal of the State of Alabama as described in Section 1–2–4 for any commercial purpose.

(b) It is unlawful for anyone to print or distribute, or both, a facsimile of an official identification card issued by the Alabama State Law Enforcement Agency, which does not have a disclaimer of the authenticity of the card printed on the front of the card. The disclaimer shall be of the same size and type as the type used for the largest type on the facsimile of an official identification card.

(c) A violation of subsection (a) or (b) of this section is a Class C felony punishable as provided by law.

(Acts 1994, No. 94–716, §§ 1, 2.)

§ 13A–10–14. Unlawful use of facsimile of official identification card.

(a) It is unlawful for anyone to possess and present a facsimile of an official identification card issued by the Alabama State Law Enforcement Agency.

(b) It is a Class A misdemeanor for any person to possess and present such a facsimile of an official identification card as described in subsection (b) of Section 13A–10–13.

(Acts 1994, No. 94–716, § 3.)

§ 13A–10–15. Terrorist threats. Repealed by Act 2023–493, § 2, effective September 1, 2023.

§ 13A–10–16. Interference with public safety communication.

(a) For the purposes of this section, ''public safety communication'' means any radio signal, electronic transmission, telephone communication, or broadcast, intended for law enforcement, fire service, 911 personnel, or emergency personnel acting in an official capacity under color of law, which is transmitted or received by any equipment or system capable of either receiving or transmitting telephone communication, radio signals or other electronic transmissions on a wavelength, frequency, or channel allocated by the Federal Communications Commission or otherwise for use by law enforcement, fire service, 911 personnel, or emergency personnel.

(b) Except as provided in subsection (c), a person commits the offense of interference with public safety communication if the person does any of the following:

(1) Knowingly and intentionally displaces, damages, removes, injures, tampers with, destroys, or renders inoperable any transmitter, receiver, transceiver, tower or antenna, or any cable, telegraph or telephone line, or equipment, wire, fiber, pole, computer equipment, telecommunication switch, dispatching equipment, or conduit belonging to, required, used, or intended to be used for public safety communication, or material or property appurtenant thereto.

(2) Knowingly and intentionally displaces, damages, removes, injures, tampers with, destroys, or renders inoperable any audible or visual device or outdoor speaker or siren which is intended to indiscriminately provide or generate mass notification, alert, or warning of persons in the event of an emergency, or the material or property appurtenant thereto.

(3) Knowingly and intentionally interferes with the transmission or reception of any data, communication, message, or public safety communication by any law enforcement, fire service, 911 personnel, or emergency service agency in order to hinder the agency in the fulfillment of its duties.

(4) Knowingly and intentionally operates, or permits to be operated, any apparatus in his or her possession, or under his or her direct or indirect control, which is capable of transmitting radio signals or telephone communications that interfere with or cause disruption of a public safety communication.

(5) Knowingly and intentionally intercepts any transmission of a public safety communication which is encrypted for the purpose of preventing the unauthorized access to sensitive information.

(c) Subsection (b) does not apply to any of the following:

(1) A certified law enforcement officer acting under color of law in performance of his or her duties.

(2) Any officer, operator, employee, or agent acting in an official capacity on behalf of an agency, authority, or organization which maintains or oversees public safety communication activities or equipment.

(3) A person who has permission in writing from the head of a law enforcement, fire service, public safety, or emergency service agency or organization to possess and use any radio transceiver or apparatus capable of transmitting or receiving messages or signals within a wavelength, channel, or talkgroup assigned to the agency granting the permission.

(4) Any utility personnel acting within the scope of his or her duties.

(5) Any wireless telecommunications carrier employee acting within the scope of his or her duties or in good faith reliance on an intercept court order.

(d) It shall be the duty of any law enforcement officer to seize and hold for evidence any equipment possessed or used in violation of this section, and upon conviction of the person possessing or using the equipment, the court shall order such equipment destroyed or forfeited to the State of Alabama or to the authorized jurisdiction making the arrest and prosecution of the offense.

(e) Interference with public safety communication is a Class C felony.

(Act 2014–239, p. 766, § 1.)

Article 2.

Escape and Other Offenses Relating to Custody.

§ 13A–10–30. Definitions.

(a) The definitions contained in Section 13A–10–1 are applicable in this article unless the context requires otherwise.

(b) The following definitions are also applicable to this article:

(1) Contraband. Any article or thing which a person confined in a detention facility is legally prohibited from obtaining or possessing by statute, rule, regulation, detention center policy, or order.

(2) Custody. A restraint or detention by a public servant pursuant to a lawful arrest, conviction, or order of court, but does not include mere supervision of probation or parole or constraint incidental to release on bail.

(3) Detention facility. Any place used for the confinement, pursuant to law, of a person:

a. Charged with or convicted of a criminal offense.

b. Charged with being or adjudicated a youthful offender, or a neglected minor or juvenile delinquent.

c. Held for extradition.

d. Otherwise confined pursuant to an order of court.

(4) PENAL FACILITY. Any security correctional institution for the confinement of persons arrested for, charged with, or convicted of a criminal offense, including, but not limited to, the state penitentiary and any branch of the state penitentiary, or any county or city jail.

(Acts 1977, No. 607, p. 812, § 4601; Acts 1978, No. 770; Act 2023–336, § 1, eff. Sept. 1, 2023.)

§ 13A–10–31. Escape in the first degree.

(a) A person commits the crime of escape in the first degree if:

(1) He employs physical force, a threat of physical force, a deadly weapon or a dangerous instrument in escaping or attempting to escape from custody; or

(2) Having been convicted of a felony, he escapes or attempts to escape from custody imposed pursuant to that conviction.

(b) Escape in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 4606; Acts 1979, No. 79–471, p. 862, § 1; Acts 1980, No. 80–753, § 2.)

§ 13A–10–32. Escape in the second degree.

(a) A person commits the crime of escape in the second degree if he escapes or attempts to escape from a penal facility.

(b) Escape in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4607.)

§ 13A–10–33. Escape in the third degree.

(a) A person commits the offense of escape in the third degree if he escapes or attempts to escape from custody.

(b) Escape in the third degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4608; Acts 1978, No. 770, p. 1110.)

§ 13A–10–34. Permitting or facilitating escape in the first degree.

(a) A person commits the crime of permitting or facilitating escape in the first degree if:

(1) He intentionally aids or attempts to aid in the escape of a person arrested for, charged with or convicted of a felony from a penal facility; or

(2) He is a public servant of a penal facility and intentionally, knowingly or recklessly permits or facilitates the escape of a person arrested for, charged with or convicted of a felony.

(b) Permitting or facilitating an escape in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4610.)

§ 13A–10–35. Permitting or facilitating escape in the second degree.

(a) A person commits the crime of permitting or facilitating escape in the second degree if:

(1) He intentionally aids or attempts to aid in the escape of a person arrested for, charged with or convicted of a misdemeanor from a penal or detentional facility; or

(2) He is a public servant of a penal or detention facility and who intentionally, knowingly, or recklessly permits or facilitates the escape of a person arrested for, charged with, or convicted of a misdemeanor.

(b) Permitting or facilitating escape in the second degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4611.)

§ 13A–10–36. Promoting prison contraband in the first degree.

(a) A person is guilty of promoting prison contraband in the first degree if he or she does either of the following:

(1) Intentionally and unlawfully introduces within a detention facility, or provides an inmate or juvenile with, any deadly weapon, instrument, tool, or other item that may be useful for escape.

(2) Being a person confined in a detention facility, intentionally and unlawfully makes, obtains, or possesses any deadly weapon, instrument, tool, or other item that may be useful for escape.

(b) Promoting prison contraband in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4615; Act 2023–336, § 1, eff. Sept. 1, 2023.)

§ 13A–10–37. Promoting prison contraband in the second degree.

(a) A person is guilty of promoting prison contraband in the second degree if he or she does either of the following:

(1) Intentionally and unlawfully introduces within a detention facility, or provides an inmate or juvenile with, any narcotic, dangerous drug, or controlled substance as defined in the ''Alabama Controlled Substances Act,'' or any amendments thereto.

(2) Being a person confined in a detention facility, intentionally and unlawfully makes, obtains, or possesses any narcotic, dangerous drug, or controlled substance as defined in Chapter 2 of Title 20.

(b) Promoting prison contraband in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4616; Act 2023–336, § 1, eff. Sept. 1, 2023.)

§ 13A–10–38. Promoting prison contraband in the third degree.

(a) A person is guilty of promoting prison contraband in the third degree if he or she does any of the following:

(1) Intentionally and unlawfully introduces within a detention facility, or provides an inmate or juvenile with, any contraband or item that the actor knows or should know is unlawful to introduce or for the inmate or juvenile to possess.

(2) Being a person confined in a detention facility, intentionally and unlawfully makes, obtains, or possesses any contraband.

(3) Intentionally introduces within a state detention facility operated by the Department of Corrections, or provides an inmate in a state detention facility operated by the Department of Corrections with, any currency or coin that the actor knows or should know is unlawful to introduce or the possession of which is not authorized by an inmate by the written policy of the Department of Corrections.

(4) Being a person in the custody of the Department of Corrections, obtains or possesses any currency or coin, the possession of which is not authorized by the written policy of the Department of Corrections.

(b) Promoting prison contraband in the third degree is a Class B misdemeanor.

(c) Any currency or coin contraband found on or in the possession of any inmate in any state detention facility operated by the Department of Corrections, the possession of which is not authorized by the written policy of the Department of Corrections, shall be confiscated and liquidated after notice and a hearing as provided by departmental policy and the proceeds shall be deposited in the general operating fund of the department.

(Acts 1977, No. 607, p. 812, § 4617; Acts 1996, No. 96–753, p. 1325, §§ 1, 2; Act 2023–336, § 1, eff. Sept. 1, 2023.)

§ 13A–10–39. Bail jumping in the first degree.

(a) The person commits the crime of bail jumping in the first degree if, having been lawfully released from custody, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of his having committed murder or any Class A or B felony, he fails to appear at the time and place.

(b) It is a defense to prosecution under this section that the defendant's failure to appear was unintentional or was unavoidable and due to circumstances beyond his control. The burden of injecting the defense of an unintentional failure to appear, or unavoidability and circumstances beyond his control, is on the defendant.

(c) Bail jumping in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4620.)

§ 13A–10–40. Bail jumping in the second degree.

(a) A person commits the crime of bail jumping in the second degree if, having been lawfully released from custody, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of his having committed any misdemeanor or Class C felony, he fails to appear at that time and place.

(b) It is a defense to prosecution under this section that the defendant's failure to appear was unintentional or was unavoidable and due to circumstances beyond his control. The burden of injecting the defense of an unintentional failure to appear, or unavoidability and circumstances beyond his control, is on the defendant.

(c) This section does not apply to a person released from custody on condition that he will appear in connection with a charge of having committed a misdemeanor in violation of Title 32 of this Code.

(d) Bail jumping in the second degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4621.)

§ 13A–10–41. Resisting arrest.

(a) A person commits the crime of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from affecting a lawful arrest of himself or of another person.

(b) Resisting arrest is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4625.)

§ 13A–10–42. Hindering prosecution or apprehension — Definition of ''criminal assistance.''

For the purposes of Sections 13A–10–43 through 13A–10–45, a person renders ''criminal assistance'' to another if he:

(1) Harbors or conceals such person;

(2) Warns such person of impending discovery or apprehension; except that this subdivision does not apply to a warning given in connection with an effort to bring another into compliance with the law;

(3) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension;

(4) Prevents or obstructs, by means of force, deception or intimidation, anyone except a trespasser from performing an act that might aid in the discovery or apprehension of such person; or

(5) Suppresses, by an act of concealment, alteration or destruction, any physical evidence that might aid in the discovery or apprehension of such person.

(Acts 1977, No. 607, p. 812, § 4635.)

§ 13A–10–43. Hindering prosecution in the first degree.

(a) A person commits the crime of hindering prosecution in the first degree if with the intent to hinder the apprehension, prosecution, conviction or punishment of another for conduct constituting a murder or a Class A or B felony, he renders criminal assistance to such person.

(b) Hindering prosecution in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4636; Acts 1979, No. 79- 471, p. 862, § 1.)

§ 13A–10–44. Hindering prosecution in the second degree.

(a) A person commits the crime of hindering prosecution in the second degree if with the intent to hinder the apprehension, prosecution, conviction or punishment of another for conduct constituting a Class C felony or a Class A misdemeanor, he renders criminal assistance to such person.

(b) Hindering prosecution in the second degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4637; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–10–45. Hindering apprehension of escapee.

(a) A person commits the crime of hindering the apprehension of an escapee if, with the intent to hinder the apprehension of a person known to have escaped from a detention facility, he renders criminal assistance to such person.

(b) Hindering apprehension of an escapee is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4640; Acts 1979, No. 79–471, p. 862, § 1.)

ARTICLE 2A.

INTENTIONALLY FLEEING A LAW ENFORCEMENT OFFICER.

§ 13A–10–50. Short title.

This article shall be known and cited as the ''Officer Keith E. Houts Act.''

(Act 2009–616, p. 1779, § 1.)

§ 13A–10–51. Definitions.

(a) For purposes of this article, the term law enforcement officer shall mean any person who has all of the following qualifications:

(1) He or she has the power to arrest pursuant to the laws of this state.

(2) He or she is certified by the Alabama Peace Officers and Standards Training Commission.

(3) He or she is acting in his or her official capacity.

(4) He or she is not on strike or involved in a work stoppage.

(5) He or she is not on duty as a private security officer.

(Act 2009–616, p. 1779, § 2.)

§ 13A–10–52. Fleeing or attempting to elude law enforcement officer.

(a) It shall be unlawful for a person to intentionally flee by any means from anyone the person knows to be a law enforcement officer if the person knows the officer is attempting to arrest the person.

(b) It shall be unlawful for a person while operating a motor vehicle on a street, road, alley, or highway in this state, to intentionally flee or attempt to elude a law enforcement officer after having received a signal from the officer to bring the vehicle to a stop.

(c)(1) A violation of subsection (a) or (b) is a Class A misdemeanor.

(2) A violation of subsection (a) or (b) is a Class C felony if any of the following occur:

a. The flight or attempt to elude causes the offender to strike or collide with another vehicle or pedestrian.

b. The flight or attempt to elude causes physical injury to any other person.

c. The flight or attempt to elude results in the offender crossing the lines of this state into a neighboring state.

(3) A violation of subsection (a) or (b) is a Class B felony if either of the following occur:

a. The flight or attempt to elude causes serious physical injury or death to any other person.

b. During the flight or attempt to elude the person exceeds 20 miles per hour over the legal maximum speed limit.

(d) Upon conviction of subsection (a) or (b), the court shall order the suspension of the driver license of the defendant for a period of not less than six months nor more than two years.

(e) It is not a violation of this section for an individual to continue traveling at or below the speed limit, with or without the vehicle's flashers turned on, with the intent of stopping the vehicle at the nearest safe place.

(Act 2009–616, p. 1779, § 3; Act 2023–489, § 1, eff. Sept. 1, 2023.)

§ 13A–10–53. Defense.

It is an affirmative defense to prosecution under this article that the arrest was unlawful or that the person operating the motor vehicle was aware of the signal from the law enforcement officer to bring the vehicle to a stop and the person stopped his or her vehicle within a reasonable time and at a reasonable location based on the facts and circumstances of the stop.

(Act 2009–616, p. 1779, § 4.)

§ 13A–10–54. Relation to § 13A–10–41.

A person charged under this article may not be charged with the crime of resisting arrest under Section 13A–10–41, based on the same facts on which a charge under this article is based.

(Act 2009–616, p. 1779, § 5.)

Article 3.

Bribery and Corrupt Influence.

§ 13A–10–60. Definitions.

(a) The definitions contained in Section 13A–10–1 are applicable in this article unless the context otherwise requires.

(b) The following definitions also apply to this article:

(1) Benefit. Any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.

(2) Pecuniary benefit. Benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants and party officers shall not be deemed a pecuniary benefit within the meaning of this article.

(3) Public servant. As used in this article, such term includes persons who presently occupy the position of a public servant, as defined in Section 13A–10–1(7), or have been elected, appointed or designated to become a public servant although not yet occupying that position.

(4) Party officer. A person who holds any position or office in a political party, whether by election, appointment or otherwise.

(Acts 1977, No. 607, p. 812, § 4701.)

§ 13A–10–61. Bribery of public servants.

(a) A person commits the crime of bribery if:

(1) He offers, confers or agrees to confer any thing of value upon a public servant with the intent that the public servant's vote, opinion, judgment, exercise of discretion or other action in his official capacity will thereby be corruptly influenced; or

(2) While a public servant, he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action as a public servant will thereby be corruptly influenced.

(b) It is not a defense to a prosecution under this section that the person sought to be influenced was not qualified to act in the desired way, whether

because he had not yet assumed office, lacked jurisdiction or for any other reason.

(c) Bribery is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4705; Acts 1978, No. 770, p. 1110.)

§ 13A–10–62. Failure to disclose conflict of interest.

(a) A public servant commits the crime of failing to disclose a conflict of interest if he exercises any substantial discretionary function in connection with a government contract, purchase, payment or other pecuniary transaction without advance public disclosure of a known potential conflicting interest in the transaction.

(b) A ''potential conflicting interest'' exists, but is not limited to, when the public servant is a director, president, general manager or similar executive officer, or owns directly or indirectly a substantial portion of any nongovernmental entity participating in the transaction.

(c) Public disclosure includes public announcement or notification to a superior officer or the Attorney General.

(d) Failing to disclose a conflict of interest is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4720.)

§ 13A–10–63. Trading in public office.

(a) A person is guilty of trading in public office if:

(1) He offers, confers or agrees to confer any pecuniary benefit upon a public servant or party officer upon an agreement or understanding that he himself will or may be appointed to a public office or public employment or designated or nominated as a candidate for public office; or

(2) While a public servant or party officer, he solicits, accepts or agrees to accept any pecuniary benefit from another upon an agreement or understanding that that person will or may be appointed to a public office or public employment or designated or nominated as a candidate for public office.

(b) This section does not apply to contributions to political campaign funds or other political contributions.

(c) Trading in public office is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4725.)

Article 4.

Abuse of Public Office.

§ 13A–10–80. Definitions.

(a) The definitions contained in Sections 13A–10–1, 13A–10–30 and 13A–10–60 are applicable in this article unless the context otherwise requires.

(b) ''Harm'' means loss, disadvantage or injury to the person affected or to any other person in whose welfare he is interested.

(Acts 1977, No. 607, p. 812, § 4801.)

§ 13A–10–81. Official misconduct in the first degree. Repealed by Acts 1979, No. 79–471, p. 862, § 1, effective July 30, 1979.

§ 13A–10–82. Misuse of confidential information.

(a) A public servant commits the crime of misuse of confidential information if in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:

(1) Acquires a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action;

(2) Speculates or wagers on the basis of such information or action; or

(3) Aids another to do any of the foregoing.

(b) Misuse of confidential information is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4810.)

§ 13A–10–83. Misrepresenting the police jurisdiction of a municipality.

(a)(1) A person commits the crime of misrepresenting the police jurisdiction of a municipality if he or she knowingly misrepresents, by use of a sign, marker, or other marking, the police jurisdiction of a municipality.

(2) A public official shall be guilty of a violation of this section if he or she instructs another person to misrepresent the police jurisdiction of a municipality with knowledge of the true boundary of the municipality.

(b) Misrepresenting the police jurisdiction of a municipality is a Class A misdemeanor.

(Act 2022–439, § 1.)

ARTICLE 5.

PERJURY AND RELATED OFFENSES.

§ 13A–10–100. Definitions.

(a) The definitions in Sections 13A–10–1 and 13A–10–60 are applicable in this article unless the context otherwise requires.

(b) The following definitions are also applicable in this article:

(1) SWEARS FALSELY and FALSE SWEARING. The making of a false statement under oath required or authorized by law, or the swearing or affirming the truth of such statement previously made, which the declarant does not believe to be true. A false swearing in a subscribed written instrument

shall not be deemed complete until the instrument is delivered by its subscriber, or by someone acting in his behalf, to another person with intent that it be uttered or published as true.

(2) MATERIAL. A statement is ''material,'' regardless of the admissibility of the statement under the rules of evidence, if it could have affected the course or outcome of the official proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law.

(3) OATH. Such term includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated. For the purposes of this article, written statements shall be treated as if made under oath if:

a. The statement was made on or pursuant to form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or

b. The statement recites that it was made under oath, the declarant was aware of such recitation at the time he made the statement and intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto.

(4) REQUIRED OR AUTHORIZED BY LAW. An oath is ''required or authorized by law'' when the use of the oath is provided for by statute or municipal ordinance.

(5) OFFICIAL PROCEEDING. Any proceeding heard before any legislative, judicial, administrative or other government agency or official authorized to hear evidence under oath.

(6) JURAT. A clause wherein a notary public or other attesting officer authorized by law to administer oaths in connection with affidavits, depositions and other subscribed written instruments certifies that the subscriber has appeared before him and sworn to the truth of the contents thereof.

(Acts 1977, No. 607, p. 812, § 4901.)

§ 13A–10–101. Perjury in the first degree.

(a) A person commits the crime of perjury in the first degree when in any official proceeding he swears falsely and his false statement is material to the proceeding in which it is made.

(b) Perjury in the first degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 4905.)

§ 13A–10–102. Perjury in the second degree.

(a) A person commits the crime of perjury in the second degree if he or she does either of the following:

(1) Swears with intent to mislead a public servant in the performance of the public servant's duty and his or her false statement is material to the action, proceeding, or matter involved.

(2) Knowingly presents a false document purporting to be a lease agreement, deed, or other instrument conveying or providing a right to or in real property to another person with the intent to civilly detain or to remain upon the real property.

(b) Perjury in the second degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4906; Act 2024–237, § 2, eff. June 1, 2024.)

§ 13A–10–103. Perjury in the third degree.

(a) A person commits the crime of perjury in the third degree when he swears falsely.

(b) Perjury in the third degree is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 4907.)

§ 13A–10–104. Perjury prosecution for inconsistent statements; highest degree of perjury for which conviction may be had.

(a) Where a person has made statements under oath which are inconsistent to the degree that one of them is necessarily false, each having been made within the jurisdiction of this state and within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant to have been true when made. In such case, it shall not be necessary for the prosecution to prove which statement was false, but only that one or the other was false and not believed by the defendant to be true.

(b) The highest degree of perjury of which the defendant may be convicted shall be determined by hypothetically assuming each statement to be false and perjurious. If perjury of the same degree would be established by the making of each statement, the accused may be convicted of that degree at most. If perjury of different degrees would be established by the making of the two statements, the accused may be convicted of the lesser degree at most.

(Acts 1977, No. 607, p. 812, § 4910.)

§ 13A–10–105. Corroboration required for perjury conviction; exception.

In any prosecution for perjury, except a prosecution based upon inconsistent statements pursuant to Section 13A–10–104, the falsity of a statement may not be established by the uncorroborated testimony of a single witness.

(Acts 1977, No. 607, p. 812, § 4915.)

§ 13A–10–106. Denial of guilt in previous trial not to be prosecuted as perjury.

No prosecution shall be brought under this article if the substance of the defendant's false statement was a denial of his guilt in a previous criminal proceeding.

(Acts 1977, No. 607, p. 812, § 4920.)

§ 13A–10–107. When retraction of false statement bar to perjury conviction.

No person shall be convicted of perjury if he retracted his false statement in the course of the same proceeding in which it was made before it became manifest that the falsification was or would be exposed. Statements made in separate hearings at separate stages of the same trial or administrative proceeding shall be deemed to have been made in the course of the same proceeding. The burden of injecting the issue of retraction is on the defendant, but this does not shift the burden of proof.

(Acts 1977, No. 607, p. 812, § 4925.)

§ 13A–10–108. Irregularities no defense to perjury prosecution.

It is no defense to prosecution for perjury:

(1) That the oath was administered in an irregular manner.

(2) That there was some irregularity in the appointment or qualification of the person who administered the oath, if the taking of the oath was required or authorized by law.

(3) That the document was not sworn to if the document contains a recital that it was made under oath, the declarant was aware of the recital when he signed the document and the document contains the signed jurat of a public servant authorized to administer oaths.

(4) That the defendant mistakenly believed the false statement to be immaterial.

(5) That the statement was inadmissible under the law of evidence.

(Acts 1977, No. 607, p. 812, § 4930.)

§ 13A–10–109. Unsworn falsification to authorities.

(a) A person commits the crime of unsworn falsification to authorities if, with an intent to mislead a public servant in the performance of his duty, he makes or submits any written statement, which he does not believe to be true, in an application for pecuniary or other benefit, or a record or report required by law to be submitted to any governmental agency.

(b) The provisions of Sections 13A–10–104 and 13A–10–107 shall be applicable to all prosecutions under this section.

(c) Unsworn falsification to authorities is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 4935.)

ARTICLE 6.

OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS.

§ 13A–10–120. Definitions.

(a) The definitions in Sections 13A–10–1, 13A–10–60 and 13A–10–100 are applicable in this article unless the context otherwise requires.

(b) The following definitions are also applicable in this article:

(1) JUROR. Any person who is a member of any jury, including a grand jury, impaneled by any court of this state or by any public servant authorized by law to impanel a jury. The term juror also includes any person who has been summoned or whose name has been drawn to attend as a prospective juror.

(2) TESTIMONY. Such term includes oral or written statements, documents or any other material that may be offered as evidence in an official proceeding.

(Acts 1977, No. 607, p. 812, § 5001.)

§ 13A–10–121. Bribing a witness.

(a) A person commits the crime of bribing a witness if he offers, confers or agrees to confer any thing of value upon a witness or a person he believes will be called as a witness in any official proceeding with intent to:

(1) Corruptly influence the testimony of that person;

(2) Induce that person to avoid legal process summoning him to testify; or

(3) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(b) This section does not apply to the payment of additional compensation to an expert witness over and above the amount otherwise prescribed by law to be paid a witness.

(c) Bribing a witness is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5005; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–10–122. Bribe receiving by a witness.

(a) A witness or a person believing he will be called as a witness in any official proceeding commits the crime of bribe receiving by a witness if he solicits, accepts or agrees to accept any thing of value upon an agreement or understanding that:

(1) His testimony will thereby be corruptly influenced;

(2) He will attempt to avoid legal process summoning him to testify; or

(3) He will attempt to absent himself from an official proceeding to which he has been legally summoned.

(b) This section does not apply to the payment of additional compensation to an expert witness over and above the amount otherwise prescribed by law to be paid to a witness.

(c) Bribe receiving by a witness is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5010; Acts 1979, No. 79–741, p. 862, § 1.)

§ 13A–10–123. Intimidating a witness.

(a) A person commits the crime of intimidating a witness if he attempts, by use of a threat directed to a witness or a person he believes will be called as a witness in any official proceedings, to:

(1) Corruptly influence the testimony of that person;

(2) Induce that person to avoid legal process summoning him to testify; or

(3) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(b) ''Threat,'' as used in this section, means any threat proscribed by Section 13A–6–25 on criminal coercion.

(c) Intimidating a witness is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5015.)

§ 13A–10–124. Tampering with a witness.

(a) A person commits the crime of tampering with a witness if he attempts to induce a witness or a person he believes will be called as a witness in any official proceeding to:

(1) Testify falsely or unlawfully withhold testimony; or

(2) Absent himself from any official proceeding to which he has been legally summoned.

(b) Tampering with a witness is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5020.)

§ 13A–10–125. Bribing a juror.

(a) A person commits the crime of bribing a juror if he offers, confers or agrees to confer any pecuniary benefit upon a juror with the intent that the juror's vote, opinion, decision or other action as a juror will thereby be corruptly influenced.

(b) Bribing a juror is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5025.)

§ 13A–10–126. Bribe receiving by a juror.

(a) A person commits the crime of bribe receiving by a juror if he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, decision or other action as a juror will thereby be corruptly influenced.

(b) Bribe receiving by a juror is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5030.)

§ 13A–10–127. Intimidating a juror.

(a) A person commits the crime of intimidating a juror if he attempts, by the use of a threat, to influence a juror's vote, opinion, decision or other action as a juror.

(b) ''Threat,'' as used in this section, means any threat proscribed by Section 13A–6–25 on criminal coercion.

(c) Intimidating a juror is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5035.)

§ 13A–10–128. Jury tampering.

(a) A person commits the crime of jury tampering if, with intent to influence a juror's vote, opinion, decision or other action in the case, he attempts directly or indirectly to communicate with a juror other than as part of the proceedings in the trial of the case.

(b) Jury tampering is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5040.)

§ 13A–10–129. Tampering with physical evidence.

(a) A person commits the crime of tampering with physical evidence if, believing that an official proceeding is pending or may be instituted, and acting without legal right or authority, he:

(1) Destroys, mutilates, conceals, removes or alters physical evidence with intent to impair its use, verity or availability in the pending or prospective official proceeding; or

(2) Knowingly makes, presents or offers any false physical evidence with intent that it be introduced in the pending or prospective official proceeding.

(b) ''Physical evidence,'' as used in this section, includes any article, object, document, record or other thing of physical substance.

(c) Tampering with physical evidence is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 5045.)

§ 13A–10–130. Interfering with judicial proceedings.

(a) A person commits the crime of interfering with judicial proceedings if:

(1) He engages in disorderly, contemptuous or insolent behavior, committed during the sitting of a court in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due its authority;

(2) He intentionally creates a breach of the peace or disturbance under circumstances directly tending to interrupt a court's proceedings;

(3) As an attorney, clerk or other officer of the court, he knowingly fails to perform or violates a duty of his office, or knowingly disobeys a lawful directive or order of a court;

(4) Knowing that he is not authorized to practice law, he represents himself to be an attorney and acts as such in a court proceeding; or

(5) He records or attempts to record the deliberation of a jury.

(b) Interfering with judicial proceedings is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5050.)

§ 13A–10–131. Simulating legal process.

(a) A person commits the crime of simulating legal process if he knowingly delivers or causes to be delivered to another person any demand, request or claim for the payment of money or the delivery or transfer of property that in form and substance simulates any legal process issued by any court of this state.

(b) Simulating legal process is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5055.)

§ 13A–10–132. Crimes in connection with sham legal process, etc.

(a) For the purposes of this section, the following terms shall have the following meanings:

(1) LAW ENFORCEMENT OFFICER. The same as defined in Section 13A–10–1.

(2) LAWFULLY ISSUED. Adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, an agency, or a political subdivision of a state.

(3) SHAM LEGAL PROCESS. The issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to be any one of the following:

a. A summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this state, a peace officer, or a legislative, executive, or administrative agency established by state law.

b. An assertion of jurisdiction or authority over or determination or adjudication of the legal or equitable status, rights, duties, powers, or privileges of a person or property.

c. A requirement or authorization for the search, seizure, indictment, arrest, trial, or sentencing of a person or property.

(4) STATE OR LOCAL OFFICIAL OR EMPLOYEE. An appointed or elected official or an employee of a state agency, board, commission, department, in a branch of state government, institution of higher education, or other unit of government in this state.

(b) It shall be unlawful for a person to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process by acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity by either of the following:

(1) Subjecting another person to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights.

(2) Denying or impeding another person in the exercise or enjoyment of any right, privilege, power, or immunity.

(c) A person violating subsection (b) is guilty of a Class B misdemeanor.

(d) It shall be unlawful for a person falsely to assert authority of state law in connection with a sham legal process. A person violating this subsection is guilty of a Class A misdemeanor.

(e) It shall be unlawful for a person to knowingly act, without authority under state law, as any judge, magistrate, hearing officer, juror, a clerk of court, a commissioned notary public, or any other official authorized to determine a controversy or adjudicate the rights or interests of others, or to sign a document as if authorized by state law. A person violating this subsection is guilty of a Class A misdemeanor.

(f) It shall be unlawful for a person to falsely assert authority of law in an attempt to intimidate or hinder a state or local official or employee or a law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process. A person violating this subsection is guilty of a Class C felony.

(Act 2012–382, p. 1009, § 1.)

ARTICLE 7.

THE ANTI-TERRORISM ACT OF 2002.

§ 13A–10–150. Short title.

This article shall be known and may be cited as ''The Anti–Terrorism Act of 2002.''

(Act 2002–431, p. 1126, § 1.)

§ 13A–10–151. Definitions.

The following terms shall have the following meanings:

(1) ACT OF TERRORISM. An act or acts constituting a specified offense as defined in subdivision (4) for which a person may be convicted in the criminal courts of this state, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States which contains all of the essential elements of a specified offense, that is intended to do the following:

a. Intimidate or coerce a civilian population.

b. Influence the policy of a unit of government by intimidation or coercion.

c. Affect the conduct of a unit of government by murder, assassination, or kidnapping.

(2) MATERIAL SUPPORT OR RESOURCES. Currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

(3) RENDERS CRIMINAL ASSISTANCE. Shall have the same meaning as in Section 13A–10–42.

(4) SPECIFIED OFFENSE. A Class A felony, manslaughter, kidnapping in the second degree, assault in the first or second degree, stalking, intimidating a witness, criminal tampering, endangering the food supply, endangering the water supply or any attempt or conspiracy to commit any of these offenses.

(Act 2002–431, p. 1126, § 2; Act 2006–508, p. 1151, § 3.)

§ 13A–10–152. Crime of terrorism.

(a) A person is guilty of a crime of terrorism when, with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by murder, assassination, or kidnapping, he or she commits a specified offense.

(b)(1) When a person is convicted pursuant to this section, and the specified offense is a Class B or Class C felony, the crime of terrorism shall be deemed to be one class higher than the specified offense the defendant committed, or one class higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit the specified offense, whichever is applicable.

(2) Notwithstanding any other provision of law, when a person is convicted of a crime of terrorism pursuant to this article, and the specified offense is a Class A felony other than murder, the sentence upon conviction of the offense shall be life imprisonment without parole.

(3) Notwithstanding any other provision of law, when a person is convicted of a crime of terrorism pursuant to this article, and the specified offense is murder, the sentence upon conviction of the offense shall be death pursuant to Section 13A–5–39.

(c) An indictment for the crime of terrorism shall charge the defendant with a specified offense and shall state that the defendant acted with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by murder, assassination, or kidnapping.

(Act 2002–431, p. 1126, § 3.)

§ 13A–10–153. Soliciting or providing support for an act of terrorism.

(a)(1) A person commits soliciting or providing support for an act of terrorism in the second degree when, with intent that material support or resources will be used, in whole or in part, to plan, prepare, carry out, or aid in either an act of terrorism or the concealment of, or an escape from, an act of terrorism, he or she raises, solicits, collects, or provides material support or resources.

(2) Soliciting or providing support for an act of terrorism in the second degree is a Class C felony.

(b)(1) A person commits soliciting or providing support for an act of terrorism in the first degree when he or she commits the crime of soliciting or providing support for an act of terrorism in the second degree and the total value of material support or resources exceeds one thousand dollars ($1,000).

(2) Soliciting or providing support for an act of terrorism in the first degree is a Class B felony.

(Act 2002–431, p. 1126, § 4.)

§ 13A–10–154. Hindering prosecution of terrorism.

(a)(1) A person is guilty of hindering prosecution of terrorism in the second degree when he or she renders criminal assistance to a person who has committed an act of terrorism, knowing or believing that the person engaged in conduct constituting an act of terrorism.

(2) Hindering prosecution of terrorism in the second degree is a Class B felony.

(b)(1) A person is guilty of hindering prosecution of terrorism in the first degree when he or she renders criminal assistance to a person who has committed an act of terrorism that resulted in the death of a person other than one of the participants, knowing or believing that the person engaged in conduct constituting an act of terrorism.

(2) Hindering prosecution of terrorism in the first degree is a Class A felony.

(Act 2002–431, p. 1126, § 5.)

ARTICLE 8.

ENDANGERING FOOD AND WATER SUPPLY.

§ 13A–10–170. Definitions.

(a) For purposes of this section, the following words shall have the following meanings:

(1) CONTAGIOUS OR INFECTIOUS DISEASE. A specific highly communicable disease caused by one or more biological agents and that is generally found in livestock, including poultry, designated for human consumption.

(2) PROCESSED FOOD. Any food other than a raw agricultural commodity, including any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, or milling.

(3) RAW AGRICULTURAL COMMODITY. Any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(b) The offense of endangering the food supply is committed if a person knowingly does any of the following:

(1) Brings into this state any domestic animal that is affected with any contagious or infectious disease or any animal that has been exposed to any contagious or infectious disease.

(2) Exposes any animal in this state to any contagious or infectious disease.

(3) Delivers any poultry that is infected with any contagious or infectious disease to any poultry producer pursuant to a production contract.

(4) Except as otherwise permitted by Alabama law, brings or releases into this state any insect pest or exposes any plant to an insect pest.

(5) Exposes any raw agricultural commodity, animal feed, or processed food to any contaminant or contagious or infectious disease.

(c) The offense of endangering the food supply does not include bona fide experiments and actions related to those experiments carried on by commonly recognized research facilities or actions by agricultural producers and animal health professionals who may inadvertently contribute to the spread of detrimental biological agents while employing generally acceptable management practices.

(d) Endangering the food supply is a Class B felony.

(Act 2006–508, p. 1151, § 1.)

§ 13A–10–171. Elements of offense; exceptions.

(a) The offense of endangering the water supply is committed if a person knowingly contaminates a public or private water well or water reservoir or

any water supply of a public utility or tampers with the production of bottled or packaged water at a retail or wholesale mercantile establishment.

(b) Endangering the water supply does not include contamination of a public or private well or water reservoir or any water supply of a public utility that may occur in any of the following circumstances:

(1) Inadvertently as part of the operation of a public utility or electrical generating station.

(2) Due to releases, discharges, or emissions that are authorized by state or federal law or that are permitted or licensed by any state or federal agency.

(3) Due to accidental releases from an otherwise lawful activity.

(4) Due to discharges or emissions in excess of permitted or licensed levels provided that federal or state enforcement authority is available to respond.

(c) The offense of endangering the water supply is a Class B felony.

(Act 2006–508, p. 1151, § 2.)

ARTICLE 9.

BIOLOGICAL AND BACTERIOLOGICAL WEAPONS.

§ 13A–10–190. Definitions.

As used in this article, Section 13A–11–11, and Section 36–19–2.1, the following words shall have the following meanings:

(1) BACTERIOLOGICAL WEAPON or BIOLOGICAL WEAPON. A device which is designed in a manner to permit the intentional release onto any person, into the population or environment of microbial, or other biological agents or toxins or viral agents whatever their origin or method of production in a manner not otherwise authorized by law or any device the development, production, or stockpiling of which is prohibited pursuant to the ''Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction,'' 26 U.S.T. 583, TIAS 8063. The microbial or biological agents or viral agents shall include, but not be limited to, any of the following: Anthrax or any variation thereof, smallpox or any variation thereof.

(2) CONVICTION. An adjudication of guilt of or a plea of guilty or nolo contendere to the commission of an offense against the laws of this state, any other state or territory, the United States, or a foreign nation recognized by the United States. The term shall include the adjudication or plea of a juvenile to the commission of an act which if committed by an adult would constitute a crime under the laws of this state.

(3) DESTRUCTIVE DEVICE. a. An explosive, incendiary, or over-pressure device or poison gas which has been configured as a bomb; a grenade; a rocket with a propellant charge of more than four ounces; a missile

having an explosive or incendiary charge of more than one-quarter ounce; a poison gas; a mine; a Molotov cocktail; or any other device which is substantially similar to these devices.

b. Any type of weapon by whatever name known which will or may be readily converted to expel a projectile by the action of an explosive or other propellant, through a barrel which has a bore diameter of more than one-half inch in diameter. The term shall not include a pistol, rifle, or shotgun suitable for sporting or personal safety purposes or ammunition; a device which, although originally designed for use as a weapon, is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; or surplus military ordnance sold, loaned, or given by authority of the appropriate official of the United States Department of Defense.

c. A weapon of mass destruction.

d. A bacteriological weapon or biological weapon.

e. A combination of parts either designed or intended for use in converting any device into a destructive device as otherwise defined in this Act 2009–718.

f. Nothing in this section or Sections 13A–10–193.1, 13A–10–193.2, or 36–19–2.1 shall prohibit the manufacture, possession, or transfer of a destructive device legally obtained in accordance with the provisions of the National Firearms Act.

(4) DETONATOR. A device containing a detonating charge that is used to initiate detonation in an explosive, including, but not limited to, electric blasting caps, blasting caps for use with safety fuses, and detonating cord delay connectors.

(5) DIRECTOR. The Director of the Alabama State Law Enforcement Agency.

(6) DISTRIBUTE. The actual, constructive, or attempted transfer from one person to another.

(7) EXPLOSIVE. A chemical compound or other substance or mechanical system intended for the purpose of producing an explosion capable of causing injury to persons or damage to property or containing oxidizing and combustible units or other ingredients in proportions or quantities that ignition, fire, friction, concussion, percussion, or detonator may produce an explosion capable of causing injury to persons or damage to property. The term explosive shall not include common fireworks, model rockets, and model rocket engines designed, sold, and used for the purpose of propelling recoverable aero models, or toy pistol paper caps in which the explosive content does not average more than 0.25 grains of explosive mixture per paper cap for toy pistols, toy cannons, toy canes, toy guns, or other devices using paper caps unless the devices are used as a component of a destructive device.

(8) EXPLOSIVE ORDNANCE DISPOSAL TECHNICIAN or EOD TECHNICIAN. a. A law enforcement officer, fire official, emergency management official, or an employee of this state or its political subdivisions or an authority of the state or a political subdivision who is currently accredited by the Federal Bureau of Investigation's Hazardous Devices School, or members of the Alabama National Guard who are qualified and trained as explosive ordnance disposal technicians under the appropriate laws and regulations when acting in the performance of their official duties.

b. An official or employee of the United States, including, but not limited to, a member of the Armed Forces of the United States, who is qualified as an explosive ordnance disposal technician under the appropriate laws and regulations when acting in the performance of his or her official duties.

(9) FELONY. An offense punishable by imprisonment for a term of one year or more, and includes conviction by a court-martial under the Uniform Code of Military Justice for an offense which would constitute a felony under the laws of the United States. A conviction of an offense under the laws of a foreign nation shall be considered a felony for the purposes of this article if the conduct giving rise to the conviction would have constituted a felony under the laws of this state or of the United States if committed within the jurisdiction of this state or the United States at the time of the conduct.

(10) HOAX DEVICE or REPLICA. A device or article which has the appearance of a destructive device or bacteriological or biological weapon.

(11) INCENDIARY. A flammable or combustible liquid or compound with a flash point of 100 degrees Fahrenheit or less as determined by Tagliabue or equivalent closed-cup device including, but not limited to, gasoline, kerosene, fuel oil, or a derivative of these substances.

(12) MANUFACTURING. The process of combining two or more components necessary to produce a destructive device, over-pressure device, explosive, detonator, or poison gas, with the exception of commercially manufactured reactive targets used for recreational shooting purposes, or manufactured under provisions set forth under a permit issued by the State Fire Marshal.

(13) OVER–PRESSURE DEVICE. A frangible container filled with an explosive gas or expanding gas which is designed or constructed so as to cause the container to break or fracture in a manner which is capable of causing death, bodily harm, or property damage.

(14) POISON GAS. A toxic chemical or its precursors that through its chemical action or properties on life processes causes death or permanent injury to human beings. The term poison gas shall not include any of the following:

a. Riot control agents, smoke, and obscuration materials or medical products which are manufactured, possessed, transported, or used in accordance with the laws of the United States and of this state.

b. Tear gas devices designed to be carried on or about the person which contain not more than one-half ounce of the chemical.

c. Pesticides, as provided in subdivision (2) of Section 13A–10–209.

(15) PROPERTY. Real or personal property of any kind including money, choses in action, and other similar interests in property.

(16) PUBLIC BUILDING. A structure which is generally open to members of the public with or without the payment of an admission fee or membership dues including, but not limited to, structures owned, operated, or leased by the state, the United States, any of the several states, or a foreign nation or any political subdivision or authority thereof; a religious organization; any medical facility; any college, school, or university; or any corporation, partnership, or association.

(17) STATE FIRE MARSHAL. The State Fire Marshal who is appointed by the Commissioner of Insurance pursuant to Section 27–2–10.

(18) WEAPONS OF MASS DESTRUCTION. Include any of the following:

a. Any destructive device as defined in this section.

b. Any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors.

c. Any weapon involving a disease organism.

d. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

e. Any device, weapon, or vehicle designed to cause mass casualties.

(Act 2009–718, p. 2115, § 1; Act 2016–414, p. 1155, § 1; Act 2017–442, § 1(b)(1).)

§ 13A–10–191. Designation of explosives.

The following materials are explosives within the meaning of Act 2009–718:

(1) Acetylides of heavy metals.

(2) Aluminum containing polymeric propellant.

(3) Aluminum ophorite explosive.

(4) Amatex.

(5) Amatol.

(6) Ammonal.

(7) Ammonium nitrate explosive mixtures, cap sensitive.

(8) Ammonium nitrate explosive mixtures, noncap sensitive.

(9) Ammonium perchlorate composite propellant.

(10) Ammonium perchlorate explosive mixtures.

(11) Ammonium picrate (picrate of ammonia, Explosive D).

(12) Ammonium salt lattice with isomorphously substituted inorganic salts.

(13) Ammonium tri-iodide.

(14) ANFO (ammonium nitrate-fuel oil).

(15) Aromatic nitro-compound explosives mixtures.

(16) Baratol.

(17) Baronol.

(18) BEAF [1,2–bis (2,2–difluoro–2–nitroacetoxyethane)].

(19) Black powder.

(20) Black powder based explosive mixtures.

(21) Blasting agents, nitro-carbo-nitrates, including noncap sensitive slurry and water-gel explosives.

(22) Blasting caps.

(23) Blasting gelatin.

(24) Blasting powder.

(25) BTNEC [bis (trinitroethyl) carbonate].

(26) BTNEN [bis (trinitroethyl) nitramine].

(27) BTTN (1,2,4 butanetriol trinitrate).

(28) Bulk salutes.

(29) Butyl tetryl.

(30) Calcium nitrate explosive mixture.

(31) Cellulose hexanitrate explosive mixture.

(32) Chlorate explosive mixtures.

(33) Composition A and variations.

(34) Composition B and variations.

(35) Composition C and variations.

(36) Copper acetylide.

(37) Cyanuric triazide.

(38) Cyclonite (RDX).

(39) Cyclotetramethylenetetranitramine (HMX).

(40) Cyclotrimethylenetrinitramine (RDX).

(41) Cyclotol.

(42) DATB (diaminotrinitrobenzene).

(43) DDNP (diazodinitrophenol).

(44) DEGDN (diethyleneglycol dinitrate).

(45) Detonating cord.

(46) Detonators.

(47) Dimethylol dimethyl methane dinitrate composition.

(48) Dinitroethyleneurea.

(49) Dinitroglycerine (glycerol dinitrate).

(50) Dinitrophenol.

(51) Dinitrophenolates.

(52) Dinitrophenyl hydrazine.

(53) Dinitroresorcinol.

(54) Dinitrotoluene–sodium nitrate explosive mixtures.

(55) DIPAM.

(56) Dipicrylamine.

(57) Dipicryl sulfone.

(58) Display fireworks.

(59) DNDP (dinitropentano nitrile).

(60) DNPA (2,2–dinitropropyl acrylate).

(61) Dynamite.

(62) EDDN (ethylene diamine dinitrate).

(63) EDNA.

(64) Ednatol.

(65) EDNP (ethyl 4,4–dinitropentanoate).

(66) EGDN (ethylene glycol dinitrate).

(67) Erythritol tetranitrate explosives.

(68) Esters of nitro-substituted alcohols.

(69) Ethyl–tetryl.

(70) Explosive conitrates.

(71) Explosive gelatins.

(72) Explosive liquids.

(73) Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.

(74) Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.

(75) Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.

(76) Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.

(77) Explosive mixtures containing sensitized nitromethane.

(78) Explosive mixtures containing tetranitromethane (nitroform).

(79) Explosive nitro compounds of aromatic hydrocarbons.

(80) Explosive organic nitrate mixtures.

(81) Explosive powders.

(82) Flash powder.

(83) Fulminate of mercury.

(84) Fulminate of silver.

(85) Fulminating gold.

(86) Fulminating mercury.

(87) Fulminating platinum.

(88) Fulminating silver.

(89) Gelatinized nitrocellulose.

(90) Gem–dinitro aliphatic explosive mixtures.

(91) Guanyl nitrosamino guanylidene hydrazine.

(92) Guanyl nitrosamino guanyl tetrazene.

(93) Hexogene or octogene and a nitrated N-methylaniline.

(94) Hexolites.

(95) HMX (cyclo–l,3,5,7–tetramethylene–2,4,6,8–tetranitramine; Octogen).

(96) Hydrazinium nitrate/hydrazine/aluminum explosive system.

(97) Hydrazoic acid.

(98) Igniter cord.

(99) Igniters.

(100) Initiating tube systems.

(101) KDNBF (potassium dinitrobenzo–furoxane).

(102) Lead azide.

(103) Lead mannite.

(104) Lead mononitroresorcinate.

(105) Lead picrate.

(106) Lead salts, explosive.

(107) Lead styphnate (styphnate of lead, lead trinitroresorcinate).

(108) Liquid nitrated polyol and trimethylolethane.

(109) Liquid oxygen explosives.

(110) Magnesium ophorite explosives.

(111) Mannitol hexanitrate.

(112) MDNP (methyl 4,4–dinitropentanoate).

(113) MEAN (monoethanolamine nitrate).

(114) Mercuric fulminate.

(115) Mercury oxalate.

(116) Mercury tartrate.

(117) Metriol trinitrate.

(118) Minol–2 (40% TNT, ammonium nitrate, 20% aluminum).

(119) MMAN (monomethylamine nitrate); methylamine nitrate.

(120) Mononitrotoluene–nitroglycerin mixture.

(121) Monopropellants.

(122) NIBTN (nitroisobutametriol trinitrate).

(123) Nitrated carbohydrate explosive.

(124) Nitrated glucoside explosive.

(125) Nitrated polyhydric alcohol explosives.

(126) Nitrate sensitized with gelled nitroparaffin.

(127) Nitrates of soda explosive mixtures.

(128) Nitric acid and a nitro aromatic compound explosive.

(129) Nitric acid and carboxylic fuel explosive.

(130) Nitric acid explosive mixtures.

(131) Nitro aromatic explosive mixtures.

(132) Nitrocellulose explosive.

(133) Nitro compounds of furane explosive mixtures.

(134) Nitroderivative of a urea explosive mixture.

(135) Nitrogelatin explosive.

(136) Nitrogen trichloride.

(137) Nitrogen tri-iodide.

(138) Nitroglycerine (NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine).

(139) Nitroglycide.

(140) Nitroglycol (ethylene glycol dinitrate, EGDN).

(141) Nitroguanidine explosives.

(142) Nitronium perchlorate propellant mixtures.

(143) Nitroparaffins Explosive Grade and ammonium nitrate mixtures.

(144) Nitrostarch.

(145) Nitro–substituted carboxylic acids.

(146) Nitrourea.

(147) Octogen (HMX).

(148) Octol (75% HMX, 25% TNT).

(149) Organic amine nitrates.

(150) Organic nitramines.

(151) PBX (RDX and plasticizer).

(152) Pellet powder.

(153) Penthrinite composition.

(154) Pentolite.

(155) Perchlorate explosive mixtures.

(156) Peroxide based explosive mixtures.

(157) PETN (nitropentaerythrite, pentaerythrite, tetranitrate, pentaerythritol tetranitrate).

(158) Picramic acid and its salts.

(159) Picramide.

(160) Picrate of potassium explosive mixtures.

(161) Picratol.

(162) Picric acid (manufactured as an explosive).

(163) Picryl chloride.

(164) Picryl fluoride.

(165) PLX (95% nitromethane, 5% ethylenediamine).

(166) Polynitro aliphatic compounds.

(167) Polyolpolynitrate–nitrocellulose explosive gels.

(168) Potassium chlorate and lead sulfocyanate explosive.

(169) Potassium nitrate explosive mixtures.

(170) Potassium nitroaminotetrazole.

(171) Pyrotechnic compositions.

(172) PYX [2,6–bis(picrylamino)–3,5–dinitropyridine].

(173) RDX (cyclonite, hexogen, T 4,cyclo–l,3,5,–trimethylene–2,4,6,–rinitramine; hexahydro–l,3,5–trinitro–S–triazine).

(174) Safety fuse.

(175) Salts of organic amino sulfonic acid explosive mixture.

(176) Salutes, (bulk).

(177) Silver acetylide.

(178) Silver azide.

(179) Silver fulminate.

(180) Silver oxalate explosive mixtures.

(181) Silver styphnate.

(182) Silver tartrate explosive mixtures.

(183) Silver tetrazene.

(184) Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer, cap sensitive.

(185) Smokeless powder.

(186) Sodatol.

(187) Sodium amatol.

(188) Sodium azide explosive mixture.

(189) Sodium dinitro-ortho-cresolate.

(190) Sodium nitrate-potassium nitrate explosive mixture.

(191) Sodium picramate.

(192) Special fireworks.

(193) Squibs.

(194) Styphnic acid explosives.

(195) Tacot (tetranitro–2,3,5,6–dibenzo–l,3a,4,6a tetrazapentalene).

(196) TATB (triaminotrinitrobenzene).

(197) TATP (triacetone triperoxide).

(198) TEGDN (triethylene glycol dinitrate).

(199) Tetranitrocarbazole.

(200) Tetrazene (tetracene, tetrazine, l(5–tetrazolyl)–4–guanyl tetrazene hydrate).

(201) Tetryl (2,4,6 tetranitro–N–methylaniline).

(202) Tetrytol.

(203) Thickened inorganic oxidizer salt slurried explosive mixture.

(204) TMETN (trimethylolethane trinitrate).

(205) TNEF (trinitroethyl formal).

(206) TNEOC (trinitroethylorthocarbonate).

(207) TNEOF (trinitroethylorthoformate).

(208) TNT (trinitrotoluene, trotyl, trilite, triton).

(209) Torpex.

(210) Tridite.

(211) Trimethylol ethyl methane trinitrate composition.

(212) Trimethylolthane trinitrate-nitrocellulose.

(213) Trimonite.

(214) Trinitroanisole.

(215) Trinitrobenzene.

(216) Trinitrobenzoic acid.

(217) Trinitrocresol.

(218) Trinitro–meta–cresol.

(219) Trinitronaphthalene.

(220) Trinitrophenetol.

(221) Trinitrophloroglucinol.

(222) Trinitroresorcinol.

(223) Tritonal.

(224) Urea nitrate.

(225) Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates, cap sensitive.

(226) Water–in–oil emulsion explosive compositions.

(227) Xanthamonas hydrophilic colloid explosive mixture.

(228) Other substances as listed hereafter pursuant to Section 13A–10–192.

(Act 2009–718, p. 2115, § 2.)

§ 13A–10–192. Additional designations.

If any substance is hereafter designated as an explosive substance or compound under applicable federal law and notice thereof is given to the State Fire Marshal, the State Fire Marshal shall similarly designate the explosive substance or compound as an explosive under Section 13A–10–191. The State Fire Marshal shall revise and republish the listing of explosives set forth in Section 13A–10–191 on an annual basis, by publication in a newspaper or newspapers of general circulation in the state, or as otherwise provided by law.

(Act 2009–718, p. 2115, § 3.)

§ 13A–10–193. Destructive device or bacteriological or biological weapon — Possession, manufacture, transportation, or distribution.

(a) It shall be unlawful for any person to possess, manufacture, transport, or distribute a destructive device or bacteriological or biological weapon, except as provided in this article.

(b) A person convicted of a violation of subsection (a) shall be guilty of a Class B felony. If the defendant is a corporation or other entity, the corporation or other entity shall be fined not less than twenty-five thousand dollars ($25,000) nor more than one hundred thousand dollars ($100,000). A corporation or other entity may also be sentenced to perform not less than 5,000 nor more than 10,000 hours of community service.

(Act 2009–718, p. 2115, § 4.)

§ 13A–10–193.1. Destructive device or bacteriological or biological weapon — Unlawful manufacture in the second degree.

(a) A person, who is not otherwise authorized by state or federal law or a permit issued to him or her by the State Fire Marshal, commits the crime of unlawful manufacture of a destructive device or bacteriological or biological weapon in the second degree if he or she does any of the following:

(1) Manufactures a destructive device or bacteriological or biological weapon.

(2) Possesses precursor substances as determined in Section 13A–10–191, in any amount with the intent to unlawfully manufacture a destructive device or bacteriological or biological weapon.

(3) Combines two or more components with the intent to assemble, construct, or otherwise cause to be formed, a destructive device, incendiary

device, over-pressure device, detonator, poison gas, or bacteriological or biological weapon as described in Section 13A–10–190.

(4) Manufactures an explosive with intent to produce a destructive device, incendiary device, over-pressure device, detonator, poison gas, or bacteriological or biological weapon as described in 13A–10–190.

(b) The fact that a destructive device, over-pressure device, explosive, detonator, poison gas, or bacteriological or biological weapon does not function as designed or intended, is not a defense to the crime of unlawful manufacture of a destructive device or bacteriological or biological weapon in the second degree.

(c) Unlawful manufacture of a destructive device or bacteriological or biological weapon in the second degree is a Class B felony.

(Act 2016–414, p. 1155, § 2.)

§ 13A–10–193.2. Destructive device or bacteriological or biological weapon — Unlawful manufacture in the first degree.

(a) A person commits the crime of unlawful manufacture of a destructive device or bacteriological or biological weapon in the first degree if he or she violates Section 13A–10–193.1 and two or more of the following conditions occur in conjunction with that violation:

(1) Use of a booby trap or manufacture of a booby trap.

(2) Illegal possession, transportation, or disposal of hazardous or dangerous materials or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment.

(3) A clandestine laboratory operation was to take place, or did take place, within 500 feet of a residence, place of business, church, or school.

(4) A clandestine laboratory operation actually produced any amount of a specified destructive device or bacteriological or biological weapon.

(5) A person under the age of 17 was present during the manufacturing process.

(b) Unlawful manufacture of a destructive device or bacteriological or biological weapon in the first degree is a Class A felony

(Act 2016–414, p. 1155, § 2.)

§ 13A–10–194. Destructive device or bacteriological or biological weapon — Sale, distribution, etc.

(a) It shall be unlawful for a person to sell, furnish, give away, deliver, or distribute a destructive device, or a bacteriological or biological weapon to a person who is less than 21 years of age.

(b) A person convicted of a violation of subsection (a) shall be guilty of a Class A felony. If the defendant is a corporation or other entity, the

corporation or other entity shall be fined not less than one hundred thousand dollars ($100,000) nor more than two hundred fifty thousand dollars ($250,000). A corporation or other entity may also be sentenced to perform not less than 10,000 nor more than 25,000 hours of community service. (Act 2009–718, p. 2115, § 5.)

§ 13A–10–195. Possession, distribution, etc., of detonator, explosive, poison gas, or hoax device by person under indictment or convicted of felony.

(a) It shall be unlawful for a person who is under indictment or who has been convicted of a felony by a court of this state, any other state, the United States including its territories, possessions, and dominions, or a foreign nation to possess, manufacture, transport, or distribute a detonator, explosive, poison gas, or hoax device.

(b) It shall be unlawful for a person to knowingly distribute a detonator, explosive, poison gas, or hoax device to any of the following:

(1) A person who he or she knows or should know has been convicted of a felony by a court of this state, any other state, the United States including its territories, possessions, and dominions, or a foreign nation.

(2) A person who he or she knows or should know has been adjudicated to be mentally incompetent by a court of this state, any other state, or the United States including its territories, possessions, and dominions.

(3) A person who is less than 21 years of age.

(c) A person convicted of a violation of subsection (a) or subsection (b) shall be guilty of a Class C felony. If the defendant is a corporation or other entity, the corporation or other entity shall be fined not less than twenty thousand dollars ($20,000) nor more than fifty thousand dollars ($50,000). The corporation or other entity may also be sentenced to perform not less than 2,500 nor more than 7,500 hours of community service.

(d) Notwithstanding any other provision of law to the contrary, adjudicating courts of competent jurisdiction shall make available to any law enforcement agency or prosecuting attorney of this state the information necessary to establish that a person has been adjudicated by a court to be mentally incompetent.

(e) This section shall not apply to any of the following:

(1) A person who has been pardoned of a felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of any other state or of a foreign nation and, by the terms of the pardon, has expressly been authorized to receive, possess, distribute, or transport a destructive device, explosive, poison gas, or detonator.

(2) A person who has been convicted of a felony, but has been granted relief from the disabilities imposed by the laws of the United States with respect to the acquisition, receipt, transfer, shipment, or possession of

explosives by the Secretary of the United States Department of the Treasury pursuant to 18 U.S.C. § 845, may apply to the Alabama State Law Enforcement Agency for relief from the disabilities imposed by this section.

(Act 2009–718, p. 2115, § 6.)

§ 13A–10–196. Possession, distribution, etc., of hoax device represented as destructive device or weapon.

(a) It shall be unlawful for a person to manufacture, possess, transport, or distribute a hoax device or replica of a destructive device, detonator, or bacteriological or biological weapon with the intent to cause another to reasonably believe that the hoax device or replica of a destructive device or bacteriological or biological weapon is a destructive device, detonator, or bacteriological or biological weapon.

(b) A person convicted of a violation of subsection (a) shall be guilty of a Class A misdemeanor. If the defendant is a corporation or other entity, the corporation or other entity shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000). The corporation or other entity may also be sentenced to perform not less than 1,000 hours of community service nor more than 5,000 hours of community service.

(c) It shall be unlawful for a person listed in subsection (a) to communicate or transmit to another that the hoax device or replica of a destructive device or detonator is a destructive device, detonator, or bacteriological or biological weapon with the intent to obtain the property of another person or to interfere with the ability of another person to carry on the ordinary course of business, trade, education, or government.

(d) A person convicted of a violation of subsection (c) shall be guilty of a Class C felony. If the defendant is a corporation or other entity, the corporation or other entity shall be fined not less than twenty thousand dollars ($20,000) nor more than fifty thousand dollars ($50,000). The corporation or other entity may also be sentenced to perform not less than 2,500 nor more than 7,500 hours of community service for each hoax device or replica of a destructive device, detonator, or bacteriological or biological weapon.

(Act 2009–718, p. 2115, § 7.)

§ 13A–10–197. Explosives or destructive device or bacteriological or biological weapons crime — Attempt.

(a) It shall be unlawful for a person to attempt to commit an explosives or destructive device or bacteriological or biological weapons crime as contained in Act 2009–718. A person is guilty of an attempt to commit an explosives or destructive device or bacteriological or biological weapons crime if he or she engages in the conduct specified in Section 13A–4–2, and the crime attempted is an explosives or destructive device crime as contained in Act 2009–718.

(b) The principles of liability and defenses for an attempt to commit an explosives or destructive device or bacteriological or biological weapons crime are the same as those specified in subsections (b) and (c) of Sections 13A–4–2 and 13A–4–5.

(c) An attempt to commit an explosives or destructive device or bacteriological or biological weapons crime shall be punished the same as the explosives or destructive device crime attempted.

(Act 2009–718, p. 2115, § 8.)

§ 13A–10–198. Explosives or destructive device or bacteriological or biological weapons crime — Conspiracy.

(a) It shall be unlawful for a person to conspire to commit an explosives or destructive device or bacteriological or biological weapons crime as contained in Act 2009–718. A person is guilty of criminal conspiracy to commit an explosives or destructive device or bacteriological or biological weapons crime if he or she intentionally engages in the conduct defined in subsection (a) of Section 13A–4–3, and the object of the conspiracy is an explosives or destructive device or bacteriological or biological weapons crime as contained in Act 2009–718.

(b) The principles of liability and defenses for criminal conspiracy to commit an explosives or destructive device or bacteriological or biological weapons crime shall be the same as those specified in subsections (b) to (f), inclusive, of Section 13A–4–3 and Sections 13A–4–4 and 13A–4–5.

(c) A conspiracy to commit an explosives or destructive device or bacteriological or biological weapons crime shall be punished the same as the explosives or destructive device or bacteriological or biological weapons crime that is the object of the conspiracy.

(Act 2009–718, p. 2115, § 9.)

§ 13A–10–199. Hindrance or obstruction during detection, disarming, or destruction of destructive device or weapon.

(a) It shall be unlawful for a person to knowingly hinder or obstruct an explosive ordnance disposal or technician or bomb technician, law enforcement officer, fire official, emergency management official, animal trained to detect destructive devices or bacteriological or biological weapons, or a robot or mechanical device designed or utilized by a law enforcement officer, fire official, or emergency management official of this state or of the United States in the detection, disarming, or destruction of a destructive device or bacteriological or biological weapon.

(b) A person convicted of a violation of this section shall be guilty of a Class C felony.

(Act 2009–718, p. 2115, § 10.)

§ 13A–10–200. Possession, distribution, etc., of destructive device or weapon intended to cause injury or destruction.

(a) It shall be unlawful for any person to possess, transport, or receive or attempt to possess, transport, or receive a destructive device, explosive, or bacteriological or biological weapon with the knowledge or intent that it shall be used to kill or injure an individual or to destroy a public building. A person convicted of a violation of this subsection shall be guilty of a Class A felony.

(b) Notwithstanding any other provision of law to the contrary, and in addition to any other penalty imposed under the laws of this state or of the United States, any person who shall knowingly use or knowingly attempt to use a destructive device, explosive, or bacteriological or biological weapon to kill or injure any individual, including a public safety officer performing his or her duties as a direct or proximate result of a violation of Act 2009–718, or to knowingly destroy a public building, shall be guilty of a Class A felony and shall be imprisoned for not less than 20 years. In addition, a person convicted under subsection (a) or this subsection may also be fined the greater of the cost of replacing any property that is destroyed or two hundred fifty thousand dollars ($250,000). If the defendant is a corporation or other entity, the corporation or other entity shall be fined the greater of the cost of replacing any property which is destroyed or one million dollars ($1,000,000). The corporation or other entity may also be sentenced to perform not fewer than 20,000 nor more than 40,000 hours of community service.

(c) Notwithstanding any other provision of law to the contrary, and in addition to any other penalty imposed under the laws of this state or of the United States, no part of any sentence imposed pursuant to subsection (a) or subsection (b) shall be probated, deferred, suspended, or withheld and no person sentenced pursuant to subsection (a) or subsection (b) shall be eligible for early release, leave, work release, earned time, good time, or any other program administered by an agency of the executive or judicial branches of this state which would have the effect of reducing or mitigating the sentence until the defendant has completed the minimum sentence as provided by subsection (a) or subsection (b).

(Act 2009–718, p. 2115, § 11.)

§ 13A–10–201. Separate offenses.

Each violation of the provisions of Act 2009–718 shall be considered a separate offense.

(Act 2009–718, p. 2115, § 12.)

§ 13A–10–202. Searches and inspections.

The director, the State Fire Marshal, or the designee of the director or the State Fire Marshal, or any law enforcement officer or fire official may conduct a search or inspection of all of the following:

(1) A person licensed to manufacture, possess, transport, sell, distribute, or use a destructive device or detonator within the state.

(2) A person licensed to manufacture, possess, transport, sell, distribute, or use pesticides.

(3) Any property where a pesticide, destructive device, or detonator is manufactured, possessed, transported, distributed, or used.

(Act 2009–718, p. 2115, § 13.)

§ 13A–10–203. Records of destructive devices, etc., and reports of loss or theft.

(a) It shall be the duty of any person authorized by subdivision (1) of Section 13A–10–205 to manufacture, possess, transport, distribute, or use a destructive device, detonator, explosive, or hoax device within the state to maintain records on the devices and to report promptly the loss or theft of a destructive device, detonator, explosive, or hoax device to the Alabama State Law Enforcement Agency.

(b) Failure to maintain the records or to promptly report the loss shall be a Class C misdemeanor.

(Act 2009–718, p. 2115, § 14.)

§ 13A–10–204. Power to compel attendance of witnesses and production of evidence.

In any case where there is reason to believe that a destructive device, detonator, explosive, bacteriological or biological weapon, or hoax device has been manufactured, possessed, transported, distributed, or used in violation of Act 2009–718 or that there has been an attempt or a conspiracy to commit a violation, the Attorney General, any district attorney, or the persons as may be designated in writing by these officials shall have the same power to compel the attendance of witnesses and the production of evidence before the official in the same manner as the State Fire Marshal or pursuant to the Alabama Rules of Criminal Procedure and the Alabama Rules of Civil Procedure.

(Act 2009–718, p. 2115, § 15.)

§ 13A–10–205. Excluded persons and activities.

Sections 13A–10–193, 13A–10–195, 13A–10–196, and 13A–10–200 shall not apply to any of the following:

(1) A person authorized to manufacture, possess, transport, distribute, or use a destructive device or detonator pursuant to the laws of the United States, as amended, or when the person is acting in accordance with the laws and any regulations issued pursuant thereto.

(2) A person licensed as a blaster by the State Fire Marshal, when the blaster is acting in accordance with the laws of the state and any regula-

tions promulgated thereunder and any ordinances and regulations of the political subdivision or authority of the state where blasting operations are being performed.

(3) Fireworks and any person authorized by the laws of this state and of the United States to manufacture, possess, distribute, transport, store, exhibit, display, or use fireworks when acting in accordance with the laws and any regulations promulgated thereunder.

(4) A law enforcement, fire service, or emergency management agency of this state, any agency or authority of a political subdivision of this state, or the United States and any employee or authorized agent thereof while in the performance of official duties and any law enforcement officer, fire official, or emergency management official of the United States or any other state while attending training in this state.

(5) The Armed Forces of the United States or of this state.

(6) Research or educational programs conducted by or on behalf of a college, university, or secondary school which have been authorized by the chief executive officer of the educational institution or his or her designee and which are conducted in accordance with the laws of the United States and of this state.

(7) The use of explosive materials in medicines and medicinal agents in forms prescribed by the most recent published edition of the official United States Pharmacopoeia or the National Formulary.

(8) Small arms ammunition and reloading components thereof.

(9) Commercially manufactured black powder in quantities not to exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers which is or are intended to be used solely for sporting, recreational, or cultural purposes in black powder firearms or antique firearms or antique devices.

(10) An explosive which is lawfully possessed in accordance with the rules adopted pursuant to Section 13A–10–206.

(Act 2009–718, p. 2115, § 16.)

§ 13A–10–206. Use of explosives for legitimate agricultural activities.

After consultation with the State Fire Marshal or the Commissioner of Agriculture and Industries, or his or her designee, the Alabama State Law Enforcement Agency may except by rule and provide for any explosive or quantity of explosive to be used in legitimate agricultural activities. A copy of the rule shall promptly be furnished to the State Fire Marshal and the Commissioner of Agriculture and Industries.

(Act 2009–718, p. 2115, § 17.)

§ 13A–10–207. Forfeiture of property.

(a) All of the following property, real or personal, shall be subject to forfeiture:

(1) All raw materials, products, and equipment of any kind which are used or intended for use in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any explosives or destructive devices in violation of Act 2009–718.

(2) All property which is used or intended for use as a container for property described in subdivision (1).

(3) All moneys, negotiable instruments, securities, other things of value furnished or intended to be furnished by any person in exchange for explosives or destructive devices in violation of any law of this state; all proceeds traceable to the exchange; and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of Act 2009–718.

(4) All conveyances, including aircraft, vehicles, or vessels, or agricultural machinery, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of any property described in subdivision (1).

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used or intended for use in violation of Act 2009–718.

(6) All real property or fixtures used or intended to be used for the manufacture, receipt, storage, handling, distribution, or sale of explosive and destructive devices in violation of Act 2009–718.

(7) All property of any type whatsoever constituting, or derived from, any proceeds obtained directly, or indirectly, from any violation of Act 2009–718.

(b) Property subject to forfeiture under Act 2009–718 may be seized by state, county, or municipal law enforcement agencies upon process issued by a court having jurisdiction over the property. Seizure of property without process may be made if any of the following occurs:

(1) Incident to an arrest, search under a search warrant, or an inspection under an administrative inspection warrant.

(2) If the property is the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon Act 2009–718.

(3) The state, county, or municipal law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(4) The state, county, or municipal law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of Act 2009–718.

(c) In the event of seizure pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the state, county, or municipal

law enforcement agency subject only to the orders and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under Act 2009–718, the state, county, or municipal law enforcement agency may do any of the following:

(1) Place the removed property under seal.

(2) Remove the property to a designated place.

(3) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(4) Post notice of the seizure on real property or fixtures, and file and record notice of the seizure in the probate office.

(e) When property is forfeited under Act 2009–718 the state, county, or municipal law enforcement agency may do any of the following:

(1) Retain the property for official use, except for lawful currency or money of the United States which shall be disposed of in the same manner provided for the disposal of proceeds from a sale in subdivision (2).

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds from the sale shall be used, first, for payment of all expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of or custody, advertising, and court costs; and the remaining proceeds from the sale shall be awarded and distributed by the court to the law enforcement agencies or departments that were participants in the investigation resulting in the seizure. The award and distribution shall be made on the basis of the percentage as determined by the court, which the respective agency or department contributed to the police work resulting in the seizure. Proceeds from sales authorized by this section awarded by the court to a law enforcement agency or department shall be deposited into the respective agency's general fund and made available to the law enforcement agency or department upon requisition of the chief law enforcement official of the agency or department.

(3) Take custody of the property and remove the property for final disposition in accordance with law.

(f) An owner's or bona fide lienholder's interest in real property or fixtures shall not be forfeited under this section for any act or omission unless the state proves that the act or omission was committed or omitted with the knowledge or consent of the owner or lienholder. An owner's or bona fide lienholder's interest in any type of property other than real property and fixtures shall be forfeited under this section unless the owner or bona fide lienholder proves the act or omission subjecting the property to forfeiture was committed or omitted without the owner's or lienholder's knowledge or consent, and that the owner or lienholder could not have obtained by the exercise of reasonable diligence knowledge of the intended illegal use of the property to prevent the use, or both. Except as specifically provided to the contrary in this section, the procedures for the condemnation and forfeiture of property seized under this section shall be governed by and shall conform to

the procedures set out in Sections 28–4–286 to 28–4–290, inclusive, except that:

(1) The burden of proof and standard of proof shall be as set out in this subsection instead of as set out in the last three lines of Section 28–4–290.

(2) The official filing the complaint shall also serve a copy of the complaint on any person, corporation, or other entity having a perfected security interest in the property that is known to that official or that can be discovered through the exercise of reasonable diligence.

(g) On application of the seizing law enforcement agency, the circuit court may authorize the seizing law enforcement agency to destroy or transfer to any agency of this state or of the United States which can safely store or render harmless any destructive device, explosive, poison gas, or detonator which is subject to forfeiture pursuant to this section if the court finds that it is impractical or unsafe for the seizing law enforcement agency to store the destructive device, explosive, poison gas, or detonator. The application may be made at any time after seizure. A destruction authorized pursuant to this subsection shall be made in the presence of at least one credible witness or shall be recorded on film, videotape, or other electronic imaging method. A film, videotape, or other electronic imaging method shall be admissible as evidence in lieu of the destructive device, explosive, poison gas, or detonator. The court may also direct the seizing agency or an agency to which the destructive device, explosive, poison gas, or detonator is transferred to make a report of the destruction or take samples, or both.

(h) Subsection (g) shall not prohibit an explosive ordnance technician, other law enforcement officer, or fire service personnel from taking action which shall render safe an explosive, destructive device, poison gas, or detonator or any object which is suspected of being an explosive, destructive device, poison gas, or detonator without the prior approval of a court when the action is intended to protect lives or property.

(Act 2009–718, p. 2115, § 18.)

§ 13A–10–208. Admissibility of evidence.

(a) Photographs, videotapes, or other identification or analysis of a destructive device, explosive, poison gas, detonator, or bacteriological or biological weapon duly identified by an explosive ordnance disposal technician or a person qualified as a forensic expert in the area of destructive devices or bacteriological or biological weapons shall be admissible in a civil or criminal trial in lieu of the destructive device, detonator, or bacteriological or biological weapon.

(b) If a destructive device, explosive, poison gas, detonator, or bacteriological or biological weapon which has been rendered safe is introduced into evidence in any criminal or civil action, it shall be the duty of the clerk of court, the court reporter of the court, or any other person authorized by the court to immediately photograph the same and to transfer custody of the destructive device, explosive, detonator, or bacteriological or biological weapon

to the director or his or her designee or an explosive ordnance disposal technician.

(Act 2009–718, p. 2115, § 19.)

§ 13A–10–209. Exclusions for lawfully intended purposes.

The provisions of Act 2009–718 shall not apply to any of the following:

(1) Fertilizers, propellant activated devices, or propellant activated industrial tools manufactured, imported, distributed, or used for their lawfully intended purposes.

(2) A pesticide which is manufactured, stored, transported, distributed, possessed, or used in accordance with Chapter 7 of Title 2, the Federal Insecticide, Fungicide, and Rodenticide Act, 61 Stat. 163, as amended, and the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92–516, as amended.

(Act 2009–718, p. 2115, § 20.)

§ 13A–10–210. Criminal possession of explosives.

Any criminal act committed by a person, any civil action initiated by any party, or pending criminal or civil matter relating to Section 13A–7–44, or as a result of a person's conduct attributed to Section 13A–7–44, is hereby saved and may be continued and consummated according to the law in force when it was commenced. Furthermore, it is the intent of this section that the enactment of Act 2009–718 shall not be construed to affect any prosecution of any criminal or civil proceeding pending or begun before August 1, 2009, and Section 13A–7–44 is repealed as a result thereof.

(Act 2009–718, p. 2115, § 24.)

ARTICLE 10.

TERRORIST THREATS.

§ 13A–10–240. Definitions.

As used in this article, the following terms have the following meanings:

(1) PROPERTY. Personal or real property. The term includes, but is not limited to, any of the following buildings or real property:

a. A church, mosque, synagogue, or other religious real property.

b. A public or private school.

(2) THREATEN. A person threatens another if all of the following occur:

a. The person intentionally and knowingly makes a statement verbally, in writing, by means of an electronic communication device, or by any other means to harm a person or property.

b. The statement is communicated to another person.

c. Under the circumstances, the threatened harm is credible and imminent.

d. The statement, on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat.

e. The statement causes the person to reasonably be in sustained fear for his or her own safety or for the object of the threat.

(3) WEAPONS OF MASS DESTRUCTION. Any of the following:

a. A destructive device as defined in 18 U.S.C. § 921.

b. A weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals.

c. A weapon involving a biological agent, toxin, or vector, as those terms are defined in 18 U.S.C. § 178.

d. A weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

(Act 2023–493, § 1, eff. Sept. 1, 2023.)

§ 13A–10–241. Making a terrorist threat in the first degree.

(a) A person commits the crime of making a terrorist threat in the first degree when he or she, based on an objective evaluation, credibly threatens to commit a crime of violence against a person or to damage any property by use of a bomb, explosive, weapon of mass destruction, firearm, deadly weapon, or other mechanism and any of the following occurs:

(1) The threat causes the evacuation of any real property.

(2) The threat causes the disruption of a school, church, or government activity.

(3) The threat is with intent to retaliate against the victim because of his or her involvement or participation as any of the following:

a. A witness or party in any judicial or administrative proceeding.

b. A person who produced records, documents, or other objects in a judicial or administrative proceeding.

c. A person who provided to a law enforcement officer, adult or juvenile probation officer, prosecuting attorney, or judge any information relating to the commission or possible commission of an offense under the laws of this state, of the United States, or a violation of conditions of bail, pretrial release, probation, or parole.

(4) The threat is made against an elected public official or his or her staff.

(b) The crime of making a terrorist threat in the first degree is a Class C felony.

(Act 2023–493, § 1, eff. Sept. 1, 2023; Act 2024–229, § 1, eff. Oct. 1, 2024.)

§ 13A–10–242. Making a terrorist threat in the second degree.

(a) A person commits the crime of making a terrorist threat in the second degree when he or she, based on an objective evaluation, credibly threatens to commit a crime of violence against a person or to damage any property by use of a bomb, explosive, weapon of mass destruction, firearm, deadly weapon, or other mechanism.

(b) The crime of making a terrorist threat in the second degree is a Class A misdemeanor.

(Act 2023–493, § 1, eff. Sept. 1, 2023.)

CHAPTER 11.

OFFENSES AGAINST ORDER AND SAFETY.

ARTICLE 1.

OFFENSES AGAINST PUBLIC ORDER AND DECENCY.

§ 13A–11–1. Definitions.

The following definitions apply in this article:

(1) OBSTRUCT. To ''obstruct'' means to render impassable without unreasonable inconvenience or hazard. A gathering of persons to hear a person speak or otherwise communicate does not constitute an obstruction.

(2) PUBLIC PLACE. A place to which the public or a substantial group of persons has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds and hallways, lobbies and other portions of apartment houses not constituting rooms or apartments designed for actual residence; provided, that no private dwelling and no place engaged for a private gathering is included within the meaning of public place with respect to any person specifically invited therein.

(3) TRANSPORTATION FACILITY. Any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, water craft, railroad cars, buses and air, boat, railroad and bus terminals and stations and all appurtenances thereto.

(Acts 1977, No. 607, p. 812, § 5501.)

§ 13A–11–2. Treason.

(a) A person commits the crime of treason if he levies war against the State of Alabama or adheres to its enemies, giving them aid and comfort.

(b) No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or upon confession in open court.

(c) Treason is a Class A felony.

(Acts 1977, No. 607, p. 812, § 5505.)

§ 13A–11–3. Riot.

(a) A person commits the crime of riot if, with five or more other persons, he wrongfully engages in tumultuous and violent conduct and thereby intentionally or recklessly causes or creates a grave risk of public terror or alarm.

(b) Riot is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 5510.)

§ 13A–11–4. Inciting to riot.

(a) A person commits the crime of inciting to riot if he commands, solicits, incites or urges another person to engage in tumultuous and violent conduct of a kind likely to cause or create a grave risk of public terror or alarm.

(b) Inciting to riot is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 5511; Acts 1978, No. 770, p. 1110.)

§ 13A–11–5. Unlawful assembly.

(a) A person commits the crime of unlawful assembly if he assembles with five or more other persons for the purpose of engaging in conduct constituting the crime of riot or if, being present at an assembly that either has or develops such a purpose, he remains there with intent to advance that purpose.

(b) Unlawful assembly is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5515.)

§ 13A–11–6. Failure of disorderly persons to disperse.

(a) A person commits the crime of failure of a disorderly person to disperse if he participates with five or more other persons in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, annoyance or alarm, and intentionally refuses or fails to disperse when ordered to do so by a peace officer or other public servant lawfully engaged in executing or enforcing the law.

(b) Failure of a disorderly person to disperse is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5520.)

§ 13A–11–7. Disorderly conduct.

(a) A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, he or she does any of the following:

(1) Engages in fighting or in violent tumultuous or threatening behavior.

(2) Makes unreasonable noise.

(3) In a public place uses abusive or obscene language or makes an obscene gesture.

(4) Without lawful authority, disturbs any lawful assembly or meeting of persons.

(5) Obstructs vehicular or pedestrian traffic, or a transportation facility.

(6) Congregates with other person in a public place and refuses to comply with a lawful order of law enforcement to disperse.

(b) Disorderly conduct is a Class C misdemeanor.

(c) The mere carrying of a pistol, holstered or otherwise secured on or about one's person, without brandishing the weapon, in a public place, in and of itself, is not a violation of this section. For purposes of this subsection, ''brandishing'' shall mean the waving, flourishing, displaying, or holding of an item in a manner that is threatening or would appear threatening to a reasonable person, with or without explicit verbal threat, or in a wanton or reckless manner.

(d) Nothing in Act 2013–283 shall be construed to prohibit law enforcement personnel who have reasonable suspicion from acting to prevent a breach of the peace or from taking action to preserve public safety.

(Acts 1977, No. 607, p. 812, § 5525; Act 2013–283, p. 938, §§ 2, 10; Act 2022–133, § 1.)

§ 13A–11–8. Harassment or harassing communications.

(a)(1) HARASSMENT. A person commits the crime of harassment if, with intent to harass, annoy, or alarm another person, he or she either:

a. Strikes, shoves, kicks, or otherwise touches a person or subjects him or her to physical contact.

b. Directs abusive or obscene language or makes an obscene gesture towards another person.

(2) For purposes of this section, harassment shall include a threat, verbal or nonverbal, made with the intent to carry out the threat, that would cause a reasonable person who is the target of the threat to fear for his or her safety.

(3) Harassment is a Class C misdemeanor.

(b)(1) HARASSING COMMUNICATIONS. A person commits the crime of harassing communications if, with intent to harass or alarm another person, he or she does any of the following:

a. Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written or electronic communication, in a manner likely to harass or cause alarm.

b. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

c. Telephones another person and addresses to or about such other person any lewd or obscene words or language.

Nothing in this section shall apply to legitimate business telephone communications.

(2) Harassing communications is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 5530; Acts 1978, No. 770, p. 1110, § 1; Acts 1979, No. 79–471, p. 862, § 1; Acts 1996, No. 96–767, p. 1353, § 1; Acts 1997, No. 97–552, p. 989, § 1.)

§ 13A–11–9. Loitering.

(a) A person commits the crime of loitering if he or she does any of the following:

(1) Loiters, remains, or wanders about in a public place for the purpose of begging.

(2) Loiters or remains in a public place for the purpose of gambling.

(3) Loiters or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution or sodomy.

(4) Being masked, loiters, remains, or congregates in a public place.

(5) Loiters or remains in or about a school, college, or university building or grounds after having been told to leave by any authorized official of the school, college, or university, not having any reason or relationship involving custody of or responsibility for a pupil or any other specific, legitimate reason for being there, and not having written permission from a school, college, or university administrator.

(6) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade, or commercial transactions involving the sale of merchandise or services.

(7) Loiters or remains in any place with one or more persons for the purpose of unlawfully using or possessing a dangerous drug.

(8) Loiters or remains on a public roadway maintained by the state, the right-of-way of a public roadway maintained by the state, or any area within 30 feet of any interchange involving a controlled-access or limited-access highway. An ''interchange'' is defined as a system of interconnecting roadways providing for traffic movement between two or more roadways that do not intersect at grade.

(b) A person does not commit a crime under subdivision (a)(4) if he or she is going to or from or staying at a masquerade party, or is participating in a public parade or presentation of an educational, religious, or historical character or in an event as defined in Section 13A–11–140.

(c) Sodomy in subdivision (a)(3) is defined as in Section 13A–6–60.

(d) Dangerous drug in subdivision (a)(7) means any narcotic, drug, or controlled substance as defined in Chapter 2 of Title 20 and any schedule incorporated therein.

(e) Loitering is a violation. A second or subsequent violation of this section in the same jurisdiction is a Class C misdemeanor.

(f)(1) Prior to making an arrest for a violation of subdivision (a)(8), a law enforcement officer may instruct any person in violation of subdivision (a)(8) to immediately and peaceably exit the public roadway maintained by the state or the right-of-way of the public roadway maintained by the state.

(2)a. Prior to making an arrest for an initial violation of subdivision (a)(8), a law enforcement officer may offer to transport any person in violation of subdivision (a)(8) to a location in the jurisdiction that offers emergency housing, if applicable.

b. If a person accepts an offer made pursuant to subdivision (1), a law enforcement officer may transport the person accordingly.

(g) Any actions undertaken by a law enforcement officer pursuant to this section shall be subject to Section 36–1–12.

(Acts 1977, No. 607, p. 812, § 5540; Act 2019–465, § 1; Act 2023–245, § 1, eff. Aug. 1, 2023; Act 2024–326, § 1, eff. June 1, 2024.)

§ 13A–11–10. Public intoxication.

(a) A person commits the crime of public intoxication if he appears in a public place under the influence of alcohol, narcotics or other drug to the degree that he endangers himself or another person or property, or by boisterous and offensive conduct annoys another person in his vicinity.

(b) Public intoxication is a violation.

(Acts 1977, No. 607, p. 812, § 5545.)

§ 13A–11–10.1. Open house parties; when not allowed to continue; exceptions; penalties.

(a) As used in this section, the following words have the following meanings:

(1) ADULT. A person who, pursuant to state law, may possess alcoholic beverages.

(2) ADULT HAVING CONTROL OF A RESIDENCE. An adult who has sanctioned an open house party and who is in attendance.

(3) ALCOHOLIC BEVERAGE. The meaning ascribed in Section 28–3–1.

(4) CONTROLLED SUBSTANCE. The meaning ascribed in Section 20–2–2.

(5) OPEN HOUSE PARTY. A social gathering at a residence.

(6) REASONABLE ACTION. The act of ejecting a person from a residence or requesting law enforcement officials to eject a person from a residence.

(7) RESIDENCE. A home, apartment, condominium, country club, motel, hotel, or any other unit designed for dwelling.

(b) No adult having control of any residence, who has authorized an open house party at the residence and is in attendance at the party, shall allow the open house party to continue if all of the following occur:

(1) Alcoholic beverages or controlled substances are illegally possessed or illegally consumed at the residence by a person under the age of 21.

(2) The adult knows that an alcoholic beverage or controlled substance is in the illegal possession of or is being illegally consumed by a person under the age of 21 at the residence.

(3) The adult fails to take reasonable action to prevent illegal possession or illegal consumption of the alcoholic beverage or controlled substance.

(c) Any adult who violates this section shall be guilty of a Class B misdemeanor.

(Acts 1994, No. 94–580, §§ 1–3.)

§ 13A–11–11. Falsely reporting an incident.

(a) A person commits the crime of falsely reporting an incident if with knowledge that the information reported, conveyed, or circulated is false, he or she initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, bomb, explosion, crime, catastrophe, or emergency or the alleged release or impending release of a hazardous or dangerous substance, including, but not limited to, chemical, biological, or bacteriological substance or any nerve agent under circumstances in which it is likely to cause evacuation of a building, place of assembly, or transportation facility, or to cause public inconvenience or alarm.

(b) Falsely reporting an incident is a Class A misdemeanor except that falsely reporting an incident of a bomb or explosion or the alleged release or impending release of a hazardous or dangerous substance is a Class C felony. Notwithstanding any other provision of law to the contrary, if the objective or target of the person listed in subsection (a) is to interfere with the attendance, operation, activities, or other business conducted at a public or private school, university, college, or other educational institution in this state, no part of a sentence imposed pursuant to subsection (a) or this subsection shall be probated, deferred, suspended, or withheld, and no person sentenced pursuant to subsection (a) or this subsection shall be eligible for early release, leave, work release, earned time, good time, or any other program administered by an agency of the executive or judicial branches of this state which would have the effect of reducing or mitigating the sentence until the defendant has completed the minimum sentence pursuant to subsection (a) or this subsection.

(Acts 1977, No. 607, p. 812, § 5550; Act 2000–113, p. 166, § 1; Act 2009–718, p. 2115, § 21.)

§ 13A–11–12. Desecration of venerated objects.

(a) A person commits the crime of desecration of venerated objects if he intentionally:

(1) Desecrates any public monument or structure or place of worship or burial; or

(2) Desecrates in a public place the United States or Alabama flag or any other object of veneration by the public or a substantial segment thereof.

(b) Desecration of venerated objects is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 5555.)

§ 13A–11–13. Abuse of corpse.

(a) A person commits the crime of abuse of a corpse if, except as otherwise authorized by law, he knowingly treats a human corpse in a way that would outrage ordinary family sensibilities. Abuse of a corpse may include knowingly and willfully signing a certificate as having embalmed, cremated, or prepared a human body for disposition when, in fact, the services were not performed as indicated.

(b) Abuse of a corpse is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5560; Act 2002–239, p. 498, § 1.)

§ 13A–11–14. Cruelty to animals.

(a) A person commits the crime of cruelty to animals if, except as otherwise authorized by law, he or she recklessly or with criminal negligence:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in his or her custody to cruel neglect; or

(3) Kills or injures without good cause any animal belonging to another.

(b) Cruelty to animals is a Class A misdemeanor and on the first conviction of a violation of this section shall be punished by a fine of not more than three thousand dollars ($3,000) or imprisonment in the county jail for not more than one year, or both fine and imprisonment; on a second conviction of a violation of this section, shall be punished by a fine of not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) or imprisonment in the county jail for not more than one year, or both fine and imprisonment; and on a third or subsequent conviction of a violation of this section, shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000) or imprisonment in the county jail for not more than one year, or both fine and imprisonment.

(Acts 1977, No. 607, p. 812, § 5565; Act 2010–550, § 2; Act 2013–369, p. 1326, § 1.)

§ 13A–11–14.1. Aggravated cruelty to animals.

(a) A person commits the crime of aggravated cruelty to animals if the person intentionally or knowingly violates Section 13A–11–14, and the act of cruelty or neglect involved the infliction of torture to the animal.

(b) The word torture as used in this section shall mean the act of doing physical injury to an animal by the infliction of inhumane treatment or gross physical abuse meant to cause the animal intensive or prolonged pain or serious physical injury, or by causing the death of the animal.

(c) For purposes of this section and Section 13A–11–14, the terms torture and cruelty do not include the following:

(1) Actions taken if there is a reasonable fear of imminent attack, or conduct which is otherwise permitted under the agricultural or animal husbandry laws, customs, or practices of this state or the United States, including, but not limited to, catfish, cattle, goats, horses, pigs, hogs, poultry, sheep, pen-raised game, rodeo stock, and other farm animals.

(2) Conduct which is permitted under the fishing, hunting, and trapping laws, customs, or practices of this state or the United States.

(3) Conduct that is permitted under the laws, customs, or practices of this state or the United States related to the training, conditioning, and use of animals for rodeos, equine activities, livestock shows, field trials, and similar activities, or the use of dogs for hunting, service work, or similar activities.

(4) Conduct that is licensed or lawful under the Alabama Veterinary Practice Act or conduct by any licensed veterinarian that complies with accepted standards of practice of the profession within the State of Alabama, including, but not limited to, euthanasia.

(5) Conduct that is lawful under the laws of this state or the United States relating to activities undertaken by research and education facilities and institutions.

(6) Conduct that is prohibited under Section 13A–12–4.

(d) Aggravated cruelty to animals is a Class C felony.

(Act 2013–369, p. 1326, § 2.)

§ 13A–11–15. Killing a dog used by a peace officer; penalty; exception. Repealed by Act 2013–421, p. 1677, § 6, effective August 1, 2013.

§ 13A–11–16. Greyhounds used for racing to be put to death by lethal injection.

(a) It is the intent of the Legislature that animals that participate in greyhound racing on which pari-mutuel wagering is conducted and animals that are bred and trained for greyhound racing be treated humanely, both on and off the racetrack, throughout the lives of the animals.

(b) A greyhound bred, trained, or used for greyhound racing may not be put to death by any means other than lethal injection. A greyhound may not be removed from this state for the purpose of being destroyed.

(c)(1) Any person who violates this section on the first offense shall be guilty of a Class C misdemeanor.

(2) A person who violates this section on a second or subsequent offense shall be guilty of a Class A misdemeanor.

(Act 2003–340, p. 849, §§ 1–3.)

§ 13A–11–17. Disrupting a funeral or memorial service.

(a) A person commits the crime of disrupting a funeral or memorial service if, during the 60 minutes immediately preceding a funeral or memorial service that has a scheduled starting time, during the funeral or memorial service, or immediately following the funeral or memorial service, the person does any of the following with the intention of disrupting the funeral or memorial service:

(1) Engages in a protest, including, but not limited to, protest with or without using an electric sound amplification device, that involves singing, chanting, whistling, yelling, or honking a motor vehicle horn within 1,000 feet of the entrance to a facility being used for a funeral or memorial service.

(2) Blocks access to a facility being used for the service.

(3) Impedes vehicles that he or she knows are part of the procession.

(b) For purposes of this section, the term ''facility'' includes a funeral home, church, or cemetery in which the funeral or memorial service takes place.

(c) A violation of subsection (a) is a Class A misdemeanor for the first conviction and a Class C felony for each subsequent conviction.

(Act 2006–585, p. 1547, § 1; Act 2012–303, p. 664, § 1.)

ARTICLE 2.

OFFENSES AGAINST PRIVACY.

§ 13A–11–30. Definitions.

The following definitions apply to this article:

(1) EAVESDROP. To overhear, record, amplify or transmit any part of the private communication of others without the consent of at least one of the persons engaged in the communication, except as otherwise provided by law.

(2) PRIVATE PLACE. A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but such term does not include a place to which the public or a substantial group of the public has access.

(3) SURVEILLANCE. Secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person observed.

(Acts 1977, No. 607, p. 812, § 5601.)

§ 13A–11–31. Criminal eavesdropping.

(a) A person commits the crime of criminal eavesdropping if he intentionally uses any device to eavesdrop, whether or not he is present at the time.

(b) Criminal eavesdropping is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 5605.)

§ 13A–11–32. Criminal surveillance.

(a) A person commits the crime of criminal surveillance if he intentionally engages in surveillance while trespassing in a private place.

(b) Criminal surveillance is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5610.)

§ 13A–11–32.1. Aggravated criminal surveillance.

(a) A person commits the crime of aggravated criminal surveillance if he or she intentionally engages in surveillance of an individual in any place where the individual being observed has a reasonable expectation of privacy, without the prior express or implied consent of the individual being observed, for the purpose of sexual gratification.

(b) Aggravated criminal surveillance is a Class C felony.

(c) The statute of limitations begins at the time of discovery of the surveillance.

(Act 2012–230, p. 423, § 1; Act 2019–465, § 1.)

§ 13A–11–33. Installing eavesdropping device.

(a) A person commits the crime of installing an eavesdropping device if he intentionally installs or places a device in a private place with knowledge it is to be used for eavesdropping and without permission of the owner and any lessee or tenant or guest for hire of the private place.

(b) Installing an eavesdropping device in a private place is prima facie evidence of knowledge that the device is to be used for eavesdropping.

(c) Installing an eavesdropping device is a Class C felony.

(Acts 1977, No. 607, p. 812, § 5615.)

§ 13A–11–34. Criminal possession of eavesdropping device.

(a) A person commits the crime of criminal possession of an eavesdropping device if he possesses, manufactures, sends or transports any device designed or commonly used for eavesdropping, and:

(1) Intends to use that device to eavesdrop; or

(2) Knows that another person intends to use that device to eavesdrop.

(b) Criminal possession of an eavesdropping device is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 5620.)

§ 13A–11–35. Divulging illegally-obtained information.

(a) A person commits the crime of divulging illegally-obtained information if he knowingly or recklessly uses or divulges information obtained through criminal eavesdropping or criminal surveillance.

(b) Divulging illegally-obtained information is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5625.)

§ 13A–11–36. Defenses to prosecutions under article.

(a) A person does not commit a crime under this article if:

(1) He was a peace officer engaged in the lawful performance of his duties; or

(2) He was an officer, employee or agent of a communication common carrier who, while acting in the normal course of his employment, and while engaged in any activity which was a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication, intercepted, disclosed or used a communication transmitted through the facilities of that carrier; or

(3) He relies in good faith on a lawful court order or legislative authorization.

(b) The burden of injecting the issue under subsection (a) is on the defendant, but this does not shift the burden of proof.

(Acts 1977, No. 607, p. 812, § 5630.)

§ 13A–11–37. Forfeiture of eavesdropping device.

Any eavesdropping or surveillance device possessed or used in violation of this article may be forfeited to the state, and may by court order be turned over to the Alabama State Law Enforcement Agency for whatever disposition its director may order.

(Acts 1977, No. 607, p. 812, § 5635.)

§ 13A–11–38. Doxing.

(a) For the purposes of this section, the following terms have the following meanings:

(1) FIREFIGHTER. The term as defined in Section 36–21–180.

(2) GOVERNMENTAL FUNCTION. The term as defined in Section 13A–10–1.

(3) LAW ENFORCEMENT OFFICER. An officer employed by the state, county, or municipality who is certified by the Alabama Police Officers' Standards and Training Commission and who has the power of arrest.

(4) PERSONAL IDENTIFYING INFORMATION. Includes, but is not limited to, all of the following:

a. Home address.

b. Photographs or information of the victim's children, including the schools they attend.

c. Any other information that would enable the victim to be harassed, threatened, or harmed.

(5) PUBLIC SERVANT. The term as defined in Section 13A–10–1.

(b) An individual commits the crime of doxing if he or she does either of the following:

(1) Intentionally electronically publishes, posts, or provides personal identifying information of another individual, with the intent that others will use that information to harass or harm that other individual, and the other individual is actually harassed or harmed.

(2) Intentionally electronically publishes, posts, or provides personal identifying information of a law enforcement officer, firefighter, or public servant, with the intent that others will use that information to harass, harm, or impede the duties of that law enforcement officer, firefighter, or public servant, and the law enforcement officer, firefighter, or public servant is actually harassed, harmed, or impeded from performing his or her governmental function.

(c)(1) A violation of subsection (b) is a Class A misdemeanor.

(2) A second or subsequent violation of subsection (b) is a Class C felony.

(d) Nothing in this section shall be construed to limit any of the following:

(1) Political speech protected by the First Amendment of the United States Constitution.

(2) The publication of contact information of public officials by any individual or organization for the purpose of encouraging citizens to lobby the public official for or against any policy or legislative act. For purposes of this subdivision, contact information means an official address, email, or phone number used by the public official for his or her public service.

(Act 2023–369, § 1, eff. Sept. 1, 2023.)

ARTICLE 2A.

VOYEURISM.

§ 13A–11–40. Definitions.

(a) As used in this article, the following words shall have the following meanings:

(1) INTIMATE AREAS. Any portion of a person's body, whether or not covered by undergarments, that are traditionally covered by undergarments to protect that portion from public view, including genitals, pubic areas, buttocks, and female breasts.

(2) PHOTOGRAPHS or FILMS. The making of a photograph, motion picture film, videotape, digital image, digital video, or any other recording or transmission of the image or recording of a person.

(3) UNDERGARMENTS. Articles of clothing worn under clothing that conceal intimate areas from view.

(Act 2019–481, § 1.)

§ 13A–11–41. Voyeurism in the first degree.

(a) A person commits the crime of voyeurism in the first degree if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly photographs or films the intimate areas of another person, whether through, under, or around clothing, without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(b) Voyeurism in the first degree is a Class C felony, except if the defendant is 18 years of age or younger on the date of the offense, voyeurism in the first degree is a Class A misdemeanor.

(c) The statute of limitations begins at the time of discovery of the photograph or film.

(Act 2019–481, § 2.)

§ 13A–11–42. Voyeurism in the second degree.

(a) A person commits the crime of voyeurism in the second degree if he or she knowingly photographs or films the intimate areas of another person, whether through, under, or around clothing, without that person's knowledge and consent, and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(b) Voyeurism in the second degree is a Class A misdemeanor, except if the defendant is 18 years of age or younger on the date of the offense, voyeurism in the second degree is a Class B misdemeanor.

(c) The statute of limitations begins at the time of discovery of the photograph or film.

(Act 2019–481, § 3.)

§ 13A–11–43. Exceptions; destruction of photographs, recordings, etc.

(a) Section 13A–11–42 does not apply to viewing, photographing, or filming by personnel of the Department of Corrections or of a local jail or correctional facility for security purposes or during investigation of an alleged misconduct

by a person in the custody of the Department of Corrections or the local jail or correctional facility.

(b) Notwithstanding ordinary rules of court and preservation of evidence, if a person is adjudicated or convicted of a violation of Section 13A–11–41 or Section 13A–11–42, a court may order the destruction of any photograph, motion picture film, digital image, digital video, videotape, or any other recording of an image that was made by the person in violation of this article; provided that the victim, or victim's representative, is provided with written notice 90 days before the destruction is to occur. Except as prohibited by state or federal law, the victim, or victim's representative, shall retain the right to possess any photograph, motion picture film, digital image, videotape, or any other recording of an image.

(Act 2019–481, § 4.)

Article 3.

Offenses Relating to Firearms and Weapons.

Division 1.

General Provisions.

§ 13A–11–50. Carrying concealed weapons.

A person who, in violation of this article, carries concealed about his or her person or in a vehicle a pistol or firearm of any other kind shall, on conviction, be guilty of a Class B misdemeanor.

(Code 1852, § 15; Code 1867, § 3555; Code 1876, § 4109; Code 1886, § 3775; Code 1896, § 4420; Code 1907, § 6421; Code 1923, § 3485; Code 1940, T. 14, § 161; Code 1975, § 13–6–120; Act 2022–133, § 1.)

§ 13A–11–50.1. Property rights unaffected by certain provisions relating to firearms and weapons.

Nothing within Article 3 of Chapter 11 of Title 13A shall be construed to diminish or otherwise affect property rights under state law not within that title.

(Act 2022–133, § 7.)

§ 13A–11–51. Evidence of apprehension of attack may mitigate punishment, etc.

The defendant being tried under the provisions of Section 13A–11–50 may give evidence that at the time of carrying the weapon concealed, he had good reason to apprehend an attack, which the jury may consider in mitigation of the punishment or in justification of the offense.

(Code 1852, § 15; Code 1867, § 3555; Code 1876, § 4109; Code 1886, § 3775; Code 1896, § 4420; Code 1907, § 6421; Code 1923, § 3485; Code 1940, T. 14, § 162; Code 1975, § 13–6–121.)

§ 13A–11–52. Carrying pistol on private property; who may carry pistol.

Except as otherwise provided in this article, no person shall carry a pistol about his person on private property not his own or under his control unless the person possesses a valid concealed weapon permit or the person has the consent of the owner or legal possessor of the premises; but this section shall not apply to any law enforcement officer in the lawful discharge of the duties of his office, or to United States marshal or his deputies, rural free delivery mail carriers in the discharge of their duties as such, bonded constables in the discharge of their duties as such, conductors, railway mail clerks and express messengers in the discharge of their duties.

(Acts 1919, No. 204, p. 196; Code 1923, § 3487; Code 1940, T. 14, § 163; Code 1975, § 13–6–122; Act 2013–283, p. 938, § 2.)

§ 13A–11–53. Brass knuckles and slingshots.

Anyone who carries concealed about his person brass knuckles, slingshots or other weapon of like kind or description shall, on conviction, be fined not less than $50.00 nor more than $500.00, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

(Code 1876, § 4110; Code 1886, § 3776; Code 1896, § 4421; Code 1907, § 6422; Code 1923, § 3486; Code 1940, T. 14, § 164; Code 1975, § 13–6–123.)

§ 13A–11–54. Carrying rifle or shotgun walking cane.

Any person who carries a rifle or shotgun walking cane shall, on conviction, be fined not less than $500.00 nor more than $1,000.00, and be imprisoned in the penitentiary not less than two years.

(Code 1876, § 4111; Code 1886, § 3777; Code 1896, § 4422; Code 1907, § 6423; Code 1923, § 3489; Code 1940, T. 14, § 165; Code 1975, § 13–6–124.)

§ 13A–11–55. Indictment for carrying weapons unlawfully; proof.

Repealed by Act 2022–133, § 9(1), effective January 1, 2023.

§ 13A–11–56. Using firearms while fighting in public place.

Any person who, while fighting in the streets of any city or town, or at a militia muster, or at any public place, whether public in itself, or made public at the time by an assemblage of persons, uses or attempts to use, except in self-defense, any kind of firearms shall, on conviction, be fined not less than $200.00 nor more than $500.00, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not less than six months.

(Code 1852, § 129; Code 1867, § 3671; Code 1876, § 4228; Code 1886, § 4094; Code 1896, § 5353; Code 1907, § 6895; Code 1923, § 4045; Code 1940, T. 14, § 169; Code 1975, § 13–6–127.)

§ 13A–11–57. Selling, etc., pistol or bowie knife to minor.

(a) Any person who sells, gives or lends to any minor any pistol, except under the circumstances provided in Section 13A–11–72, bowie knife, or other knife of like kind or description, shall, on conviction, be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(b) This section does not apply to a transfer by inheritance of title to, but not possession of, a pistol, bowie knife, or other knife of like kind or description to a minor.

(Code 1852, § 204; Code 1867, § 3751; Code 1876, § 4230; Code 1886, § 4096; Code 1896, § 5355; Code 1907, § 6896; Code 1923, § 4046; Code 1940, T. 14, § 170; Code 1975, § 13–6–128; Act 2015–341, p. 1055, § 1.)

§ 13A–11–58. Sale of firearms or ammunition to residents of other states; purchase in other states.

(a) Any resident of Alabama authorized to sell and deliver rifles, shotguns, and ammunition may sell and deliver them to a resident of any state where the sale of the firearms and ammunition is legal. Any purchaser of the firearm or ammunition may take or send it out of the state or have it delivered to his or her place of residence.

(b) Any resident of Alabama who legally purchases rifles, shotguns, and ammunition in any state where the purchase is legal may take delivery of the weapons either in the state where they were purchased or in Alabama.

(Acts 1969, Ex. Sess., No. 175, p. 241; Code 1975, § 13–6–130; Act 2007–196, p. 232, § 1.)

§ 13A–11–58.1. Improper transfer of firearm or weapon; providing false information to dealer.

(a) For the purposes of this section, the following words have the following meanings:

(1) AMMUNITION. Any cartridge, shell, or projectile designed for use in a firearm.

(2) LICENSED DEALER. A person who is licensed pursuant to 18 U.S.C. § 923 or Section 13A–11–79, to engage in the business of dealing in firearms.

(3) MATERIALLY FALSE INFORMATION. Information that portrays an illegal transaction as legal or a legal transaction as illegal.

(4) PRIVATE SELLER. A person who sells or offers for sale any firearm, as defined in Section 13A–8–1(4), or ammunition.

(b) A person who knowingly solicits, persuades, encourages, or entices a licensed dealer or private seller of a firearm or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States is guilty of a Class C felony.

(c) A person who provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of the transfer of a firearm or ammunition is guilty of a Class C felony.

(d) This section does not apply to a peace officer acting in his or her official capacity or to a person acting at the direction of a peace officer.

(Act 2011–570, p. 1164, § 1.)

§ 13A–11–59. Possession of firearms by persons participating in, attending, etc., demonstrations at public places.

(a) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them in this subsection, except in those instances where the context clearly indicates a different meaning:

(1) DEMONSTRATION. Demonstrating, picketing, speechmaking or marching, holding of vigils and all other like forms of conduct which involve the communication or expression of views or grievances engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. Such term shall not include casual use of property by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(2) FIREARM. Any pistol, rifle, shotgun or firearm of any kind, whether loaded or not.

(3) LAW ENFORCEMENT OFFICER. Any duly appointed and acting federal, state, county or municipal law enforcement officer, peace officer or investigating officer, or any military or militia personnel called out or directed by constituted authority to keep the law and order, and any park ranger while acting as such on the grounds of a public park and who is on regular duty and present to actively police and control the demonstration, and who is assigned this duty by his department or agency. Such term does not include a peace officer on strike or a peace officer not on duty.

(4) PUBLIC PLACE. Any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. Such term shall include the front or immediate area or parking lot of any store, shop, restaurant, tavern, shopping center or other place of business. Such term shall also include any public building, the grounds of any public building, or within the curtilage of any public building, or in any public parking lot, public street, right-of-way, sidewalk right-of-way, or within any public park or other public grounds.

(b) It shall be unlawful for any person, other than a law enforcement officer, to have in his or her possession or on his or her person or in any vehicle any firearm while participating in or attending any demonstration being held at a public place.

(c) It shall be unlawful for any person, other than a law enforcement officer as defined in subsection (a) of this section, to have in his or her possession or about his or her person or in any vehicle at a point within 1,000 feet of a demonstration at a public place, any firearm after having first been advised by a law enforcement officer that a demonstration was taking place at a public place and after having been ordered by such officer to remove himself or herself from the prescribed area until such time as he or she no longer was in possession of any firearm. This subsection shall not apply to any person in possession of or having on his or her person any firearm within a private dwelling or other private building or structure.

(d) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished as provided by law.

(Acts 1979, No. 79–455, p. 743; Code 1975, § 13–6–131.)

§ 13A–11–60. Possession or sale of brass or steel teflon-coated handgun ammunition; applicability of section.

(a) Except as provided in subsection (b) of this section, the possession or sale of brass or steel teflon-coated handgun ammunition is illegal anywhere within the State of Alabama. The possession or sale of said ammunition or any ammunition of like kind designed to penetrate bullet-proof vests shall be unlawful and punishable as provided in subsection (c) of this section.

(b) The provisions of this section shall not apply to state or local law enforcement officers; nor shall it apply to the possession or sale of teflon-coated lead or brass ammunition designed to expand upon contact.

(c) Any person who while armed with a firearm in the commission or attempted commission of any felony, has in his or her immediate possession, teflon-coated ammunition for such firearm, upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for said felony or attempted felony, shall be punished by the imposition of an additional term of three years in the penitentiary.

(d) Any person violating the provisions of this section shall be guilty of a Class C felony as defined by Section 13A–5–3.

(Acts 1982, No. 82–509.)

§ 13A–11–61. Discharging firearm, etc., into occupied or unoccupied building, etc., prohibited; penalty.

(a) No person shall shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile into any occupied or unoccupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft in this state.

(b) Any person who commits an act prohibited by subsection (a) with respect to an occupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft shall be deemed guilty of a Class

B felony as defined by the state criminal code, and upon conviction, shall be punished as prescribed by law.

(c) Any person who commits any act prohibited by subsection (a) hereof with respect to an unoccupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft shall be deemed guilty of a Class C felony as defined by the state criminal code, and upon conviction, shall be punished as prescribed by law.

(Acts 1984, No. 84–276, p. 463, §§ 1, 2.)

§ 13A–11–61.1. Discharging firearm into school bus, into school building, or on school property.

(a) No person shall shoot or discharge a firearm into an occupied or unoccupied school bus or school building.

(1) A person who shoots or discharges a firearm into an occupied school bus or school building shall be guilty of a Class B felony.

(2) A person who shoots or discharges a firearm into an unoccupied school bus or school building shall be guilty of a Class C felony.

(b) No person shall shoot or discharge a firearm on school property.

(1) A person who shoots or discharges a firearm on school property during school hours or during school activities after school hours, shall be guilty of a Class B felony.

(2) In circumstances other than those provided in subdivision (1), a person who shoots or discharges a firearm on school property shall be guilty of a Class C felony.

(c) A person shall not be in violation of this section if the person is justified in using physical force pursuant to Section 13A–3–23.

(d) A person shall not be in violation of this section if he or she is engaging in an organized competition or school system sanctioned event involving the use of a firearm or participating in or practicing for a performance by an organized group under 26 U.S.C. § 501(c)(3) which uses firearms as part of the performance or is on land leased from a school system.

(e) For the purposes of this section, ''school property'' does not include sixteenth section land or school lands, pursuant to Section 16–20–1, held in trust for the benefit of a school district, that do not have any school buildings, and that is not actively used for the purpose of providing educational or recreational activities to students.

(f) A person shall not be in violation of this section if he or she is under 19 years of age.

(g) This section shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this section is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

(Act 2006–539, p. 1242, §§ 1, 2; Act 2023–370, § 1, eff. Sept. 1, 2023.)

§ 13A–11–61.2. Possession of firearms in certain places.

(a) In addition to any other place limited or prohibited by state or federal law, a person, including a person with a permit issued under Section 13A–11–75 or recognized under Section 13A–11–85, may not knowingly possess or carry a firearm in any of the following places without the express permission of a person or entity with authority over the premises:

(1) Inside the building of a police, sheriff, or highway patrol station.

(2) Inside or on the premises of a prison, jail, halfway house, community corrections facility, or other detention facility for those who have been charged with or convicted of a criminal or juvenile offense.

(3) Inside a facility that provides inpatient or custodial care of those with psychiatric, mental, or emotional disorders.

(4)a. Inside a courthouse, courthouse annex, a building in which a district attorney's office is located, a building in which a county commission or city council is currently having a regularly scheduled or specially called meeting, or the primary office of any elected official.

b. For purposes of this subdivision, ''courthouse annex'' means either of the following:

1. A building constructed, purchased, or repurposed as part of a courthouse complex, judicial complex, or probate court, for so long as the building is actively and regularly used for that purpose.

2. A building or part of a building that, by order of any judge or probate judge, is having regularly scheduled or specially called judicial proceedings. A building or part of a building that is a courthouse annex pursuant to this subparagraph shall be a courthouse annex only for the duration of the judicial proceedings and any other related activities that the judge orders necessary.

(5) Inside any facility hosting an athletic event not related to or involving firearms which is sponsored by a private or public elementary or secondary school or any private or public institution of postsecondary education, unless the person has a permit issued under Section 13A–11–75 or recognized under Section 13A–11–85.

(6) Inside any facility hosting a professional athletic event not related to or involving firearms, unless the person has a permit issued under Section 13A–11–75 or recognized under Section 13A–11–85.

(b)(1) Notwithstanding the provisions of subsection (a), and in addition to any other place where possession of a firearm or a pistol is prohibited by federal or state law or may be prohibited pursuant to federal or state law, including, but not limited to, Section 13A–11–52, a person, including a person with a permit issued under Section 13A–11–75 or recognized under Section 13A–11–85, without the express permission of a person or entity with authority over the premises, may not knowingly possess or carry a firearm inside any building or facility to which access of unauthorized persons and prohibited articles is limited during normal hours of operation

by the continuous posting of guards and the use of other security features, including, but not limited to, magnetometers, key cards, biometric screening devices, or turnstiles or other physical barriers that prevent persons entering the facility from bringing prohibited items into the facility.

(2) It is not a violation of subsection (a) or this subsection to knowingly possess or carry a firearm at a location described in subsection (a) or this subsection if the location is also a sheriff's office that issues pistol permits and the pistol remains inside of a locked vehicle at all times while the person is on the premises.

(3) Nothing in this subsection otherwise restricts the possession, transportation, or storage of a lawfully possessed firearm or ammunition in an employee's privately owned motor vehicle while parked or operated in a public or private parking area provided the employee complies with the requirements of Section 13A–11–90.

(c) The person or entity with authority over the premises set forth in subdivisions (1) to (6), inclusive, of subsection (a) and subsection (b) shall place a notice at the public entrances of such premises or buildings alerting those entering that firearms are prohibited.

(d) Any firearm on the premises of any facility set forth in subdivision (1) of subsection (a), or subdivisions (4) to (6) inclusive, of subsection (a), or subsection (b) shall be kept from ordinary observation and locked within a compartment or in the interior of the person's motor vehicle or in a compartment or container securely affixed to the motor vehicle.

(e) A violation of subsection (a), (b), or (d) is a Class C misdemeanor.

(f) This section shall not prohibit any person from possessing a firearm within the person's residence or during ingress or egress thereto.

(g) Prohibitions regarding the carrying of a firearm under this section shall not apply to law enforcement officers engaged in the lawful execution of their official duties or a qualified retired law enforcement officer. For purposes of this section, qualified retired law enforcement officer shall mean a retired officer who meets all of the following requirements:

(1) Was separated from service in good standing from service with a public agency as a law enforcement officer.

(2) Before separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest.

(3) Before separation, served as a law enforcement officer for an aggregate of 10 years or more and separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by the agency.

(4) During the most recent 12–month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the

individual, the state in which the individual resides or, if the state has not established such standards, either a law enforcement agency within the state in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that state.

(5) Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health, and as a result, will not be issued the photographic identification described in subdivision (8) and has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subdivision (8).

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(7) Is not prohibited by state or federal law from receiving a firearm.

(8) Is carrying any of the following identification documents:

a. A photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer and indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm.

b. A photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer, and a certification issued by the state in which the individual resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty officers within that state that indicates that the individual, not less than one year before the date the individual is carrying the concealed firearm, has been tested or otherwise found by the state or a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty officers within that state to have met either of the following:

1. The active duty standards for qualification in firearms training, as established by the state, to carry a firearm of the same type as the concealed firearm.

2. If the state has not established such standards, standards set by any law enforcement agency within that state to carry a firearm of the same type as the concealed firearm.

(h) Nothing in this section shall be construed to authorize the carrying or possession of a firearm where prohibited by federal law.

(Act 2013–283, p. 938, § 6; Act 2015–341, p. 1055, § 1; Act 2018–529, § 1; Act 2022–133, § 1.)

§ 13A–11–61.3. Regulation of firearms, ammunition, and firearm accessories.

(a) The purpose of this section is to establish within the Legislature complete control over regulation and policy pertaining to firearms, ammunition, and firearm accessories in order to ensure that such regulation and policy is applied uniformly throughout this state to each person subject to the state's jurisdiction and to ensure protection of the right to keep and bear arms recognized by the Constitutions of the State of Alabama and the United States. This section is to be liberally construed to accomplish its purpose.

(b) For the purposes of this section, the following words shall have the following meanings:

(1) AMMUNITION. Fixed cartridge ammunition, shotgun shells, the individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-loading firearms, and any propellant used in firearms or ammunition.

(2) EXPRESSLY AUTHORIZED BY A STATUTE OF THIS STATE. The authority of a political subdivision to regulate firearms, ammunition, or firearm accessories that is granted by a duly enacted state law that specifically mentions firearms, a particular type of firearm, ammunition, or a particular type of ammunition.

(3) FIREARM ACCESSORY. A device specifically designed or adapted to enable the wearing or carrying about one's person, or the storage or mounting in or on a conveyance, of a firearm, or an attachment or device specifically designed or adapted to be inserted into or affixed onto a firearm to enable, alter, or improve the functioning or capabilities of the firearm.

(4) FIREARM. This term has the same meaning as in Section 13A–8–1(4).

(5) PERSON ADVERSELY AFFECTED. Any of the following:

a. A resident of this state who may legally possess a firearm under the laws of this state and the United States and who is either of the following:

1. Subject to any manner of regulation alleged to be promulgated or enforced in violation of this section, whether or not specific enforcement action has been initiated or threatened against that person or another person.

2. If the person were present in the political subdivision in question, subject to any manner of regulation alleged to be promulgated or enforced in violation of this section, whether or not specific enforcement action has been initiated or threatened against that person or another person.

b. A person who otherwise has standing under the laws of this state to bring an action under subsection (f).

c. A membership organization if its members would otherwise have standing to sue in their own right, if the interests it seeks to protect are germane to the organization's purpose, and neither the claim asserted nor

the relief requested requires the participation of individual members in the lawsuit.

(6) POLITICAL SUBDIVISION. A county, incorporated city, unincorporated city, public local entity, public-private partnership, and any other public entity of a county or city commonly considered to be a political subdivision of the state.

(7) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people of a political subdivision or its instrumentalities, including governmental corporations, and any person appointed to a position at the municipal level of government or its instrumentalities, including governmental corporations.

(8) REASONABLE EXPENSES. The expenses involved in litigation, including, but not limited to, expert witness fees, court costs, and compensation for loss of income.

(c) Except as otherwise provided in Act 2013–283 or as expressly authorized by a statute of this state, the Legislature hereby occupies and preempts the entire field of regulation in this state touching in any way upon firearms, ammunition, and firearm accessories to the complete exclusion of any order, ordinance, or rule promulgated or enforced by any political subdivision of this state.

(d) The authority of a political subdivision to regulate firearms, ammunition, or firearm accessories shall not be inferred from its proprietary authority, home rule status, or any other inherent or general power.

(e) Any existing orders, ordinances, or rules promulgated or enforced contrary to the terms of this section are null and void and any future order, ordinance, or rules shall comply with this section.

(f)(1) A person adversely affected by any order, ordinance, or rule promulgated in violation of this section may file a petition with the Attorney General requesting that he or she bring an action in circuit court for declarative and injunctive relief. The petition must be signed under oath and under penalty of perjury and must include specific details regarding the alleged violations.

(2) If, after investigation of the enactment or adoption of the order, ordinance, or rule, the Attorney General determines that there is reasonable cause to proceed with an action, he or she shall provide the political subdivision or public official enacting or adopting the order, ordinance, or rule 60 days' notice of his or her intent to file an action. Upon the expiration of the 60 days' notice, the Attorney General may file the suit.

(3) If, after investigation of the enactment or adoption of the order, ordinance, or rule, the Attorney General determines that there is no reasonable cause to proceed with an action, he or she shall publicly state in writing the justification for the determination not to file suit.

(4) The Attorney General shall either bring an action or publicly state, within 90 days of receipt of the petition, in the written justification why a

violation of the spirit of this section, specifically subsections (a) and (c), has not occurred.

(5) The court may award reimbursement for actual and reasonable expenses to a person adversely affected if an action under this subsection results in a final determination in favor of the person adversely affected.

(g) This section shall not be construed to prevent any of the following:

(1) A duly organized law enforcement agency of a political subdivision from promulgating and enforcing rules pertaining to firearms, ammunition, or firearm accessories that it issues to or that are used by the political subdivision's peace officers in the course of their official duties.

(2) An employer from regulating or prohibiting an employee's carrying or possession of firearms, firearm accessories, or ammunition during and in the course of the employee's official duties.

(3) A prosecutor, court or administrative law judge from hearing and resolving a case or controversy or issuing an opinion or order on a matter within its jurisdiction.

(4) The enactment or enforcement of a generally applicable zoning or business ordinance that includes firearms businesses along with other businesses, provided that an ordinance designed or enforced effectively to restrict or prohibit the sale, purchase, transfer, manufacture, or display of firearms, ammunition, or firearm accessories that is otherwise lawful under the laws of this state is in conflict with this section and is void.

(5) A political subdivision from enacting and enforcing rules of operation and use for any firearm range owned or operated by the political subdivision.

(6) A political subdivision from sponsoring or conducting any firearm-related competition or educational or cultural program and from enacting and enforcing rules for participation in or attendance at such program, provided that nothing in this section authorizes or permits a political subdivision to offer remuneration for the surrender or transfer of a privately owned firearm to the political subdivision or another party as a method of reducing the number of privately owned firearms within the political subdivision.

(7) Any official of a political subdivision, a sheriff, or other law enforcement officer with appropriate authority and jurisdiction from enforcing any law enacted by the Legislature.

(8) A sheriff of a county from acting on an application for a permit under Section 13A–11–75.

(9) A political subdivision from leasing public property to another person or entity for a gun show or other firearm-related event on terms agreeable to both parties.

(10) The adoption or enforcement by a county or municipality of ordinances which make the violation of a state firearm law a violation of an ordinance, provided that the elements of the local ordinance may not differ

from the state firearm law, nor may the local ordinance impose a higher penalty than what is imposed under the state firearm law.

(11) A municipality from regulating the discharge of firearms within the limits of the municipality or a county from exercising any authority it has under law, to regulate the discharge of firearms within the jurisdiction of the county. The discharge of a firearm in defense of one's self or family or in defense of one's property may not be construed to be a violation of state law or any ordinance or rule of a political subdivision of this state.

(12) A county or a municipality from exercising any authority it has to assess, enforce, and collect generally applicable sales taxes, use taxes, and gross receipts taxes in the nature of sales taxes as defined by Section 40–2A–3(8), on the retail sale of firearms, ammunition, and firearm accessories along with other goods, provided that no such tax imposed by a county or municipality may apply at a higher rate to firearms, ammunition, or firearm accessories than the general sales tax rate of the jurisdiction.

(Act 2013–283, p. 938, § 7.)

Division 1A.

Rifles and Shotguns.

§ 13A–11–62. Definitions.

For purposes of this division, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) FIREARM. As defined under Section 13A–8–1.

(2) RIFLE. Any weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger.

(3) SHORT-BARRELED RIFLE. A rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches.

(4) SHORT-BARRELED SHOTGUN. A shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(5) SHOTGUN. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(Acts 1982, No. 82–430, § 1; Act 2022–133, § 1; Act 2022–438, § 1.)

§ 13A–11–63. Possession, sale, etc., of short-barreled rifle or short-barreled shotgun; applicability.

(a) A person who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in violation of federal law is guilty of a Class C felony.

(b) This section does not apply to a peace officer who possesses, obtains, receives, sells, or uses a short-barreled rifle or a short-barreled shotgun in the course of or in connection with his or her official duties.

(Acts 1982, No. 82–430, § 2; Act 2010–496, p. 766, § 1.)

§ 13A–11–64. Alteration, etc., of manufacturer's number, etc., of firearm; possession, etc., of firearm after identification altered.

A person who either:

(1) Changes, alters, removes, or obliterates the name of the maker, model, manufacturer's number or other mark or identification of any firearm, or

(2) Possesses, obtains, receives, sells, or uses a firearm after the maker, model, manufacturer's number or other mark or identification has been changed, altered, removed, or obliterated, is guilty of a Class C felony.

(Acts 1982, No. 82–430, § 3.)

§ 13A–11–65. Penalty.

Violation of Section 13A–11–63(a) or Section 13A–11–64 in the course of, or in connection with the commission of any other felony shall be a Class B felony, and the punishment imposed therefor shall be in addition to the punishment imposed for the other felony.

(Acts 1982, No. 82–430, § 4.)

§ 13A–11–66. This division supplemental to other laws and penalties.

This division is supplemental to any other law and the penalties provided herein are in addition to any other penalties provided by law. This division shall not be construed to limit or in any way reduce the minimum and maximum penalties provided in any other law.

(Acts 1982, No. 82–430, § 5.)

Division 2.

Pistols.

§ 13A–11–70. Definitions.

For the purposes of this division, the following terms shall have the respective meanings ascribed by this section:

(1) COMMISSION. The Alabama Justice Information Commission.

(2) CONCEALED CARRY PERMIT or PISTOL PERMIT. A permit to carry a pistol in a vehicle or concealed on or about his or her person within the state.

(3) CRIME OF VIOLENCE. Any of the following crimes or an attempt to commit any of them, namely, murder, manslaughter, (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, and kidnapping. ''Crime of violence'' shall also mean any Class A felony or any Class B felony that has as an element serious physical injury, the distribution or manufacture of a controlled substance, or is of a sexual nature involving a child under the age of 12.

(4) HONORABLY DISCHARGED VETERAN. An individual honorably discharged from active duty in the Army, the Navy, the Marine Corps, the Air Force, the Space Force, or the Coast Guard of the United States, or any reserve or National Guard component of the United States Armed Forces, as evidenced by his or her DD Form 214, Record and Report of Separation Honorable Discharge Record, or other applicable documentation.

(5) LIFETIME CONCEALED CARRY PERMIT or LIFETIME CARRY PERMIT. A concealed carry permit that is valid for the lifetime of the permit holder.

(6) PERSON. Such term includes any firm, partnership, association, or corporation.

(7) PISTOL. Any firearm with a barrel less than 12 inches in length.

(8) RETIRED MILITARY VETERAN. An individual who is a retiree from active duty in the Army, the Navy, the Marine Corps, the Air Force, the Space Force, or the Coast Guard of the United States, or any reserve or National Guard component of the United States Armed Forces.

(9) SERVICE MEMBER. An individual who is in military service and is a member of the armed services or reserve forces of the United States or a member of the Alabama National Guard.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 172; Acts 1947, No. 616, p. 463, § 1; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–150; Act 2013–283, p. 938, § 2; Act 2021–246, § 3.)

§ 13A–11–71. Committing or attempting to commit crime of violence when armed.

Any person who commits or attempts to commit a crime of violence when armed with a pistol, in addition to the punishment provided for the crime, may additionally be punished as provided by this division.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 173; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–151; Act 2022–133, § 1.)

§ 13A–11–72. Certain persons forbidden to possess firearm.

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

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

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

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

(c)(1) No person who is an alien and is illegally or unlawfully in the United States or has been admitted to the United States under a nonimmigrant visa as defined in 8 U.S.C. § 1101(a)(26), provided no exception to this subsection as listed in 18 U.S.C. § 922(y)(2) applies, shall own a pistol or other firearm or have one in his or her possession or under his or her control.

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

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

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

(e) School security personnel and school resource officers qualified under Section 16–1–44.1(a), employed by a local board of education, and authorized by the employing local board of education to carry a deadly weapon while on duty are exempt from subsection (d). Law enforcement officers are exempt from this section, and persons with permits issued pursuant to Section 13A–11–75, are exempt from subsection (d).

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

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

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

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

(4) The minor is hunting or fishing pursuant to a valid license, if required, and the person has the license in his or her possession; has

written permission of the owner or legal possessor of the land on which the activities are being conducted; and the pistol, when loaded, is carried only in a manner discernible by ordinary observation.

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

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

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

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

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

(1) CONVICTED.

a. Means a person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case if required by law, and either the case was tried before a judge, tried by a jury, or the person knowingly and intelligently waived the right to have the case tried, by guilty plea or otherwise.

b. A person is not considered to have been convicted for the purposes of this section if the person is not considered to have been convicted in the jurisdiction in which the proceedings were held or the conviction has been expunged, set aside, or is of an offense for which the person has been pardoned or has had his or her civil rights restored, unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(2) DEADLY WEAPON. A firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury, and the term includes, but is not limited to, a bazooka, hand grenade, missile, or explosive or incendiary device; a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any club, baton, billy, black-jack, bludgeon, or metal knuckles.

(3) MISDEMEANOR OFFENSE OF DOMESTIC VIOLENCE. A misdemeanor offense that has, as its elements, the use or attempted use of physical force or the threatened use of a dangerous instrument or deadly weapon, and the victim is a current or former spouse, parent, child, person with whom the defendant has a child in common, or a present or former household member.

(4) PUBLIC SCHOOL. A school composed of grades K–12 and shall include a school bus used for grades K–12.

(5) QUALIFIED INDIVIDUAL. A spouse or former spouse of the person, an individual who is a parent of a child of the person, or an individual who cohabitates or has cohabited with the person.

(6) SCHOOL RESOURCE OFFICER. An Alabama Peace Officers' Standards and Training Commissioner-certified law enforcement officer employed by a law enforcement agency who is specifically selected and specially trained for the school setting.

(7) UNSOUND MIND. Includes any person who is subject to any of the findings listed below, and who has not had his or her rights to possess a firearm reinstated by operation of law or legal process:

a. Found by a court, board, commission, or other lawful authority that, as a result of marked subnormal intelligence, mental illness, incompetency, condition, or disease, is a danger to himself, herself, or others or lacks the mental capacity to contract or manage his or her own affairs.

b. Found to be insane, not guilty by reason of mental disease or defect, found mentally incompetent to stand trial, or found not guilty by a reason of lack of mental responsibility by a court in a criminal case, to include state, federal, and military courts.

c. Involuntarily committed for a final commitment for inpatient treatment to the Department of Mental Health or a Veterans' Administration hospital by a court after a hearing.

(8) VALID PROTECTION ORDER. An order issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate, that does either of the following:

a. Restrains the person from harassing, stalking, or threatening a qualified individual or child of the qualified individual or person or engaging in other conduct that would place a qualified individual in reasonable fear of bodily injury to the individual or child and that includes a finding that the person represents a credible threat to the physical safety of the qualified individual or child.

b. By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the qualified individual or child that would reasonably be expected to cause bodily injury.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 174; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–152; Acts 1994, 1st Ex. Sess., No. 94–817, § 1; Act 2013–288, p. 995, § 2; Act 2015–341, p. 1055, § 1; Act 2023–487, § 1, eff. Sept. 1, 2023.)

§ 13A–11–72.1. Certain convictions to be reported for entry into the state firearms prohibited person database; court costs.

(a) Within 30 days after a conviction or final order in a case involving a misdemeanor charge of domestic violence, as defined in Section 13A–11–72, all

municipal, probate, district, and circuit courts, electronically or in a method determined by the Alabama Justice Information Commission, shall report to the Alabama State Law Enforcement Agency for entry into the state firearms prohibited person database.

(b) All municipal courts shall also report to the Alabama State Law Enforcement Agency in a method determined by the commission for inclusion into the state firearms prohibited person database all other criminal convictions and orders that would cause an individual to be prohibited from possessing a firearm under federal or state law.

(c)(1) Within 30 days of a conviction or issuance of a court order that would result in an individual being prohibited from possessing a firearm under federal or state law, each municipal, county, and state court shall forward to the Alabama State Law Enforcement Agency, in a manner prescribed by the commission, that conviction or court order.

(2)a. A court shall report to the Alabama State Law Enforcement Agency, in a method determined by the commission, updates to any conviction or court order that was previously forwarded to the Alabama State Law Enforcement Agency, including notice of any appeal, expungement, pardon, commutation, or restoration of civil rights.

b. Upon receipt of notice of any appeal, expungement, pardon, commutation, or restoration of civil rights that would nullify the reason why an individual is prohibited from possessing a firearm under federal or state law, the Alabama State Law Enforcement Agency shall accordingly adjust or remove that individual's information in the state firearms prohibited persons database.

(d) Upon reporting a conviction or order to the Alabama State Law Enforcement Agency pursuant to this section, a court may collect fifty dollars ($50) in additional court costs, to be paid by the individual. Court costs collected under this subsection shall be distributed as follows:

(1) Ninety percent to the sheriff of the county in which the court is located, to be used for the administration of the concealed carry permit application process and other law enforcement purposes.

(2) Ten percent to the reporting court.

(Act 2021–246, § 4.)

§ 13A–11–73. Permit to carry pistol in vehicle or concealed on person — Required; possession of unloaded pistol in motor vehicle. Repealed by Act 2022–133, § 9(2), effective January 1, 2023.

§ 13A–11–74. License to carry pistol in vehicle or concealed on person — Exceptions.

The provisions of Section 13A–11–72(c) shall not apply to marshals, sheriffs, prison and jail wardens and their regularly employed deputies, police officers and other law enforcement officers of any state or political subdivision

thereof, or to the members of the Army, Navy, Marine Corps, Air Force, or Space Force of the United States or of the National Guard, or to the members of the National Guard organized reserves or state guard organizations when on duty or going to or from duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive the weapons from the United States or from this state; provided, that those members are at or are going to or from their places of assembly or target practices, or to officers or employees of the United States duly authorized to carry a pistol, or to any person engaged in manufacturing, repairing, or dealing in pistols, or the agent or representative of a person possessing, using, or carrying a pistol in the usual or ordinary course of pistol manufacturing, repairing, or dealing business, or to any common carrier, except taxicabs, licensed as a common carrier, or to any person permitted by law to possess a pistol while carrying it unloaded in a secure wrapper, from the place of purchase to his or her home or place of business, or to or from a place of repair or in moving from one place of abode or business to another.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 176; Acts 1947, No. 616, p. 463, § 4; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–154; Act 2022–133, § 1.)

§ 13A–11–74.1. Carrying a pistol without a permit.

The issuance of a permit to carry a pistol pursuant to Section 13A–11–75, or the recognition of a nonresident license pursuant to Section 13A–11–85, does not impose a general prohibition on the carrying of a pistol without a permit.

(Act 2022–133, § 2.)

§ 13A–11–75. Concealed carry permit — Application; criminal background checks; issuance; fee; revocation; appeals; release of information; violations.

(a)(1) An Alabama resident who is 19 years of age or more may apply to the sheriff of his or her county of residence for issuance or renewal of a concealed carry permit, valid for one year or five years.

(2) An Alabama resident who is 18 years of age or more and is a service member as defined in Section 35–10–70 or a retired or honorably discharged military veteran as defined in subsection (b) may apply to the sheriff of his or her county of residence for issuance or renewal of a concealed carry permit, valid for one year or five years.

(3)a. Except as provided in paragraph b., an Alabama resident who possesses a valid concealed carry permit may apply to the sheriff of his or her county of residence for issuance of a lifetime carry permit.

b. A sheriff may require an applicant for a lifetime carry permit to possess a valid concealed carry permit for not more than five consecutive years prior to approving the application for issuance of the permit. A

sheriff's determination under this paragraph shall not be subject to any appeal or review under subsection (j).

(b)(1) Upon receipt of an application for a concealed carry permit, the sheriff shall complete a criminal background check through the National Instant Criminal Background Check System (NICS) and review the state firearms prohibited person database.

(2) The sheriff shall also review any other available local, state, and federal criminal history databases to determine whether possession of a pistol or firearm by an applicant would be a violation of state or federal law.

(3) Upon application by an individual who is not a United States citizen, the sheriff shall conduct an Immigration Alien Query through U.S. Immigration and Customs Enforcement, or any successor agency, and the application form shall require information relating to the applicant's country of citizenship, place of birth, and any alien or admission number issued by U.S. Immigration and Customs Enforcement, or any successor agency. The sheriff shall review the results of these inquiries before making a determination of whether to issue a permit or renew a permit. An individual who is unlawfully present in this state may not be issued a permit under this section.

(c) Within 30 days from receipt of a completed application, a sheriff shall approve or deny the application. In making a determination whether to approve or deny the issuance or renewal of a permit, the sheriff shall consider whether the applicant:

(1) Was found guilty but mentally ill in a criminal case.

(2) Was found not guilty in a criminal case by reason of insanity or mental disease or defect.

(3) Was declared incompetent to stand trial in a criminal case.

(4) Asserted a defense in a criminal case of not guilty by reason of insanity or mental disease or defect.

(5) Was found not guilty only by reason of lack of mental responsibility under the Uniform Code of Military Justice.

(6) Required involuntary inpatient treatment in a psychiatric hospital or similar treatment facility.

(7) Required involuntary outpatient treatment in a psychiatric hospital or similar treatment facility based on a finding that the individual is an imminent danger to himself or herself or to others.

(8) Required involuntary commitment to a psychiatric hospital or similar treatment facility for any reason, including drug use.

(9) Is or was the subject of a prosecution or of a commitment or incompetency proceeding that could lead to a prohibition on the receipt or possession of a firearm under the laws of Alabama or the United States.

(10) Falsified any portion of the permit application.

(11) Caused or causes justifiable concern for public safety.

(d)(1) If the sheriff determines that any of the factors in subsection (c) apply to the applicant, or that the criminal background check under subsection (b) returned any result showing that the applicant is prohibited from the possession of a pistol or firearm pursuant to state or federal law, the sheriff shall deny the application.

(2) If the sheriff cannot determine whether or not a factor listed in subsection (c) applies to the applicant, the sheriff may request additional information from the applicant.

(3)a. Upon the denial by a sheriff of an application for a concealed carry permit, the sheriff shall immediately give a written notice to the applicant giving the specific reason or reasons for denial, the date of completion of the background check, and the name and signature of the sheriff whose office conducted the background check.

b. If the sheriff denies an application due to a determination that the issuance or renewal of a permit to an individual would cause or causes justifiable concern for public safety, the sheriff shall clearly articulate the reasoning behind that determination within the written notice.

(4) The sheriff shall notify the Alabama State Law Enforcement Agency of a denial of an application for a permit in a manner as prescribed by the commission for entry into the state firearms prohibited person database if the reason for that denial was due to the applicant being ineligible to possess a firearm under state or federal law.

(5) Upon receiving notice of a denial of an application for a concealed carry permit due to the applicant being prohibited from possessing a firearm under state or federal law, or a conviction or court order that would prohibit that individual from possessing a pistol or firearm under state or federal law, the Alabama State Law Enforcement Agency shall enter the information into the state firearms prohibited person database and ensure that a ''Firearms Prohibited Person'' notice is viewable by law enforcement officers and other authorized persons through the Law Enforcement Tactical System.

(e)(1) If the sheriff determines that the applicant is not prohibited from the possession of a pistol or firearm under state or federal law and that the applicant should not otherwise be denied a concealed carry permit pursuant to this section, the sheriff, upon receipt of the appropriate fee as provided in subsection (f), shall approve the application.

(2)a. Immediately upon approval of an application for a concealed carry permit, the sheriff shall issue the applicant a secure permit card to carry a pistol in a vehicle or concealed on or about his or her person within this state, valid for a term of one year, five years, or the permit holder's lifetime, as indicated within the approved application.

b. If the sheriff is unable to produce a hard copy secure permit card at the time of approval, the sheriff shall issue the applicant a temporary paper permit, valid for 30 days following the date of issuance. The

sheriff shall produce and mail to the applicant a hard copy secure permit card within 15 days of issuing the temporary paper permit.

(f)(1) Notwithstanding any provision of law to the contrary:

a. The fee for a concealed carry permit for a term of one year or five years shall be the same as currently provided by local law for that county, and the resulting funds shall be distributed as currently provided by local law.

b. If there is no local law setting the fee for a one-year permit, the fee shall be twenty-five dollars ($25), and the funds shall be distributed to the sheriff. If there is no local law setting the fee for a five-year permit, the fee shall be one hundred twenty-five dollars ($125), and the funds shall be distributed to the sheriff.

c. A sheriff shall charge no fee for issuing or renewing a permit to a service member, a retired or honorably discharged military veteran, a law enforcement officer as defined by Section 36–30–20, or an honorably retired law enforcement officer eligible for a card under Section 36–21–9.

(2)a. The fee for a lifetime concealed carry permit shall be three hundred dollars ($300). If an individual applies for a lifetime carry permit within one year after the expiration date of an otherwise valid pistol permit possessed by that individual, or the expiration of any extended renewal period offered by the sheriff, whichever is later, the fee for the lifetime carry permit shall be reduced by an amount equal to the fee paid for the expired permit at the time that expired permit was issued.

b. Notwithstanding paragraph a., the fee for a lifetime concealed carry permit shall be one hundred fifty dollars ($150) if the applicant is 60 years of age or older at the time of application.

c. A sheriff shall charge no fee for issuing or renewing a lifetime carry permit to a service member, a retired or honorably discharged military veteran, a law enforcement officer as defined by Section 36–30–20, or an honorably retired law enforcement officer eligible for a card under Section 36–21–9.

(3)a. Eighty percent of the fees for a lifetime carry permit shall be distributed to the sheriff of the county of residence of the applicant, to be used for the administration of the concealed carry permit application process and other law enforcement purposes. The remaining 20 percent shall be distributed to the Alabama State Law Enforcement Agency, to be used for the administration of the state firearms prohibited person database and for other law enforcement purposes.

b. Notwithstanding paragraph a., beginning October 1, 2024, the agency may use these funds only for the administration of the state firearms prohibited person database.

(4) Each sheriff shall ensure that all fees set forth within this section are properly distributed pursuant to this section on a quarterly basis.

(5) Each sheriff shall prepare a report on the number of permits issued and renewed within the county, and shall include a detailed accounting of fees and their distribution. A sheriff, upon request, shall provide a copy of this report to the Alabama State Law Enforcement Agency or the Legislative Services Agency.

(g)(1) A permittee who changes his or her permanent address shall report that change of address to the sheriff of the county of his or her new residence within 30 days. Failure by an individual with a valid concealed carry permit or lifetime carry permit to report the change of address as directed by this subdivision shall result in the permit being subject to revocation.

(2) A permittee who loses the physical permit or who has his or her physical permit stolen shall report that lost or stolen permit to the sheriff of the county of his or her residence within 30 days.

(3) If a permittee changes his or her permanent address, loses his or her concealed carry permit, has his or her concealed carry permit stolen, or desires to replace a damaged concealed carry permit, and requests a new physical permit prior to the expiration date of the concealed carry permit, upon receipt of request and a fee not to exceed twenty-five dollars ($25), the sheriff of the county of residence shall issue a permit in the same manner as provided in subdivision (e)(2).

(h) At least once every five years from the date of issuance, each sheriff shall conduct a background check on each individual with a lifetime carry permit issued within his or her county in the same manner as provided in subsection (b), to ensure that the individual has not been convicted of any crime which would prohibit that individual from purchasing or possessing a pistol or firearm under state or federal law and that the individual has otherwise remained eligible for a permit based upon the factors provided in subsection (c).

(i)(1)a. At any point after an individual is issued a concealed carry permit or lifetime carry permit, and so long as the permit is valid, if the Alabama State Law Enforcement Agency, a law enforcement officer, or a court becomes aware that the individual has become prohibited from possessing a pistol or firearm under state or federal law, or otherwise concludes that the individual should not possess a permit based on the factors provided for issuance under subsection (c), the agency, officer, or court shall immediately notify the sheriff of the county of residence of the individual. The agency, officer, or court shall furnish relevant evidence along with the notice.

b. If the sheriff of the county of residence of a permittee becomes aware that a permittee is prohibited from purchasing or possessing a pistol or firearm under federal or state law, or otherwise concludes that the permittee should not possess a concealed carry or lifetime carry permit based on the factors provided for issuance under subsection (c), the sheriff shall revoke the permit.

c. Immediately upon revocation of a permit, the sheriff shall send notice of that revocation to the individual whose permit was revoked. The notice delivered to the individual shall be in written form, but an additional copy may also be delivered in an electronic form. The notice shall include all of the following:

1. The name of the individual whose permit has been revoked.

2. The specific reason for revocation of the permit, including citation to relevant law.

3. The date of conviction or other event on which the revocation is based, if applicable.

4. Information on how the individual may appeal the revocation.

(2) If the revocation was due to the permittee being prohibited from possessing a firearm under federal or state law, the sheriff shall send notice to the Alabama State Law Enforcement Agency, in a form prescribed by the commission, for entry into the state firearms prohibited person database. Upon receipt of a notice of revocation, the Alabama State Law Enforcement Agency shall update the state firearms prohibited person database to reflect that revocation and shall also enter a ''Firearms Prohibited Person'' notice into the state firearms prohibited person database in the same manner as provided under subdivision (d)(5).

(3) Upon revocation of a permit, the sheriff of the county of residence of the permittee or any other law enforcement officer with a reasonable opportunity shall make reasonable efforts to confiscate the permit card.

(j)(1) An individual who has been denied a permit under subsection (d), an individual whose permit has been revoked under subsections (g) or (i), or any individual who is listed on the state firearms prohibited person database may appeal the denial, revocation, or database entry to the district court of the county where the individual resides. During the court's review of the decision, the sheriff of the county of residence of the individual shall have the burden of proving by clear and convincing evidence that possession of a pistol or firearm by the individual would be in violation of state or federal law or that the individual otherwise should not possess a permit based on the factors provided for issuance under subsection (c).

(2) A court hearing an appeal under this subsection shall issue a written determination within 30 days providing the reasoning for the determination, as well as any facts or evidence upon which the determination was based. The court shall deliver written copies of this determination to the individual, the sheriff of the county of residence of the individual, and the Alabama State Law Enforcement Agency.

(3) A court hearing an appeal under this subsection may waive court costs for the appeal if the court concludes that the appellant demonstrated a reasonable belief that he or she should not be listed on the firearms prohibited person database or that the denial or revocation was improper.

(4)a. Within three days of receiving a notice of a court determination that the revocation or denial of a permit was improper, the sheriff shall issue or reissue a physical permit to the applicant in the same manner as provided in subdivision (e)(2).

b. Within three days of receiving a notice of a court determination that the listing of an individual on the database was improper, the sheriff shall ensure that the results of the appeal are sent to the Alabama State Law Enforcement Agency for entry in the state firearms prohibited person database.

(k) The name, address, signature, photograph, and any other personally identifying information collected from an applicant or permittee under this section shall be kept confidential, shall be exempt from disclosure under Section 36–12–40, and may only be used for law enforcement purposes except when a current permittee is charged in any state with a felony involving the use of a pistol. All other information on permits under this section, including information concerning the annual number of applicants, number of permits issued, number of permits denied or revoked, revenue from issuance of permits, and any other fiscal or statistical data otherwise, shall remain public writings subject to public disclosure. Except as provided above, the sheriff of a county and the Alabama State Law Enforcement Agency shall redact the name, address, signature, photograph, and any other personally identifying information of a permit holder before releasing a copy of a permit for a non-law enforcement purpose. The sheriff or the agency may charge one dollar ($1) per copy of any redacted permit record requested other than when requested for law enforcement purposes. To knowingly publish or release to the public in any form any information or records related to the licensing process, or the current validity of any permit, except as authorized in this subsection or in response to a court order or subpoena, is a violation of Act 2021–246 subject to misuse penalties established by rule of the commission.

(l) A concealed carry permit issued under this section shall be valid for the carrying of a pistol in a motor vehicle or concealed on the permittee's person throughout the state, unless prohibited by this section.

(m) This section shall not be construed to limit or place any conditions upon an individual's right to carry a pistol that is not in a motor vehicle or not concealed.

(n)(1) If a permittee establishes residence in another state, his or her permit shall expire upon the establishment of residence in the other state.

(2)a. Notwithstanding subdivision (1), if a service member possesses a lifetime concealed carry permit and establishes residence in another state, the permit shall expire upon the establishment of residence in the other state.

b. Notwithstanding paragraph a., if the service member's establishment of residence in the other state was a result of relocation related to the military service of that service member, and that service member thereafter re-establishes residence in Alabama, the sheriff of the county

of residence, upon request of the service member, shall reinstate the lifetime concealed carry permit of that service member.

(*o*) Any individual who knowingly or intentionally makes a false statement while applying for a permit or appealing the denial or revocation or database listing under this section shall be guilty of a Class C misdemeanor.

(p) Nothing in this section shall be construed to permit a sheriff, the Alabama State Law Enforcement Agency, or a court to disregard any federal law or regulation pertaining to the purchase or possession of a pistol or firearm.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 177; Acts 1947, No. 616, p. 463, § 5; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–155; Act 2006–551, p. 1268, § 1; Act 2009–711, p. 2093, § 1; Act 2013–283, p. 938, § 2; Act 2018–400, § 1; Act 2019–440, § 1; Act 2021–246, § 3.)

§ 13A–11–75.1. Pistol permit for retired military personnel. Repealed by Act 2021–246, § 6, effective September 30, 2022.

§ 13A–11–76. Delivery to minors, habitual drunkards, etc.

(a) Except as provided in subsection (b), no person shall deliver a pistol to any person who he or she has reasonable cause to believe is a minor, except under the circumstances provided in Section 13A–11–72, a drug addict, or an habitual drunkard, has been convicted in this state or elsewhere of committing or attempting to commit a crime of violence, misdemeanor offense of domestic violence, a violent offense as listed in Section 12–25–32(15), or anyone who is subject to a valid protection order for domestic abuse, or anyone of unsound mind.

(b) A person may deliver a pistol to a person otherwise prohibited from receiving a pistol under subsection (a), if the person has had his or her firearm rights restored by operation of law or legal process.

(c) For the purposes of this section, the terms ''convicted,'' ''misdemeanor offense of domestic violence,'' ''valid protection order,'' and ''unsound mind'' shall have the same meanings as provided in Section 13A–11–72.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 178; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–156; Act 2015–341, p. 1055, § 1.)

§ 13A–11–77. Sales regulated; application for purchase. Repealed by Act 2000–762, p. 1744, § 2, effective August 1, 2000.

§ 13A–11–78. Dealers' licenses — Required.

No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 180; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–158.)

§ 13A–11–79. Dealers' licenses — Issuance; conditions; display; fees; records.

(a) The duly constituted licensing authorities of any city, town or political subdivision of this state may grant licenses in forms prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell pistols at retail within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this division. The business shall be carried on only in the building designated in the license. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read. The fee for issuing the license shall be $.50, which fee shall be paid into the State Treasury.

(b) All records of pistol, revolver, or maxim silencer sales that are maintained or in the custody of dealers, the chief of police, the sheriff, or the Secretary of State pursuant to this section or Section 40–12–143, including any records or databases compiled as a result of or based on the records or information so maintained or received, shall be permanently removed and destroyed without reproduction of the removed documents no later than February 28, 2016. This section does not apply to any record necessary for an active investigation or ongoing prosecution.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 181; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–159; Act 2015–341, p. 1055, § 1.)

§ 13A–11–80. Loans secured by deposit, etc., of pistol prohibited; certain transfers prohibited.

No person shall make any loan secured by a mortgage, deposit or pledge of a pistol contrary to this division, nor shall any person lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this division.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 182; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–160.)

§ 13A–11–81. False information in applications for licenses, purchases, etc.

No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 183; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–161.)

§ 13A–11–82. Alteration of identifying marks prohibited. Repealed by Acts 1982, No. 82–430, § 6, effective May 4, 1982.

§ 13A–11–83. Antique pistols.

This division shall not apply to the purchase, possession or sale of pistols as curiosities or ornaments or to the transportation of such pistols unloaded and in a bag, box or securely wrapped package, but not concealed on the person.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 185; Acts 1947, No. 616, p. 463, § 7; Acts 1951, No. 784, p. 1378; Code 1975, § 13–6–163.)

§ 13A–11–84. Penalties; seizure and disposition of pistols involved in violations of certain sections.

(a) Every violation of subsection (a) of Section 13A–11–72 or Section 13A–11–81 shall be a Class C felony. Every violation of subsection (b) of Section 13A–11–72 or Sections 13A–11–73, 13A–11–74, 13A–11–76, and 13A–11–77 through 13A–11–80 shall be a Class A misdemeanor. The punishment for violating Section 13A–11–78 or 13A–11–79 may include revocation of license.

(b) It shall be the duty of any sheriff, policeman, or other peace officer of the State of Alabama, arresting any person charged with violating Sections 13A–11–71 through 13A–11–73, or any one or more of those sections, to seize the pistol or pistols in the possession or under the control of the person or persons charged with violating the section or sections, and to deliver the pistol or pistols to one of the following named persons: if a municipal officer makes the arrest, to the city clerk or custodian of stolen property of the municipality employing the arresting officer; if a county, state, or other peace officer makes the arrest, to the sheriff of the county in which the arrest is made. The person receiving the pistol or pistols from the arresting officer shall keep it in a safe place in as good condition as received until disposed of as hereinafter provided. Within five days after the final conviction of any person arrested for violating any of the above-numbered sections, the person receiving possession of the pistol or pistols, seized as provided in this section, shall report the seizure and detention of the pistol or pistols to the district attorney within the county where the pistol or pistols are seized, giving a full description thereof, the number, make and model thereof, the name of the person in whose possession it was found when seized, the person making claim to same or any interest therein, if the name can be ascertained or is known, and the date of the seizure. Upon receipt of the report from the person receiving possession of the pistol or pistols, it shall be the duty of the district attorney within the county wherein the pistol or pistols were seized to forthwith file a complaint in the circuit court of the proper county, praying that the seized pistol or pistols be declared contraband, be forfeited to the state and be destroyed. Any person, firm or corporation or association of persons in whose possession the pistol or pistols may be seized or who claim to own the same or any interest therein shall be made a party defendant to the complaint, and thereupon the matter shall proceed and be determined in the circuit court of the proper county in the same form and manner, as near as may be, as in the forfeiture and destruction of gaming devices, except as otherwise provided.

When any judgment of condemnation and forfeiture is made in any case filed under this section, the judge making the judgment shall direct the destruction of the pistol or pistols by the person receiving possession of the pistol or pistols from the arresting officer in the presence of the clerk or register of the court, unless the judge is of the opinion that the nondestruction thereof is necessary or proper in the ends of justice, in which event and upon recommendation of the district attorney, the judge shall award the pistol or pistols to the sheriff of the county or to the chief of police of the municipality to be used exclusively by the sheriff or the chief of police in the enforcement of law, and the sheriff of the county and the chiefs of police of the municipalities shall keep a permanent record of all pistols awarded to them as provided for in this section, to be accounted for as other public property, and the order, in the event that no appeal is taken within 15 days from the rendition thereof, shall be carried out and executed before the expiration of 20 days from the date of the judgment. The court may direct in the judgment that the costs of the proceedings be paid by the person in whose possession the pistol or pistols were found when seized, or by any party or parties who claim to own the pistol or pistols, or any interest therein, and who contested the condemnation and forfeiture thereof.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, § 186; Acts 1947, No. 616, p. 463, § 8; Acts 1951, No. 784, p. 1378; Acts 1967, No. 505, p. 1218; Code 1975, § 13–6–164; Act 2015–341, p. 1055, § 1.)

§ 13A–11–85. Reciprocity for licenses issued in other states.

(a) A person licensed to carry a handgun in any state shall be authorized to carry a handgun in this state. This section shall apply to a license holder from another state only while the license holder is not a resident of this state. A license holder from another state shall carry the handgun in compliance with the laws of this state. The issuance of a permit to carry a pistol pursuant to Section 13A–11–75 or the recognition of a nonresident license under this section does not impose a general prohibition on the carrying of a pistol without a permit.

(b) The Attorney General may enter into reciprocal agreements with other states for the mutual recognition of licenses to carry handguns and shall periodically publish a list of states which recognize licenses issued pursuant to Section 13A–11–75.

(Act 2001–494, p. 862, § 1; Act 2013–283, p. 938, § 2; Act 2022–133, § 1.)

Division 3.

Firearms in Places of Employment and Institutions of Higher Education.

§ 13A–11–90. Restrictions on firearms by employers.

(a) Except as provided in subdivision (b), a public or private employer may restrict or prohibit its employees, including those with a permit issued or

recognized under Section 13A–11–75, from carrying firearms while on the employer's property or while engaged in the duties of the person's employment.

(b)(1) A public or private employer may not restrict or prohibit the transportation or storage of a lawfully possessed pistol or ammunition for that pistol in an employee's privately owned motor vehicle while parked or operated in a public or private parking area; provided, that the employee satisfies all of the following conditions:

a. The motor vehicle is operated or parked in a location where it is otherwise permitted to be.

b. The pistol is either of the following:

1. In a motor vehicle attended by the employee, kept from ordinary observation within the person's motor vehicle.

2. In a motor vehicle unattended by the employee, kept from ordinary observation and locked within a compartment, container, or in the interior of the person's privately owned motor vehicle or in a compartment or container securely affixed to the motor vehicle.

(2) A public or private employer may not restrict or prohibit the transportation or storage of a lawfully possessed firearm legal for use for hunting in Alabama other than a pistol, or ammunition for that firearm, in an employee's privately owned motor vehicle while parked or operated in a public or private parking area if the employee satisfies all of the following:

a. The employee possesses a valid Alabama hunting license.

b. The weapon is unloaded at all times on the property.

c. It is during a season in which hunting is permitted by Alabama law or regulation.

d. The employee has never been convicted of any crime of violence as that term is defined in Section 13A–11–70, nor of any crime set forth in Chapter 6, nor is subject to a domestic violence protection order, as that term is defined in Section 13A–6–141.

e. The employee has no documented prior workplace incidents involving the threat of physical injury or which resulted in physical injury.

f. The motor vehicle is operated or parked in a location where it is otherwise permitted to be.

g. The firearm is either of the following:

1. In a motor vehicle attended by the employee, kept from ordinary observation within the person's motor vehicle.

2. In a motor vehicle unattended by the employee, kept from ordinary observation and locked within a compartment, container, or in the interior of the person's privately owned motor vehicle or in a compartment or container securely affixed to the motor vehicle.

(c) If an employer believes that an employee presents a risk of harm to himself, herself, or to others, the employer may inquire as to whether the

employee possesses a firearm in his or her private motor vehicle. If the employee does possess a firearm in his or her private motor vehicle on the property of the employer, the employer may make any inquiry necessary to establish that the employee is in compliance with subsection (b).

(1) If the employee is not in compliance with subsection (b), the employer may take adverse employment action against the employee, in the discretion of the employer.

(2) If the employee has been in compliance with subsection (b) at all times, the employer may not take adverse employment action against the employee based solely on the presence of the firearm.

(d) If an employer discovers by other means that an employee is transporting or storing a firearm in his or her private motor vehicle, the employer may not take any adverse employment action against the employee based solely on the possession of that firearm if the employee has complied with the requirements in subsection (b).

(e) Nothing in this section shall prohibit an employer from reporting to law enforcement a complaint based upon information and belief that there is credible evidence of any of the following:

(1) That the employee's motor vehicle contains:

a. A firearm prohibited by state or federal law.

b. Stolen property or a prohibited or illegal item other than a firearm.

(2) A threat made by an employee to cause bodily harm to themselves or others.

(f) If a law enforcement officer, pursuant to a valid search warrant or valid warrantless search based upon probable cause, exigent circumstances, or other lawful exception to the search warrant requirement, discovers a firearm prohibited by state or federal law, stolen property, or a prohibited or illegal item other than a firearm, the employer may take adverse employment action against the employee.

(g) Notwithstanding subsection (f), if the employee has fully complied with the requirements of subsection (b) and does not possess a firearm prohibited by state or federal law, that employee is entitled to recovery as specified in this subsection for any adverse employment action against the employee. If demand for the recovery has not been satisfied within 45 calendar days, the employee may file a civil action in the appropriate court of this state against the public or private employer. A plaintiff is entitled to seek an award of all of the following:

(1) Compensation, if applicable, for lost wages or benefits.

(2) Compensation, if applicable, for other lost remuneration caused by the termination, demotion, or other adverse action.

(h) The license requirements set forth in subdivision (b)(1) are for the purposes of this section only in order to determine whether an employee may transport or store a lawfully possessed firearm or ammunition in an employee's privately owned motor vehicle while parked or operated in a public or

private parking area owned by the employer and shall not be construed to otherwise expand the requirements for the lawful possession of a firearm. These requirements shall not be interpreted to mean that the laws of the State of Alabama create any new connection between the possession of a hunting license and the right of a citizen to keep and bear arms.

(i) Prohibitions regarding the carrying of a firearm under this section shall not apply to law enforcement officers engaged in the lawful execution of their official duties.

(j) Nothing in this section shall be construed to authorize the transportation, carrying, storing, or possession of a firearm or ammunition where prohibited by federal law.

(Act 2013–283, p. 938, § 4; Act 2022–133, § 1.)

§ 13A–11–91. Liability of employers, etc., for damages resulting from presence of firearms.

(a) Except as provided in subsection (g) of Section 13A–11–90, an employer and the owner and/or lawful possessor of the property on which the employer is situated shall be absolutely immune from any claim, cause of action or lawsuit that may be brought by any person seeking any form of damages that are alleged to arise, directly or indirectly, as a result of any firearm brought onto the property of the employer, owner, or lawful possessor by an employee, including a firearm that is transported in an employee's privately owned motor vehicle.

(b) The presence of a firearm or ammunition on an employer's property under the authority of Act 2013–283 does not, by itself, constitute the failure by the employer to provide a safe workplace.

(c) For the purposes of Act 2013–283, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

(1) To patrol, inspect, or secure:

a. Any parking lot, parking garage, or other parking area the employer provides for employees; or

b. Any privately owned motor vehicle located in a parking lot, parking garage, or other parking area the employer provides for employees; or

(2) To investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

(d) Nothing in this section shall be construed to provide immunity from liability to an employer, business entity, or property owner for his or her own affirmative wrongful acts that cause harm, damage, or injury to another.

(e) The denial by a court of a Motion to Dismiss based on immunity grounds shall be appealable in the same manner as a final order to the appellate court which would otherwise have jurisdiction over the appeal from

a final order of the action. Such appeal may only be filed within 42 days of the order denying the Motion to Dismiss. The filing of such appeal, the failure to file an appeal, or the affirmance of the denial of the Motion to Dismiss shall in no way affect the right of the defendant, after entry of judgment, to appeal the denial of immunity. During the pendency of such appeal, the action in the trial court shall be stayed in all respects.

(f) Nothing in Act 2013–283 is intended to expand or limit the rights an employer or employee currently has under Chapter 5 of Title 25.

(Act 2013–283, p. 938, § 5.)

§ 13A–11–92. Adoption of policies governing the possession of firearms or other weapons on grounds owned or controlled by a two–year or four–year institution of higher education.

(a) Notwithstanding any provision of state law to the contrary, the governing body of each two-year or four-year institution of higher education may adopt policies governing the possession of firearms or other weapons on grounds owned or controlled by the institution. The governing body may not adopt a policy in conflict with federal law.

(b) A policy adopted under subsection (a) shall allow for individuals not otherwise prohibited from possession of a firearm by state or federal law to possess a firearm and ammunition for that firearm in the individual's privately owned motor vehicle while parked or operated on the grounds of the institution; provided, that the individual satisfies all of the following conditions:

(1) If the firearm is a pistol, the individual is not generally prohibited from possession of a pistol by state or federal law.

(2) If the firearm is any firearm legal for use for hunting in Alabama other than a pistol:

a. The individual possesses a valid Alabama hunting license.

b. The firearm is unloaded at all times on the grounds.

c. It is during a season in which hunting is permitted by Alabama law or regulation.

d. The individual has never been convicted of any crime of violence as that term is defined in Section 13A–11–70, nor of any crime set forth in Chapter 6 of Title 13A, nor is subject to a domestic violence protection order, as that term is defined in Section 13A–6–141.

e. The individual has no documented prior incidents on the grounds of the institution involving the threat of physical injury or which resulted in physical injury to another.

(3) The motor vehicle is operated or parked in a location where it is otherwise permitted to be.

(4) The firearm is either of the following:

a. In a motor vehicle attended by the individual, kept from ordinary observation within the individual's motor vehicle.

b. In a motor vehicle unattended by the individual, kept from ordinary observation and locked within a compartment, container, or in the interior of the individual's privately owned motor vehicle or in a compartment or container securely affixed to the motor vehicle.

(c) It is the intent of the Legislature that constitutionally created boards of trustees of institutions of higher education comply with this section.

(Act 2022–133, § 8.)

Division 4.

Interaction with Law Enforcement.

§ 13A–11–95. Duty to inform law enforcement officer upon request when in possession of concealed pistol or firearm.

Any person who knowingly possesses a pistol or firearm concealed on or about his or her person or in a vehicle occupied by the person, and who is asked by a law enforcement officer operating in the line or scope of his or her official duties whether he or she is armed with a concealed pistol or firearm, shall immediately inform the law enforcement officer that the person is in possession of a pistol or firearm.

(Act 2022–133, § 3.)

§ 13A–11–96. Driver or occupant of motor vehicle stopped for law enforcement purpose prohibited from knowingly touching loaded handgun except as directed.

(a) A person who is the driver or occupant of any motor vehicle that is stopped as a result of a traffic stop or as a result of a stop for another law enforcement purpose and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle shall not knowingly touch the handgun with his or her hands or fingers at any time after a person known to be a law enforcement officer begins approaching and before the law enforcement officer terminates contact with the person, unless the person has contact with the loaded handgun pursuant to, and in accordance with, directions given by the law enforcement officer.

(b) A violation of this section is a Class A misdemeanor.

(Act 2022–133, § 4.)

§ 13A–11–97. Taking firearm into temporary custody upon reasonable suspicion by law enforcement officer that it would be used for criminal conduct, etc.; database searches; return of firearm.

(a) If at any time during an investigation a law enforcement officer acting in the lawful discharge of the officer's official duties has a reasonable

suspicion that an individual is engaged or is about to be engaged in criminal conduct, or the officer determines that a reasonable person would believe that it is necessary for the protection of the officer, individual, or any other individual, the officer may temporarily take into custody the firearm that could be used to engage in criminal conduct or to cause harm to the officer, individual, or any other individual.

(b) While the firearm is in the law enforcement officer's possession, and if the officer has a reasonable suspicion that an individual is engaged or is about to be engaged in criminal conduct, the law enforcement officer may conduct a search of any available local, state, or federal criminal history and weapons databases to determine whether the individual is prohibited from possessing the firearm or whether the firearm should not be returned to the individual pursuant to state or federal law.

(c) The law enforcement officer shall return the firearm to the individual before discharging the individual from the scene if the officer determines that both of the following are fulfilled:

(1) The individual is not an immediate threat to the officer, individual, or any other individual.

(2) The individual has not committed a violation that results in the arrest of the individual.

(Act 2022–133, § 5.)

§ 13A–11–98. Construction of Act 2022–133.

Act 2022–133 shall not be construed to diminish or otherwise limit the power of a law enforcement officer under existing law to detain, investigate, or arrest a person for a violation of law.

(Act 2022–133, § 10.)

Article 4.

Fireworks.

§§ 13A–11–100 through 13A–11–105. Repealed by Acts 1981, No. 81–409, § 18, effective May 5, 1981.

Article 5.

Offenses Affecting Businesses, Occupations, and Professions.

§ 13A–11–120. Commercial bribery.

(a) A person commits the crime of commercial bribery if he:

(1) Confers, or agrees or offers to confer, any benefit upon any employee or agent without the consent of the latter's employer or principal, with intent to improperly influence his conduct in relation to his employer's or principal's affairs; or

(2) Confers, or agrees or offers to confer, any benefit upon any fiduciary without the consent of the latter's beneficiary, with intent to improperly influence him to act or conduct himself contrary to his fiduciary obligation.

(b) Commercial bribery is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4201.)

§ 13A–11–121. Receiving commercial bribe.

(a) A person commits the crime of receiving a commercial bribe if:

(1) As an employee or agent, and without the consent of his employer or principal, he solicits, accepts, or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will improperly influence his conduct in relation to his employer's or principal's affairs; or

(2) As a hiring agent or an official or employee in charge of employment, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that someone shall be hired, retained in employment or discharged or suspended from employment; or

(3) As a fiduciary, and without the consent of his beneficiary, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will improperly influence his conduct in his fiduciary capacity.

(b) Subdivision (a)(2) of this section does not apply to any person conducting a private employment agency licensed and operating under the laws of Alabama.

(c) Receiving a commercial bribe is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4205.)

§ 13A–11–122. Conspiracy, combination, or agreement to interfere with or hinder business.

Two or more persons who, without a just cause or legal excuse for so doing, enter into any combination, conspiracy, agreement, arrangement, or understanding for the purpose of hindering, delaying, or preventing any other persons, firms, corporation, or association of persons from carrying on any lawful business shall be guilty of a misdemeanor.

(Acts 1921, Ex. Sess., No. 23, p. 31; Code 1923, § 3447; Code 1940, T. 14, § 54; Code 1975, § 13–6–60.)

§ 13A–11–123. Maintaining blacklist.

Any person, firm, corporation or association of persons who maintains what is commonly called a blacklist or notifies any other person, firm, corporation or association that any person has been blacklisted by such person, firm, corporation or association or who uses any other similar means to prevent any

person from receiving employment from whomsoever he desires to be employed by shall be guilty of a misdemeanor.

(Acts 1921, Ex. Sess., No. 23, p. 31; Code 1923, § 3451; Code 1940, T. 14, § 58; Code 1975, § 13–6–62.)

§ 13A–11–124. Making false statements to obtain workers' compensation benefits.

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining compensation, as defined in Section 25–5–1(1), as amended, for himself or herself or any other person is guilty of a Class C felony.

(Acts 1994, No. 94–653, § 1.)

ARTICLE 6.

OFFENSES RELATING TO SPORTS.

§ 13A–11–140. Definitions.

The following definitions apply to Sections 13A–11–140 through 13A–11–143:

(1) SPORTS CONTEST. Any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons or animals, viewed by the public, and for which admission is charged.

(2) SPORTS PARTICIPANT. Any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.

(3) SPORTS OFFICIAL. Any person who acts or expects to act in a sports contest as an umpire, referee or judge, or otherwise to officiate at a sports contest.

(Acts 1977, No. 607, p. 812, § 4210.)

§ 13A–11–141. Sports bribery generally.

(a) A person commits the crime of sports bribery if he:

(1) Confers, or offers or agrees to confer any benefit upon a sports participant with intent to influence him not to give his best efforts in a sports contest; or

(2) Confers, or offers or agrees to confer any benefit upon a sports official in return for an agreement from him to perform his duties improperly.

(b) Sports bribery is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4211; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–11–142. Receiving sports bribe.

(a) A person commits the crime of receiving a sports bribe if:

(1) Being a sports participant, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts in a sports contest; or

(2) Being a sports official, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will perform his duties improperly.

(b) Receiving a sports bribe is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4212.)

§ 13A–11–143. Tampering with sports contest.

(a) A person commits the crime of tampering with a sports contest if, with intent to influence the outcome of a sports contest, he:

(1) Tampers with any sports participant or sports official, or with any animal, equipment or other thing involved in the conduct or operation of a sports contest, in a manner contrary to the rules and usages purporting to govern the sports contest in question; or

(2) Substitutes a sports participant, animal, equipment or other thing involved in the conduct or operation of a sports contest, for the genuine person, animal or thing.

(b) Tampering with a sports contest is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 4215.)

§ 13A–11–144. Harassment, etc., of sports official.

(a) For purposes of this section, a ''sports official'' is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A ''sports event'' includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the state.

(b) A person commits the crime of harassment of a sports official if he or she commits the crime of harassment as provided for by Section 13A–11–8, and the victim is a sports official performing official duties and the harassment is a result of the official performing his or her official duties. Harassment of a sports official is a Class B misdemeanor.

(c) A person commits the crime of menacing a sports official if he or she commits the crime of menacing as provided for by Section 13A–6–23, and the victim is a sports official performing official duties and the menacing is a result of the official performing his or her official duties. Menacing a sports official is a Class A misdemeanor.

(d) A person commits the crime of assault of a sports official in the third degree if he or she commits the crime of assault in the third degree as

provided for by Section 13A–6–22, and the victim is a sports official performing official duties and the assault is a result of the official performing his or her official duties. Assault of a sports official in the third degree is a Class C felony.

(e) A person commits the crime of assault of a sports official in the second degree if he or she commits the crime of assault in the second degree as provided for by Section 13A–6–21, and the victim is a sports official performing official duties and the assault is a result of the official performing his or her official duties. Assault of a sports official in the second degree is a Class B felony.

(f) A person commits the crime of assault of a sports official in the first degree if he or she commits the crime of assault in the first degree as provided for by Section 13A–6–20, and the victim is a sports official performing official duties and the assault is a result of the official performing his or her official duties. Assault of a sports official in the first degree is a Class A felony.

(Act 2001–1099, 4th Sp. Sess., p. 1158, §§ 1, 2.)

ARTICLE 6A.

OFFENSES AGAINST ANIMAL RESEARCH AND ANIMAL PRODUCTION FACILITIES.

§ 13A–11–150. Legislative findings and determinations.

The Legislature has found and determined that there has been an increasing number of illegal acts committed against animal research and production facilities involving injury to humans or animals, criminal trespass, and damage to property. These acts not only abridge the property rights of the owner of the facility, they also damage the public interest by jeopardizing crucial scientific, biomedical, or agricultural research or production. These actions can also threaten the public safety by exposing communities to serious public health concerns and may substantially disrupt or damage research.

Therefore, it is in the interest of the people of the State of Alabama to protect the welfare of humans and animals as well as productive use of public funds to prohibit unauthorized possession, alteration, or destruction of agricultural, educational, or research records, equipment, and animals.

(Acts 1993, No. 93–327, § 1.)

ARTICLE 6B.

FARM ANIMAL, CROP, AND RESEARCH FACILITIES PROTECTION ACT.

§ 13A–11–151. Short title.

This article may be known and cited as the ''Farm Animal, Crop, and Research Facilities Protection Act.''

(Act 2002–505, p. 1307, § 1.)

§ 13A–11–152. Definitions.

As used in this article, the following terms shall have the following meanings:

(1) ANIMAL. Every living creature, domestic or wild, with the exception of man and animals used for illegal gaming purposes.

(2) ANIMAL OR CROP FACILITY. Any facility engaging in scientific research, education, or agricultural production of or involving the use of animals or crops including any organization with the primary purpose of representing livestock or crop production or processing; any organization with a primary purpose of promoting or marketing livestock or crops; any organization with a primary purpose of promoting or marketing livestock or crop products or materials; any person licensed to practice veterinary medicine; any person licensed to apply chemical applications not limited to pesticides, insecticides, rodenticides, or herbicides; any organization with a primary purpose of representing any of the above; the owner, operator, and employees of any animal or crop facility; and any vehicle, building, greenhouse, structure, laboratory, pasture, field, paddock, pond, impoundment, or premises where animals or crops are located.

(3) COMMISSIONER. The Commissioner of Agriculture and Industries for the State of Alabama.

(4) CROPS. Any shrub, vine, tree, seedling, shoot, slip, or other plant undergoing experimentation or otherwise capable of producing food, fiber, lawful or legal medicines, nursery stock, floral products, or aesthetic beauty.

(5) PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated corporation, a partnership, a government or a governmental instrumentality, or a private organization, association, coalition, federation, and its officers or spokespersons.

(Act 2002–505, p. 1307, § 2.)

§ 13A–11–153. Prohibited acts.

It shall be unlawful for any person to do any of the following:

(1) Intentionally release, steal, destroy, demolish, obliterate, or otherwise cause loss of any animal or crop from an animal or crop facility without the consent of the owner.

(2) Damage, vandalize, or steal any property on or from an animal or crop facility.

(3) Obtain access to an animal or crop facility by false pretenses for the purpose of performing acts not authorized by that facility.

(4) Break and enter into any animal or crop facility with the intent to destroy, alter, duplicate, or obtain unauthorized possession of records, data, materials, equipment, animals, or crops.

(5) Knowingly obtain control by theft or deception that is unauthorized, or to exert control that is unauthorized over any records, data, materials,

equipment, animals, or crops of any animal or crop facility for the purpose of depriving the rightful owner or facility of records, materials, data, equipment, animals, or crops.

(6) Possess or use records, materials, data, equipment, crops, or animals in any way to copy or reproduce records or data of an animal or crop facility knowing or reasonably believing that the records, materials, data, equipment, crops, or animals have been obtained by theft or deception, or without authorization of the rightful owners or administrators of the animal or crop facility.

(7) Enter or remain on an animal or crop facility with the intent to commit an act prohibited under this section.

(Act 2002–505, p. 1307, § 3.)

§ 13A–11–154. Violations.

Any person who violates Section 13A–11–153 shall be guilty of a Class C felony if the loss is two hundred fifty dollars ($250) or more. Any person who violates Section 13A–11–153 shall be guilty of a Class A misdemeanor if the loss is less than two hundred fifty dollars ($250).

(Act 2002–505, p. 1307, § 4.)

§ 13A–11–155. Restitution.

Any person convicted of a violation of this article shall also be required by the court to make restitution of two times the value of the animal or crop damaged, destroyed, or lost to the owner or operator of the animal or crop facility for any reasonable costs of replacing materials, data, equipment, animals, crops, and records that may have been damaged, destroyed, lost, or cannot be returned, and reasonable cost of repeating any experimentation that may have been interrupted or invalidated as a result of any violation of this article.

(Act 2002–505, p. 1307, § 5.)

§ 13A–11–156. Additional remedies.

Notwithstanding any remedy available at law, any owner or operator of an animal or crop facility may apply to the circuit court of the county where the animal or crop facility is located for a temporary restraining order and an injunction to restrain any person, organization, or association from committing any violation of this article.

(Act 2002–505, p. 1307, § 6.)

§ 13A–11–157. Enforcement.

For purposes of enforcing this article, the commissioner may do all of the following:

(1) Investigate any offense under this article.

(2) Seek the assistance of any law enforcement agency of the United States, the state, or any local government in the conduct of any investigations.

(3) Coordinate any investigation, to the maximum extent practicable, with the investigations of any law enforcement agency of the United States, the state, or any local government.

(Act 2002–505, p. 1307, § 7.)

§ 13A–11–158. Construction.

This article shall not be construed to repeal any other criminal law except as expressly provided in this article. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall apply.

(Act 2002–505, p. 1307, § 10.)

Article 7.

Offenses Relating to Libel and Defamation.

§ 13A–11–160. Libel tending to provoke breach of peace.

Any person who publishes a libel of another which may tend to provoke a breach of the peace shall be punished, on conviction, by fine and imprisonment in the county jail, or hard labor for the county; the fine not to exceed in any case $500.00 and the imprisonment or hard labor not to exceed six months.

(Code 1852, § 13; Code 1867, § 3553; Code 1876, § 4106; Code 1886, § 3771; Code 1896, § 5063; Code 1907, § 7338; Code 1923, § 4921; Code 1940, T. 14, § 347; Code 1975, § 13–6–200.)

§ 13A–11–161. Publication of certain documents considered privileged.

The publication of a fair and impartial report of the return of any indictment, the issuance of any warrant, the arrest of any person for any cause or the filing of any affidavit, pleading or other document in any criminal or civil proceeding in any court, or of a fair and impartial report of the contents thereof, or of any charge of crime made to any judicial officer or body, or of any report of any grand jury, or of any investigation made by any legislative committee, or other public body or officer, shall be privileged, unless it be proved that the same was published with actual malice, or that the defendant has refused or neglected to publish in the same manner in which the publication complained of appeared, a reasonable explanation or contradiction thereof by the plaintiff, or that the publisher has refused upon the written request of the plaintiff to publish the subsequent determination of such suit, action or investigation.

(Acts 1931, No. 640, p. 780; Code 1940, T. 14, § 348; Code 1975, § 13–6–201.)

§ 13A–11–162. Indictment for libel.

An indictment for a libel need not set forth any extrinsic facts for the purpose of showing the application to the party libeled of the defamatory matter on which the indictment is founded; it is sufficient to state generally that the same was published concerning him, and the fact that it was so published must be proved on the trial.

(Code 1852, § 582; Code 1867, § 4132; Code 1876, § 4805; Code 1886, § 3772; Code 1896, § 5064; Code 1907, § 7339; Code 1923, § 4922; Code 1940, T. 14, § 349; Code 1975, § 13–6–202.)

§ 13A–11–163. Defamation.

Any person who, with knowledge that a statement is false or with reckless disregard of whether the statement is false or not, publishes or otherwise disseminates any accusation against a private citizen, not currently holding or running for public office, which falsely and maliciously imports the commission by such person of a felony or any other indictable offense involving moral turpitude shall be guilty of a Class B misdemeanor.

(Code 1876, § 4107; Code 1886, § 3773; Code 1896, § 5065; Code 1907, § 7340; Code 1923, § 4923; Code 1940, T. 14, § 350; Code 1975, § 13–6–203; Act 2016–371, p. 922, § 1.)

§ 13A–11–164. Refusal to testify by printer of libel or defamation.

The printer or proprietor of any newspaper, handbill, advertisement or libel, the publication of which is punishable under this article, who refuses, when summoned, to appear and testify before either the grand or petit jury respecting the publication of such newspaper, handbill, advertisement or libel (not having a good excuse, to be determined by the court), is guilty of a contempt and also of a misdemeanor, and, on conviction of such misdemeanor, shall be fined not less than $20.00 nor more than $300.00 and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months.

(Code 1852, § 14; Code 1867, § 3554; Code 1876, § 4108; Code 1886, § 3774; Code 1896, § 5066; Code 1907, § 7341; Code 1923, § 4924; Code 1940, T. 14, § 351; Code 1975, § 13–6–204.)

ARTICLE 8.

REGISTRATION OF FELONS.

§ 13A–11–180. ''Resides'' or ''residing'' defined.

The words ''resides'' or ''residing,'' as used in this article, shall mean any person who remains within any county in the state for a period of more than 24 hours and maintains or uses sleeping quarters anywhere within the county.

(Acts 1966, Ex. Sess., No. 421, p. 565, § 1; Code 1975, § 13–10–1.)

§ 13A–11–181. Person convicted more than twice of felony to register with sheriff of county of residence.

It shall be the duty of any person who has been convicted more than twice of a felony under the laws of any state or the United States, who has not been restored to his civil rights by competent legal authority, and who resides within any county in the State of Alabama, to register within 24 hours after his arrival in the county, in a book of registration to be kept at the county courthouse, under the supervision of the county sheriff. Such person shall make a sworn statement upon blanks to be furnished by the sheriff, stating each offense for which he has been convicted, the time and place of conviction and his address while residing in the county.

(Acts 1966, Ex. Sess., No. 421, p. 565, § 2; Code 1975, § 13–10–2.)

§ 13A–11–182. Registration card.

Upon registration and the filing of the affidavit, as provided in Section 13A–11–181, the sheriff or one of his deputies shall give to such person a registration card, showing the name of such person, his address in the county and the date of registration. Such card shall be signed by the sheriff or one of his deputies. It shall be unlawful for anyone who is required to register under the provisions of this article to be within any county in the state without having in his immediate possession a registration card as provided herein. It shall be the duty of such person to carry the card with him at all times while he is within the county and to exhibit the same to any officer of a municipality, a county or the state upon request.

(Acts 1966, Ex. Sess., No. 421, p. 565, § 3; Code 1975, § 13–10–3.)

§ 13A–11–183. Notice of change of address or place of residence.

It shall be the duty of any person who has registered pursuant to this article and who changes his address or place of residence in the county, to inform the sheriff of such change within 24 hours after the same has been made, which shall be noted in the aforesaid book of registration and also on the registration card.

(Acts 1966, Ex. Sess., No. 421, p. 565, § 4; Code 1975, § 13–10–4.)

§ 13A–11–184. Certain persons exempt.

The provisions of this article shall not apply to any person residing in any county in the state on September 12, 1966, who has not been convicted of or served time for a felony within the five years next preceding such date.

(Acts 1966, Ex. Sess., No. 421, p. 565, § 6; Code 1975, § 13–10–5.)

§ 13A–11–185. Access to registration book.

No person except the sheriff and the deputy sheriffs of the county shall have access to or be permitted to examine the registration book or the sworn statement provided for in this article.

(Acts 1966, Ex. Sess., No. 421, p. 565, § 7; Code 1975, § 13–10–6.)

§ 13A–11–186. Penalties for violation of article.

It shall be unlawful for any person subject to the provisions of this article to fail or refuse to comply with any of the provisions hereof within the time prescribed. Any person violating any provision of this article shall be subject to a fine of not less than $10.00 nor more than $50.00 for each day of violation, or imprisonment in the county jail not less than 10 nor more than 30 days for each day of violation, or both such fine and imprisonment.

(Acts 1966, Ex. Sess., No. 421, p. 565, § 5; Code 1975, § 13–10–7.)

ARTICLE 9.

REGISTRATION OF SEX OFFENDERS.

§ 13A–11–200. Reporting and registration requirements. Repealed by Act 2011–640, p. 1569, § 49, effective July 1, 2011.

§ 13A–11–201. Sheriff to maintain register; disclosure of information. Repealed by Act 2011–640, p. 1569, § 49, effective July 1, 2011.

§ 13A–11–202. Department of Public Safety to maintain register; disclosure of information. Repealed by Act 2011–640, p. 1569, § 49, effective July 1, 2011.

§ 13A–11–203. Penalty for violations of article. Repealed by Act 2005–301, 1st Sp. Sess., p. 571, § 3, effective October 1, 2005.

§ 13A–11–204. Residential limitations on criminal sex offenders in Class 1 municipalities.

(a) This section shall only apply in a Class 1 municipality.

(b) No adult or unrelated juvenile criminal sex offender shall establish a residence or other living accommodation in a residence where another criminal sex offender resides whose name appears on the Jefferson County Sheriff's official published sex offender list.

(c) The owner or lessee of the property who knowingly, willingly, or intentionally permits a violation of subsection (b) shall be fined five thousand dollars ($5,000) for each violation and those fees, once collected, will be distributed to the Birmingham Police Department Sex Offender Unit.

(d) The owner or lessee of the property shall not be in violation of subsection (b) if the sex offender is the spouse or child of the owner or lessee or if the spouse or child is the owner or lessee of the property.

(e) The owner is not in violation where the application for a lease or the lease itself provides a signed statement by the lessee that the lessee is not a convicted sex offender.

(Act 2007–450, p. 929, §§ 1, 2.)

ARTICLE 10.

MISCELLANEOUS OFFENSES RELATING TO PUBLIC SAFETY.

§ 13A–11–220. Creating a hazard.

(a) A person commits the crime of creating a hazard if:

(1) Having discarded, in any place accessible to children, a container having a compartment of more than one and one half cubic feet capacity and a door or lid that locks or fastens automatically when closed and cannot easily be opened from the inside, he fails to remove the door, lid or locking or fastening device; or

(2) Being the owner or otherwise having possession of land upon which there is an abandoned well, cistern or cesspool of a depth of four feet or more and a top width of 12 inches or more, he fails to fill, cover or fence it with a suitable protective construction.

(b) Creating a hazard is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5801.)

§ 13A–11–221. Hindering transportation of commodities.

(a) A person commits the crime of hindering transportation of commodities if, intentionally and without lawful authority, he forcibly stops or hinders the operation of any vehicle transporting farm or commercial products within the state for the purpose of delaying the transportation or interfering with the loading or unloading of farm or commercial products.

(b) Hindering transportation of commodities is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 5805.)

§ 13A–11–222. Unlawfully refusing to yield party line. Repealed by Act 2015–70, § 1(18), effective April 21, 2015.

§ 13A–11–223. Falsely requesting use of party line for emergency. Repealed by Act 2015–70, § 1(18), effective April 21, 2015.

§ 13A–11–224. Storing gunpowder, etc., in city or town.

Any person who keeps on hand, at any one time, within the limits of any incorporated city or town, for sale or for use, more than 50 pounds of

gunpowder or other explosives shall, on conviction, be fined not less than $100.00.

(Code 1852, § 201; Code 1867, § 3748; Code 1876, § 4236; Code 1886, § 4093; Code 1896, § 5351; Code 1907, § 7583; Code 1923, § 5216; Code 1940, T. 14, § 391; Code 1975, § 13–6–7.)

§ 13A–11–225. Release of sky lanterns within 500 yards of public gathering.

(a) As used in this section, the following words have the following meanings:

(1) PUBLIC GATHERING. The presence of more than 500 members of the public in an outdoor place for the purpose of attending a sporting contest, auto race, concert, festival, political rally, parade, or similar event.

(2) SKY LANTERN. An unmanned self-contained free-floating luminary device requiring an open flame underneath, such as a candle, for propulsion.

(b) It is unlawful to release a sky lantern within 500 yards of a public gathering.

(c) A violation of this section is a criminal violation punishable pursuant to Section 13A–5–12.

(Act 2017–387, § 1.)

§ 13A–11–226. Use of permanent or portable electrical generators.

(a) The Legislature finds and declares the following:

(1) It is the intent of the Legislature in enacting this section to prevent electricity generated by permanent or portable electric generators used by persons from back-feeding into an electrical distribution system causing possible bodily injury and harm, including death, and property damage.

(2) That every year in the State of Alabama the use of permanent or portable electric generators to supply power, unless appropriate safeguards are used, creates extremely hazardous conditions from back-feeding electric current onto electrical distribution systems of the electric supplier to which the homes or businesses are connecting, causing death, bodily injury, and property damage.

(3) The dangers created by portable or permanent generators may be mitigated for the benefit of all, including the owner of the electric generator, by enacting certain safety standards to mitigate possible bodily injury, death, or property damage.

(b) In order to prevent back-feeding electricity onto the electric distribution system of the electric supplier, a portable electric generator that is capable of being connected directly into the electrical system of a commercial, industrial, or residential structure may only be connected and used if the structure's electrical system and the electricity generated by the generator are isolated, at

the main breaker panel of the structure, from the electrical distribution system.

(c)(1) This section does not apply to any electric generator that is capable of being permanently connected to the electrical system of a commercial, industrial, or residential structure by way of a transfer switch or other mechanism, as approved by the applicable electric supplier, so that the electricity generated by the generator is prevented from back-feeding onto the electric distribution system of the electric supplier, except as authorized by the applicable electric supplier.

(2) This section does not apply to a permanently connected generator that runs in parallel with the electric distribution system of an electric supplier or the electrical system of a structure and is approved by the applicable electric supplier.

(3) This section does not apply to a permanently connected energy storage system that receives energy from a generator or the applicable electric supplier, is capable of running in parallel with the electric distribution system of the electric supplier or the electrical system of a structure, and is approved by the applicable electric supplier.

(d) A person who violates this section shall be guilty of a Class C misdemeanor.

(e)(1) As used in this section, the term ''electric supplier'' has the same meaning as provided under Section 37–14–31.

(2) As used in this section, the term ''generator'' means a facility owned and operated by a customer of an electric supplier for the production of electrical energy, which is capable of transmitting electrical energy to the electric distribution system of the electric supplier at any time, and that is intended primarily to offset part or all of the customer's requirements for electricity.

(f) Nothing in this section affects or modifies the jurisdiction of the Alabama Public Service Commission or any rates or service regulations filed with the commission.

(Act 2022–369, § 1.)

§ 13A–11–227. Operation of a vehicle containing a false or secret compartment.

(a)(1) It is unlawful for any person to operate any vehicle with knowledge that the vehicle contains a false or secret compartment, the purpose of which compartment is to conceal, hide, or prevent discovery of any one or more of the following by a law enforcement officer:

a. A person concealed for an unlawful purpose.

b. A controlled substance possessed in violation of Article 5, Chapter 12 of this title.

c. Contraband, as defined under Section 20–2–93.

(2) It is unlawful for any person to install, create, build, or fabricate in any vehicle a false or secret compartment, the purpose of which compartment is to conceal, hide, or prevent discovery of any one or more of the following by a law enforcement officer:

a. A person concealed for an unlawful purpose.

b. A controlled substance possessed in violation of Article 5, Chapter 12 of this title.

c. Contraband, as defined under Section 20–2–93.

(3) It is unlawful for any person to sell, trade, or otherwise dispose of a vehicle with knowledge that the vehicle is in violation of this section.

(b) As used in this section, the term ''false or secret compartment'' does not include compartments that existed in or on the motor vehicle at the time of manufacturing, or accessories offered by the motor vehicle manufacturer, distributor, or licensed dealer.

(c) A legal inference of fact may be inferred that the operator of a vehicle seized in violation of this section had knowledge of a false or secret compartment on the vehicle if the vehicle has a false or secret compartment to which any of the following apply:

(1) The compartment is concealing a person for any unlawful purpose, or there is evidence of the previous concealment of a person for an unlawful purpose.

(2) The compartment is concealing a controlled substance possessed in violation of Article 5, Chapter 12 of this title, or there is evidence of the previous unlawful possession of controlled substances.

(3) The compartment is concealing contraband, as defined under Section 20–2–93, or there is evidence of the previous concealment of contraband.

(d) Any vehicle seized under this section shall be deemed contraband and may be forfeited pursuant to Section 20–2–93.

(e)(1) Except as provided in subdivision (2), any person who violates this section shall be guilty of a Class A misdemeanor.

(2) A person who violates subdivision (c)(1) shall be guilty of a Class B felony.

(3) Any person who violates this section shall be required to pay a fine of not more than sixty thousand dollars ($60,000).

(Act 2022–418, § 1.)

ARTICLE 10A.

SERVICE DOGS.

§ 13A–11–230. Purpose.

It is the policy of this state to recognize the special role and value of service dogs, not only in the lives of those persons who use them but also in society at

large, and to encourage the use of service dogs by persons with disabilities and to recognize that those persons have a right to use service dogs without any interference with or injury to the service dog.

(Act 2016–132, p. 312, § 1.)

§ 13A–11–231. Definitions.

For the purposes of this article, the following terms have the following meanings:

(1) HARASS. To engage in any conduct directed toward a service dog or handler that is likely to impede or interfere with the performance of a service dog in its duties or places the health and safety of the service dog or its handler in jeopardy. Such conduct includes actions which distract, obstruct, or intimidate the service dog, such as taunting, teasing, or striking.

(2) INJURY. Physical or emotional injury to the service dog.

(3) NOTICE. An actual verbal or other communication warning that the behavior of the person or the dog of the person is harassing toward the performance of a service dog in its duty or endangering the health and safety of the service dog.

(4) SERVICE DOG. A dog that has been individually trained for the purpose of assisting or accommodating a physician-diagnosed physical or mental disability or medical condition of a person as that term is used in the federal Americans with Disabilities Act. Service dogs include, but are not limited to, guide or leader dogs for persons who are blind; dogs that assist persons with physical disabilities by providing balance support, pulling a wheelchair, or performing other tasks; dogs that provide hearing assistance by alerting individuals who are deaf to specific sounds; and dogs who alert persons to an impending potential medical crisis. The term includes a therapy dog.

(5) THERAPY DOG. A trained emotional support dog that has been tested and registered by a nonprofit national therapy dog organization that sets standards and requirements for the health, welfare, task work, and oversight of therapy dogs and their handlers. The term therapy dog includes a dog trained to visit and provide emotional support to children, the sick and disabled, the aged, and victims in the court system. A registered therapy dog is trained for public access in facilities including, but not limited to, libraries, nursing homes, hospitals, schools, hospice, courthouse facilities, funeral homes, disaster areas, and homes where visits are needed to aid in health care and emotional support. A registered therapy dog is covered under this article from the time the dog leaves its home until the time it returns while in the performance of its duties as defined herein. The handler of a registered therapy dog shall be a member in good standing of a national therapy dog organization and be clearly identified with an organization and have authorized credentials.

(6) VALUE. The value of the service dog to the service dog user as demonstrated by any of the following elements:

a. Cost of the service dog.

b. Replacement and training or retraining expenses for the service dog and the user.

c. Veterinary and other medical and boarding expenses for the service dog during a period of treatment for injury.

d. Lost wages or income incurred by the service dog user during any period the user is without the services of the service dog.

e. Any additional expenses incurred by the service dog user directly because of the loss of the use of the service dog.

(Act 2016–132, p. 312, § 2; Act 2017–412, § 1.)

§ 13A–11–232. Harassment of service dog.

(a) It is unlawful for a person who has received notice that his or her behavior is harassing to a dog the person knows or has reason to believe is a service dog to continue that behavior with malice or reckless disregard.

(b) It is unlawful for a person with reckless disregard to allow his or her dog that is not contained by a fence, a leash, or other containment system to harass a service dog.

(c) A person who violates subsection (a) or (b) is guilty of a Class C misdemeanor.

(Act 2016–132, p. 312, § 3.)

§ 13A–11–233. Causing injury to service dog.

(a) It is unlawful for any person without legal justification or authority to cause injury to a service dog, or to allow his or her dog to cause injury to a service dog.

(b) A person who violates subsection (a) with reckless disregard is guilty of a Class B misdemeanor.

(c) A person who intentionally or willfully violates subsection (a) is guilty of a Class A misdemeanor.

(Act 2016–132, p. 312, § 4.)

§ 13A–11–234. Causing death to service dog; causing injury resulting in disability to service dog.

(a) It is unlawful for any person without legal justification or authority to cause the death of a service dog or cause an injury resulting in disability to the service dog such that it is no longer able to function in that role, or for that person to allow his or her dog to cause the same.

(b) A person who violates subsection (a) with reckless disregard is guilty of a Class A misdemeanor.

(c) A person who intentionally or willfully violates subsection (a) is guilty of a Class A misdemeanor.

(Act 2016–132, p. 312, § 5.)

§ 13A–11–235. Restitution; remedies.

(a) A person convicted of a violation of this article shall be ordered to make full restitution for damages, including incidental and consequential expenses, incurred by the service dog and its user, which arise out of or are related to the violation.

(b) Restitution for a conviction under this article includes, but is not limited to, any of the following:

(1) The medical expenses of the service dog and its user, and the value of the service dog to its user for the period in which the dog is unable to perform its duties due to injuries suffered as a proximate cause of the violation, or if the violation resulted in the death or permanent disability of the service dog, the value of the service dog to its user.

(2) The cost of any retraining of the service dog needed as a result of the violation.

(3) Compensation for wages or earned income lost by the service dog user as a proximate cause of the violation.

(4) Any other economic loss suffered by the service dog user as a proximate result of the violation.

(c) This section does not affect the civil remedy that is available for violations of this article. Restitution paid pursuant to this article shall be set off against damages awarded in a civil action arising out of the same conduct that resulted in the restitution payment.

(d) The user of a service dog may bring a civil cause of action for violation of any of this article in a court of competent jurisdiction in the county where the service animal user resides or where the violation occurred.

(e) In any civil action brought under this article, the court may award costs and reasonable attorney fees to the prevailing party.

(Act 2016–132, p. 312, § 6.)

ARTICLE 11.

CRUELTY TO DOG OR CAT.

§ 13A–11–240. Definitions.

(a) The word ''torture'' as used in this article shall mean the act of doing physical injury to a dog or cat by the infliction of inhumane treatment or gross physical abuse meant to cause said animal intensive or prolonged pain or serious physical injury, or thereby causing death due to said act.

(b) The word ''cruel'' as used in this article shall mean: Every act, omission, or neglect, including abandonment, where unnecessary or unjustifi-

able pain or suffering, including abandonment, is caused or where unnecessary pain or suffering is allowed to continue.

(c) The words ''dog or cat'' as used in this article shall mean any domesticated member of the dog or cat family.

(Act 2000–615, p. 1252, § 1.)

§ 13A–11–241. Cruelty in first and second degrees.

(a) A person commits the crime of cruelty to a dog or cat in the first degree if he or she intentionally tortures any dog or cat or skins a domestic dog or cat or offers for sale or exchange or offers to buy or exchange the fur, hide, or pelt of a domestic dog or cat. Cruelty to a dog or cat in the first degree is a Class C felony. A conviction for a felony pursuant to this section shall not be considered a felony for purposes of the Habitual Felony Offender Act, Sections 13A–5–9 to 13A–5–10.1, inclusive.

(b) A person commits the crime of cruelty to a dog or cat in the second degree if he or she, in a cruel manner, overloads, overdrives, deprives of necessary sustenance or shelter, unnecessarily or cruelly beats, injuries, mutilates, or causes the same to be done. Cruelty to a dog or cat in the second degree is a Class A misdemeanor.

(Act 2000–615, p. 1252, § 2.)

§ 13A–11–242. Appointment of agents.

Any county or municipality may appoint one or more trained agents to inspect alleged violations of this article, to protect dogs or cats from any cruelty charged, and to prevent any cruelty to any dog or cat. Any appointment made pursuant to this section shall be made at a meeting of the local governing body duly called with notice.

(Act 2000–615, p. 1252, § 3.)

§ 13A–11–243. Powers of agents, officers; liability.

(a) Any law enforcement officer and any agent of the county or the municipality appointed pursuant to Section 13A–11–242, having reasonable belief, evidence of, or having found a dog or cat to be neglected or cruelly treated may perform either of the following:

(1) Remove the dog or cat from its present location.

(2) Order the owner of the dog or cat to provide certain care to the dog or cat at the owner's expense without the removal of the dog or cat from its present location.

(b) Neither the county or municipality, nor any employee or agent of the county or municipality, acting in good faith, shall be liable for any actions taken under this section, regardless of whether or not the dog or cat is returned to its owner after impoundment.

(Act 2000–615, p. 1252, § 4.)

§ 13A–11–244. Hearing.

(a) The law enforcement officer or any agent of the county or of the municipality, without the requirement of any fee or charge for court costs, shall immediately petition the municipal court if the violation involves a municipal ordinance or the district court in the county in which the dog or cat is found for a hearing to be set within 20 days of seizure of the dog or cat or issuance of the order to provide care. The hearing shall be held not more than 10 days after the setting of the date to determine whether the owner, if known, is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat. The hearing shall be concluded and the court order entered within 30 days after the date the hearing is commenced.

(b) The owner, at least five days prior to holding such a hearing, shall be notified of the date of the hearing to determine if the owner is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat.

(Act 2000–615, p. 1252, § 5.)

§ 13A–11–245. Disposition of animal.

(a) The law enforcement officer or agent of the county or municipality may provide for the dog or cat until either the dog or cat is returned to the owner by the court, or the court refuses to return the dog or cat to the owner and implements one of the procedures pursuant to subsection (c).

(b) If the owner is adjudged by the court, with certification from a licensed veterinarian, to be able to provide adequately for and have custody of the dog or cat, the dog or cat shall be returned to the owner.

(c) If the court determines that the owner of the dog or cat is unable, unwilling, or unfit to adequately provide for, protect, and have custody of the dog or cat, the court may implement the following by court order:

(1) Upon the testimony of the person taking custody, a licensed veterinarian, or another qualified witness that the dog or cat requires destruction or other disposition for humane reasons or is of no commercial value, order the dog or cat destroyed or remanded directly to the custody of the dog or cat control, humane shelter, or similar facility designated by the county or the municipality or other appropriate person to be disposed of by the facility or person in a humane manner.

(2) Upon proof of the costs incurred by the agent or agency having custody of the dog or cat, order that the owner pay any costs incurred for the care of the dog or cat and for any costs incurred in destroying the dog or cat. A separate hearing may be held by the judge of the district court on the assessment of costs, which assessment shall include all costs of notice and hearing. In the event the court finds the owner innocent of charges, the owner shall not be charged with costs of the care of the dog or cat in custody.

(d) If the court determines that the owner is unable, unwilling, or unfit to adequately provide for and protect any other dog or cat in the custody of the owner that was not originally seized by the agency, agent, or other person when the dog or cat in custody was seized, the court may enjoin the owner of further possession or custody of the unseized dog or cat.

(Act 2000–615, p. 1252, § 6.)

§ 13A–11–246. Applicability.

This article shall not apply to any of the following persons or institutions:

(1) Academic and research enterprises that use dogs or cats for medical or pharmaceutical research or testing.

(2) Any owner of a dog or cat who euthanizes the dog or cat for humane purposes.

(3) Any person who kills a dog or cat found outside of the owned or rented property of the owner or custodian of the dog or cat when the dog or cat threatens immediate physical injury or is causing physical injury to any person, animal, bird, or silvicultural or agricultural industry.

(4) A person who shoots a dog or cat with a BB gun not capable of inflicting serious injury when the dog or cat is defecating or urinating on the person's property.

(5) A person who uses a training device, anti-bark collar, or an invisible fence on his or her own dog or cat or with permission of the owner.

(Act 2000–615, p. 1252, § 7.)

§ 13A–11–247. Construction.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

(Act 2000–615, p. 1252, § 8.)

Article 11A.

Offenses Relating to Police Animals, Search and Rescue Animals, and Handlers Thereof.

§ 13A–11–260. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) Containment area. Any area used to hold a police animal or search and rescue animal regardless whether on duty or off duty, including, but not limited to, a kennel, car unit, trailer, tent, staging area, stable, paddock, tie-out, or fenced area or pasture.

(2) HANDLER. A peace officer, firefighter, search and rescue person, or other specifically trained individual who uses a police animal or search and rescue animal in the performance of his or her duties. For purposes of this article, a peace officer and firefighter are defined in Section 36–30–1.

(3) HARASS. Any act or omission, or attempted act or omission, with or without actual physical contact, which results or could result in harm, disabling, restriction, control of the animal, or a distraction from duties of the animal or handler including, but not limited, to the following:

a. Taunting, teasing, tormenting, mistreating, spitting, shouting, inappropriate gesturing or noises, or approaching in a menacing fashion.

b. Poking, prodding, striking, or kicking.

c. Spraying, throwing, pushing, or otherwise projecting an item or substance, including a flash of light or laser, in a manner likely to cause harm or distraction from duties.

d. Placing food, drugs, chemicals, poison, or other items in the path, area of operation, or containment.

(4) PHYSICAL HARM. Any injury, illness, or other impairment, regardless of its gravity or duration.

(5) POLICE ANIMAL. An animal, generally a dog or horse, which is not a human, with specialized training or in the process of specialized training, which is used by, and under the control of a peace officer, Class One Railroad Officer or special agent, or firefighter, in the performance of his or her duties.

(6) SEARCH AND RESCUE ANIMAL. Any animal with specialized training or in the process of specialized training, which is utilized for the principal purpose of aiding in the detection of missing persons, including, but not limited to, tracking persons who are lost or missing regardless whether living or deceased, sometimes referred to as a ''SAR'' animal.

(7) SERIOUS PHYSICAL HARM. Any physical harm that carries a substantial risk of death, permanent or temporary maiming or disfigurement, or that causes pain or suffering of any gravity or duration.

(Act 2013–421, p. 1677, § 1; Act 2015–457, p. 1496, § 1.)

§ 13A–11–261. Harassment of, interference with, etc., duties of police animals, search and rescue animals, or handlers; causing physical harm or death; entering containment area; restraining, taunting, endangering, etc.

(a) Any person who intentionally and knowingly causes, attempts to cause, or causes another person to harass, interfere, or obstruct a police animal or search and rescue animal being used by a handler in lawfully performing duties or causes harassment, interference, or obstruction of a handler in lawfully performing his or her duties is guilty of a Class A misdemeanor.

(b) Any person who intentionally and knowingly causes or attempts to cause physical harm to a police animal or search and rescue animal which results in no long-term damage or disfigurement of the animal and any temporary loss of service of the animal does not exceed 30 calendar days, is guilty of a Class A misdemeanor.

(c) Any person who intentionally and knowingly causes or attempts to cause serious physical harm, theft, or death of a police animal or search and rescue animal is guilty of a Class C felony.

(d) Any person who intentionally and knowingly enters a containment area of a police animal or search and rescue animal without the consent of the handler, causes or attempts to cause any item or substance to enter the containment area without the consent of the handler, or who releases a police animal or search and rescue animal without the consent of the handler, is guilty of a Class A misdemeanor.

(e) An owner or keeper of a dog or other animal, who fails to reasonably restrain the dog or animal from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police animal or search and rescue animal, is responsible for any violation of this article in the same manner as if he or she knowingly caused or attempted to cause the violation.

(Act 2013–421, p. 1677, § 2.)

§ 13A–11–262. Applicability of article.

(a) This article shall apply regardless whether the police animal or search and rescue animal is in the actual performance of assisting a handler in his or her duties or is off duty.

(b) If the police animal or search and rescue animal is in a containment area not in the immediate presence of the handler, this article only applies to an offender who knows or should know at the time of the violation that the animal that is the subject of the violation is a police animal or search and rescue animal.

(Act 2013–421, p. 1677, § 3.)

§ 13A–11–263. Penalties.

In addition to any other penalties imposed, any person who violates this article may be ordered by the court to pay restitution to the owner of the police animal or search and rescue animal and the agency involved for expenses caused by the violation, including, but not limited to, the following:

(1) Any veterinary expenses resulting from the violation.

(2) Replacement costs of the animal if it is stolen, killed, or disabled temporarily or permanently, and can no longer perform its duties.

(3) The salary of the handler for the period of time his or her services are lost to the employer and any expenses for a replacement employee during that period of time, if needed.

(4) The value of any services lost to employer until replacement services are obtained.

(5) Any lost or damaged equipment.

(6) Training, retraining, or rehabilitation expenses for the animal and for the handler.

(Act 2013–421, p. 1677, § 4.)

§ 13A–11–264. Emergency euthanasia; defenses.

(a) This article does not prohibit a credentialed euthanasia technician, an authorized handler, or a veterinarian from euthanizing a police animal or search and rescue animal in an emergency if the animal is critically wounded and would otherwise endure undue suffering and pain.

(b) It is a defense that the accused person, acting as handler or as an employee or agent of the handler or employing agency, engaged in a reasonable act of training, handling, or discipline of the animal or reasonably believed the violating conduct was necessary to prevent serious physical harm or death of another person.

(Act 2013–421, p. 1677, § 5.)

Article 12.

Offenses Relating to Airbags.

§ 13A–11–270. Airbag fraud.

(a) For the purposes of this section, the following terms shall have the following meanings:

(1) Airbag. A motor vehicle inflatable occupant restraint system or any component thereof that satisfies both of the following:

a. Operates in the event of a crash.

b. Was designed in accordance with all applicable federal safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

(2) Counterfeit airbag. A replacement motor vehicle inflatable occupant restraint system or any component thereof displaying a mark identical or similar to the genuine mark of a motor vehicle manufacturer without authorization from the manufacturer.

(3) Nonfunctional airbag. A replacement motor vehicle inflatable occupant restraint system or any component thereof that satisfies any of the following:

a. Was previously deployed or damaged.

b. Has a fault that is detected by the vehicle diagnostic system after the installation procedure is completed.

c. Includes any part or object, including, but not limited to, a counterfeit airbag, a nonfunctional airbag, or a repaired airbag cover, installed in a motor vehicle to mislead the owner or operator of such motor vehicle into believing that a functional airbag has been installed.

(b) A person commits the offense of airbag fraud if the person knowingly and intentionally as defined in Section 13A–2–2, does any of the following:

(1) Manufactures, imports, sells, offers for sale, installs, or reinstalls a counterfeit airbag, a nonfunctional airbag, or any other device to replace an airbag that the person knew was not designed in accordance with all applicable federal safety standards for the make, model, and year of the motor vehicle.

(2) Installs a used airbag in a motor vehicle and fails to disclose to the owner or lessee that a used airbag has been installed.

(3) Sells any device, or installs or reinstalls in any vehicle any device, that causes the vehicle's diagnostic system to inaccurately indicate that the vehicle is equipped with a functional airbag when a counterfeit airbag, nonfunctional airbag, or no airbag is installed.

(4) Installs or requests another to install a counterfeit airbag or nonfunctional airbag and sells or offers to sell the vehicle to another person with the intent to deceive the purchaser about the existence of the counterfeit airbag or nonfunctional airbag in the vehicle.

(c) Airbag fraud is a Class A misdemeanor. If the fraud contributes to a person's serious physical injury or death, airbag fraud is a Class C felony.

(Act 2003–350, p. 919, § 1; Act 2014–138, p. 254, § 1.)

§ 13A–11–271. Fraudulent sale of a motor vehicle without an airbag.

Repealed by Act 2014–138, p. 254, § 2, effective June 1, 2014.

§ 13A–11–272. Construction of article.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

(Act 2003–350, § 3.)

Article 13.

Leaving Child or Incapacitated Person Unattended in a Motor Vehicle.

§ 13A–11–290. Leaving child or incapacitated person unattended in motor vehicle prohibited.

(a) This section shall be known and cited as the Amiyah White Act.

(b) For the purposes of this section, the term motor vehicle shall mean any motor vehicle as defined in Section 32–1–1.1, and the term incapacitated person shall mean any incapacitated person as defined in Section 26–2A–20.

(c)(1) A licensed day care center, a licensed child care facility, a program providing day care service to incapacitated persons, or any other child care service that is exempt from licensing pursuant to Section 38–7–3, or an employee thereof, or a person for hire responsible for a child under the age of 7 or an incapacitated person, shall not leave a child or an incapacitated person in a motor vehicle unattended in a manner that creates an unreasonable risk of injury or harm.

(2) A person violating this section shall be punished by a fine of not less than two thousand dollars ($2,000). If a person has a prior conviction or adjudication under this section, the offense is a Class C misdemeanor.

(3) For purposes of determining prior conviction or adjudication pursuant to subdivision (2), conviction in municipal court shall be included.

(4) If the child or incapacitated person receives physical injury as a result of a violation of this section, the person violating this section is guilty of a Class A misdemeanor.

(5) If the child or incapacitated person receives serious physical injury as a result of a violation of this section, the person violating this section is guilty of a Class C felony.

(6) If the child or incapacitated person is fatally injured as a result of a violation of this section, the person violating this section is guilty of a Class B felony.

(d) Notwithstanding the foregoing, nothing in this section shall limit any existing cause of action or right to bring a cause of action. A violation of this section shall not be considered evidence of contributory negligence and the liability of an insurer shall not be limited or mitigated.

(Act 2013–287, p. 993, §§ 1–3.)

Article 14.

Offenses Relating to Certain Motor Vehicle Speed Contests, Exhibitions of Speed, and Sideshows.

§ 13A–11–300. Certain motor vehicle speed contests, motor vehicle exhibitions of speed, motor vehicle sideshows, etc., prohibited.

(a) As used in this section, the following terms have the following meanings:

(1) Motor vehicle burnout. The practice of intentionally keeping a motor vehicle stationary by using the brake pedal or parking brake of the vehicle, while simultaneously engaging the gas pedal to allow one set of wheels to spin. The practice may result in the vehicle tires being heated to a sufficient degree so as to cause smoke to appear.

(2) MOTOR VEHICLE DONUT. The intentional and unnecessary operation of a motor vehicle in a manner that causes the vehicle to move in a zigzag or circular course or to gyrate or spin around. The term does not include maneuvering the otherwise lawfully operated vehicle when necessary to avoid collision, injury, or damage.

(3) MOTOR VEHICLE EXHIBITION OF SPEED. The operation of one or more vehicles from a starting point to an ending point, or over a common selected course, for the purpose of exhibiting the speed or power of the vehicle.

(4) MOTOR VEHICLE SPEED CONTEST. The operation of two or more vehicles at accelerated speeds from a starting point to an ending point in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course from a starting point to an ending point for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit. The term includes drag racing.

(5) MOTOR VEHICLE SIDESHOW. An event in which one or more persons perform motor vehicle stunts, including burnouts, donuts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators.

(6) OFF STREET PARKING FACILITY. Any public or private lot, building, or space used for the parking of motor vehicles, regardless of whether charges are made for the use thereof.

(7) TRAFFIC ENFORCEMENT OFFICER. Any parking enforcement officer or traffic enforcement officer, as designated by the applicable local governing body, who is not required to be certified by the Alabama Peace Officers' Standards and Training Commission, and any law enforcement officer.

(b)(1) A person shall not engage in, or aid or abet the furtherance of, or give consent for his or her vehicle to be used in, any of the following on a public road or highway, off street parking facility, or any other parcel of public or private property, without the consent of the owner of that property.

a. A motor vehicle speed contest.

b. A motor vehicle exhibition of speed.

c. A motor vehicle sideshow.

d. A motor vehicle burnout, motor vehicle donut, or other reckless driving maneuver.

(2) A person shall be deemed to give consent for his or her vehicle to be used in violation of this subsection if the person knew, or should have reasonably known based on the totality of the circumstances, that the person's vehicle would be used to commit a violation of this subsection.

(c) A person convicted of violating subsection (b), for a first violation, shall be guilty of a Class C misdemeanor, and for a second or subsequent violation shall be guilty of a Class B misdemeanor. In addition, the court may prohibit

the person from driving a motor vehicle on the public highways of this state for a period not exceeding six months.

(d)(1) If a person operating a motor vehicle in violation of subsection (b) proximately causes bodily injury to another individual, or the offense proximately causes damage to any property, the person shall be guilty of a Class A misdemeanor. In addition, the court shall prohibit the person from operating a motor vehicle on the public highways of this state for a period of six months.

(2) If a person commits a violation of subsection (b) and the commission of the offense proximately causes serious physical injury to a person other than the driver, the person shall be guilty of a Class C felony. In addition, the court shall prohibit the person from operating a motor vehicle on the public highways of this state for a period of two years.

(3) If a person commits a violation of subsection (b) and the commission of the offense proximately causes death to any person, the person shall be guilty of a Class B felony. In addition, the court shall prohibit the person from operating a motor vehicle on the public highways of this state for not less than two years.

(e) Any contracts in place between an arresting municipality and the county for the actual housing costs of individuals housed in the county jail shall apply to an arrest made by a municipal police officer resulting in misdemeanor charges under this section. If no contract is in place, the arresting municipality shall reimburse the county for the actual housing costs of the incarceration of the individuals held on misdemeanor charges.

(f)(1) If a motor vehicle is observed by a traffic enforcement officer or recorded on an automated photographic or video traffic enforcement system to be in violation of this section, a traffic enforcement officer may cause the vehicle to be towed and impounded at the registered owner's expense for not less than 48 hours. The traffic enforcement officer making the impoundment shall direct an approved towing service to tow the vehicle to the garage of the towing service, storage lot, or other place of safety and maintain custody and control of the vehicle for a minimum of 48 hours. The minimum impoundment period may be extended by order of the court. Thereafter, the registered owner or authorized agent of the registered owner may claim the vehicle by paying all reasonable and customary towing and storage fees for the services of the towing company. The vehicle shall then be released to the registered owner or an agent of the owner. Any towing service or towing company removing the vehicle at the direction of the traffic enforcement officer in accordance with this section shall have a lien on the motor vehicle for all reasonable and customary fees relating to the towing and storage of the motor vehicle. This lien shall be subject and subordinate to all prior security interests and other liens affecting the vehicle whether evidenced on the certificate of title or otherwise. Notice of any sale or other proceedings relative to this lien shall be given to the holders of all prior security interests or other liens by official service of process at least 30 days prior to any sale or other proceedings. An owner of

a motor vehicle seized or impounded under this subdivision may contest the propriety of the seizure, continued impoundment, and associated fines or fees in accordance with the procedures of Section 20–2–93(1) or Rule 3.13(a) of the Alabama Rules of Criminal Procedure.

(2) If a person has been convicted of three or more violations of this section, the motor vehicle operated by the person in the commission of the offense shall be seized and forfeited pursuant to the procedures of Section 20–2–93.

(g) If a person's privilege to operate a motor vehicle is suspended or restricted by a court pursuant to this section, the court shall notify the Alabama State Law Enforcement Agency and the license of the person shall be suspended or restricted for the period by the Secretary of the Alabama State Law Enforcement Agency pursuant to Section 32–5A–195.

(h) Nothing in this section applies to private motor speedways or other areas of private land where racing or stunt driving activities are authorized to be performed by the owner and operator thereof.

(i) Any local governing body may use an automated photographic or video traffic enforcement system to assist in the detection and recording of a violation of this section. Nothing in this subsection shall authorize the use of an automated traffic enforcement system for purposes of detecting red light or speed violations.

(Act 2023–174, § 1, eff. Aug. 1, 2023; Act 2024–323, § 1, eff. May 9, 2024.)

CHAPTER 12.

OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

ARTICLE 1.

GENERAL PROVISIONS.

§ 13A–12–1. Certain acts prohibited on Sunday. Repealed by Act 2015–70, § 1(19), effective April 21, 2015.

§ 13A–12–2. Holding public markets and trading therein on Sunday. Repealed by Act 2015–70, § 1(19), effective April 21, 2015.

§ 13A–12–3. Selling, bartering, etc., of tobacco, tobacco products, etc., to individuals under the age of 21 years.

Any person who sells, barters, exchanges, or gives to any individual under the age of 21 years any tobacco, tobacco product, electronic nicotine delivery system, or alternative nicotine product, on conviction, shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300) and may also be imprisoned in the county jail for not more than 30 days.

(Code 1896, § 5336; Code 1907, § 6466; Code 1923, § 3567; Code 1940, T. 14, § 95; Code 1975, § 13–6–5; Act 2019–233, § 2; Act 2021–453, § 1.)

§ 13A–12–3.1. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) ALTERNATIVE NICOTINE PRODUCT. The same meaning as in Section 28–11–2.

(2) BOARD. The same meaning as in Section 28–11–2.

(3) BRAND STYLE. A variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of cigarette, filtration on the cigarette, or packaging.

(4) CLEAR AND CONSPICUOUS STATEMENT. A statement that is of sufficient type size to be clearly readable by the recipient of the communication.

(5) COMMISSIONER. The Commissioner of the Alabama Department of Revenue.

(6) CONSUMER. An individual who acquires or seeks to acquire cigarettes, or any one or more articles taxed herein, for personal use.

(7) DELIVERY SALE. Any sale of cigarettes to a consumer within this state, regardless of whether the seller is located in this state, where either of the following is true:

a. The purchaser submits the order for sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, facsimile transmission, or the Internet or other online service.

b. The cigarettes are delivered by use of the mails or other delivery service.

(8) DELIVERY SALE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS OR ALTERNATIVE NICOTINE PRODUCTS. Any sale of electronic nicotine delivery systems or alternative nicotine products to a consumer in this state, regardless of whether the seller is located in this state, where either of the following is true:

a. The purchaser submits the order for the sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, facsimile transmission, or the Internet or other online service.

b. The electronic nicotine delivery systems or alternative nicotine products are delivered by use of the mails or other delivery service.

(9) DELIVERY SALES STATUTES. Those provisions contained within Sections 13A–12–3.2, 13A–12–3.3, 13A–12–3.4, 13A–12–3.5, 13A–12–3.6, and 13A–12–3.7.

(10) DELIVERY SERVICE. Any person, other than a person who makes a delivery sale, who delivers to the consumer the cigarettes sold in a delivery sale.

(11) DEPARTMENT. The Alabama Department of Revenue.

(12) ELECTRONIC NICOTINE DELIVERY SYSTEM. The same meaning as in Section 28–11–2.

(13) GOVERNMENT–ISSUED IDENTIFICATION. A state driver's license, state identification card, passport, a military identification, or an official naturalization or immigration document, including an alien registration recipient card or green card, or an immigrant visa.

(14) LEGAL MINIMUM AGE. 21 years of age.

(15) LIQUID NICOTINE CONTAINER. The same meaning as in Section 28–11–2.

(16) MAILS or MAILING. The shipment of cigarettes through the United States Postal Service.

(17) OUT–OF–STATE SALE. A sale of cigarettes to a consumer located outside of this state where the consumer submits the order for sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, facsimile transmission, or the Internet or other online service, and where the cigarettes are delivered by use of the mails or other delivery service.

(18) PERSON. Any individual, corporation, partnership, limited liability company, association, or other organization that engages in any for-profit or not-for-profit activities.

(19) SHIPPING DOCUMENTS. Bills of lading, air bills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

(20) SHIPPING PACKAGE. A container in which packs or cartons of cigarettes are shipped in connection with a delivery sale.

(21) STAMP or STAMPS. The stamp or stamps by the use of which the tax levied under this article is paid and shall be designated Alabama Revenue Stamps.

(22) WITHIN THIS STATE. Within the exterior limits of the State of Alabama.

(Act 2006–619, p. 1694, § 1; Act 2019–233, § 2; Act 2021–453, § 1.)

§ 13A–12–3.2. Delivery sale to persons under legal minimum age prohibited; acceptance of purchase order.

(a) No person shall make a delivery sale of cigarettes to any individual who is under the legal minimum age.

(b) Each person accepting a purchase order for a delivery sale shall comply with the provisions of this chapter and all other laws of this state generally applicable to sales of cigarettes that occur within this state, including, but not limited to, those laws imposing excise taxes, sales taxes, license and revenue-stamping requirements, and escrow payment obligations.

(c) Violations of the delivery sales statutes shall, in addition to any other penalty provided by law, be subject to the penalties provided under subsection (b) of Section 8–19–12.

(Act 2006–619, p. 1694, § 1.)

§ 13A–12–3.3. Delivery prerequisites.

No person, other than a delivery service, shall mail, ship, or otherwise cause to be delivered a shipping package in connection with a delivery sale unless the following occur:

(1) The person, prior to the first delivery sale to the prospective consumer, obtains from the prospective consumer a written certification which includes a statement signed by the prospective consumer that certifies the prospective consumer's current address and that the consumer is at least the legal minimum age.

(2) The person informs, in writing, the prospective consumer all of the following:

a. The signing of another person's name to the certification described in this section is illegal.

b. Sales of cigarettes to individuals under the legal minimum age are illegal.

c. The purchase of cigarettes by individuals under the legal minimum age is illegal.

(3) The person makes a good faith effort to verify the date of birth of the consumer provided pursuant to this section against a commercially available database or by obtaining a photocopy or other image of a valid government-issued identification stating the date of birth or age of the prospective consumer.

(4) The person provides to the prospective consumer a notice which meets the requirements of Section 13A–12–3.4.

(5) The person receives payment for the delivery sale from the prospective consumer by a credit or debit card that has been issued in the consumer's name, or by check, or other written instrument in the consumer's name.

(6) The person ensures that the shipping package is delivered to the same address as is provided on the government-issued identification or as included in the commercially available database.

(Act 2006–619, p. 1694, § 1.)

§ 13A–12–3.4. Notice requirements.

(a) The notice required under subdivision (4) of Section 13A–12–3.3 shall include all of the following:

(1) A statement that cigarette sales to consumers below the legal minimum age are illegal.

(2) A statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with Section 13A–12–3.3.

(3) One of the warnings set forth in Section 4(a)(1) of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. § 1333(a)(1), rotated on a quarterly basis.

(4) A statement that cigarette sales are subject to tax under Section 40–25–2, and an explanation of how such tax has been, or is to be, paid with respect to the delivery sale.

(b) A statement meets the requirements of this section if all of the following occur:

(1) The statement is clear and conspicuous.

(2) The statement is contained in a printed box set apart from the other contents of the communication.

(3) The statement is printed in bold capital letters.

(4) The statement is printed with a degree of color contrast between the background and the printed statement that is no less than the color contrast between the background and the largest text used in the communication.

(5) For any printed material delivered by electronic means, the statement appears at both the top and the bottom of the electronic mail message or both the top and the bottom of the Internet website homepage.

(Act 2006–619, p. 1694, § 1.)

§ 13A–12–3.5. Shipping requirements.

Each person, other than a delivery service, who mails, ships, or otherwise causes to be delivered a shipping package in connection with a delivery sale shall do all of the following:

(1) Include as part of the shipping documents a clear and conspicuous statement stating: ''Cigarettes: Alabama Law Prohibits Shipping to Individuals Under 19 Years of Age and Requires the Payment of All Applicable Taxes.''

(2) Use a method of mailing, shipping, or delivery that requires the consumer's signature before the shipping package is released to the consumer.

(3) Ensure that the shipping package is not delivered to any post office box.

(Act 2006–619, p. 1694, § 1.)

§ 13A–12–3.6. Reporting requirements.

(a) Each person who makes a delivery sale of cigarettes to a consumer located within this state shall file with the department for each individual sale all of the following information:

(1) A statement setting forth such person's name, trade name, and address of such person's principal place of business and any other place of business.

(2) Not later than the tenth day of each calendar month, a memorandum or copy of the invoice for each and every such delivery sale made during the previous calendar month, which includes the following information:

a. The name and address of the consumer to whom the delivery sale was made.

b. The brand style or brand styles of the cigarettes that were sold in the delivery sale.

c. The quantity of cigarettes that were sold in the delivery sale.

d. An indication of whether or not the cigarettes sold in the delivery sale bore a tax stamp evidencing payment of the tax under Section 40–25–2.

(b) Each person engaged in business within this state who makes an out-of-state sale shall, for each individual sale, submit to the appropriate tax official of the state in which the consumer is located the information required in subsection (a).

(c) Any person that satisfies the requirements of 15 U.S.C. § 376, shall be deemed to satisfy the requirements of subsections (a) and (b).

(d) The commissioner may disclose to the Attorney General any information received under this chapter and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of this chapter. The commissioner and the Attorney General shall share with each other the information received under this chapter and may share the information with other federal, state, or local agencies for purposes of enforcement of this chapter or other federal or state laws.

(e) Violations of this section shall, in addition to any other penalty provided by law, be subject to the penalties provided under Section 40–25–13.

(f) This section shall not be construed to impose liability upon any delivery service, or officers, or employees thereof, when acting within the scope of business of the delivery service.

(Act 2006–619, p. 1694, § 1.)

§ 13A–12–3.7. Collection and remittance of taxes; statement requirements.

(a) Each person who makes a delivery sale shall collect and remit to the department all excise taxes imposed by this state with respect to the delivery and maintain evidence of the payment unless the person is located outside the state and includes a statement on the outside of the shipping package stating: ''Alabama law requires the payment of state taxes on this shipment of cigarettes. You are legally responsible for all applicable unpaid taxes on these cigarettes.''

(b) A statement meets the requirements of this section if the following occur:

(1) The statement is clear and conspicuous.

(2) The statement is contained in a printed box set apart from the shipping label and other markings contained on the shipping package.

(3) The statement is printed in bold capital letters.

(4) The statement is printed with a degree of color contrast between the background and the printed statement that is no less than the color contrast between the background and the largest text used on the shipping label.

(5) The statement is located on the same side of the shipping package as the shipping label.

(Act 2006–619, p. 1694, § 1.)

§ 13A–12–3.8. Permit requirements; violations.

(a) No person may conduct a delivery sale of electronic nicotine delivery systems or alternative nicotine products unless the seller has obtained a valid permit to conduct delivery sales of electronic nicotine delivery systems or alternative nicotine products issued by the board pursuant to Section 28–11–4.

(b) No person may conduct a delivery sale of electronic nicotine delivery systems or alternative nicotine products to a person under the legal minimum age.

(c) A person holding a permit to conduct delivery sales of electronic nicotine delivery systems or alternative nicotine products may not accept a purchase or order from any person without first obtaining the full name, birth date, and residential address of that person and verifying this information through an independently operated third-party database or aggregate of databases, which includes data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication.

(d) A person holding a permit to conduct delivery sales of electronic nicotine delivery systems or alternative nicotine products shall accept payment only through a credit or debit card issued in the purchaser's own name.

(e) Each violation for conducting a delivery sale of electronic nicotine delivery systems or alternative nicotine products without a valid permit or otherwise in violation of this section shall be treated as a separate offense and be punishable as follows: For the first violation, a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500); and for each subsequent violation, a fine of not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1,500).

(Act 2019–233, § 3.)

§ 13A–12–4. Keeping cockpit; cockfighting.

Any person who keeps a cockpit or who in any public place fights cocks shall, on conviction, be fined not less than $20.00 nor more than $50.00.

(Code 1896, § 4425; Code 1907, § 6467; Code 1923, § 3568; Code 1940, T. 14, § 96; Code 1975, § 13–6–13.)

§ 13A–12–5. Unlawful bear exploitation; penalties. Repealed by Act 2015–70, § 1(21), effective April 21, 2015.

§ 13A–12–6. Hog and canine fighting.

(a) As used in this section, the term ''hog'' shall mean a pig, swine, or boar.

(b) The crime of hog and canine fighting occurs when a person organizes or conducts any commercial or private event, commonly referred to as a ''catch,'' wherein there is a display of combat or fighting between one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

(c) The crime of hog and canine fighting occurs when a person intentionally does any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in subsection (b):

(1) Finance, commercially advertise, sell admission tickets, or employ persons.

(2) Own, manage, or operate any facility or property.

(3) Supply, breed, train, or keep canines or hogs.

(4) Knowingly purchase tickets of admission.

(d) This section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this subsection provided that such training is conducted in the field and is not in violation of this section.

(e) A violation of this section is a Class A misdemeanor upon conviction for a first offense. A second or subsequent violation is a Class C felony. After a first violation, a judge shall inform the defendant of the enhanced penalty upon a second or subsequent violation.

(Act 2006–353, p. 936, § 1.)

ARTICLE 2.

GAMBLING OFFENSES.

Division 1.

General Provisions.

§ 13A–12–20. Definitions.

The following definitions apply to this article:

(1) ADVANCE GAMBLING ACTIVITY. A person ''advances gambling activity'' if he engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance

of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation.

(2) BOOKMAKING. Advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(3) CONTEST OF CHANCE. Any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(4) GAMBLING. A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(5) GAMBLING DEVICE. Any device, machine, paraphernalia or equipment that is normally used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition.

(6) LOTTERY or POLICY. An unlawful gambling scheme in which:

a. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated by the winning ones; and

b. The winning chances are to be determined by a drawing or by some other fortuitous method; and

c. The holders of the winning chances are to receive something of value.

(7) PARI-MUTUEL, MUTUEL OR THE NUMBERS GAME. A form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with

the scheme, but upon the basis of the outcome of a future contingent event or events otherwise unrelated to the particular scheme.

(8) PLAYER. A person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity.

(9) PROFIT FROM GAMBLING ACTIVITY. A person ''profits from gambling activity'' if he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he shares or is to share in the proceeds of gambling activity.

(10) SLOT MACHINE. A gambling device that, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because apart from its use or adaptability as such it may also sell or deliver something of value on a basis other than chance.

(11) SOMETHING OF VALUE. Any money or property, any token, object or article exchangeable for money or property or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service entertainment or a privilege of playing at a game or scheme without charge.

(12) UNLAWFUL. Not specifically authorized by law.

(Acts 1977, No. 607, p. 812, § 6101.)

§ 13A–12–21. Simple gambling.

(a) A person commits the crime of simple gambling if he knowingly advances or profits from unlawful gambling activity as a player.

(b) It is a defense to a prosecution under this section that a person charged with being a player was engaged in a social game in a private place. The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(c) Simple gambling is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 6105.)

§ 13A–12–22. Promoting gambling.

(a) A person commits the crime of promoting gambling if he knowingly advances or profits from unlawful gambling activity otherwise than as a player.

(b) Promoting gambling is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 6106; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–12–23. Conspiracy to promote gambling.

(a) A person commits the crime of conspiracy to promote gambling if he conspires to advance or profit from gambling activity otherwise than as a player.

(b) ''Conspire'' means to engage in activity constituting a criminal conspiracy as defined in Section 13A–4–3.

(c) Conspiracy to promote gambling is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 6110; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–12–24. Possession of gambling records in the first degree.

(a) A person commits the crime of possession of gambling records in the first degree if with knowledge of the contents thereof, he possesses any writing, paper, instrument or article:

(1) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets, or more than $500.00; or

(2) Of a kind commonly used in the operation, promotion or playing of a lottery or mutuel scheme or enterprise, and constituting, reflecting or representing more than five plays or chances therein.

(b) Possession of gambling records in the first degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 6115; Acts 1979, No. 79–471, p. 862, § 1.)

§ 13A–12–25. Possession of gambling records in the second degree.

(a) A person commits the crime of possession of gambling records in the second degree if with knowledge of the contents thereof, he possesses any writing, paper, instrument or article:

(1) Of a kind commonly and peculiarly used in the operation or promotion of a bookmaking scheme or enterprise; or

(2) Of a kind commonly and peculiarly used in the operation, promotion or playing of a lottery or mutuel scheme or enterprise.

(b) Possession of gambling records in the second degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 6116.)

§ 13A–12–26. Defense to prosecution for possession of gambling records.

A person does not commit the crime of possession of gambling records in either degree if the writing, paper, instrument or article possessed by the

defendant is neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or mutuel scheme or enterprise. The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(Acts 1977, No. 607, p. 812, § 6120.)

§ 13A–12–27. Possession of gambling device.

(a) A person commits the crime of possession of a gambling device if with knowledge of the character thereof he or she manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of:

(1) A slot machine, unless exempted pursuant to subsection (c); or

(2) Any other gambling device, with the intention that it be used in the advancement of unlawful gambling activity.

(b) Possession of a gambling device is a Class A misdemeanor.

(c) The crime of possession of a gambling device does not apply to a slot machine manufactured before 1960, with the intention that the slot machine be used only for the personal and private use of the owner or for public display as a historical artifact in a manner that the slot machine is not accessible to the public.

(Acts 1977, No. 607, p. 812, § 6125; Act 2022–189, § 1.)

§ 13A–12–28. Prima facie proof of gambling offenses.

(a) Proof of possession of any gambling device, as defined by subdivision (5) of Section 13A–12–20 or any gambling record specified in Sections 13A–12–24 and 13A–12–25 is prima facie evidence of possession thereof with knowledge of its character or contents.

(b) In any prosecution under this article in which it is necessary to prove the occurrence of a sporting event, (1) a published report of its occurrence in any daily newspaper, magazine or other periodically printed publication of general circulation, or (2) evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of this chapter is alleged to have been committed, shall be admissible in evidence and shall constitute prima facie proof of the occurrence of the event.

(Acts 1977, No. 607, p. 812, § 6130.)

§ 13A–12–29. Lottery occurring outside state no defense to prosecution under Section 13A–12–22.

It is no defense under Section 13A–12–22 relating to a lottery that the lottery itself is drawn or conducted outside Alabama and is not in violation of the laws of the jurisdiction in which it is drawn or conducted.

(Acts 1977, No. 607, p. 812, § 6135.)

§ 13A–12–30. Forfeiture of gambling devices and gambling proceeds.

(a) Any gambling device or gambling record possessed or used in violation of this article is forfeited to the state, and shall by court order be destroyed or otherwise disposed of as the court directs.

(b) Any vehicle possessed or used in violation of this article may be forfeited to the state and disposed of by court order as authorized by law.

(c) Money used as bets or stakes in gambling activity in violation of this article is forfeited to the state and by court order shall be transmitted to the General Fund of the state.

(Acts 1977, No. 607, p. 812, § 6140.)

§ 13A–12–31. Legalized pari-mutuel betting not affected.

The provisions of this article shall not apply to pari-mutuel betting at race meetings authorized by statute. All presently effective state statutes and laws and locally adopted ordinances and laws pursuant thereto legalizing, authorizing or allowing greyhound races and betting or wagering thereon are hereby expressly and specifically preserved, saved and excepted from any repealer provisions contained anywhere in the Criminal Code.

(Acts 1977, No. 607, p. 812, § 6145.)

Division 2.

Suppression of Gambling Places.

§ 13A–12–50. Unlawful to maintain electric bells, etc.

No person or persons shall maintain or use any electric bells, wires or signals or any elevators or dumbwaiters or other implements or appliances connected with any gaming place or rooms used for gaming, which may be used for the purpose of communicating with the occupants of such gaming house or rooms used for gaming or with those who may be within, and any person who erects, maintains or uses any such bells, wires, signals or elevators or dumbwaiters or other implements or appliances or devices of like kind for said purpose shall be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

(Acts 1909, No. 193, p. 183; Code 1923, § 4282; Code 1940, T. 14, § 294; Code 1975, § 13–7–91.)

§ 13A–12–51. District attorney to file complaint on certain information.

When it shall be made known to any district attorney who prosecutes criminal cases in the county by the chief of police, sheriff or other officer or by any reputable citizen that any hotel, tavern, inn or other building has been

provided with bells, wires, signals or dumbwaiters or any of them, or other implements or appliances for communicating with the occupants of a gaming place or rooms used for gambling, or that barred or locked doors have been provided which prevent the access of any officer to said rooms where said gaming is carried on, the district attorney shall file a complaint in a court against the owner of such building or room, as well as against the keeper or proprietor of such hotel, tavern, inn or other building to obtain a mandatory injunction to compel the removal of all the things, implements or devices hereinabove mentioned and to perpetually enjoin them from permitting said hotel, tavern, inn or building to be used for the purpose of gaming, and application shall be made upon the filing of such complaint to the judge for a preliminary injunction if the district attorney will make the affidavit to said complaint which he may do on information or belief or if any other officer or citizen offers to make such affidavit so as to obtain an order for a preliminary injunction. Any party or parties operating or conducting said gaming room or place, or found therein, may be joined as parties defendant to the complaint.

(Acts 1909, No. 193, p. 183; Code 1923, § 4283; Code 1940, T. 14, § 295; Code 1975, § 13–7–92.)

§ 13A–12–52. Exhibiting gambling devices in barred house or where speaking tubes or electric signals are used.

No person or persons shall exhibit or expose to view in any barred or barricaded house or room, in any place built or constructed in such manner as to make it difficult of access or ingress to police officers or other officers, or protected, furnished or equipped with speaking tubes, dumbwaiters, electric wires or bells, or other apparatus for giving alarm from the outside or from the inside of such house, or room when two or more persons are present, any cards, dice, roulette wheel or any gambling implements whatever. Any person violating the provisions of this section shall be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years; and all persons who visit or resort to any such barred or barricaded house or room or other place that is built or protected or equipped in the manner described in this section and where any cards, dice, roulette wheel or any gaming implements whatever are kept or exhibited or exposed to view when said persons visit or resort to such place for the purpose of gaming, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $50.00 nor more than $300.00 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

(Acts 1909, No. 193, p. 183; Code 1923, § 4284; Code 1940, T. 14, § 296; Code 1975, § 13–7–93.)

§ 13A–12–53. Owner permitting any person to equip any room, etc.

Any person who, being the owner, proprietor, or keeper, or superintendent of any tavern, inn, restaurant, billiard room, poolroom or other public house,

permits or suffers any person or persons on or about the premises to provide a barred or barricaded room or rooms to which persons resort for gaming or who knowingly or wilfully permits or knowingly or wilfully suffers any person or persons to equip any room or rooms on or about the premises with electric bells, wires or signals, or elevators, dumbwaiters or other implements or appliances connected with such rooms used or to be used for the purpose of communicating with an occupant or occupants of such gambling room or rooms, shall likewise be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

(Acts 1909, No. 193, p. 183; Code 1923, § 297; Code 1940, T. 14, § 297; Code 1975, § 13–7–94.)

§ 13A–12–54. When affidavit made, court to examine affiant under oath.

When an affidavit is made before a court of competent jurisdiction that the complainant has probable cause to believe and does believe that any house or any part of a house, particularly designating the same, is being kept or maintained contrary to the provisions of this division, or that a gaming table is being exhibited or kept at said place, or that said house or part of a house or any room therein is provided with electric bells or other instruments or appliances hereinabove set forth for communicating with the occupants of such place or room, or that some other offense under this division is being committed at said house or room, then the court to whom the application is made shall examine the complainant or affiant under oath and other witnesses, if he so desires, touching the matter charged in the affidavit, and, if the said court has probable cause for believing that the act or offense alleged in the affidavit is being committed, he shall issue his warrant directed to any lawful officer of the State of Alabama commanding him to enter the house or room and to arrest all parties found therein and to bring them before such court to be dealt with according to law.

(Acts 1909, No. 193, p. 183; Code 1923, § 4286; Code 1940, T. 14, § 298; Code 1975, § 13–7–95.)

§ 13A–12–55. Duty of officer to break into and enter house.

The officer, in executing said warrant, shall break into and enter such house, room or part of a house, upon the refusal of the proprietor or any occupant thereof to open the same, and seize all gambling instruments and bring such instruments, together with all gambling devices and the parties that are found there, before the court which issued the warrant.

(Acts 1909, No. 193, p. 183; Code 1923, § 4287; Code 1940, T. 14, § 299; Code 1975, § 13–7–96.)

§ 13A–12–56. Arrest of occupants of house.

If it appears from the affidavit of the complainant or of any other witness that he produces what persons are the proprietors of or the occupants of the

house, part of a house or room hereinabove described, the warrant shall order the arrest of such persons by name, but if such proprietors or occupants are unknown, it may be so stated in the affidavits and warrants, and, upon bringing the said persons who are arrested under said warrant before the court, a supplemental affidavit may be made against them by the complainant or any officer executing the warrant charging them with the offense or felony of which they appear to be guilty under the provisions of this division.

(Acts 1909, No. 193, p. 183; Code 1923, § 4288; Code 1940, T. 14, § 300; Code 1975, § 13–7–97.)

§ 13A–12–57. Trial; defendant bound over.

The court shall thereupon proceed to hear the evidence in the case, and, if probable cause is shown for believing said parties or any of them to be guilty, he shall bind them over under proper bond to await the action of the grand jury in accordance with the laws of the state as prescribed in preliminary examinations before courts authorized by law to conduct preliminary examinations, and all rules of procedure applicable to such preliminary examinations shall be likewise applicable to proceedings under this division.

(Acts 1909, No. 193, p. 183; Code 1923, § 4289; Code 1940, T. 14, § 301; Code 1975, § 13–7–98.)

§ 13A–12–58. Presence of bells, etc., prima facie evidence.

The presence of electric bells, wires or signals or dumbwaiters or of other implements or appliances that may be used for the purpose of communicating with persons who are occupying a barred or barricaded room on or about the premises of a hotel, restaurant, billiard room, poolroom or any room above the grade floor in the business district of any town or city is prima facie evidence that gaming was being there carried on by such parties in any prosecution against them, if they have the general reputation of being gamblers, and in all such cases, proof of such general reputation is admissible in evidence.

(Acts 1909, No. 193, p. 183; Code 1923, § 4290; Code 1940, T. 14, § 302; Code 1975, § 13–7–99.)

Division 3.

Transportation of Lottery Paraphernalia.

§ 13A–12–70. Transportation by certain persons; seizure of vehicles used.

Any transportation or conveyance within this state of any slip, ticket, card, paper, writing, article, thing or other device or paraphernalia which is customarily or usually used in the operation of a form or type of lottery commonly known as a numbers (or number) game or policy game (herein called ''lottery paraphernalia'') or any possession thereof in any vehicle of transportation by any person who is or has been within three years next

preceding actually engaged in or connected with the setting up, conducting, or operation of any such game, or who is or has been within three years next preceding an employee of a person or persons who are or have been engaged in setting up, conducting, or operating of any such game is hereby declared to be a misdemeanor; and all conveyances or vehicles of transportation which have been within three years next preceding or are used by such persons for the conveying or transporting of such prohibited lottery paraphernalia into this state or from one point in the state to another point within the state, or in which conveyance any such lottery paraphernalia may be contained or found while such conveyance is in the custody or control of such person shall be contraband and shall be forfeited to the State of Alabama and shall be seized by any sheriff or other person acting under authority of the law in the enforcement of the laws of this state who become cognizant of the facts or who finds such prohibited lottery paraphernalia being transported, stored or contained as aforesaid in such conveyance or vehicle. And such officer or person shall report the seizure and the facts connected therewith to a district attorney in the county where seizure is made, or, in default thereof, to the Attorney General of the state, giving full description of the vehicle or conveyance seized and detained, the person in whose possession it was found, the person making a claim to the same, or any interest therein, if the name can be ascertained or is known, and the date of seizure.

(Acts 1951, No. 798, p. 1395; Code 1975, § 13–7–111.)

§ 13A–12–71. Movement of vehicle need not be shown.

In order to condemn and confiscate any of the above mentioned conveyances or vehicles, it shall not be necessary for the state or prosecuting authority to show any actual movement of said conveyance or vehicles while loaded with, or in which there is contained or stored, any of said prohibited lottery paraphernalia, but the presence thereof in any conveyance or vehicle which is in the use of, control or custody of any such person as described in Section 13A–12–70 shall be sufficient cause of forfeiture of such conveyance or vehicle.

(Acts 1951, No. 798, p. 1395; Code 1975, § 13–7–112.)

§ 13A–12–72. Procedure for condemnation and forfeiture of vehicle.

Except as otherwise herein provided, the manner, method and procedure for the forfeiture and condemnation of any such vehicle shall be the same as that provided by law for the confiscation or condemnation or forfeiture of automobiles, conveyances or vehicles in which alcoholic beverages are illegally transported. Without limiting the generality of the foregoing sentence, Sections 28–4–286 and 28–4–287 shall apply.

(Acts 1951, No. 798, p. 1395, § 3; Code 1975, § 13–7–113.)

§ 13A–12–73. Sale of forfeited vehicle; rights of bailor, conditional vendor, or mortgagee.

The court in condemnation proceedings shall sell the right of all interested persons in and to said conveyance or vehicle who aided or assisted any such person as described in Section 13A–12–70 in the illegal transportation or who had knowledge or notice thereof, or who had knowledge of the presence thereof in said vehicle or conveyance, or who could by reasonable diligence have obtained knowledge or notice thereof. Any bona fide bailor or conditional vendor or chattel mortgagee who shall, prior to bailing, selling or accepting a mortgage upon such conveyance or vehicle, make inquiry of the sheriff and chief of police of the county and city of the residence of such bailee, vendee or mortgagor and of the sheriff and chief of police of the county and city of the place of business of the bailor, vendor or mortgagee, or of any recognized or licensed agency which makes a systematic check of court records of convictions for violations of the law and furnishes credit reports, and in answer to such inquiry shall be informed in writing that the prospective bailee, conditional vendee or mortgagor has no reputation as a person who has been engaged in operating or connected with lotteries, gambling or gaming and that such person has not according to their records been convicted of a violation of any of the laws of this state, any other state or of any municipal ordinance relating to gaming, gambling or lotteries, shall be presumed to be entitled to such conveyance or vehicle or to be protected to the extent of his interest therein.

(Acts 1951, No. 798, p. 1395, § 4; Code 1975, § 13–7–114.)

§ 13A–12–74. Disposition of proceeds of sale of forfeited vehicle.

The proceeds of the sale of any such vehicle or conveyance forfeited to the state shall, after paying all expenses in the cause, including the costs of seizure and of keeping a property pending the proceedings, be applied as follows: One half shall be paid into the general fund of the county in which the property is seized, and the other one half shall be paid into the Law Enforcement Fund to be used and applied on the enforcement of state laws under the supervision and control of the Governor; but provided, that when such property shall be seized by an officer of a municipality, one half thereof shall be paid into the general fund of the municipality, one quarter thereof shall be paid into the general fund of the county and the other one quarter shall be paid into the law enforcement fund to be used and applied on the enforcement of state laws under the supervision and control of the Governor.

(Acts 1951, No. 798, p. 1395, § 5; Code 1975, § 13–7–115.)

§ 13A–12–75. Transportation of articles not commonly used in numbers or policy game not unlawful.

The provisions of this division shall not be construed to make unlawful the transportation of articles or paraphernalia not commonly used in the conduct of any form or type of lottery commonly known as a numbers (or number)

game or policy game, and no vehicle used in transporting such articles or paraphernalia not commonly used in the conduct of such game shall be subject to condemnation or forfeiture by reason of such use or transportation.

(Acts 1951, No. 798, p. 1395, § 7; Code 1975, § 13–7–116.)

§ 13A–12–76. Bona fide coin-operated amusement machines.

(a) Sections 13A–12–70 to 13A–12–75, inclusive, shall not apply to a coin-operated game or device designed and manufactured for bona fide amusement purposes which, by application of some skill, only entitles the player to replay the game or device at no additional cost if a single play of the bona fide coin-operated amusement machine or device can reach no more than 25 free replays or can be discharged of accumulated free replay, or rewards the player exclusively with merchandise limited to noncash merchandise, prizes, toys, gift certificates, or novelties, each of which has a wholesale value of not more than five dollars ($5). This subsection shall not apply to any game or device classified by the United States government as requiring a federal gaming tax stamp under applicable provisions of the Internal Revenue Code.

(b) Any person who gives to any other person money or anything of value for free replays on coin-operated devices described in subsection (a) shall be guilty of a Class A misdemeanor.

(c) Sections 13A–12–70 to 13A–12–75, inclusive, shall not apply to a crane game machine or device which meets the following requirements:

(1) The crane machine or device is designed and manufactured only for bona fide amusement purposes and involves at least some skill in its operation.

(2) For a single play of the crane machine or device, the winning player is rewarded exclusively with merchandise contained within the machine itself and the merchandise is limited to noncash merchandise, prizes, toys, gift certificates, or novelties, each of which has a wholesale value not exceeding five dollars ($5).

(3) The player of the crane machine or device is able to control the timing of the use of the claw or grasping device to attempt to pick up or grasp a prize, toy, or novelty.

(4) The player of the crane machine or device is made aware of the total time which the crane machine or device allows during a game for the player to maneuver the claw or grasping device into a position to attempt to pick up or grasp a prize, toy, or novelty.

(5) The claw or grasping device is not of a size, design, or shape that prohibits picking up or grasping a prize, toy, or novelty contained within the crane machine or device.

(6) The crane machine or device is not classified by the United States government as requiring a federal gaming stamp under the Internal Revenue Code.

(d) A player of a bona fide coin-operated amusement machine may accumulate winnings for the successful play of a bona fide coin-operated amusement machine through either tokens or tickets, and may redeem these tokens or tickets for merchandise so long as the amount of tokens or tickets earned on a single play does not exceed five dollars ($5) per unit.

(e)(1) For purposes of this section, ''bona fide coin-operated amusement machine'' means every machine of any kind or character used by the public to provide amusement or entertainment whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, or similar object, and the result of whose operation depends in whole or in part upon the skill of the player, whether or not it affords an award to a successful player, and which can be legally shipped interstate according to federal law. Examples of bona fide coin-operated amusement machines include, but are not limited to, the following:

a. Pinball machines.

b. Console machines.

c. Video games.

d. Crane machines.

e. Claw machines.

f. Pusher machines.

g. Bowling machines.

h. Novelty arcade games.

i. Foosball or table soccer machines.

j. Miniature racetrack or football machines.

k. Target or shooting gallery machines.

l. Basketball machines.

m. Shuffleboard games.

n. Kiddie ride games.

o. Skeeball machines.

p. Air hockey machines.

q. Roll down machines.

r. Coin-operated pool table or coin-operated billiard table.

s. Any other similar amusement machine which can be legally operated in Alabama.

t. Every machine of any kind or character used by the public to provide music whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, or similar object, such as jukeboxes or other similar types of music machines.

(2) The term ''bona fide coin-operated amusement machine'' does not include the following:

a. Coin-operated washing machines or dryers.

b. Vending machines which for payment of money dispense products or services.

c. Gas and electric meters.

d. Pay telephones.

e. Cigarette vending machines.

f. Coin-operated scales.

g. Coin-operated gumball machines.

h. Coin-operated parking meters.

i. Coin-operated television sets which provide cable or network programming.

j. Machines which are not legally permitted to be operated in Alabama.

k. Slot machines.

l. Video poker games.

(f) Any person owning or possessing an amusement game or device described in subdivision (1) of subsection (e) or any person employed by or acting on behalf of another person who gives to another person money for noncash merchandise, prizes, toys, gift certificates, or novelties received as a reward in playing an amusement game or device shall be guilty of a Class A misdemeanor.

(Acts 1996, No. 96–588, p. 928, § 1.)

Division 4.

Federal Wagering Occupational Tax Stamp.

§ 13A–12–90. Possession, etc., of stamp prima facie evidence of violation of gambling laws.

The holding, owning, having in possession of, or paying the tax of a wagering occupational tax stamp issued by the internal revenue authorities of the United States shall be held in all the courts of this state as prima facie evidence against the person holding such stamp in any prosecution of such person for violation of the gambling laws of this state.

(Acts 1953, No. 741, p. 1005, § 1; Code 1975, § 13–7–130.)

§ 13A–12–91. Production of stamp warrants indictment or information.

In cases where the proper prosecuting officers shall produce said stamp or certified copy, the grand jury may indict the holder of such stamp or the proper prosecuting officer may file information against the holder of such stamp without further proof, charging such holder with the violation of the Alabama gambling laws.

(Acts 1953, No. 741, p. 1005, § 2; Code 1975, § 13–7–131.)

§ 13A–12–92. Proof of ownership, etc.

Upon the trial of such person, proof of the owning, holding or possession of such stamp may be made by two witnesses who have seen such stamp in the place of business of the holder or on his person, or by the production of the original stamp with proof by one or more witnesses that it is the property of the defendant, or by production by the state of a copy of such stamp certified by the director of the issuing federal internal revenue district as being a copy of the stamp originally issued to the defendant. Proof made as herein provided shall be sufficient evidence, without explanation, to convict of violation of the gambling laws.

(Acts 1953, No. 741, p. 1005, § 3; Code 1975, § 13–7–132.)

ARTICLE 3.

PROSTITUTION OFFENSES.

Division 1.

Promoting Prostitution.

§ 13A–12–110. Definitions.

The following definitions are applicable in Sections 13A–12–111 through 13A–12–113:

(1) ADVANCE PROSTITUTION. A person ''advances prostitution'' if, acting other than as a prostitute or a patron of a prostitute, he knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise.

(2) PROFIT FROM PROSTITUTION. A person ''profits from prostitution'' if, acting other than as a prostitute receiving compensation for personally-rendered prostitution services, he accepts or receives money or other property pursuant to a prior agreement with any person whereby he participates or is to participate in the proceeds of prostitution activity.

(Acts 1977, No. 607, p. 812, § 6220.)

§ 13A–12–111. Promoting prostitution in the first degree.

(a) A person commits the crime of promoting prostitution in the first degree if he knowingly:

(1) Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from such coercive conduct by another; or

(2) Advances or profits from prostitution of a person less than 16 years of age.

(b) Promoting prostitution in the first degree is a Class B felony.

(Acts 1977, No. 607, p. 812, § 6221.)

§ 13A–12–112. Promoting prostitution in the second degree.

(a) A person commits the crime of promoting prostitution in the second degree if he knowingly:

(1) Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes other than the defendant; or

(2) Advances or profits from prostitution of a person less than 18 years of age.

(b) Promoting prostitution in the second degree is a Class C felony.

(Acts 1977, No. 607, p. 812, § 6222.)

§ 13A–12–113. Promoting prostitution in the third degree.

(a) A person commits the crime of promoting prostitution in the third degree if he knowingly advances or profits from prostitution.

(b) Promoting prostitution in the third degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 6223.)

Division 2.

Prostitution.

§ 13A–12–120. Prostitution defined.

For the purpose of this division, the term prostitution shall mean the commission by a person of any natural or unnatural sexual act, sodomy, or sexual contact for monetary consideration or other thing of value.

(Act 2001–700, p. 1493, § 1; Act 2019–465, § 1.)

§ 13A–12–121. Prohibited activities.

(a) No person shall commit an act of prostitution as defined in Section 13A–12–120.

(b) No person shall solicit, compel, or coerce any person to have sexual intercourse or participate in any natural or unnatural sexual act, sodomy, or sexual contact for monetary consideration or other thing of marketable value.

(c) No person shall agree to engage in sexual intercourse, sodomy, or sexual contact with another or participate in the act for monetary consideration or other thing of marketable value and give or accept monetary consideration or other thing of value in furtherance of the agreement.

(d) No person shall knowingly do any of the following:

(1) Cause or aid a person to commit or engage in prostitution.

(2) Procure or solicit patrons for prostitution.

(3) Provide persons or premises for prostitution purposes.

(4) Receive or accept money or other thing of value pursuant to a prior agreement with any person whereby he or she participates or is to participate in the proceeds of any prostitution activity.

(5) Operate or assist in the operation of a house of prostitution or a prostitution enterprise.

(Act 2001–700, p. 1493, § 2; Act 2019–465, § 1.)

§ 13A–12–121.1. Offenses involving minors.

(a) No person shall commit an act of prostitution, as defined in Section 13A–12–120, with a minor.

(b) No person shall solicit, compel, or coerce any minor to have sexual intercourse or participate in any natural or unnatural sexual act, deviate sexual intercourse, or sexual contact for monetary consideration or other thing of marketable value.

(c) No person shall agree to engage in sexual intercourse, deviate sexual intercourse, or sexual contact with a minor or participate in the act for monetary consideration or other thing of marketable value and give or accept monetary consideration or other thing of value in furtherance of the agreement.

(d) No person shall knowingly do any of the following:

(1) Cause or aid a minor to commit or engage in prostitution.

(2) Procure or solicit a minor for prostitution.

(3) Provide premises for the prostitution of a minor.

(4) Receive or accept money or other thing of value pursuant to a prior agreement with a minor where the minor participates or is to participate in the proceeds of any prostitution activity.

(5) Operate or assist in the operation of a house of prostitution or a prostitution enterprise where minors participate in prostitution.

(6) Sell or offer to sell travel services that include or facilitate travel for the purpose of engaging in sexual intercourse, sexual acts, deviate sexual intercourse, or any other sexual contact with a minor.

(Act 2018–506, § 5.)

§ 13A–12–122. Violations.

(a) Each violation of Section 13A–12–121 is a Class A misdemeanor.

(b) A violation of Section 13A–12–121.1 is a Class B felony.

(Act 2001–700, p. 1493, § 3; Act 2018–506, § 6.)

§ 13A–12–123. Sexually exploited child.

A sexually exploited child, as defined in Section 12–15–701, who is alleged to have committed a violation of Section 13A–12–120 or 13A–12–121, or any municipal ordinance prohibiting such acts, shall be treated pursuant to Section 13A–6–181.

(Act 2016–282, p. 713, § 2.)

§ 13A–12–124. Certain defenses excluded.

(a) As used in this section, the term minor victim means a person who committed, or was solicited to commit, an act of prostitution while the person was a minor.

(b) Evidence of any of the following facts or conditions does not constitute a defense in a prosecution under Section 13A–12–121.1, nor shall the evidence preclude a finding of a violation:

(1) A minor victim's sexual history or history of commercial sexual activity.

(2) A minor victim's connection by blood or marriage to a defendant in the case or to anyone involved in the minor victim's prostitution.

(3) Consent of or permission by a minor victim or anyone else on the minor victim's behalf to any commercial sex act or sexually explicit performance.

(4) Age of consent to engage in sexual activity.

(5) Mistake as to the minor victim's age, even if the mistake is reasonable.

(Act 2018–506, § 7.)

§ 13A–12–125. Additional fine.

In addition to all other fines and penalties prescribed by law, a person convicted of violating Section 13A–6–152, Section 13A–6–153, Section 13A–12–111, Section 13A–12–112, Section 13A–12–121, or Section 13A–12–121.1 shall pay a fine of five hundred dollars ($500) which shall be used to compensate victims of prostitution and human trafficking. The fine shall be deposited into the State Treasury to the credit of the Alabama Crime Victims Compensation Fund under Section 15–23–16. Amounts deposited into the Alabama Crime Victims Compensation Fund shall be budgeted and allotted in accordance with Sections 41–4–80 through 41–4–96 and Sections 41–19–1 through 41–19–12.

(Act 2018–506, § 7.)

ARTICLE 4.

OBSCENITY AND RELATED OFFENSES.

Division 1.

General Provisions.

§ 13A–12–130. Public lewdness.

(a) A person commits the crime of public lewdness if:

(1) He exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

(2) He does any lewd act in a public place which he knows is likely to be observed by others who would be affronted or alarmed.

(b) Public lewdness is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, § 6325.)

§ 13A–12–131. Public display of obscene sticker, sign, etc.

It shall be unlawful for any person to display in public any bumper sticker, sign or writing which depicts obscene language descriptive of sexual or excretory activities. Any person convicted of a violation of this section shall be guilty of a Class C misdemeanor and shall be punished as prescribed by law.

(Acts 1987, No. 87–808.)

Division 2.

Importation, Display, Distribution, etc., of Obscene Matter Generally.

§§ 13A–12–150 through 13A–12–159. Repealed by Acts 1989, No. 89–402, p. 791, § 2, effective May 2, 1989.

Division 3.

Sale, Exhibition, etc., of Obscene Materials to Minors.

§§ 13A–12–170 through 13A–12–179. Repealed by Acts 1989, No. 89–402, p. 791, § 2, effective May 2, 1989.

Division 4.

Obscene Materials Containing Visual Reproduction of Children.

§ 13A–12–190. Definitions.

For the purposes of this division, the following terms have the following meanings:

(1) Breast nudity. The lewd showing of the post-pubertal human female breasts below a point immediately above the top of the areola.

(2) Child sexual abuse material. Any visual depiction of an individual under 18 years of age engaged in any act of sexually explicit conduct, including a virtually indistinguishable depiction.

(3) Display publicly. The exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thoroughfare, depot, or vehicle.

(4) Disseminate. To transmit, distribute, sell, lend, provide, transfer, or show, including through electronic means.

(5) Genital nudity. The lewd showing of the genitals or pubic area.

(6) Knowingly. A person knowingly acts when the person knows the nature of the child sexual abuse material. A person knows the nature of the material when either of the following circumstances exist:

a. The person is aware of the character and content of the material.

b. The person recklessly disregards circumstances suggesting the character and content of the material.

(7) Masturbation. Manipulation, by hand or instrument, of the human genitals, whether one's own or another's for the purpose of sexual stimulation.

(8) Other sexual conduct. Any touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(9) PUBLIC THOROUGHFARE, DEPOT, OR VEHICLE. Any street, highway, park, depot, or transportation platform or other place, whether indoors or outdoors, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment, or transportation of the general public.

(10) Sadomasochistic abuse. Either of the following:

a. Flagellation or torture, for the purpose of sexual stimulation, by or upon an individual who is nude or clad in undergarments or in a revealing or bizarre costume.

b. The condition of an individual who is nude or clad in undergarments or in a revealing or bizarre costume being fettered, bound, or otherwise physically restrained for the purpose of sexual stimulation.

(11) Separate offense. The depiction of an individual less than 18 years of age that violates this division shall constitute a separate offense for each single visual depiction.

(12) Sexual excitement. The condition of human male or female genitals when in a state of sexual stimulation.

(13) Sexual intercourse. Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex or between a human and an animal.

(14) Sexually explicit conduct. Actual or simulated conduct that includes sadomasochistic abuse, sexual excitement, sexual intercourse, masturbation, breast nudity, genital nudity, or other sexual conduct.

(15) Virtually indistinguishable depiction. A visual depiction created, altered, or produced by digital, computer generated, or other means that a reasonable person would conclude, is of an actual individual under 18 years of age engaged in sexually explicit conduct.

(Acts 1978, No. 592, p. 705, § 1; Code 1975, § 13–7–230; Acts 1984, No. 84–285, p. 492, § 1; Act 2006–112, p. 166, § 1; Act 2019–465, § 1; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–12–191. Dissemination or public display of child sexual abuse material.

(a) Any person who shall knowingly disseminate or display publicly any child sexual abuse material shall be guilty of a Class B felony.

(b) Any person who shall knowingly advertise, promote, present, distribute, or solicit by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is a visual depiction of an actual individual under 18 years of age engaging in sexually explicit conduct shall be guilty of a Class B felony.

(Acts 1978, No. 592, p. 705, § 2; Code 1975, § 13–7–231; Acts 1984, No. 84–285, p. 492, § 2; Act 2006–112, p. 166, § 1; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–12–192. Possession and possession with intent to disseminate child sexual abuse material.

(a) Any person who knowingly possesses with intent to disseminate any child sexual abuse material shall be guilty of a Class B felony. Any transfer of child sexual abuse material from any electronic device to any other device, program, application, or any other place with storage capability that can be made available or is accessible by other users, is prima facie evidence of possession with intent to disseminate.

(b) Any person who knowingly possesses any child sexual abuse material shall be guilty of a Class C felony.

(Acts 1978, No. 592, p. 705, § 3; Code 1975, § 13–7–232; Acts 1984, No. 84–285, p. 492, § 3; Act 2006–112, p. 166, § 1; Act 2019–465, § 1; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–12–193. Proof of age of person contained in visual depiction; inferences as to age.

(a) In proving that an individual in a visual depiction who is engaged in any sexually explicit conduct is under 18 years of age, the state is not required to introduce into evidence a birth certificate, produce testimony as to the date of birth of the individual, or produce testimony of any person who knows or is acquainted with the individual alleged to be under 18 years of age. If the defendant or the state intends to rely on a birth certificate to prove the date of birth of any individual, the defendant or the state shall file with the clerk of the court in which the action is pending, at least 15 days prior to trial, a notice of an intention to rely on an official, certified copy of a birth certificate together with a copy of the birth certificate.

(b) The factfinder may infer from the following factors whether or not the individual displayed or depicted in any visual depiction is under 18 years of age:

(1) The general body growth and bone structure of the individual.

(2) The development of pubic hair or body hair on the individual.

(3) The development of the individual's sexual organs.

(4) The context in which the individual is placed by any accompanying printed or text material.

(5) Any expert testimony as to the degree of maturity of the individual.

(c) The existence of any or all of the factors listed in subsection (b) shall not operate to change the requirement that before any conviction may be had, the state must convince the factfinder beyond a reasonable doubt that the individual engaged in the sexually explicit conduct is or is virtually indistinguishable from an individual under 18 years of age.

(d) It is an affirmative defense to prosecution under this division if the actual individual purported to be under 18 years of age and engaged in sexually explicit conduct was an actual individual 18 years of age or older at the time of the offense.

(Acts 1978, No. 592, p. 705, § 4; Code 1975, § 13–7–233; Acts 1984, No. 84–285, p. 492, § 4; Act 2006–112, p. 166, § 1; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–12–194. Identity of person engaged in obscene act not required.

The state shall not be required to establish the actual existence or identity, either in the indictment or in any subsequent proceeding, of the individual alleged to be under 18 years of age who is engaged in any act of sexually explicit conduct.

(Acts 1978, No. 592, p. 705, § 5; Code 1975, § 13–7–234; Acts 1984, No. 84–285, p. 492, § 5; Act 2006–112, p. 166, § 1; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–12–195. Indication of commercial exploitation of matter for prurient appeal may be considered in determining whether matter appeals to prurient interest, etc.

Repealed by Act 2024–98, § 8, effective October 1, 2024.

§ 13A–12–196. Responsible persons permitting children to engage in production of child sexual abuse material guilty of Class A felony.

Any responsible person, as defined in Section 26–15–2, who knowingly permits or allows his or her child, ward, or dependent under 18 years of age to engage in the production of any child sexual abuse material containing a visual depiction of the child, ward, or dependent shall be guilty of a Class A felony.

(Acts 1978, No. 592, p. 705, § 7; Code 1975, § 13–7–236; Acts 1984, No. 84–285, p. 492, § 7; Act 2006–112, p. 166, § 1; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–12–197. Production of child sexual abuse material.

Any person who knowingly films, prints, records, photographs, or otherwise produces any child sexual abuse material shall be guilty of a Class A felony.

(Acts 1978, No. 592, p. 705, § 8; Code 1975, § 13–7–237; Acts 1984, No. 84–285, p. 492, § 8; Act 2006–112, p. 166, §§ 1, 2; Act 2024–98, § 3, eff. Oct. 1, 2024.)

§ 13A–12–197.1. Separate offenses; liability of Internet service providers, search engines, cloud service providers, etc.

(a) For the purposes of this division, each depiction of child sexual abuse material that violates any section constitutes a separate offense.

(b) No Internet service provider, search engine, cloud service provider, or affiliate or subsidiary of any of the same, shall be held to have violated this division solely for providing access or connection to or from a website, other information or content on the Internet, or a facility, system, or network not under the control of the provider, including, but not limited to, the transmission, download, or intermediate storage of content that is child sexual abuse material.

(Act 2024–98, § 4, eff. Oct. 1, 2024.)

§ 13A–12–198. Forfeiture of equipment, materials, vehicles, etc., used in production, transportation, dissemination, etc., of child sexual abuse material.

Any article, equipment, machine, materials, matter, vehicle, or other thing used in the commercial production, transportation, dissemination, display, or storage of any child sexual abuse material shall be contraband and shall be

forfeited to the State of Alabama. The manner, method, and procedure for the forfeiture and condemnation of the thing shall be the same as is provided by law for the confiscation, condemnation, or forfeiture of automobiles, conveyances, or vehicles in which alcoholic beverages are illegally transported.

(Acts 1978, No. 592, p. 705, § 9; Code 1975, § 13–7–238; Act 2024–98, § 3, eff. Oct. 1, 2024.)

Division 5.

Alabama Anti–Obscenity Enforcement Act.

§ 13A–12–200.1. Definitions.

As used in this division, the following terms shall have the meanings respectively ascribed to them by this section:

(1) ADULT BOOKSTORES and ADULT VIDEO STORES. A commercial establishment in which is offered for sale or rent any book, video, film, or other medium which in the aggregate constitute substantially all of its stock or inventory which depicts sexual conduct as defined herein.

(2) ADULT MOVIE HOUSE. A place where obscene ''adult films'' depicting sexual conduct are shown.

(3) ADULT-ONLY ENTERTAINMENT. Any commercial establishment or private club where entertainers, employees, dancers, or waiters appear nude or semi-nude.

(4) BREAST NUDITY. The showing of the post-pubertal human female breasts below a point immediately above the top of the areola.

(5) DISPLAY FOR SALE. To expose, place, exhibit, show, or in any fashion display any material for the purpose of the sale of such material to any person in a manner that a minor can physically examine or see the material.

(6) DISSEMINATE PUBLICLY. To expose, place, perform, exhibit, show or in any fashion display, in any location, public or private, any material in a manner that the material can either be readily seen and its content or character distinguished by normal unaided vision or be physically examined, by viewing or examining the material from any public place or any place to which members of the general public are invited.

(7) DISTRIBUTE. To import, export, sell, rent, lend, transfer possession of or title to, display, exhibit, show, present, provide, broadcast, transmit, retransmit, communicate by telephone, play, orally communicate or perform.

(8) EXPORT. To send or cause to be sent outside of the State of Alabama from inside the state.

(9) FOR ANY THING OF PECUNIARY VALUE. In exchange for, in return for, or for any consideration consisting of, whether wholly or partly:

a. Any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible; or

b. Any offer or agreement to pay, furnish or provide any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible.

(10) GENITAL NUDITY. The showing of the human male or female genitals or pubic area.

(11) HARMFUL TO MINORS. The term means:

a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors; and

b. The material depicts or describes sexual conduct, breast nudity or genital nudity, in a way which is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

(12) IMPORT. To bring or cause to be brought into the State of Alabama from outside of the state.

(13) KNOWINGLY. The term means knowingly, as defined by Section 13A–2–2(2), doing an act involving a material when the person knows the nature of the material.

(14) KNOWS THE NATURE OF THE MATERIAL. A person knows the nature of the material when any one of the following exists:

a. The person knows the nature of the material;

b. The person has reason to know the nature of the material;

c. The person has a belief or reasonable ground for belief as to the nature of the material which warrants further inspection or inquiry of the character and content of the material.

(15) MATERIAL. Any book, magazine, newspaper, printed or written matter, writing, description, picture, drawing, animation, photograph, motion picture, film, video tape, pictorial representation, depiction, image, electrical or electronic reproduction, broadcast, transmission, telephone communication, sound recording, article, device, equipment, matter, oral communication, live performance, or dance.

(16) MINOR. Any unmarried person under the age of 18 years.

(17) OBSCENE. The term means that:

a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest; and

b. The material depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and

c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political or scientific value.

(18) PERSON. Any individual and, except where inappropriate, any partnership, firm, association, corporation or other legal entity.

(19) PRODUCE. Create, make, write, film, produce, reproduce, direct, or stage.

(20) RECKLESSLY. The term means recklessly, as defined by Section 13A–2–2(3), doing an act involving a material when the person knows the nature of the material.

(21) SADO–MASOCHISTIC ABUSE. The term means:

a. Flagellation or torture, in an act of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or

b. The binding or physical restraining of a person who is nude or clad in undergarments or in a revealing or bizarre costume in an act of sexual stimulation.

(22) SEXUAL CONDUCT. The term means:

a. Any act of sexual intercourse, masturbation, urination, defecation, lewd exhibition of the genitals, sado-masochistic abuse, bestiality, or the fondling of the sex organs of animals; or

b. Any other physical contact with a person's unclothed genitals, pubic area, buttocks, or the breast or breasts of a female, whether alone or between members of the same or opposite sex or between a human and an animal, in an act of sexual stimulation, gratification or perversion.

(23) SEXUAL INTERCOURSE. Intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, and whether between persons of the same or opposite sex or between a human and an animal.

(24) WHOLESALER. A person who distributes material for the purpose of resale or commercial distribution at retail.

(Acts 1989, No. 89–402, p. 791, § 3; Act 98–467, p. 893, § 6.)

§ 13A–12–200.2. Distribution, possession with intent to distribute, production, etc., of obscene material prohibited; penalties; distribution of fines.

(a)(1) It shall be unlawful for any person to knowingly distribute, possess with intent to distribute, or offer or agree to distribute any obscene material or any device designed or marketed as useful primarily for the stimulation of human genital organs for any thing of pecuniary value. Material not otherwise obscene may be obscene under this section if the distribution of the material, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of

prurient appeal. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000) and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than one year. A second or subsequent violation of this subdivision is a Class C felony if the second or subsequent violation occurs after a conviction has been obtained for a previous violation. Upon a second violation, a corporation or business entity shall be fined not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars ($50,000).

(2) It shall be unlawful for any person, being a wholesaler, to knowingly distribute, possess with intent to distribute, or offer or agree to distribute, for the purpose of resale or commercial distribution at retail, any obscene material or any device designed or marketed as useful primarily for the stimulation of human genital organs for any thing of pecuniary value. Material not otherwise obscene may be obscene under this section if the distribution of the material, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of their prurient appeal. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than twenty thousand dollars ($20,000) and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than one year. A second or subsequent violation of this subdivision is a Class C felony if the second or subsequent violation occurs after a conviction has been obtained for a previous violation. Upon a second violation, a corporation or business entity shall be fined not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars ($50,000).

(3) It shall be unlawful for any person to knowingly produce, or offer or agree to produce, any obscene material or any device designed or marketed as useful primarily for the stimulation of human genital organs for any thing of pecuniary value. Material not otherwise obscene may be obscene under this section if the distribution of the material, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of prurient appeal. Any person who violates this subsection shall be guilty of a Class C felony.

(4) If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the Comptroller to the general fund of the county where the person is held for the operation of the county jail.

(Acts 1989, No. 89–402, p. 791, § 4; Act 98–467, p. 893, § 6.)

§ 13A–12–200.3. Dissemination of obscene material; penalty; disposition of fines.

It shall be unlawful for any person to knowingly procure or write advertisement for obscene material or disseminate publicly any obscene material. Any

person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000) and may also be imprisoned in the county jail for not more than one year.

If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the Comptroller to the general fund of the county where the person is held for the operation of the county jail.

(Acts 1989, No. 89–402, p. 791, § 5; Act 98–467, p. 893, § 6.)

§ 13A–12–200.4. Affirmative defenses.

It shall be an affirmative defense to a charge of violating Sections 13A–12–200.2 and 13A–12–200.3 that the act charged was done for a bona fide medical, scientific, educational, legislative, judicial, or law enforcement purpose.

(Acts 1989, No. 89–402, p. 791, § 6.)

§ 13A–12–200.5. Material harmful to minors — Distribution, possession with intent to distribute, display for sale, etc., prohibited; penalty; affirmative defenses; operation of adult-only enterprise near place frequented by minors; exceptions; disposition of fines.

(1) It shall be unlawful for any person to knowingly or recklessly distribute to a minor, possess with intent to distribute to a minor, or offer or agree to distribute to a minor any material which is harmful to minors. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000) and may also be imprisoned in the county jail for not more than one year.

(2)a. It shall be unlawful for any person to openly and knowingly display for sale at any business establishment frequented by minors, or any other place where minors are or may be invited as part of the general public, any material which is harmful to minors or to hire or employ a minor in an establishment that displays or disseminates material containing nudity or sexual conduct; provided, however, that a person shall not be deemed to have violated the provisions of this subsection, relating to display for sale, by displaying material harmful to minors in sealed wrappers or behind opaque covers commonly known as ''blinder racks'' so that in either event the material is located at a height of not less than five and one-half feet from the floor, the lower two-thirds of the material is concealed from view, the content of such material is not available for inspection by minors, and other reasonable efforts are made to prevent minors from perusing the material. Any person who violates this subsec-

tion shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000) and may also be imprisoned in the county jail for not more than one year. Any person who hires or employs a person in violation of this subsection is guilty of a Class C felony and, upon conviction, shall be fined not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars ($50,000).

b. This section shall not be applicable to employment of minors in establishments that sell or rent video cassettes or films that contain nudity or sexual acts if the cover of the video cassettes or films does not contain a depiction of nudity or sexual acts and the video cassettes or films are displayed in a form that cannot be viewed without electrical or mechanical equipment and the equipment is not being used to produce a visual depiction of the material contained in the video cassette or film.

(3) The following shall be affirmative defenses to a charge of violating this section as it may relate to a particular minor:

a. The minor exhibited to the defendant, his agent or employee a draft card, driver's license, birth certificate, marriage license or other governmental document purporting to show that such minor was not an unmarried person under the age of 18 years and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the minor was an unmarried person under the age of 18.

b. A parent or legal guardian accompanied the minor or consented to the act charged.

c. The defendant is the parent or legal guardian of the minor.

d. The act charged was done for a bona fide medical, scientific, educational, legislative, judicial or law enforcement purpose.

(4) It shall be unlawful for any person to operate an adult bookstore, adult movie house, adult video store, or other form of adult-only enterprise within 1,000 feet of a church, place of worship, church bookstore, public park, public housing project, daycare center, public or private school, college, recreation center, skating rink, video arcade, public swimming pool, private residence, or any other place frequented by minors. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars ($10,000) and may also be imprisoned in the county jail for not more than one year.

(5) This subsection shall not be applicable to any video rental store that does not engage predominantly in and whose principle business is not the sale or rental of adult material, if the material is maintained in compliance with Section 13A–12–200.5(2), or is located in an area that is restricted to adults.

(6) If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for

violations of this section shall be paid by the Comptroller to the general fund of the county where the person is held for the operation of the county jail.

(Acts 1989, No. 89–402, p. 791, § 7; Act 98–467, p. 893, § 6.)

§ 13A–12–200.6. Extradition of persons charged with violation of this division.

The Governor of this state may demand from the governor of any other state the extradition of any person found in such other state who is charged with any violation of any of the provisions of this division.

(Acts 1989, No. 89–402, p. 791, § 8.)

§ 13A–12–200.7. Civil action to enjoin violations; hearing; procedures; precedence over other matters.

(1) When there is reason to believe that any person is violating or is about to violate any of the provisions of this division, the Attorney General or district attorney may initiate a civil action in the circuit court in the name of the State of Alabama against such person for preliminary and permanent injunctive relief, to prevent or enjoin the violation. The Alabama Rules of Civil Procedure shall apply to the extent that such rules are not inconsistent with this section; provided, however, that no temporary restraining order shall be issued pursuant to this section. No bond shall be required of the official bringing the action and the official, the political subdivision and the officers, agents, and employees of the political subdivision shall not be liable for costs or damages, other than court costs, by reason of injunctive orders not being granted or where judgment is entered in favor of the defendant by the trial or an appellate court.

(2) The court shall hold the hearing on the preliminary injunction at the earliest possible time after service of the complaint and motion for preliminary injunction upon the defendant. The defendant shall be given an opportunity to present evidence prior to the issuance of any preliminary injunction. It shall be the duty of the State of Alabama at the hearing to prove by clear and convincing evidence that the violation is being or is about to be committed. The court shall then issue an order granting or denying the preliminary injunction at the earliest possible time after the conclusion of the hearing.

(3) The defendant shall have the right to demand a trial on the merits to begin within 30 days after issuance or denial of the preliminary injunction. The finding of the court regarding the question of whether the material is obscene or harmful to minors at the preliminary injunction stage shall not be binding upon the final order on the merits at trial on the permanent injunction. The court shall reserve the right to reconsider its preliminary findings based upon the evidence or testimony which may be introduced at such trial. The defendant shall be given an opportunity to present evidence prior to the issuance of any permanent injunction. It shall be the duty of the

State of Alabama at trial to prove by clear and convincing evidence that the violation is being or is about to be committed. The court shall then issue an order granting or denying the permanent injunction at the earliest possible time after the conclusion of the trial.

(4) If the court enters a final order denying the permanent injunction on the basis that the material is not obscene or harmful to minors, as the case may be, then no contempt shall be found for violation of any preliminary injunction relating thereto. Nothing in this section shall be deemed to authorize a prior restraint of speech in violation of the United States Constitution. Hearings and determinations required pursuant to this section shall take precedence over all other matters, and, in any event such hearings shall be held and determinations made within time limits mandated by the United States Constitution.

(Acts 1989, No. 89–402, p. 791, § 9.)

§ 13A–12–200.8. Property subject to forfeiture for violation of this division; procedures; hearing; forfeiture action; action for money judgment.

(a) The following property is subject to forfeiture:

(1) All obscene material and material which is harmful to minors used, intended to be used or obtained in violation of the provisions of this division;

(2) All moneys, negotiable instruments, and funds used, intended to be used, or obtained in any violation of the provisions of this division;

(3) All proceeds or receipts derived from property which is subject to forfeiture pursuant to subdivisions (a)(1) and (a)(2) of this section.

(b) Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the state, county or municipal law enforcement agency subject only to the orders and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this division, the state, county or municipal law enforcement agency may:

(1) Place the property under seal;

(2) Remove the property to a place designated by it; and

(3) In the case of real property or fixtures, post notice of the seizure on the property, and file and record notice of seizure in the probate office.

(c) The following is the procedure regarding the seizure of property subject to forfeiture under subsection (a) of this section:

(1) Property subject to forfeiture may be seized by state, county or municipal law enforcement agencies upon process issued by any court having jurisdiction over the property upon a showing of probable cause; provided, however, that not more than one copy of each expressive material may be seized prior to a judicial determination, after a hearing at which all proper parties have an opportunity to be heard and present evidence, that

the expressive material is obscene material or material which is harmful to minors and, in either case, subject to forfeiture under this division.

(2) In the event of seizure, a forfeiture action pursuant to subdivision (c)(4) of this section shall be instituted promptly and within time limits mandated by the United States Constitution.

(3) At any time after seizure, and prior to trial, the state, defendant, owner, or other proper party, may file with the appropriate circuit court, a written demand for an adversary hearing for the purpose of obtaining with regard to expressive material only a preliminary determination of obscenity, harmfulness to minors, and whether the property is subject to forfeiture. Such adversary hearing shall be held as soon as possible. At such adversary hearing, all proper parties shall be given the opportunity to present evidence. It shall be the duty of the State of Alabama at the hearing to prove by clear and convincing evidence that the seized property is subject to forfeiture under subsection (a) herein. The court shall render a decision within time limits mandated by the United States Constitution and, if the court does not find the property to be subject to forfeiture, it shall immediately order the property to be returned. Should the court find the property to be subject to forfeiture, it shall order the property to be retained as evidence. A finding by the court that the property is subject to forfeiture shall not be binding at the trial on the merits.

(4) The Attorney General or district attorney may initiate a forfeiture action in the name of the State of Alabama in the circuit court. The action shall be heard and determined within time limits mandated by the United States Constitution. It shall be the duty of the State of Alabama at the hearing to prove by clear and convincing evidence that the property should be forfeited. It shall be an affirmative defense to the forfeiture action to the extent of the owner's interest that the owner of the obscene material, material which is harmful to minors, moneys, negotiable instruments, funds, proceeds or receipts, neither consented to nor had knowledge of the acts which would otherwise result in forfeiture. It shall be an affirmative defense to any bona fide lienholder to the extent of the lienholder's interest that the lienholder neither consented to nor had knowledge of the acts which would otherwise result in forfeiture. The defendant shall be given the opportunity to present evidence.

(d) Nothing in this section shall be deemed to authorize a prior restraint of speech in violation of the United States Constitution. All hearings and determinations required pursuant to this section shall be heard and determined within time limits mandated by the United States Constitution.

(e) After trial on the merits, the court shall issue such forfeiture and seizure orders as are proper under the law and facts. The court shall order obscene material and material which is harmful to minors which is forfeited to be destroyed or retained for official law enforcement use. Where the court orders the forfeiture of one copy of an expressive material, it may also order the seizure and forfeiture of all other copies of such expressive material of the

defendant which is subject to forfeiture. The court shall further order such moneys, negotiable instruments, funds, proceeds, or receipts, which are forfeited to be (1) distributed directly to the general fund of the state, county or municipality whose enforcement agencies investigated the acts resulting in forfeiture or (2) sold and distributed, after payment of all proper expenses relating to the forfeiture and sale, to the general fund of the state or any county or municipality whose department, office, or agency contributed to the investigation of the acts resulting in forfeiture, based upon the contribution, including expenses, of the department, office, or agency, or agency as determined by the court.

(f) Where any property owned or possessed by a person is subject to forfeiture pursuant to this section but because of any act, omission, or consent by such person the property (1) cannot be located upon the exercise of due diligence, (2) has been transferred or sold to, or deposited with, a third party, (3) has been placed beyond the jurisdiction of the court, (4) has been substantially diminished in value or, (5) has been commingled with other property which cannot be divided without difficulty, and such person knowingly participated either as a principal, aider and abettor, or conspirator in the acts subjecting the property to forfeiture, the Attorney General or district attorney may initiate a civil action in the name of the State of Alabama against such person for forfeiture of a money judgment amount up to the value of and in lieu of the property described in (1) through (5) of this subsection. Such judgment upon satisfaction shall be distributed as provided in subsection (e) of this section.

(Acts 1989, No. 89–402, p. 791, § 10.)

§ 13A–12–200.9. Effect on other laws and ordinances.

The provisions of this division shall not be deemed to repeal, amend, affect, or limit the Alabama Red Light Abatement Act or the provisions of the Code of Alabama pertaining to obscene materials displaying or depicting children, as contained in Sections 13A–12–190 through 13A–12–198. Nothing in this division shall be presumed to invalidate, repeal, or preempt, any city or county ordinance governing the subject matter of this division and not in conflict with the provisions of this division.

(Acts 1989, No. 89–402, p. 791, § 11.)

§ 13A–12–200.10. Inapplicability of criminal provisions to libraries and their agents or employees.

The criminal provisions of this division shall not apply to bona fide public libraries, or public school or college or university libraries, or their employees or agents acting on behalf of the legitimate educational purposes of such public libraries, or public school or college or university libraries.

(Acts 1989, No. 89–402, p. 791, § 12.)

§ 13A–12–200.11. Display of genitals, etc., for entertainment purposes; violation; disposition of fines.

It shall be unlawful for any business establishment or any private club to show or allow to be shown for entertainment purposes the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state. A violation of this section shall be a Class C felony.

If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the Comptroller to the general fund of the county where the person is held for the operation of the county jail.

(Act 98–467, p. 893, § 7.)

§ 13A–12–200.12. Special operating license for adult-only enterprises; advertisement; revocation of license.

(a) Any business establishment that operates as an ''adult bookstore,'' ''adult movie house,'' ''adult video store,'' or other form of adult-only entertainment enterprise shall obtain in addition to any licenses required by existing law a special operating license, except that a video rental store that does not engage predominantly in and whose principle business is not the sale or rental of adult material, if it is maintained in compliance with Section 13A–12–200.5(2) or is located in an area restricted to adults. Persons who apply for the license shall provide on the application detailed information concerning ownership and financing, and pay an investigation fee of five hundred dollars ($500) to the county or municipality wherein the business establishment will be located.

(b) If granted the license, the local government, in its discretion, may restrict the type of advertisement that the business establishment can display outside the establishment.

(c) The license shall be revoked if the business establishment is convicted of violating this division.

(Act 98–467, p. 893, § 8.)

ARTICLE 5.

DRUG OFFENSES.

Division 1.

Inchoate Drug Offenses.

§ 13A–12–201. Short title.

This division shall be entitled ''The Drug Predator Control Act of 1987.''

(Acts 1987, No. 87–612, p. 1061, § 1; Code 1975, § 20–2–160; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(6).)

§ 13A–12–202. Criminal solicitation to commit controlled substance crime.

(a) A person is guilty of criminal solicitation to commit a controlled substance crime if he engages in the conduct defined as criminal solicitation in Section 13A–4–1(a), and the crime solicited is a controlled substance crime.

(b) The principles of liability and defenses for criminal solicitation to commit a controlled substance crime are the same as those specified in Sections 13A–4–1(b) through (e), and Section 13A–4–5.

(c) Criminal solicitation to commit a controlled substance crime shall be punished the same as the controlled substance crime solicited.

(Acts 1987, No. 87–612, p. 1061, § 2; Code 1975, § 20–2–161; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(7).)

§ 13A–12–203. Attempt to commit controlled substance crime.

(a) A person is guilty of an attempt to commit a controlled substance crime if he engages in the conduct defined in Section 13A–4–2(a), and the crime attempted is a controlled substance crime.

(b) The principles of liability and defenses for an attempt to commit a controlled substance crime are the same as those specified in Sections 13A–4–2(b) through (c), and in Section 13A–4–5.

(c) An attempt to commit a controlled substance crime shall be punished the same as the controlled substance crime attempted.

(Acts 1987, No. 87–612, p. 1061, § 3; Code 1975, § 20–2–162; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(8).)

§ 13A–12–204. Criminal conspiracy to commit controlled substance crime.

(a) A person is guilty of criminal conspiracy to commit a controlled substance crime if he engages in the conduct defined in Section 13A–4–3(a), and the object of the conspiracy is a controlled substance crime.

(b) The principles of liability and defenses for criminal conspiracy to commit a controlled substance crime are the same as those specified in Sections 13A–4–3(b) through (f), Section 13A–4–4, and Section 13A–4–5.

(c) A criminal conspiracy to commit a controlled substance crime shall be punished the same as the controlled substance crime that is the object of the conspiracy.

(Acts 1987, No. 87–612, p. 1061, § 4; Code 1975, § 20–2–163; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(9).)

§ 13A–12–205. Included offenses.

Attempt, criminal solicitation, and criminal conspiracy to commit a controlled substance crime are offenses included in any controlled substance crime that is charged, and a defendant charged with any controlled substance crime may be convicted of attempt, solicitation, or conspiracy to commit it.

(Acts 1987, No. 87–612, p. 1061, § 5; Code 1975, § 20–2–164; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(10).)

Division 2.

Drug Possession and Sale Offenses.

§ 13A–12–210. Short title.

This division shall be entitled ''The Drug Crimes Amendments Act of 1987.''

(Acts 1987, No. 87–603, p. 1047, § 1; 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(11).)

§ 13A–12–211. Unlawful distribution of controlled substances; possession with intent to distribute a controlled substance.

(a) A person commits the crime of unlawful distribution of controlled substances if, except as otherwise authorized, he or she sells, furnishes, gives away, delivers, or distributes a controlled substance enumerated in Schedules I through V.

(b) Unlawful distribution of controlled substances is a Class B felony.

(c) A person commits the crime of unlawful possession with intent to distribute a controlled substance if, except as otherwise authorized by law, he or she knowingly possesses any of the following quantities of a controlled substance:

(1) More than eight grams, but less than 28 grams, of cocaine or of any mixture containing cocaine.

(2) More than two grams, but less than four grams, of any mixture of morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin or any mixture containing Fentanyl or any synthetic controlled

substance Fentanyl or any synthetic controlled substance Fentanyl analogue, as described in Sections 20–2–23 and 20–2–25.

(3) More than eight grams, but less than 28 grams, of 3,4–methylenedioxy amphetamine, or of any mixture containing 3,4–methylenedioxy amphetamine.

(4) More than eight grams, but less than 28 grams, of 5–methoxy–3, 4–methylenedioxy amphetamine, or of any mixture containing 5–methoxy–3, 4–methylenedioxy amphetamine.

(5) More than eight grams, but less than 28 grams, of amphetamine or any mixture containing amphetamine, its salt, optical isomer, or salt of its optical isomer thereof.

(6) More than eight grams, but less than 28 grams, of methamphetamine or any mixture containing methamphetamine, its salts, optical isomers, or salt of its optical isomers thereof.

(7) More than one-half gram, but less than one gram, of Fentanyl or any synthetic controlled substance Fentanyl analogue, as a single component.

(d) Unlawful possession with intent to distribute a controlled substance is a Class B felony.

(Acts 1987, No. 87–603, p. 1047, § 2; Act 2001–971, 3rd Sp. Sess., p. 873, § 2; Act 2012–393, p. 1052, § 1; Act 2018–552, § 1.)

§ 13A–12–212. Unlawful possession or receipt of controlled substances.

(a) A person commits the crime of unlawful possession of controlled substance if:

(1) Except as otherwise authorized, he or she possesses a controlled substance enumerated in Schedules I through V.

(2) He or she obtains by fraud, deceit, misrepresentation, or subterfuge or by the alteration of a prescription or written order or by the concealment of a material fact or by the use of a false name or giving a false address, a controlled substance enumerated in Schedules I through V or a precursor chemical enumerated in Section 20–2–181.

(b) Unlawful possession of a controlled substance is a Class D felony.

(Acts 1987, No. 87–603, p. 1047, § 3; Act 2012–237, p. 445, § 2; Act 2015–185, p. 476, § 2.)

§ 13A–12–213. Unlawful possession of marihuana in the first degree.

(a) A person commits the crime of unlawful possession of marihuana in the first degree if, except as otherwise authorized:

(1) He or she possesses marihuana for other than personal use; or

(2) He or she possesses marihuana for his or her personal use only after having been previously convicted of unlawful possession of marihuana in

the second degree or unlawful possession of marihuana for his or her personal use only.

(b) Unlawful possession of marihuana in the first degree pursuant to subdivision (1) of subsection (a) is a Class C felony.

(c) Unlawful possession of marihuana in the first degree pursuant to subdivision (2) of subsection (a) is a Class D felony.

(Acts 1987, No. 87–603, p. 1047, § 4; Act 2015–185, p. 476, § 2.)

§ 13A–12–214. Unlawful possession of marihuana in the second degree.

(a) A person commits the crime of unlawful possession of marihuana in the second degree if, except as otherwise authorized, he possesses marihuana for his personal use only.

(b) Unlawful possession of marihuana in the second degree is a Class A misdemeanor.

(Acts 1987, No. 87–603, p. 1047, § 5.)

§ 13A–12–214.1. Unlawful possession of certain chemical compounds.

(a) The possession of salvia divinorum or salvinorum A, including all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts shall be illegal in this state.

(b) A violation of subsection (a) shall be subject to the same penalties as a violation of Sections 13A–12–213 and 13A–12–214.

(Act 2010–717, p. 1778, § 1; Act 2012–267, p. 517, § 2.)

§ 13A–12–214.2. Possession and use of cannabidiol.

Repealed by Act 2019–511, § 2(k), effective July 1, 2020.

§ 13A–12–214.3. Possession and use of cannabidiol for certain debilitating conditions.

(a)(1) This section shall be known and may be cited as Leni's Law.

(2) For the purposes of this section, the following terms shall have the following meanings:

a. CANNABIDIOL (CBD). [13956–29–1]. A (nonpsychoactive) cannabinoid found in the plant Cannabis sativa L. or any other preparation thereof that is free from plant material, and has a THC level (delta–9–tetrahydrocannibinol) of no more than three percent relative to CBD according to the rules adopted by the Alabama Department of Forensic Sciences. Also known as (synonyms): 2–[(1R,6R)–3–Methyl–6–(1–methylethenyl)–2–cyclohexen–1–yl]–5–pentyl–1,3–benzenediol; trans–(–)–2–p-men-

tha–1,8–dien–3–yl–5–pentylresorcinol; (–)–Cannabidiol; (–)–trans-Cannabidiol; Cannabidiol (7CI); D1(2)–tran-Cannabidiol and that is tested by an independent third-party laboratory.

b. DEBILITATING MEDICAL CONDITION. A chronic or debilitating disease or medical condition including one that produces seizures for which a person is under treatment.

(3) In addition to the affirmative defense provided in Section 13A–12–214.2, in a prosecution for the unlawful possession of marijuana in the second degree under Section 13A–12–214, it is an affirmative and complete defense that the defendant used or possessed CBD if the defendant satisfies either of the following:

a. He or she has a debilitating medical condition.

b. He or she is the parent or legal guardian of a minor who has a debilitating medical condition, and the CBD is being used by the minor.

(4) An agency of this state or a political subdivision thereof, including any law enforcement agency, may not initiate proceedings to remove a child from the home of a parent or guardian, nor initiate any child protection action or proceedings, based solely upon the parent's or child's possession or use of CBD as allowed by this section.

(5) Nothing in this section shall be construed to require the various individual or group insurance organizations providing protection, indemnity, or insurance against hospital, medical, or surgical expenses, or health maintenance organizations to provide payment or reimbursement for prescriptions of CBD.

(6) Nothing in this section shall be construed to allow or accommodate the prescription, testing, medical use, or possession of any other form of Cannabis other than that defined in this section.

(b) The Legislature finds and declares the following:

(1) This section is intended to authorize only the limited use of nonpsychoactive CBD as defined in this section only for specified debilitating conditions that produce seizures, and is not intended as a generalized authorization of medical marijuana.

(2) It is the intent of the Legislature to maintain existing criminal prohibitions of marijuana, except as expressly provided in existing law or as expressly provided in this section.

(Act 2016–268, p. 663, §§ 1, 2.)

§ 13A–12–214.4. Sale, distribution, etc., of psychoactive cannabinoids found in hemp to minors.

(a) As used in this section, ''psychoactive cannabinoids'' means cannabinoids derived from or found in hemp as defined in Section 2–8–381, including, but not limited to, delta–8–tetrahydrocannabinol and delta–10–tetrahydrocannabinol.

(b) Except as provided in Chapter 2A of Title 20, psychoactive cannabinoids shall not be sold, distributed, or marketed to, or possessed by an individual who is under 21 years of age.

(c) Any psychoactive cannabinoids lawfully sold in this state must be located in an area in which individuals under the age of 21 years are not permitted access.

(d) Any person who sells, distributes, or markets psychoactive cannabinoids to individuals under 21 years of age shall be guilty of a Class B misdemeanor.

(e) Any individual under 21 years of age who is in possession of psychoactive cannabinoids shall be issued a citation similar to a uniform nontraffic citation and shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each violation or community service in equal value of the fine and shall be assessed no other court costs or fees. In addition, on a third or subsequent conviction, including convictions in district court or municipal court, the individual shall be issued a citation similar to a uniform nontraffic citation and shall be fined four hundred dollars ($400) for each violation or community service in equal value of the fine.

(f) Any psychoactive cannabinoids sold in this state shall be packaged in child-resistant containers.

(Act 2023–169, § 1, eff. Aug. 1, 2023.)

§ 13A–12–215. Sale, furnishing, etc., of controlled substances by persons over age 18 to persons under age 18.

If the offender is over the age of 18 and the offense consists of selling, furnishing or giving such controlled substances as enumerated in Schedules I, II, III, IV and V to a person who has not attained the age of 18 years the offender shall be guilty of a Class A felony. The imposition or execution of sentence shall not be suspended and probation shall not be granted.

(Acts 1971, No. 1407, p. 2378, § 406; Acts 1987, No. 87–603, p. 1047, § 8; Code 1975, § 20–2–73; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(1).)

§ 13A–12–216. Schedules of controlled substances.

The Schedules I through V referred to in this division are the schedules contained in Sections 20–2–20 through 20–2–31, or in those schedules as revised and republished annually by the State Board of Health pursuant to Section 20–2–32.

(Acts 1987, No. 87–603, p. 1047, § 10; Code 1975, § 13A–12–216; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(12).)

§ 13A–12–217. Unlawful manufacture of controlled substance in the second degree.

(a) A person commits the crime of unlawful manufacture of a controlled substance in the second degree if, except as otherwise authorized in state or federal law, he or she does any of the following:

(1) Manufactures a controlled substance enumerated in Schedules I to V, inclusive.

(2) Possesses precursor substances as determined in Section 20–2–181, in any amount with the intent to unlawfully manufacture a controlled substance.

(b) Unlawful manufacture of a controlled substance in the second degree is a Class B felony.

(Act 2001–971, 3rd Sp. Sess., p. 873, § 1.)

§ 13A–12–218. Unlawful manufacture of controlled substance in the first degree.

(a) A person commits the crime of unlawful manufacture of a controlled substance in the first degree if he or she violates Section 13A–12–217 and two or more of the following conditions occurred in conjunction with that violation:

(1) Possession of a firearm.

(2) Use of a booby trap.

(3) Illegal possession, transportation, or disposal of hazardous or dangerous materials or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment.

(4) A clandestine laboratory operation was to take place or did take place within 500 feet of a residence, place of business, church, or school.

(5) A clandestine laboratory operation actually produced any amount of a specified controlled substance.

(6) A clandestine laboratory operation was for the production of controlled substances listed in Schedule I or Schedule II.

(7) A person under the age of 17 was present during the manufacturing process.

(b) Unlawful manufacture of a controlled substance in the first degree is a Class A felony.

(Act 2001–971, 3rd Sp. Sess., p. 873, § 1.)

§ 13A–12–219. Unlawful possession of anhydrous ammonia.

(a) A person commits the crime of unlawful possession of anhydrous ammonia if he or she purchases, possesses, transfers, or distributes any amount of anhydrous ammonia, knowing, or under circumstances where one reasonably should know, that the anhydrous ammonia will be used to unlawfully manufacture a controlled substance.

(b) Unlawful possession of anhydrous ammonia is a Class B felony.

(Act 2001–971, 3rd Sp. Sess., p. 873, § 1.)

Division 3.

Drug Trafficking Offenses.

§ 13A–12–230. Reserved.

§ 13A–12–231. Trafficking in cannabis, cocaine, illegal drugs, amphetamine, methamphetamine, synthetic controlled substances; penalties.

Except as authorized in Chapter 2, Title 20:

(1) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of one kilo or 2.2 pounds of any part of the plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin including the completely defoliated mature stalks of the plant, fiber produced from the stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination is guilty of a felony, which shall be known as ''trafficking in cannabis.'' Nothing in this subdivision shall apply to samples of tetrahydrocannabinols including, but not limited to, all synthetic or naturally produced samples of tetrahydrocannabinols which contain more than 15 percent by weight of tetrahydrocannabinols and which do not contain plant material exhibiting the external morphological features of the plant cannabis. If the quantity of cannabis involved:

a. Is in excess of one kilo or 2.2 pounds, but less than 100 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of twenty-five thousand dollars ($25,000).

b. Is 100 pounds or more, but less than 500 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of fifty thousand dollars ($50,000).

c. Is 500 pounds or more, but less than 1,000 pounds, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred thousand dollars ($200,000).

d. Is 1,000 pounds or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(2) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine or of any mixture containing cocaine, described in Section 20–2–25(1), is guilty of a felony, which shall be known as ''trafficking in cocaine.'' If the quantity involved:

a. Is 28 grams or more, but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is one kilo, but less than 10 kilos, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars ($250,000).

d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(3) Any person, except as otherwise authorized by law, who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 20–2–23(b)(2) or Section 20–2–25(1)a., or four grams or more of any mixture containing any such substance, or any mixture containing Fentanyl or any synthetic controlled substance Fentanyl analogue, as described in Sections 20–2–23 and 20–2–25, is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a. Is four grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is 28 grams or more, but less than 56 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of five hundred thousand dollars ($500,000).

d. Is 56 grams or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(4) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 1,000 or more pills or capsules of methaqualone, as described in Section 20–2–1, et seq., is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a. Is 1,000 pills or capsules, but less than 5,000 pills or capsules, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and pay a fine of fifty thousand dollars ($50,000).

b. Is 5,000 capsules or more, but less than 25,000 capsules, the person shall be imprisoned to a mandatory minimum term of imprisonment of 10 calendar years and pay a fine of one hundred thousand dollars ($100,000).

c. Is 25,000 pills or more, but less than 100,000 pills or capsules, the person shall be sentenced to a mandatory minimum term of imprison-

ment of 25 calendar years and pay a fine of five hundred thousand dollars ($500,000).

d. Is 100,000 capsules or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(5) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 500 or more pills or capsules of hydromorphone, as is described in Section 20–2–1, et seq., is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a. Is 500 pills or capsules or more but less than 1,000 pills or capsules, the person shall be sentenced to a mandatory term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 1,000 pills or capsules or more, but less than 4,000 pills or capsules, the person shall be sentenced to a mandatory term of imprisonment of 10 calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is 4,000 pills or capsules or more but less than 10,000 pills or capsules, the person shall be sentenced to a mandatory term of imprisonment of 25 calendar years and to pay a fine of one hundred thousand dollars ($100,000).

d. Is more than 10,000 pills or capsules, the person shall be sentenced to a mandatory term of life.

(6) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of 3,4–methylenedioxy amphetamine, or of any mixture containing 3,4–methylenedioxy amphetamine, is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a. Is 28 grams or more, but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is one kilo, but less than 10 kilos, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars ($250,000).

d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(7) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of 5–methoxy–3,4–methylenedioxy amphetamine, or of any mixture containing 5–methoxy–3,4–methylenedioxy amphetamine, is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a. Is 28 grams or more, but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is one kilo, but less than 10 kilos, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars ($250,000).

d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(8) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of phencyclidine, or any mixture containing phencyclidine, is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a. Is four grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is 28 grams or more, but less than 56 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars ($250,000).

d. Is 56 grams or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(9) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of lysergic acid diethylamide or four grams or more of any mixture containing lysergic acid diethylamide, is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a. Is four grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is 28 grams or more, but less than 56 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of five hundred thousand dollars ($500,000).

d. Is 56 grams or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(10) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of amphetamine or any mixture containing amphetamine, its salt, optical isomer, or salt of its optical isomer thereof, is guilty of a felony, which shall be known as ''trafficking in amphetamine.'' If the quantity involved:

a. Is 28 grams or more but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is one kilo but less than 10 kilos, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars ($250,000).

d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(11) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of methamphetamine or any mixture containing methamphetamine, its salts, optical isomers, or salt of its optical isomers thereof, is guilty of a felony, which shall be known as ''trafficking in methamphetamine.'' If the quantity involved:

a. Is 28 grams or more but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 500 grams or more, but less than one kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is one kilo but less than 10 kilos, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars ($250,000).

d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(12) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 56 or more grams of a synthetic controlled substance or a synthetic controlled substance analogue, as described in Section 20–2–23(a)(4) or (5), except for any synthetic controlled substance Fentanyl analogue referenced in subdivision (13), is guilty of a felony, which shall be known as ''trafficking in synthetic controlled substances.'' If the quantity involved:

a. Is 56 grams or more, but less than 500 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of fifty thousand dollars ($50,000).

b. Is 500 grams or more, but less than 1 kilo, the person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of one hundred thousand dollars ($100,000).

c. Is one kilo, but less than 10 kilos, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of two hundred fifty thousand dollars ($250,000).

d. Is 10 kilos or more, the person shall be sentenced to a mandatory term of imprisonment of life.

(13) Any person, unless otherwise authorized by law, who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, one gram or more of Fentanyl or any synthetic controlled substance Fentanyl analogue, as a single component as described in Sections 20–2–23 and 20–2–25, is guilty of a felony, which shall be known as ''trafficking in illegal drugs.'' If the quantity involved:

a.1. Is one gram or more, but less than two grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a minimum fine of fifty thousand dollars ($50,000).

2. Is two grams or more, but less than four grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a minimum fine of one hundred thousand dollars ($100,000).

3. Is four grams or more, but less than eight grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a minimum fine of five hundred thousand dollars ($500,000).

4. Is eight grams or more, the person shall be sentenced to a mandatory term of imprisonment of life and to pay a minimum fine of seven hundred fifty thousand dollars ($750,000).

b.1. Notwithstanding any provision of law, in addition to any penalties provided by law, upon a second conviction of this subdivision, the person shall be sentenced to an additional term of imprisonment of five calendar years, which is not subject to suspension or probation.

2. Upon a third or subsequent conviction of this subdivision, in addition to any penalties provided by law, the person shall be sentenced to an additional term of imprisonment of 10 calendar years, which is not subject to suspension or probation.

(14) In lieu of the weight ranges listed in subdivision (12), a person may instead be charged with trafficking any substance listed in subdivisions (3) and (12) if that person possesses 50 or more individual packages of that substance. The person shall only be sentenced according to the sentence

range provision listed in paragraph a. of each subdivision for the specific substance contained in the 50 or more individual packages if charged pursuant to this subdivision, subdivision (15), or subdivision (16), if applicable. In order to charge a person pursuant to this subdivision, the same substance must be contained in each of the 50 or more individual packages.

(15) The felonies of ''trafficking in cannabis,'' ''trafficking in cocaine,'' ''trafficking in illegal drugs,'' ''trafficking in amphetamine,'' ''trafficking in methamphetamine,'' and ''trafficking in synthetic controlled substances'' as defined in subdivisions (1) through (14) shall be treated as Class A felonies for purposes of this title, including sentencing under Section 13A–5–9. Provided, however, that the sentence of imprisonment for a defendant with one or more prior felony convictions who violates subdivisions (1) through (14) shall be the sentence provided therein, or the sentence provided under Section 13A–5–9, whichever is greater. Provided further, that the fine for a defendant with one or more prior felony convictions who violates subdivisions (1) through (14) shall be the fine provided therein, or the fine provided under Section 13A–5–9, whichever is greater.

(16) Notwithstanding any provision of law to the contrary, any person who has possession of a firearm during the commission of any act proscribed by this section shall be punished by a term of imprisonment of five calendar years, which shall be in addition to, and not in lieu of, the punishment otherwise provided, and a fine of twenty-five thousand dollars ($25,000). The court shall not suspend the five-year additional sentence of the person or give the person a probationary sentence.

(Acts 1980, No. 80–587, p. 926; Acts 1986, No. 86–534, p. 1035, § 2; Acts 1987, No. 87–708, p. 1246, § 2; § 20–2–80; transferred to this section by Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(4); Acts 1990, No. 90–389, p. 533, § 2; Acts 1991, No. 91–447, p. 817, § 1; Acts 1995, No. 95–543, p. 1135, § 1; Act 2012–267, p. 517, § 2; Act 2014–184, p. 530, § 2; Act 2018–552, § 1; Act 2023–4, § 1, eff. July 1, 2023.)

§ 13A–12–232. Sentence not to be suspended, deferred, etc., prior to mandatory minimum term; reduction, suspension, etc., of sentence for assistance in arrest, conviction, etc., of accessories, principals, etc.

(a) Notwithstanding the provisions of Chapter 22, Title 15, or any other provision of law, with respect to any person who is found to have violated Section 13A–12–231, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for any type of parole, probation, work release, supervised intensive restitution program, release because of deduction from sentence for good behavior under corrections incentive time act or any other program, furlough, pass, leave, or any other type of early, conditional, or temporary release program, nor shall such person be permitted to leave the penitentiary for any reason whatsoever except for necessary court appearances and for necessary medical treatment, prior to serving the mandatory minimum term of imprisonment prescribed in

this article or 15 years, whichever is less. Nothing contained in this section shall be construed in any way to render any inmate eligible for parole, probation, suspended sentence, furlough, pass, leave, or any type or early, conditional, or temporary release program of any type to which the inmate is not otherwise eligible under other provision of law. Nor shall anything in this section be construed to render any person sentenced to life imprisonment without parole under this or any other act eligible for parole, probation, suspended sentence, furlough, pass, leave, or any type of early, conditional, or temporary release program at any time.

(b) The prosecuting attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of Section 13A–12–231, except where the sentence is life imprisonment without parole, and who provides substantial assistance in the arrest, or in the conviction of any of his accomplices, accessories, coconspirators, or principals. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance. Under no circumstances may the judge reduce or suspend the sentence except upon motion of the prosecuting attorney.

(Acts 1980, No. 80–587, p. 926; Acts 1986, No. 86–534, p. 1035, § 2; Acts 1987, No. 87–708, p. 1246, § 3; Code 1975, § 20–2–81; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2(5).)

§ 13A–12–233. Drug trafficking enterprise defined; punishment.

(a) This section shall be known as the ''Alabama Drug Trafficking Enterprise Act.'' For purposes of this section, a person is engaged in a criminal enterprise for the purpose of trafficking in illegal drugs if that person violates any provision of Section 13A–12–231, and such violation is:

(1) Undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(2) From which such person obtains substantial income or resources.

(b) For purposes of this section, ''substantial income'' means any amount exceeding the established minimum wage, as established by law.

(c) Any person who engages in a criminal enterprise for the purpose of trafficking in illegal drugs shall be punished as follows:

(1) Upon the first conviction of violation of this section, he shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years or for any mandatory term of calendar years up to and including life without parole and to a fine of not less than $50,000.00 nor more than $500,000.00.

(2) Upon the second conviction of violation of this section, he must be sentenced to a mandatory term of imprisonment for life without parole and to a fine of not less than $150,000.00 nor more than $1,000,000.00.

(3) In no event shall the term of imprisonment or the amount of fine imposed under this section be less than the corresponding term of imprisonment or fine authorized in Section 13A–12–231, for the underlying violation of that section, including application of the Habitual Felony Offender Act, as determined by the type and amount of the particular illegal drug involved.

(d) The courts of Alabama shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under Section 20–2–93 as they shall deem proper.

(Acts 1990, No. 90–471, p. 687.)

Division 4.

Sale on or Near School Campus.

§ 13A–12–250. Additional penalty if unlawful sale on or near school campus.

In addition to any penalties heretofore or hereafter provided by law for any person convicted of an unlawful sale of a controlled substance, there is hereby imposed a penalty of five years incarceration in a state corrections facility with no provision for probation if the situs of such unlawful sale was on the campus or within a three-mile radius of the campus boundaries of any public or private school, college, university or other educational institution in this state.

(Acts 1987, No. 87–610, p. 1060; Code 1975, § 20–2–79; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2; Acts 1989, No. 89–950, p. 1872.)

Division 5.

Drug Paraphernalia Offenses.

§ 13A–12–260. Drug paraphernalia; use or possession; delivery or sale; forfeiture.

(a) As used in this section, the term ''drug paraphernalia'' means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the controlled substances laws of this state. It includes, but is not limited to, all of the following:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(6) Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, tetrahydrocannabinols, cocaine, hashish, or hashish oil into the human body, including, but not limited to:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

b. Water pipes.

c. Carburetion tubes and devices.

d. Smoking and carburetion masks.

e. Roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

f. Miniature cocaine spoons and cocaine vials.

g. Chamber pipes.

h. Carburetor pipes.

i. Electric pipes.

j. Air-driven pipes.

k. Chillums.

l. Bongs.

m. Ice pipes or chillers.

n. Glass tubes which are hollow, cylindrical items made of glass which are smaller than three-quarters of an inch in diameter, shorter than 12 inches in length, and which are not sealed with glass at both ends.

(b) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, all of the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) The proximity of the object, in time and space, to a direct violation of this section or to a controlled substance.

(4) The existence of any residue of controlled substances on the object.

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of the controlled substances laws of this state; the innocence of an owner, or of anyone in control of the object, as to a direct violation of such laws shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(6) Instructions, oral or written, provided with the object concerning its use.

(7) Descriptive materials accompanying the object which explain or depict its use.

(8) National and local advertising concerning its use.

(9) The manner in which the object is displayed for sale.

(10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(11) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.

(12) The existence and scope of legitimate uses for the object in the community.

(13) Expert testimony concerning its use.

(c)(1) It shall be unlawful for any person to use, or to possess with intent to use, or to use to inject, ingest, inhale, or otherwise introduce into the human body, drug paraphernalia to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of the controlled substances laws of this state.

(2) Any person who violates this subsection is guilty of a Class A misdemeanor and upon conviction shall be punished as prescribed by law.

(d)(1) It shall be unlawful for any person to use, deliver, or sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, or to possess with intent to use, drug paraphernalia to manufacture a controlled substance in violation of the controlled substances laws of this state.

(2) Any person who violates this subsection is guilty of a Class C felony. If a person is in violation of this subsection and is in possession of a firearm at the time of the offense, the person shall be guilty of a Class B felony.

(e)(1) It shall be unlawful for any person to deliver or sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the controlled substances laws of this state. Any person who violates this section is guilty of a Class A misdemeanor and upon conviction shall be punished as prescribed by law. A person who is convicted of a subsequent violation of this subsection shall be guilty of a Class C felony and punished as prescribed by law. Any person convicted of violating this subsection who previously has been convicted of violating subdivision (2) of this subsection shall be subject to the same penalties specified for subsequent violations of this subsection.

(2) Any person 18 years of age or over who violates subdivision (1) of this subsection by delivering drug paraphernalia to a person under 18 years of age who is at least three years his junior shall be guilty of a Class B felony and upon conviction shall be punished as prescribed by law.

(f) Notwithstanding subdivision (e)(1), a person may possess, deliver, or sell testing equipment designed to detect the presence of fentanyl or any synthetic controlled substance fentanyl analogue, as described in Sections 20–2–23 and 20–2–25.

(g) All drug paraphernalia used in violation of this section shall be contraband and be subject to the forfeiture laws of this state and Section 20–2–93, as amended, in particular.

(Acts 1986, No. 86–425, p. 771; § 20–2–75.1; Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2; Act 2009–566, p. 1665, § 1; Act 2012–237, p. 445, § 2; Act 2022–154, § 1.)

Division 6.

Sale at or Near Public Housing Project.

§ 13A–12–270. Additional penalty for unlawful sale within three-mile radius of public housing project.

In addition to any penalties heretofore or hereafter provided by law for any person convicted of an unlawful sale of a controlled substance, there is hereby imposed a penalty of five years incarceration in a state corrections facility with no provision for probation if the situs of such unlawful sale was within a three-mile radius of a public housing project owned by a housing authority.

(Acts 1989, No. 89–951, p. 1873.)

Division 7.

Demand Reduction Assessment Act.

§ 13A–12–280. Short title.

This division shall be known and may be cited as the Demand Reduction Assessment Act.

(Acts 1990, No. 90–655, p. 1271, § 1.)

§ 13A–12–281. Additional penalties prescribed.

(a) In addition to any disposition and fine authorized by Sections 13A–12–202, 13A–12–203, 13A–12–204, 13A–12–211, 13A–12–212, 13A–12–213, 13A–12–215, or 13A–12–231, or any other statute indicating the dispositions that can be ordered for such a conviction, every person convicted of a violation of any offense defined in the sections set forth above, shall be assessed for each offense an additional penalty fixed at one thousand dollars ($1,000) for a first offense and two thousand dollars ($2,000) for a second or subsequent offense.

(b) All penalties provided for in this division shall be in addition to and not in lieu of any fine authorized by law or required to be imposed pursuant to the provisions of the controlled substance statutes set forth in subsection (a) of this section, and nothing in this division shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to these controlled substance statutes.

(Acts 1990, No. 90–655, p. 1271, § 2; Act 2006–560, p. 1297, § 2.)

§ 13A–12–282. Collection of penalties.

All penalties provided for in this division shall be collected as provided for collection of fines and restitution in [Rule 26.11, Alabama Rules of Criminal Procedure].

(Acts 1990, No. 90–655, p. 1271, § 3.)

§ 13A–12–283. Deposit of penalties in Drug Demand Reduction Fund; use of fund.

All moneys collected pursuant to this division shall be forwarded to the Department of Corrections to be deposited in a revolving fund to be known as the ''Drug Demand Reduction Fund.'' The moneys in the fund shall be expended by the Department of Corrections for drug education, prevention and treatment purposes.

(Acts 1990, No 90–655, p. 1271, § 4.)

§ 13A–12–284. Suspension and reduction of penalty conditioned on participation in drug rehabilitation program; amount of reduction.

(a) The court may suspend the collection of a penalty imposed pursuant to this division if the defendant agrees to enter a drug rehabilitation program approved by the court and if the defendant agrees to pay for all or some portion of the costs associated with the rehabilitation program. The collection of a penalty imposed pursuant to this division shall be suspended during the defendant's participation in the approved rehabilitation program.

(b) Upon successful completion of the rehabilitation program, the defendant may apply to the court to reduce the penalty imposed pursuant to this division by any amount actually paid by the defendant for his participation in said program. The court shall not reduce the penalty pursuant to this section unless the defendant establishes to the satisfaction of the court that he has successfully completed the rehabilitation program.

(c) If the defendant's participation is for any reason terminated before his successful completion of the rehabilitation program, collection of the entire penalty imposed pursuant to this division shall be enforced.

(Acts 1990, No. 90–655, p. 1271, § 5.)

Division 8.

Suspension of Driver's License for Certain Drug Related Violations.

§ 13A–12–290. License suspended for six months; crediting of time.

In addition to any other penalty provided by law, the Alabama State Law Enforcement Agency shall suspend for a period of six months the driver's license of any person, including, but not limited to, a juvenile, child, or youthful offender, convicted or adjudicated of, or subjected to a finding of delinquency based on, the crimes specified in Section 13A–12–291. If, at the time of conviction, adjudication, or finding of delinquency, the individual did not have a driver's license or the driver's license had been suspended or revoked, there shall be a delay in the issuance or reinstatement of the driver's license for six months after the individual applies for issuance or reinstatement. If the individual is ordered by a court to enter as a resident of an in-

patient drug or alcohol rehabilitation facility, the suspension required by this section shall be effective immediately. If the individual voluntarily enters an in-patient drug or alcohol rehabilitation facility as a resident and the court approves the treatment either before or after treatment, the time in the treatment program shall be credited against any period of suspension required by this section. If ordered by a court to enter a facility, the individual shall surrender his or her driver's license to the court and the court shall destroy the license. The individual shall receive credit for the time actually spent in a facility if he or she is released by the facility because the treatment is complete or the facility certifies that completion is not necessary. The Alabama State Law Enforcement Agency shall be notified by the court within 10 days by mail, fax, or electronic means of the status of the individual's license.

(Acts 1993, No. 93–352, § 1; Act 2009–658, p. 2026, § 1.)

§ 13A–12–291. Specific crimes warranting suspension of driver's license.

(a) A driver's license shall be suspended pursuant to Section 13A–12–290 for conviction of, adjudication of, or a finding of delinquency based on, the following crimes:

(1) Criminal solicitation to commit the crime of trafficking in specified substances under Section 13A–12–231 or unlawful possession with intent to distribute a controlled substance under subsections (c) and (d) of Section 13A–12–211.

(2) Attempt to commit the crime of trafficking in specified substances under Section 13A–12–231 or unlawful possession with intent to distribute a controlled substance under subsections (c) and (d) of Section 13A–12–211.

(3) Criminal conspiracy to commit the crime of trafficking in specified substances under Section 13A–12–231.

(4) Trafficking in specified substances under Section 13A–12–231.

(5) Unlawful possession with intent to distribute a controlled substance under subsections (c) and (d) of Section 13A–12–211.

(b) The suspension of a driver's license for driving under the influence of a controlled substance or under the combined influence of a controlled substance and alcohol pursuant to Section 32–5A–191 shall be governed by that section.

(Acts 1993, No. 93–352, § 2; Act 2015–185, p. 476, § 2.)

§ 13A–12–292. Procedure.

Upon conviction or adjudication of, or finding of delinquency based on, any of the offenses enumerated in Section 13A–12–291, the court shall take the defendant's driver's license and immediately forward it to the Alabama State Law Enforcement Agency. Drivers' licenses from other states shall also be

subject to suspension. The Alabama State Law Enforcement Agency shall coordinate with other states when out-of-state licenses are involved.

(Acts 1993, No. 93–352, § 3.)

§ 13A–12–293. Federal crimes and crimes of other states given same effect.

For purposes of this division, if the conduct or acts punishable by reference in Section 13A–12–291 also constitute violations of a federal law or the law of another state, then conviction or adjudication under federal law, or conviction or adjudication, or a finding of delinquency based on the law of another state for the same acts or conduct shall be given effect as if rendered in the courts of this state.

(Acts 1993, No. 93–352, § 4.)

§ 13A–12–294. Collection of fee.

The Director of the Alabama State Law Enforcement Agency shall establish and collect a nonrefundable fee in the amount of twenty-five dollars ($25) for costs incurred by the department in the administration of this division. The fee shall be in addition to the fees established under Section 32–6–17. The additional fee shall be collected upon application for reinstatement and the proceeds shall be deposited in the State Treasury to the credit of the Highway Traffic Safety Fund for the Alabama State Law Enforcement Agency. All money deposited in the State Treasury to the credit of the Highway Traffic Safety Fund for the Alabama State Law Enforcement Agency shall be expended by the Alabama State Law Enforcement Agency for law enforcement purposes. No money shall be withdrawn or expended from the fund for any purpose unless the money has been allotted and budgeted in accordance with Article 4 (commencing with Section 41–4–80) of Chapter 4 of Title 41, and only in the amounts and for the purposes provided by the Legislature in the general appropriations bill or other appropriation bills.

(Acts 1993, No. 93–352, p. 546, § 5; Act 2000–800, p. 1901, § 1.)

Division 9.

Deceptively Obtaining a Controlled Substance.

§ 13A–12–320. Deceptively obtaining a prescription for a controlled substance.

(a) It is unlawful for any person to deceptively obtain a controlled substance, as defined in Section 20–2–2(4), from a medical practitioner by intentionally and knowingly withholding information from the medical practitioner that the person has obtained a prescription for the same controlled substance or another controlled substance of similar therapeutic use in a concurrent time period from another medical practitioner. The unlawful

activity is complete upon the delivery of the prescription to the patient and occurs at the location of the delivery.

(b) A violation of subsection (a) constitutes a Class A misdemeanor punishable as prescribed by law.

(c) A person who commits a fourth or subsequent violation of subsection (a) within a five-year period commits a Class C felony.

(Act 2013–258, p. 682, § 1.)

Division 10.

Synthetic Urine and Urine Additives.

§ 13A–12–340. Manufacture, sale, use, etc., of synthetic urine or urine additive.

(a) As used in this section, the following terms have the following meanings:

(1) DEFRAUD. A misrepresentation of a material fact made willfully to deceive or with reckless disregard as to its truth or falsity.

(2) SYNTHETIC URINE. A substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.

(3) URINE ADDITIVE. A substance that is designed to be added to human urine.

(b)(1) No person shall knowingly manufacture, market, sell, distribute, use, or possess synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test.

(2) No person shall knowingly use his or her urine to defraud an alcohol, drug, or urine screening test if the person's urine was expelled or withdrawn before collection of the urine specimen for the test.

(c) This section does not apply to urine, synthetic urine, or a urine additive that is manufactured, marketed, sold, distributed, used, or possessed solely for educational, medical, or scientific research.

(d)(1) On a first conviction of a violation of subsection (b), the person is guilty of a Class B misdemeanor.

(2) On a second or subsequent conviction of subsection (b), the person is guilty of a Class A misdemeanor.

(e) A person who collects urine specimens for alcohol, drug, or urine screening tests who knows or has reasonable cause to suspect that a person has used synthetic urine or a urine additive to defraud an alcohol, drug, or urine screening test in violation of subsection (b) shall report that knowledge or suspicion to the appropriate law enforcement agency.

(Act 2020–84, § 1.)

CHAPTER 13.

OFFENSES AGAINST THE FAMILY.

§ 13A–13–1. Bigamy.

(a) A person commits bigamy when he intentionally contracts or purports to contract a marriage with another person when he has a living spouse. A person who contracts a marriage outside this state, which would be bigamous if contracted in this state, commits bigamy by cohabiting in the state with the other party to such a marriage.

(b) A person does not commit an offense under this section if:

(1) He reasonably believes that his previous marriage is void or was dissolved by death, divorce or annulment; or

(2) He and the prior spouse have been living apart for five consecutive years next prior to the subsequent marriage, during which time the prior spouse was not known by him to be alive.

(3) The burden of injecting the issues under this subsection is on the defendant, but this does not shift the burden of proof.

(c) Bigamy is a Class C felony.

(Acts 1977, No. 607, p. 812, § 7001.)

§ 13A–13–2. Adultery.

(a) A person commits adultery when he engages in sexual intercourse with another person who is not his spouse and lives in cohabitation with that other person when he or that other person is married.

(b) A person does not commit a crime under this section if he reasonably believes that he and the other person are unmarried persons. The burden of injecting this issue is on the defendant, but this does not change the burden of proof.

(c) Adultery is a Class B misdemeanor.

(Acts 1977, No. 607, p. 812, § 7005.)

§ 13A–13–3. Incest.

(a) A person commits incest if he or she marries or engages in sexual intercourse with a person he or she knows to be, either legitimately or illegitimately, any of the following:

(1) His or her ancestor or descendant by blood or adoption.

(2) His or her brother or sister of the whole or half-blood or by adoption.

(3) His or her stepchild or stepparent, while the marriage creating the relationship exists.

(4) His or her aunt, uncle, nephew or niece of the whole or half-blood.

(b)(1) Incest is a Class C felony.

(2) Where the victim is under 17 years of age on the date of the offense, incest is a Class A felony.

(Acts 1977, No. 607, p. 812, § 7010; Act 2023–464, § 1, eff. Sept. 1, 2023.)

§ 13A–13–4. Nonsupport.

(a) A man or woman commits the crime of nonsupport if he or she intentionally fails to provide support which that person is able to provide and which that person knows he or she is legally obligated to provide to a dependent spouse or child less than 19 years of age.

(b) ''Support'' includes but is not limited to food, shelter, clothing, medical attention and other necessary care, as determined elsewhere by law.

(c) ''Child'' includes a child born out of wedlock whose paternity has been admitted by the actor or has been established in a civil suit.

(d) Nonsupport is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 7025.)

§ 13A–13–5. Abandonment of child.

(a) A man or woman commits the crime of abandonment of a child when, being a parent, guardian or other person legally charged with the care or custody of a child less than 18 years old, he or she deserts such child in any place with intent wholly to abandon it.

(b) Abandonment of a child is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 7030.)

§ 13A–13–6. Endangering welfare of child.

(a) A man or woman commits the crime of endangering the welfare of a child when:

(1) He or she knowingly directs or authorizes a child less than 16 years of age to engage in an occupation involving a substantial risk of danger to his life or health; or

(2) He or she, as a parent, guardian or other person legally charged with the care or custody of a child less than 18 years of age, fails to exercise reasonable diligence in the control of such child to prevent him or her from becoming a ''dependent child'' or a ''delinquent child,'' as defined in Section 12–15–1.

(b) A person does not commit an offense under Section 13A–13–4 or this section for the sole reason he provides a child under the age of 19 years or a dependent spouse with remedial treatment by spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof in lieu of medical treatment.

(c) Endangering the welfare of a child is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, § 7035.)

§ 13A–13–7. Inducing or attempting to induce abortion, miscarriage or premature delivery of woman.

Any person who willfully administers to any pregnant woman any drug or substance or uses or employs any instrument or other means to induce an abortion, miscarriage or premature delivery or aids, abets or prescribes for the same, unless the same is necessary to preserve her life or health and done for that purpose, shall on conviction be fined not less than $100.00 nor more than $1,000.00 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than 12 months.

(Code 1852, § 64; Code 1867, § 3605; Code 1876, § 4192; Code 1886, § 4022; Code 1896, § 4305; Code 1907, § 6215; Acts 1911, No. 450, p. 548; Code 1923, § 3191; Code 1940, T. 14, § 9; Acts 1951, No. 956, p. 1630; Code 1975, § 13–8–4.)

§ 13A–13–8. Failure to report missing child.

(a) This section shall be known and may be cited as Caylee's Law.

(b) For purposes of this section, the following terms shall have the meanings respectively ascribed to them by this section:

(1) ABDUCTION. The removal or retention of a child without the consent of the child's custodian.

(2) CHILD. A person who is less than 18 years of age.

(3) CUSTODIAN. A child's father or mother, whether biological or adoptive, a child's legally appointed guardian, or the spouse of a child's father, mother, or legally appointed guardian. In the case where only one parent has legal custody, the term means the parent with legal custody or his or her spouse.

(4) GUARDIAN. A guardian as defined in Section 26–2A–20.

(5) LOST CHILD. A child who is unable to find his or her way back to his or her custodian.

(6) RUNAWAY CHILD. A child who voluntarily absents himself or herself from the control of his or her custodian with intent to remain away indefinitely.

(c) A child's custodian shall report, or cause a report to be made, to a law enforcement officer or agency that the child is missing when the child's whereabouts are unknown to the custodian and the custodian knows, believes, or has substantial reason to believe any of the following:

(1) That the child's whereabouts are unknown to any person under whose temporary supervision the custodian placed the child.

(2) That the child is the victim of an abduction or the victim of serious bodily harm, abuse, or sexual exploitation.

(3) That the child is a lost or runaway child.

(d) The report required under subsection (c) shall be made verbally, either by telephone or direct communication, followed by a written report as requested by a law enforcement official.

(e)(1) A child's custodian who is subject to the duty imposed by subsection (c) is guilty of failure to report a missing child in the second degree if he or she fails or delays to make, or fails to cause to be made, the required report with willful or reckless disregard for the safety of the child.

(2) Failure to report a missing child in the second degree is a Class A misdemeanor.

(f)(1) A child's custodian who is subject to the duty imposed by subsection (c) is guilty of failure to report a missing child in the first degree if he or she fails or delays to make, or fails to cause to be made, the required report with willful or reckless disregard for the safety of the child and the child suffers serious bodily harm or death.

(2) Failure to report a missing child in the first degree is a Class C felony.

(g) It is a defense to prosecution under this section that the custodian made reasonably diligent efforts to verify the whereabouts and safety of the child during the period of any delay in making the report required by subsection (c).

(Act 2013–367, p. 1321, §§ 1–6.)

CHAPTER 14.

MISCELLANEOUS OFFENSES.

§ 13A–14–1. Maiming one's self to escape duty or obtain alms.

Every person who, with design to disable himself from performing a legal duty, existing or anticipated, shall inflict upon himself an injury whereby he is so disabled and every person who shall so injure himself with intent to avail himself of such injury to excite sympathy or to obtain alms or some charitable relief shall be guilty of a felony.

(Code 1923, § 4941; Code 1940, T. 14, § 357; Code 1975, § 13–1–6.)

§ 13A–14–2. Executive or secret sessions of certain boards.

Repealed by Act 2005–40, p. 55, § 10, effective October 1, 2005.

§ 13A–14–3. Marathon, etc., contests prohibited.

Repealed by Act 2015–70, § 1(20), effective April 21, 2015.

§ 13A–14–4. Fraudulently pretending to be clergyman.

Whoever, being in a public place, fraudulently pretends by garb or outward array to be a minister of any religion, or nun, priest, rabbi or other member of the clergy, is guilty of a misdemeanor and, upon conviction, shall be punished

by a fine not exceeding $500.00 or confinement in the county jail for not more than one year, or by both such fine and imprisonment.

(Acts 1965, 1st Ex. Sess., No. 273, p. 381; Code 1975, § 13–4–99.)

§ 13A–14–5. Solicitation of advertisements for state or federal peace officer magazines or journals.

(a) It shall be unlawful for any person, firm or corporation to solicit advertisement in this state to appear in any state or federal peace officers' magazine or journal without such person, firm or corporation first having qualified with the Attorney General of the State of Alabama to solicit such advertisement as hereinafter provided in this section.

(b) Any person, firm or corporation who holds himself out to be affiliated with any state or federal peace officers association who publishes a peace officers' magazine or journal may qualify with the Attorney General and receive a certificate of qualification from him by furnishing proof to the Attorney General that he does in truth and in fact represent a legitimate federal or state peace officers association and that the publication which he purports to represent is published at least quarterly.

(c) Any person, firm or corporation who holds himself out to represent any peace officers' magazine or journal who solicits advertisement to appear in such magazine or journal without first having obtained a certificate of qualification from the Attorney General of the State of Alabama shall be guilty of a misdemeanor and upon conviction shall be fined not less than $1,000.00 and imprisoned in the county jail not more than one year.

(Acts 1971, 3rd Ex. Sess., No. 70, p. 4278, §§ 1–3; Code 1975, § 13–6–4.)

TITLE 15.

CRIMINAL PROCEDURE.

CHAPTER 5.

SEARCHES AND SEIZURES.

ARTICLE 1.

SEARCH WARRANTS.

§ 15–5–1. ''Search warrant'' defined.

A ''search warrant'' is an order in writing in the name of the state signed by a judge, or by a magistrate authorized by law to issue search warrants, and directed to the sheriff or to any constable of the county, commanding him to search for personal property and bring it before the court issuing the warrant.

(Code 1852, § 825; Code 1867, § 4376; Code 1876, § 4005; Code 1886, § 4727; Code 1896, § 5484; Code 1907, § 7757; Code 1923, § 5471; Code 1940, T. 15, § 100.)

§ 15–5–2. Grounds for issuance.

A search warrant may be issued on any one of the following grounds:

(1) Where the property was stolen or embezzled;

(2) Where it was used as the means of committing a felony; or

(3) Where it is in the possession of any person with the intent to use it as a means of committing a public offense or in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its discovery.

(Code 1852, § 826; Code 1867, § 4377; Code 1876, § 4006; Code 1886, § 4728; Code 1896, § 5485; Code 1907, § 7758; Code 1923, § 5742; Code 1940, T. 15, § 101.)

§ 15–5–3. Probable cause and affidavit required.

A search warrant can only be issued on probable cause, supported by an affidavit naming or describing the person and particularly describing the property and the place to be searched.

(Code 1852, § 827; Code 1867, § 4378; Code 1876, § 4007; Code 1886, § 4729; Code 1896, § 5486; Code 1907, § 7759; Code 1923, § 5473; Code 1940, T. 15, § 102.)

§ 15–5–4. Examination of complainant and witnesses; contents of depositions.

Before issuing a search warrant, a judge, or magistrate authorized by law to issue search warrants, must examine on oath the complainant and any

witness he may produce, take their depositions in writing and cause them to be subscribed by the persons making them. Such depositions must set forth facts tending to establish the grounds of the application or probable cause for believing that they exist.

(Code 1852, §§ 828, 829; Code 1867, §§ 4379, 4380; Code 1876, §§ 4008, 4009; Code 1886, § 4730; Code 1896, § 5487; Code 1907, § 7760; Code 1923, § 5474; Code 1940, T. 15, § 103.)

§ 15–5–5. Issuance of warrant.

If the judge or the magistrate is satisfied of the existence of the grounds of the application or that there is probable ground to believe their existence, he must issue a search warrant signed by him and directed to the sheriff or to any constable of the county, commanding him forthwith to search the person or place named for the property specified and to bring it before the court issuing the warrant.

(Code 1852, § 830; Code 1867, § 4381; Code 1876, § 4010; Code 1886, § 4731; Code 1896, § 5488; Code 1907, § 7761; Code 1923, § 5475; Code 1940, T. 15, § 104.)

§ 15–5–6. Form.

A search warrant may be substantially in the following form:

"The State of Alabama,	) To the sheriff or any constable of
. . . . . County	) . . . . . County.

Proof by affidavit having this day been made before me by A. B., that, (stating the particular ground on which the warrant issued out; or, if the affidavits are not positive, that there is probable ground for believing that, etc.); you are, therefore, commanded in the daytime (or at any time of the day or night, as the case may be) to make immediate search on the person of C. D. (or in the house of C. D., as the case may be), for the following property: (particularly describing it); and if you find the same, or any part thereof, to bring it forthwith before me at, etc., (stating place).

Dated the . . . . . day of . . . . . , 20. . . .

(Signed) E. F., Judge, or Magistrate, as the case may be."

(Code 1852, § 831; Code 1867, § 4382; Code 1876, § 4011; Code 1886, § 4732; Code 1896, § 5489; Code 1907, § 7762; Code 1923, § 5476; Code 1940, T. 15, § 105.)

§ 15–5–7. By whom executed.

A search warrant may be executed by any one of the officers to whom it is directed, but by no other person except in aid of such officer at his request, he being present and acting in its execution.

(Code 1852, § 832; Code 1867, § 4383; Code 1876, § 4013; Code 1886, § 4733; Code 1896, § 5490; Code 1907, § 7763; Code 1923, § 5477; Code 1940, T. 15, § 106.)

§ 15–5–8. When executed; time of execution to be stated.

In cases in which the property to be seized does not include a controlled substance, a search warrant must be executed in the daytime unless the affidavits state positively that the property is on the person or in the place to be searched, in which case it may be executed at any time of the day or night. Except in cases in which the property to be seized includes a controlled substance, the issuing judge or magistrate must state in the warrant, according to the character of the affidavits, whether it is to be executed by day or at any time of the day or night. In cases in which the property to be seized includes a controlled substance, a warrant may be executed at any time of the day or night.

(Code 1852, § 833; Code 1867, § 4384; Code 1876, § 4013; Code 1886, § 4734; Code 1896, § 5491; Code 1907, § 7764; Code 1923, § 5478; Code 1940, T. 15, § 107; Acts 1987, No. 87–611, p. 1061, § 2.)

§ 15–5–9. Authority of serving officer to break into house.

To execute a search warrant, an officer may break open any door or window of a house, any part of a house or anything therein if after notice of his authority and purpose he is refused admittance.

(Code 1852, § 834; Code 1867, § 4385; Code 1876, § 4014; Code 1886, § 4735; Code 1896, § 5492; Code 1907, § 7765; Code 1923, § 5479; Code 1940, T. 15, § 108.)

§ 15–5–10. Taking of property.

(a) When a search warrant is sued out on the ground specified in subdivision (1) of Section 15–5–2, the property may be taken under the warrant from any house or other place in which it is concealed, from the possession of any person by whom it was stolen or embezzled or from any other person in whose possession it may be.

(b) When a search warrant is sued out on the ground specified in subdivision (2) of Section 15–5–2, the property may be taken under the warrant from any house or other place in which it is concealed, from the possession of the person by whom it was so used or from any other person in whose possession it may be.

(c) When a search warrant is sued out on the ground specified in subdivision (3) of Section 15–5–2, the property may be taken under the warrant from the possession of such person, from any house or other place occupied by him or under his control or from the possession of the person to whom he may so have delivered it.

(Code 1852, § 835; Code 1867, § 4386; Code 1876, § 4015; Code 1886, § 4736; Code 1896, § 5493; Code 1907, § 7766; Code 1923, § 5480; Code 1940, T. 15, § 109.)

§ 15–5–11. Receipt for property taken.

When an officer takes property under a search warrant, he must give a receipt to the person from whom it was taken or in whose possession it was found if required.

(Code 1852, § 836; Code 1867, § 4387; Code 1876, § 4016; Code 1886, § 4737; Code 1896, § 5494; Code 1907, § 7767; Code 1923, § 5481; Code 1940, T. 15, § 110.)

§ 15–5–12. Warrant to be executed and returned within 10 days.

A search warrant must be executed and returned to the judge or the magistrate by whom it was issued within 10 days after its date; if not executed after such time, it is void.

(Code 1852, § 837; Code 1867, § 4388; Code 1876, § 4017; Code 1886, § 4738; Code 1896, § 5495; Code 1907, § 7768; Code 1923, § 5482; Code 1940, T. 15, § 111.)

§ 15–5–13. Contents of return; copies to be furnished.

In his return of a search warrant to the judge or the magistrate, the officer serving such must specify with particularity the property taken, and the applicant for the warrant and the persons from whose possession the property was taken are entitled to a copy of the return, signed by the judge or the magistrate.

(Code 1852, § 838; Code 1867, § 4389; Code 1876, § 4018; Code 1886, § 4739; Code 1896, § 5496; Code 1907, § 7769; Code 1923, § 5483; Code 1940, T. 15, § 112.)

§ 15–5–14. Disposition of taken property by court if property stolen or embezzled.

When the property is taken under a search warrant, it shall be delivered to the court issuing the warrant. If the property was stolen or embezzled, the court shall cause it to be delivered to the owner, on satisfactory proof of his title and the payment by him of all fees. If the warrant was issued on the grounds specified in subdivisions (2) and (3) of Section 15–5–2, the officer effecting the warrant must retain the property in his possession, subject to the order of the court to which he is required to return the proceedings or of the court in which the offense is triable in respect to which the property was taken.

(Code 1852, § 839; Code 1867, § 4390; Code 1876, § 4019; Code 1886, § 4740; Code 1896, § 5497; Code 1907, § 7770; Code 1923, § 5484; Code 1940, T. 15, § 113.)

§ 15–5–15. Hearing on controverted grounds; authentication of testimony as to such facts.

If the grounds on which a search warrant was issued be controverted, the judge or the magistrate must proceed to hear the testimony, which must be

reduced to writing and authenticated in the manner prescribed in Section 15–5–4.

(Code 1852, § 840; Code 1867, § 4391; Code 1876, § 4020; Code 1886, § 4741; Code 1896, § 5498; Code 1907, § 7771; Code 1923, § 5485; Code 1940, T. 15, § 114.)

§ 15–5–16. Restoration of taken property to defendant; property to be forwarded to court if not restored.

(a) If it appears that the property taken is not the same as that described in a search warrant or that there is no probable cause for believing the existence of the ground on which the warrant issued, the judge or the magistrate must direct it to be restored to the person from whom it was taken.

(b) If the property is not directed to be restored under the provisions of subsection (a) of this section, the judge or the magistrate shall annex together the search warrant, the return and the depositions and return them to the court having power to inquire into the offense in respect to which the search warrant was issued.

(Code 1852, §§ 841, 842; Code 1867, §§ 4392, 4393; Code 1876, §§ 4021, 4022; Code 1886, §§ 4742, 4743; Code 1896, §§ 5499, 5500; Code 1907, §§ 7772, 7773; Code 1923, §§ 5486, 5487; Code 1940, T. 15, §§ 115, 116.)

§ 15–5–17. Searching of person charged with felony for weapon or evidence in judge's or magistrate's presence.

When a person charged with a felony is supposed by the judge or the magistrate before whom he is brought to have upon his person a dangerous weapon or anything which may be used as evidence of the commission of the offense, the judge or the magistrate may direct him to be searched in his presence and such weapon or other thing to be retained, subject to the order of the court in which the defendant may be tried.

(Code 1852, § 844; Code 1867, § 4395; Code 1876, § 4024; Code 1886, § 4745; Code 1896, § 5502; Code 1907, § 7775; Code 1923, § 5489; Code 1940, T. 15, § 118.)

§ 15–5–18. Payment of fees and costs.

The complainant must pay the fees of a search warrant before he is entitled to the same, and must also pay the officer his fees for the execution before the same is executed; and if, on the hearing, it appears that there was no probable cause for believing the existence of the grounds on which the warrant was issued, the whole costs may be taxed against the complainant and an execution issued therefor, returnable on any day the judge or the magistrate may direct.

(Code 1852, § 843; Code 1867, § 4394; Code 1876, § 4023; Code 1886, § 4744; Code 1896, § 5501; Code 1907, § 7774; Code 1923, § 5488; Code 1940, T. 15, § 117.)

§ 15–5–19. Penalty for procuring maliciously and without probable cause.

Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined on conviction not less than $20.00 nor more than $500.00, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

(Code 1852, § 43; Code 1867, § 3584; Code 1876, § 4141; Code 1886, § 4011; Code 1896, § 5483; Code 1907, § 7756; Code 1923, § 5470; Code 1940, T. 15, § 99.)

Article 2.

Searches, etc., of Persons in Public Places.

§ 15–5–30. Authority of peace officer to stop and question.

A sheriff or other officer acting as sheriff, his deputy or any constable, acting within their respective counties, any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county or any highway patrolman or state trooper may stop any person abroad in a public place whom he reasonably suspects is committing, has committed or is about to commit a felony or other public offense and may demand of him his name, address and an explanation of his actions.

(Acts 1966, Ex. Sess., No. 157, p. 183, § 1.)

§ 15–5–31. Search for dangerous weapon; procedure if weapon or other thing found.

When a sheriff or other officer acting as sheriff, his deputy or any constable, acting within their respective counties, any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county or any highway patrolman or state trooper has stopped a person for questioning pursuant to this article and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon. If such officer finds such a weapon or any other thing, the possession of which may constitute a crime, he may take and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person.

(Acts 1966, Ex. Sess., No. 157, p. 183, § 2.)

ARTICLE 3.

STORED WIRE AND ELECTRONIC COMMUNICATIONS.

§ 15–5–40. Stored wire and electronic communications and transactional records access; pen registers and trap and trace devices.

(a) The definitions, prohibitions, authorizations, and procedures regarding access to stored wire and electronic communications and transactional records and the installation or use of pen registers or trap and trace devices shall be adopted and coextensive with the provisions of the federal law defined at Chapters 121 and 206 of Title 18, United States Code, Sections 2701–2712 and 3121–3127, and as those provisions may hereafter be amended.

(b) Emergency pen registers and trap and trace devices may be installed pursuant to the provisions of the federal law defined in Title 18, United States Code, Section 3125, as it may hereafter be amended, provided the investigative or law enforcement officer declaring the emergency has been specially authorized and designated in writing by the Attorney General, district attorney, or city attorney, if authorized to prosecute felony offenses, with prosecuting jurisdiction over the offense, investigation, defendant, or provider of wire or electronic communications service whose assistance is required.

(c) An emergency declared or order issued under the combined authority of the provisions of federal law defined at Chapters 121 and 206 of Title 18, United States Code, Sections 2701–2712 and 3121–3127, may authorize disclosure of call-identifying addressing, routing, or signaling information that may disclose the physical location of the subscriber, customer, or user of a wire or electronic communications service.

(d) An emergency may be declared in those situations involving the disappearance of an individual, the report of a runaway child, or report of a missing person for which no criminal charge may be readily apparent but where the individual may be in danger based on, but not limited to, the age, physical condition, or circumstances surrounding the disappearance of the individual. The situation will authorize the installation of pen registers and trap and trace devices and disclosure of call-identifying addressing, routing, or signaling information that may disclose the physical location of the subscriber, customer, or user of a wire or electronic communications service.

(e) Orders or search warrants, or both, issued pursuant to this section are expressly allowed to be prospective in nature and these orders or search warrants, or both, are allowed to be executed during the day and night. Further, an inventory of the information obtained pursuant to an order or search warrant issued pursuant to this section related to electronic storage media or the seizure or copying of electronically stored information may be limited to describing the physical storage media that was seized or copied. Within 10 days after the expiration of the order or search warrant issued pursuant to this section, law enforcement must return the order or search

warrant to the judge designated in the order or search warrant, and, if unavailable, to another judge with jurisdiction.

(Act 2012–503, p. 1482, § 1.)

ARTICLE 3A.

CRIMINAL SURVEILLANCE.

§ 15–5–50. Warrant for tracking device installation; requirements; procedures.

(a) Any circuit or district court judge in this state is authorized to issue a warrant to install a tracking device. The term tracking device means an electronic or mechanical device which permits the tracking of the movement of a person or object.

(b) Upon the written application, under oath, of any law enforcement officer as defined in Alabama Rule of Criminal Procedure 1.4, district attorney, or Attorney General of the state, including assistant and deputy district attorneys and assistant and deputy attorneys general, any authorized judge may issue a warrant for the installation, retrieval, maintenance, repair, use, or monitoring of a tracking device. The warrant application shall do all of the following:

(1) State facts sufficient to show probable cause that a crime is being, has been, or is about to be committed in the jurisdiction of the issuing judge.

(2) Identify the person, if reasonably determinable, or object, or both, that is, was, or will be involved in the commission of the alleged offense.

(3) Describe, with particularity, the item or person, or both, to be tracked by use of a tracking device.

(c)(1) A warrant for a tracking device shall identify the person, if reasonably determinable, or the object to be tracked, or both, and specify a reasonable length of time that the tracking device may be used, not to exceed 45 days from the date that the warrant was issued unless the issuing judge grants one or more extensions for a reasonable time not to exceed 45 days each, based on new, renewed, or ongoing probable cause.

(2) The warrant shall include the authorization for access to and into the object that will be tracked and any building, dwelling, structure, or curtilage in which the object is located for the limited purpose of installing the tracking device or for maintenance, repair, or retrieval of the tracking device. The warrant shall state that the tracking device may be installed, repaired, maintained, or retrieved at any time during the day or night. However, access to and into any building, dwelling, structure, or curtilage in which the object is located shall be limited to the daytime unless the affidavit sets out that the purpose of the tracking device is to investigate a crime involving a controlled substance, an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a

weapon of mass destruction, or an emergency situation involving danger to a person, at which point access to and into any building, dwelling, structure, or curtilage in which the object is located may be allowed at any time of the day or night. The time of day for access to and into any building, dwelling, structure, or curtilage shall be set out in the warrant. The device may be monitored at any time of the day or night.

(3) The warrant shall command the officer to do all of the following:

a. Install the tracking device upon the person or object to be tracked while the person or object is within the jurisdiction of the judge issuing the warrant.

b. Complete the installation within 10 days from the date the warrant is issued.

c. Require that the law enforcement officer make a written return of the warrant within 10 days after the use of the tracking device has ceased, and the device removed if possible, to the judge issuing the warrant or other authorized judge in the jurisdiction where the warrant was issued if the issuing judge is not available setting out the time period or time periods that surveillance occurred. If the device was not able to be removed, require an explanation as to why the device was not removed.

(d) The law enforcement officer executing the warrant shall do all of the following:

(1) Enter on the warrant the date and time the device was installed and the period during which it was used.

(2) Within 10 days after the use of the tracking device has ended, return the warrant with a copy of the inventory that sets out the time period for which the tracking device was active, a statement that the device was removed, or an explanation as to why the device was not removed, to be listed on the inventory, to the issuing judge or other authorized judge in the jurisdiction where the warrant was issued if the issuing judge is not available, and serve a copy of the warrant on the person who was tracked or whose property was tracked. Service may be accomplished by delivering a copy of the warrant to the person who was tracked or whose property was tracked, leaving a copy at that person's residence or usual place of abode with an individual of suitable age and discretion who resides at that location, or mailing a copy to the person's last known address. Upon request of the state, the judge may delay notice as provided in subsection (f).

(e) The law enforcement officers involved in the investigation shall retrieve or cause to be retrieved the tracking device as soon as it is practicable prior to the expiration of the warrant. If retrieval is not practicable, monitoring of the mobile tracking device shall cease on expiration of the warrant.

(f) With respect to a warrant issued pursuant to this section, notice to the person who was tracked or whose property was tracked may be delayed upon the request of the applicant if the following applies:

(1) The court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result. An adverse result means any of the following:

a. Endangerment to the life or physical safety of an individual.

b. Flight from prosecution.

c. Destruction of or tampering with evidence.

d. Intimidation of potential witnesses.

e. Any occurrence that would otherwise seriously jeopardize an investigation or unduly delay a trial.

(2) The warrant provides that notice shall be given within a reasonable period not to exceed 90 days after the date the warrant was returned to the issuing judge or authorized judge in the jurisdiction where the warrant was issued if the issuing judge is not available. The delay may be extended by the court if the court determines that there is a continuous finding of an adverse result, subject to the condition that an extension shall only be granted upon an updated showing of the need for further delay. Each additional delay shall be limited to a period of 90 days or less, unless the facts of the case justify a longer period, provided, however, that the delayed notification shall be no later than the date of arrest of the individual who was tracked or whose property was tracked if the arrest is based wholly or in part upon the results of the tracking device or other information discovered as part of the investigation in which the tracking device was used.

(g) The warrant shall direct that the affidavit, application, warrant, inventory, and return be sealed until notice is given to the person who was tracked or whose property was tracked.

(h) If an authorized judge issues a warrant for a tracking device in accordance with this section, the device shall be installed in any county within the jurisdiction of the issuing judge.

(i) Upon obtaining a warrant for a tracking device or any other electronic device for which location information may be obtained as authorized by Section 15–5–40, the device may be monitored from, or information regarding the device obtained while in, any location within this state regardless of the location of the device itself, even if the device is transported throughout or outside of this state, unless otherwise prohibited by federal law.

(Act 2016–340, p. 842, § 1.)

Article 3B.

Location Information Provided by Wireless Communications Service Provider.

§ 15–5–55. Wireless communications service provider to provide location information in certain emergency situations.

(a) This section shall be known and cited as the Kelsey Smith Act.

(b) Upon request of a law enforcement officer as defined in Rule 1.4 of the Alabama Rules of Criminal Procedure, who is on duty and acting in the course of his or her official duties at the time of the request, a wireless communications service provider shall provide call location information concerning the telecommunications device of a user to the requesting law enforcement officer as soon as practicable after receipt of the request and after a showing that an emergency situation exists at the time of the request by the law enforcement officer.

(c) A law enforcement officer shall not request information pursuant to this section unless the request is made for the specific purpose of responding to a call for emergency services or in an emergency situation that involves the risk or threat of death or serious physical harm.

(d) A wireless communications service provider may establish protocols by which the carrier voluntarily discloses call location information.

(e) A wireless communications service provider, or any employee thereof, that provides information regarding call location information is immune from civil and criminal liability if acting in a reasonable manner and pursuant to this section.

(f) Pursuant to this section or as authorized by Section 15–5–40, a law enforcement officer, while located in the State of Alabama may monitor or obtain the location information of a device from a wireless communications provider no matter the location of the device, even if such device is transported throughout or outside of the State of Alabama, subject to any limitation or prohibition provided by federal law.

(g) The Alabama State Law Enforcement Agency may obtain contact information from all wireless service providers authorized to do business in this state to facilitate a request from a law enforcement agency for call location information under this section. The Alabama State Law Enforcement Agency shall disseminate the contact information to each state and local law enforcement agency in this state.

(h) The provisions of 18 U.S.C. § 2707, as adopted by Section 15–5–40, may be applicable to this section as the person making the request, in addition to any other appropriate law or rule.

(i) All such requests pursuant to this section shall either be in writing and signed by the requesting law enforcement officer, or, if made orally, the request shall be documented at the earliest possible time thereafter and signed by the requesting law enforcement officer. The original request or documented request, or a copy thereof, shall be retained by the custodian of records for the law enforcement agency where the requesting law enforcement officer is employed. The documentation shall not be destroyed and shall be held as a permanent record. The open records requirements of Section 36–12–40 shall apply only to the name of the law enforcement officer making the request and the date the request was made, and only after the conclusion of the criminal investigation or criminal prosecution. All requests retained pursuant to this section shall be available to the Attorney General, the

Secretary of the Alabama State Law Enforcement Agency, or the local district attorney at any time.

(Act 2017–398, § 1.)

ARTICLE 4.

ALABAMA COMPREHENSIVE CRIMINAL PROCEEDS FORFEITURE ACT.

§ 15–5–60. Short title.

This article shall be known and may be cited as the Alabama Comprehensive Criminal Proceeds Forfeiture Act.

(Act 2014–306, p. 1103, § 1.)

§ 15–5–61. Seizure and forfeiture of proceeds, property, etc., acquired through the commission of certain criminal offenses.

(a) Any property, proceeds, or instrumentality of every kind, used or intended for use in the course of, derived from, or realized through the commission of a felony offense, as defined in this article, or a misdemeanor offense under Article 3, Chapter 12, Title 13A, relating to prostitution offenses, or as inducement or attempt or conspiracy to commit such offenses, is subject to civil forfeiture.

(b) This article does not apply to or limit forfeiture under Sections 20–2–93, 13A–11–84, 13A–12–30, or 13A–12–198.

(Act 2014–306, p. 1103, § 2; Act 2016–282, p. 713, § 8.)

§ 15–5–62. Definitions.

For the purposes of this article, the following words shall have the following meanings:

(1) FELONY OFFENSE. Any act that could be charged as a felony criminal offense under the Code of Alabama 1975, whether or not a formal criminal prosecution or delinquent proceeding began at the time the forfeiture was initiated.

(2) FINANCIAL INSTITUTION. A bank, credit union, or savings and loan association.

(3) INNOCENT OWNER. A bona fide purchaser or lienholder of property that is subject to forfeiture, including any of the following:

a. A person who has a valid claim, lien, or other interest in the property seized who did not know or consent to the conduct that caused the property to be forfeited, seized, or abandoned under subdivision (1) of Section 15–5–63.

b. A person who did not participate in the commission of a crime or delinquent act giving rise to the forfeiture.

c. A victim of an alleged criminal offense.

(4) INSTITUTED PROMPTLY. The filing by the district attorney or prosecutorial entity of a civil in rem proceeding in a court of competent jurisdiction within 42 days of seizure, unless good cause is shown for delay.

(5) INSTRUMENTALITY. Property otherwise lawful to possess that is used in or intended to be used in a criminal offense. The term includes, but is not limited to, a firearm, a mobile instrumentality, a computer, a computer network, a computer system, computer software, a telecommunications device, money, or any other means of exchange.

(6) LAW ENFORCEMENT AGENCY. Any municipal, county, or state agency the personnel of which have the power of arrest and to perform law enforcement functions, including prosecutorial entities.

(7) PROCEEDS. Includes both of the following:

a. In cases involving unlawful goods, services, or activities, proceeds includes any property derived directly or indirectly from an offense. The term includes, but is not limited to, money or any other means of exchange. The term is not limited to the net gain or profit realized from the offense.

b. In cases involving lawful goods or services that are sold or provided in an unlawful manner, proceeds are the amount of money or other means of exchange acquired through the illegal transaction resulting in the forfeiture, less the direct costs lawfully incurred in providing the goods or services. The lawful costs deduction does not include any part of the overhead expenses of, or taxes paid by, the entity providing the goods or services. The alleged offender or delinquent has the burden to prove that any costs are lawfully incurred.

(8) PROPERTY. Any real or personal property and any benefit, privilege, claim, position, interest in an enterprise, or right derived, directly or indirectly, from the criminal offense.

(Act 2014–306, p. 1103, § 3.)

§ 15–5–63. Proof; forfeiture procedures.

The state must prove to the court's reasonable satisfaction that the proceeds, property, or instrumentality of any kind were used in, intended to be used in, or derived from, a felony offense. Except as provided otherwise in this article, the manner, method, and procedure for the seizure, forfeiture, condemnation, and disposition shall be the same as that set out in Section 20–2–93 and Sections 28–4–286 through 28–4–290, inclusive, except for the following:

(1) An innocent owner's or bona fide lienholder's interest in any type of property shall not be forfeited under this article for any act or omission unless the state proves that the act or omission was committed or omitted with the knowledge or consent of that owner or lienholder.

(2) The state may stipulate that the interest of an innocent owner or bona fide lienholder is exempt from forfeiture upon presentation of proof of the claim. The state shall file the stipulation with the court exercising jurisdiction over the forfeiture action and the filing of the stipulation shall constitute an admission by the state that the interest is exempt from forfeiture. If a stipulation is submitted, no further claim, answer, or pleading shall be required of the stipulated innocent owner or lienholder, and a judgment shall be entered exempting that interest from forfeiture.

(3) If an answer is filed within 30 days of service by an innocent owner or bona fide lienholder requesting an expedited hearing, the court may issue an order to show cause to the seizing law enforcement agency for a hearing on the sole issue of whether probable cause for forfeiture of the property or proceeds exists. The hearing shall be held within 60 days of the filing of the request for expedited hearing unless continued for good cause. After the hearing, the court may do any of the following:

a. Find probable cause and stay further proceedings until the resolution of any underlying criminal case.

b. Enter a judgment exempting that interest from forfeiture.

c. Order property that has been seized for forfeiture to be sold to satisfy a specified interest of any lienholder, on motion of any party on all of the following conditions:

1. The lienholder has filed a proper claim.

2. The lienholder has a perfected interest in the property.

3. The lienholder is an innocent owner as defined under Section 15–5–62.

(4) Upon order of a court, the lienholder shall dispose of the property by public sale and apply the proceeds from the sale first to obligations to the lienholder secured by the lien, and then to the lienholder's reasonable expenses incurred in connection with the sale or disposal with the balance of the proceeds, if any, to be returned to the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this article.

(5)a. In cases where the property to be forfeited is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution, or other like fungible property, it shall not be necessary for the state to identify the specific property, other than as U.S. currency, cash, monetary instruments in bearer form, or as funds deposited in an account in a financial institution, involved in the offense that is the basis for the forfeiture action. Actual serial numbers or other detailed descriptions are not required.

b. It shall not be a defense that the property involved in such an action has been removed and replaced by identical property.

(Act 2014–306, p. 1103, § 4.)

§ 15–5–64. Determination of abandonment.

In order for property or proceeds to be deemed abandoned, a representative of the law enforcement agency having possession of abandoned property or proceeds shall file with the district attorney a sworn affidavit setting forth the circumstances of the abandonment, including the results of a search of records to identify the owner or lienholders. The records to be searched shall include records of the Alabama Department of Revenue, judge of probate, and the Secretary of State. After the filing of the affidavit, the district attorney or Attorney General may file an action in the circuit court to declare the property or proceeds abandoned. If the location of the owner, registrant, secured party, or lienholder is unknown, service shall be made at the last known address of the current owner, registrant, secured party, or lienholder, as well as by publication on a governmental web site or a newspaper of general circulation for a period of three weeks. The sworn affidavit and a certificate of service shall accompany any action filed by the district attorney to any order of court.

(Act 2014–306, p. 1103, § 5.)

§ 15–5–65. Disposition of proceeds.

(a) Unless by other agreement of the primary law enforcement agency and the prosecutorial entity, the proceeds from any forfeiture shall be used, first, for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of or custody, advertising, prosecution, and court costs. The remaining proceeds from the sale or distribution shall be awarded by the court pursuant to recommendation of the prosecutorial entity on a pro rata share to the participating law enforcement agencies, the prosecutorial entity that pursued the action, and as payment of restitution to any victims of the underlying offense. Any proceeds from sales authorized by this section awarded by the court to a county or municipal law enforcement agency shall be deposited into the respective county or municipal general fund and made available to the appropriate law enforcement agency upon requisition of the chief law enforcement official of the agency. Any monies or proceeds authorized by this article and ordered by the court to be distributed to the district attorney shall be deposited into the district attorney's solicitor's fund to be expended for lawful law enforcement purposes.

(b) Upon motion of any party, a proceeding instituted under this article shall be stayed pending the disposition of the underlying criminal action.

(c) Any applicable filing fee, court process, or other costs associated with the filing of an action or lien pursuant to this article may not be waived, and shall be payable at the conclusion of the action and deducted from the total award ordered by the court. In the event the plaintiff does not prevail in the action, all filing fees and court costs shall be paid within 15 days from the court's order denying relief.

(Act 2014–306, p. 1103, § 6.)

CHAPTER 10.

ARRESTS.

ARTICLE 1.

ARREST BEFORE INDICTMENT.

§ 15–10–1. Officers authorized to make arrests.

An arrest may be made, under a warrant or without a warrant, by any sheriff or other officer acting as sheriff or his deputy, or by any constable, acting within their respective counties, or by any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county.

(Code 1852, § 434; Code 1867, § 3983; Code 1876, § 4653; Code 1886, § 4260; Code 1896, § 5209; Code 1907, § 6267; Code 1923, § 3261; Code 1940, T. 15, § 152.)

§ 15–10–2. When officer may execute warrant; authority of officer to break and enter dwelling house.

An officer may execute a warrant of arrest on any day and at any time; but in doing so, he must inform the defendant of his authority and, if required, must show the warrant. If an officer executing an arrest warrant is refused admittance after notice of his authority and purpose, he may break an outer or inner door or window of a dwelling house in order to make the arrest.

(Code 1852, § 435; Code 1867, § 3984; Code 1876, § 4654; Code 1886, § 4261; Code 1896, § 5210; Code 1907, § 6268; Code 1923, § 3262; Code 1940, T. 15, § 153.)

§ 15–10–3. Arrest without warrant — Generally; written report; protection orders.

(a) An officer may arrest a person without a warrant, on any day and at any time in any of the following instances:

(1) If a public offense has been committed or a breach of the peace threatened in the presence of the officer.

(2) When a felony has been committed, though not in the presence of the officer, by the person arrested.

(3) When a felony has been committed and the officer has probable cause to believe that the person arrested committed the felony.

(4) When the officer has probable cause to believe that the person arrested has committed a felony, although it may afterwards appear that a felony had not in fact been committed.

(5) When a charge has been made, upon probable cause, that the person arrested has committed a felony.

(6) When the officer has actual knowledge that a warrant for the person's arrest for the commission of a felony or misdemeanor has been issued,

provided the warrant was issued in accordance with this chapter. However, upon request the officer shall show the warrant to the arrested person as soon as possible. If the officer does not have the warrant in his or her possession at the time of arrest the officer shall inform the defendant of the offense charged and of the fact that a warrant has been issued.

(7) When the officer has probable cause to believe that a felony or misdemeanor has been committed by the person arrested in violation of a protection order, including a domestic violence protection order or an elder abuse protection order, issued by a court of competent jurisdiction.

(8) When an offense involves a crime of domestic violence, including domestic violence in the first degree, pursuant to Section 13A–6–130, domestic violence in the second degree, pursuant to Section 13A–6–131, domestic violence in the third degree, pursuant to Section 13A–6–132, interference with a domestic violence emergency call, in violation of Section 13A–6–137, or domestic violence by strangulation or suffocation, pursuant to Section 13A–6–138, or elder abuse as defined in Section 38–9F–3, and the arrest is based on probable cause.

(b) When a law enforcement officer investigates an allegation of domestic violence or elder abuse, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case.

(c) If the defendant is arrested under this section for committing an act of domestic violence, including domestic violence in the first degree, pursuant to Section 13A–6–130, domestic violence in the second degree, pursuant to Section 13A–6–131, domestic violence in the third degree, pursuant to Section 13A–6–132, interference with a domestic violence emergency call, in violation of Section 13A–6–137, or domestic violence by strangulation or suffocation, pursuant to Section 13A–6–138, in violation of a domestic violence protection order, or an act of elder abuse in violation of an elder abuse protection order, the defendant shall be held in custody until brought before the court within 48 hours for the purpose of enforcing the protection order and for consideration of bail in accordance with Section 15–13–190 and the applicable rules of criminal procedure, pending a hearing. If the defendant is not brought before the court within 48 hours, the defendant shall be subject to bail according to the Alabama Rules of Criminal Procedure.

(Code 1852, § 445; Code 1867, § 3994; Code 1876, § 4664; Code 1886, § 4262; Code 1896, § 5211; Code 1907, § 6269; Code 1923, § 3263; Code 1940, T. 15, § 154; Acts 1989, No. 89–857, p. 1710, § 2; Acts 1995, No. 95–534, p. 1081, § 1; Act 2000–266, p. 411, § 8; Act 2015–493, p. 1679, § 2; Act 2017–284, § 12; Act 2019–252, § 1.)

§ 15–10–4. Arrest without warrant — Duty of arresting officer; authority of officer to break and enter dwelling house.

When arresting a person without a warrant, the officer must inform of his authority and the cause of arrest, except when the person is arrested in the

actual commission of a public offense or on pursuit. In making a warrantless arrest, an officer has authority to break open an outer or inner door or window of a dwelling house if, after notice of his office and purpose, he is refused admittance.

(Code 1852, § 446; Code 1867, § 3995; Code 1876, § 4665; Code 1886, § 4263; Code 1896, § 5212; Code 1907, § 6270; Code 1923, § 3264; Code 1940, T. 15, § 155.)

§ 15–10–5. Duty of persons to assist. Repealed by Acts 1977, No. 607, p. 812, § 9901, as amended, effective January 1, 1980.

§ 15–10–6. Offense committed in presence of judge or magistrate.

When a public offense is committed in the presence of a judge or magistrate, he may, by verbal or written order, command any person to arrest the offender and, when the offender has been arrested, may thereupon proceed as if such offender had been brought before him on a warrant of arrest.

(Code 1852, § 448; Code 1867, § 3997; Code 1876, § 4667; Code 1886, § 4265; Code 1896, § 5214; Code 1907, § 6272; Code 1923, § 3266; Code 1940, T. 15, § 157.)

§ 15–10–7. Arrests by private persons.

(a) A private person may arrest another for any public offense:

(1) Committed in his presence;

(2) Where a felony has been committed, though not in his presence, by the person arrested; or

(3) Where a felony has been committed and he has reasonable cause to believe that the person arrested committed it.

(b) An arrest for felony may be made by a private person on any day and at any time.

(c) A private person must, at the time of the arrest, inform the person to be arrested of the cause thereof, except when such person is in the actual commission of an offense, or arrested on pursuit.

(d) If he is refused admittance, after notice of his intention, and the person to be arrested has committed a felony, he may break open an outer or inner door or window of a dwelling house.

(e) It is the duty of any private person, having arrested another for the commission of any public offense, to take him without unnecessary delay before a judge or magistrate, or to deliver him to some one of the officers specified in Section 15–10–1, who must forthwith take him before a judge or magistrate.

(Code 1852, §§ 449–452; Code 1867, §§ 3998–4001; Code 1876, §§ 4668–4671; Code 1886, §§ 4266–4268; Code 1896, §§ 5215–5217; Code 1907, §§ 6273–6275; Code 1923, §§ 3267–3269; Code 1940, T. 15, §§ 158–160.)

§ 15–10–8. When notice of arrest for capital felony to be given to Governor or Chief Justice.

Whenever any person arrested is charged with a capital felony and there is no court having jurisdiction thereof in session, it shall be the duty of the sheriff or the officer making the arrest or having the custody of such prisoner to notify the Governor or Chief Justice of the Supreme Court at once of the arrest of such person. An officer failing to give such notice as soon as possible after the arrest of such prisoner is guilty of a misdemeanor.

(Code 1907, § 6276; Code 1923, § 3270; Code 1940, T. 15, § 161.)

§ 15–10–9. Rearrest after escape or rescue.

If a person arrested escapes or is rescued, he may be immediately pursued by the officer or person in whose custody he was and retaken at any time and in any place in the state. If such officer or person is refused admittance, after notice of his intention, he may break open an outer or inner door or window of a dwelling house in order to retake the person so escaping or rescued.

(Code 1852, § 453; Code 1867, § 4002; Code 1876, § 4672; Code 1886, § 4269; Code 1896, § 5218; Code 1907, § 6277; Code 1923, § 3271; Code 1940, T. 15, § 162.)

§ 15–10–10. Where warrant to be executed; endorsement when executed in different county.

Except as provided in Section 15–10–11, a warrant or writ of arrest may be executed in the county in which it was issued, unless the defendant is in another county. When the defendant is in another county, it may be executed therein by any law enforcement officer having the warrant or writ. The law enforcement officer shall summon the assistance of local law enforcement if possible to assist in making the arrest and only then may exercise the same authority as the officer possesses in his or her own county or jurisdiction.

(Code 1852, § 436; Code 1867, § 3985; Code 1876, § 4655; Code 1886, § 4270; Code 1896, § 5219; Code 1907, § 6278; Code 1923, § 3272; Code 1940, T. 15, § 163; Act 2006–547, p. 1264, § 1.)

§ 15–10–11. Authority of officer to pursue and arrest defendant in another county on warrant from municipal court.

Any lawful officer, having a warrant of arrest issued by a municipal court to execute, may pursue the defendant into another county and, on obtaining a signed endorsement on the warrant by an officer of that county authorized to issue such a warrant, to the following effect: ''A. B. is authorized to execute this warrant in ..... county,'' may summon persons to assist him in making the arrest, and exercise the same authority as in his own county.

(Code 1852, § 437; Code 1867, § 3986; Code 1876, § 4656; Code 1886, § 4271; Code 1896, § 5220; Code 1907, § 6279; Code 1923, § 3273; Code 1940, T. 15, § 164.)

§ 15–10–12. When defendant to be taken before judge or magistrate issuing warrant.

When the warrant of arrest is executed in any county other than the one in which it is issued and is for a felony, or when for a misdemeanor and the defendant is not bailed according to the provisions of Sections 15–7–20 and 15–7–21, he must be brought before the judge or magistrate issuing the warrant or, if such judge or magistrate is unable to attend or his office is vacant, before some other judge or magistrate of the county in which such warrant is issued, and the warrant, with a proper return thereof, must be delivered to such judge or magistrate.

(Code 1852, § 444; Code 1867, § 3993; Code 1876, § 4663; Code 1886, § 4274; Code 1896, § 5223; Code 1907, § 6282; Code 1923, § 3276; Code 1940, T. 15, § 167.)

§ 15–10–13. When arrest warrant endorsed by judge or magistrate; liability of judge or magistrate on endorsement. Repealed by Act 2006–547, p. 1264, § 2, effective July 1, 2006.

§ 15–10–14. Detention and arrest of person suspected of larceny of goods held for sale.

(a) A peace officer, a merchant or a merchant's employee who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person and that he can recover them by taking the person into custody may, for the purpose of attempting to effect such recovery, take the person into custody and detain him in a reasonable manner for a reasonable length of time. Such taking into custody and detention by a peace officer, merchant or merchant's employee shall not render such police officer, merchant or merchant's employee criminally or civilly liable for false arrest, false imprisonment or unlawful detention.

(b) Any peace officer may arrest without warrant any person he has probable cause for believing has committed larceny in retail or wholesale establishments.

(c) A merchant or a merchant's employee who causes such arrest as provided for in subsection (a) of this section of a person for larceny of goods held for sale shall not be criminally or civilly liable for false arrest or false imprisonment where the merchant or merchant's employee has probable cause for believing that the person arrested committed larceny of goods held for sale.

(Acts 1957, No. 184, p. 237, §§ 1–3.)

ARTICLE 2.

ARREST AFTER INDICTMENT.

§ 15–10–30. Arrest without process when defendant present.

After an indictment has been returned by the grand jury, the court may order any defendant who is present and who has not been arrested to be

taken into custody without process. When the defendant has given bail prior to the return of an indictment against him for a capital offense, the court may, in its discretion, likewise order him into custody.

(Code 1867, § 4152; Code 1876, § 4825; Code 1886, § 4395; Code 1896, § 5251; Code 1907, § 6283; Code 1923, § 3277; Code 1940, T. 15, § 168.)

ARTICLE 3.

ISSUANCE AND EXECUTION OF WRIT.

§ 15–10–40. Issuance by clerk, district attorney or judge.

A writ of arrest must be issued by the clerk forthwith after the finding of the indictment against each defendant who is not in actual custody, who has not been bailed, whose undertaking of bail has been declared forfeited or when an order is made by the judge presiding when the indictment is returned by the grand jury commanding that writ of arrest issue; or it may be issued without order of court by the district attorney of the circuit or by any circuit judge. But if the defendant is in actual custody, he shall be held by virtue of the indictment and no writ of arrest need be issued, unless it is so ordered by the judge presiding when the indictment is found.

(Code 1852, § 601; Code 1867, § 4153; Code 1876, § 4826; Code 1886, § 4396; Code 1896, § 5252; Code 1907, § 6284; Code 1923, § 3278; Acts 1931, No. 556, p. 652; Code 1940, T. 15, § 169.)

§ 15–10–41. Form of writ — Felony.

When the indictment is for a felony, the writ of arrest may be substantially in the following form:

State of Alabama,
..... County.

To any sheriff of the state:

An indictment having been found against A. B., at the ..... session, 20..., of the ..... court of ..... County, for the offense of ..... (describing the offense so as to show that it is a felony), you are, therefore, commanded forthwith to arrest the said defendant and commit him to jail; and that you return this writ according to law.

(Signed) C. D.,

Clerk of the circuit court of ..... County.

Dated this ..... day of ....., 20...

(Code 1852, § 602; Code 1867, § 4154; Code 1876, § 4827; Code 1886, § 4397; Code 1896, § 5253; Code 1907, § 6285; Code 1923, § 3279; Code 1940, T. 15, § 170.)

§ 15–10–42. Form of writ — Misdemeanor.

When the indictment is for a misdemeanor, the writ of arrest may be in the same form as that set out in Section 15–10–41; except, that after the words ''commit him to jail,'' there must be added the words, ''unless he gives bail to answer such indictment.''

(Code 1852, § 603; Code 1867, § 4155; Code 1876, § 4828; Code 1886, § 4398; Code 1896, § 5254; Code 1907, § 6286; Code 1923, § 3280; Code 1940, T. 15, § 171.)

§ 15–10–43. Alias and pluries writs.

As many writs of arrest may be issued as necessary; and after any forfeiture is taken, another writ of arrest may be issued without an order.

(Code 1852, § 616; Code 1867, § 4168; Code 1876, § 4839; Code 1886, § 4399; Code 1896, § 5255; Code 1907, § 6287; Code 1923, § 3281; Code 1940, T. 15, § 172.)

§ 15–10–44. Execution of writ by sheriff or deputy.

A writ of arrest may be executed by the sheriff of any county in the state or by his deputy. Such officers have the same powers and authority, in relation to arrest under a writ of arrest, as are by law conferred upon them in executing a warrant of arrest.

(Code 1852, § 604; Code 1867, § 4156; Code 1876, § 4829; Code 1886, § 4400; Code 1896, § 5256; Code 1907, § 6288; Code 1923, § 3282; Code 1940, T. 15, § 173.)

§ 15–10–45. Execution of writs, attachments and other process in adjoining county.

All writs of arrest, attachments, subpoenas for witnesses or other process issued by a court while in session shall be executed by the sheriff or his deputy or any person specifically designated for that purpose in any county adjoining that where such court is in session.

(Code 1907, § 6289; Code 1923, § 3283; Code 1940, T. 15, § 174.)

§ 15–10–46. Copy of arrest writ to be delivered to jailer.

When any defendant is committed to jail under a writ of arrest, the sheriff must retain or deliver to the jailer a copy of the writ, which copy is as good authority for the detention of the defendant as the original writ.

(Code 1852, § 610; Code 1867, § 4162; Code 1876, § 4833; Code 1886, § 4401; Code 1896, § 5257; Code 1907, § 6290; Code 1923, § 3284; Code 1940, T. 15, § 175.)

§ 15–10–47. Return of writs by sheriff; duty of clerks to accept returns by mail; failure of sheriffs to comply with section.

(a) All writs of arrest, with the undertaking of bail when given, must be returned by the sheriff to the clerk of the court from which they were issued, with the proper return thereon endorsed.

(b) If the writ of arrest is executed, the return must be made within five days after service; but if executed out of the county in which the indictment was found, the return may be made by depositing the writ in the post office within five days after service in a sealed envelope, postage prepaid, directed to the clerk of the court at the courthouse of his county, with the title of the case and the character of the process endorsed on the envelope.

(c) When any writ of arrest is not executed, it must be returned by the sheriff to the clerk of the court from which it was issued; and when the return is made by the sheriff of any other county than that in which the indictment was found, it may be made by mail, as prescribed by subsection (b) of this section.

(d) The clerk of the court must take from the post office all packages addressed to him which are endorsed according to the provisions of subsection (b) of this section, and the expense of the same must be paid by the county.

(e) Any sheriff who fails to comply with the provisions of subsections (b) and (c) of this section may be compelled to make the return by attachment and also forfeits to the state, for the use of the county, $50.00, which may be recovered with costs against him and his sureties, or any of them, having three days' notice thereof by motion in the court in which the indictment was found. On the trial of such motion, the certificate of the postmaster is presumptive evidence of the deposit of the writ of arrest, the superscription and endorsement on the envelope.

(Code 1852, §§ 611–614; Code 1867, §§ 4163–4166; Code 1876, §§ 4834–4837; Code 1886, §§ 4402–4405; Code 1896, §§ 5258–5261; Code 1907, §§ 6291–6294; Code 1923, §§ 3285–3288; Code 1940, T. 15, §§ 176–179.)

ARTICLE 4.

BENCH WARRANTS.

§ 15–10–60. Definition; procedure.

A ''bench warrant'' is one issued by a judge for the arrest of one accused of a crime by a grand jury. Every officer is bound to issue it within his jurisdiction, and every person so arrested must be committed to jail until bail is tendered. Any judicial officer or the sheriff of the county where the accusation was found may receive the bail, fix the amount of the bond and approve the sureties, unless it is a case that is bailable only before some particular officer.

(Code 1907, § 7862; Code 1923, § 5597; Code 1940, T. 15, § 184.)

ARTICLE 5.

ARREST IN OTHER COUNTIES.

§ 15–10–70. Duty of arresting officer and sheriff of other county.

When any person charged with the commission of any offense is arrested in any county other than that in which he is triable by an officer of the county in which he is arrested, such arresting officer shall immediately commit him to a jail or guardhouse nearest to the place of arrest, and the sheriff of such county shall at once notify the sheriff of the county in which such person is triable of the fact of such arrest and confinement.

(Code 1886, § 4549; Code 1896, § 4960; Code 1907, §§ 6639, 7205; Code 1923, §§ 3743, 4815; Code 1940, T. 15, § 180.)

§ 15–10–71. Application for removal order; granting of order.

The sheriff of the county where such person is triable, upon receipt of such notification, shall apply to the district court of his county for a removal order. The district court to whom the application is presented shall grant the same upon a finding that a removal order is in the interest of justice.

(Code 1907, § 6640; Code 1923, § 3744; Code 1940, T. 15, § 181.)

§ 15–10–72. Endorsement on removal order.

The arresting officer shall make the following endorsement on the back of the removal order: ''This is to certify that I have this ..... day of ..... delivered to ....., sheriff of ..... County, or to his deputy, ..., the within named prisoner or prisoners, ..., sheriff of ..... County.''

(Code 1907, § 6641; Code 1923, § 3745; Code 1940, T. 15, § 182.)

§ 15–10–73. Application for guard in removal of prisoner; endorsement by court if application granted; guards for prisoners charged with misdemeanors.

Whenever a sheriff makes application for the employment of a guard in the removal of a prisoner from another county, such application must be in writing and briefly set forth the facts necessitating the employment of a guard, which shall be verified by oath and filed in the district court of the county to which such removal is made. The district court making the order of removal, if it grants the application for a guard, shall endorse thereon that it has investigated the facts and believes a guard to be necessary. No guard shall be obtained for the removal of a prisoner charged with a misdemeanor, except upon the order of the Governor or a circuit judge in cases when it is necessary to protect the prisoner from violence.

(Code 1896, § 4566; Code 1907, § 6642; Code 1923, § 3746; Code 1940, T. 15, § 183.)

§ 15–10–74. Arrest powers of peace officer in fresh pursuit.

(a) This section shall be known as the Alabama Fresh Pursuit Act.

(b) ''Fresh pursuit'' as used in this section does not necessarily mean instant pursuit but it does mean pursuit without unreasonable delay.

(c) The authority of any peace officer of this state whose arrest powers are otherwise limited to a political subdivision or subdivisions of this state, shall extend throughout the county and into any adjacent county when the officer is in fresh pursuit of a person or persons to be arrested for a misdemeanor. Such authority shall extend throughout the state when the officer is in fresh pursuit of a person or persons to be arrested for a felony. Following such pursuit, the arrest powers of the officer in a political subdivision or subdivisions other than his own shall be the same in all respects as the arrest powers the officer has in his own political subdivision.

(d) This section shall not be construed to restrict or limit in any way other statutory or common-law arrest powers that any peace officer of this state has when acting as an officer or as a private citizen.

(Acts 1981, No. 81–655, p. 1071.)

Article 6.

Fingerprinting of Persons Taken Into Custody.

§ 15–10–90. Sheriffs to fingerprint persons taken into custody; disposition of copies of fingerprints.

It shall be the duty of the sheriff of each county in this state who shall first take a person into custody to fingerprint such person and furnish a copy of such fingerprints, with the fingerprint card properly filled out, to the Director of the Federal Bureau of Investigation, Washington, D.C., and a copy to the Director, Department of Public Safety, State Bureau of Investigation, Montgomery, Alabama.

(Acts 1943, No. 420, p. 385, § 1.)

§ 15–10–91. Central state assembling agency for receipt of fingerprint records designated; duties thereof.

The Department of Public Safety, State Bureau of Investigation, shall constitute the central assembling agency of the State of Alabama for receiving such fingerprint records. Said agency shall maintain such records and shall furnish to all law-enforcement agencies and officers of the State of Alabama any information to be derived therefrom on request in writing.

(Acts 1943, No. 420, p. 385, § 2.)

§ 15–10–92. Furnishing of fingerprinting equipment generally.

The county commissions of the several counties in this state shall furnish to the sheriffs of the respective counties, at county expense, such equipment as

may be required for the purpose of this article other than fingerprint cards and envelopes.

(Acts 1943, No. 420, p. 385, § 3.)

§ 15–10–93. Furnishing of fingerprint cards and envelopes.

The State of Alabama, through the Department of Public Safety, shall provide the form of the fingerprint cards and furnish the several sheriffs with said uniform fingerprint cards and envelopes.

(Acts 1943, No. 420, p. 385, § 4.)

Article 7.

Use of Facial Recognition Technology.

§ 15–10–110. Definitions.

(a) For the purposes of this article the following terms shall have the following meanings:

(1) Facial biometric data. A unique numerical representation of an individual's face generated by facial recognition technology based on measurements derived from a facial image, also known as a facial template.

(2) Facial recognition technology. Any computer software or application that, for the purpose of attempting to determine the identity of an unknown individual, generates facial biometric data, searches for matching facial biometric data in a database populated with many individuals' facial biometric data linked to personally identifiable information, and provides match results based on the similarity between the unknown individual's facial biometric data and the facial biometric data in the database.

(Act 2022–420, § 1.)

§ 15–10–111. Use of facial recognition technology match results to establish probable cause or to make an arrest.

(a) A state or local law enforcement agency may not use facial recognition technology match results as the sole basis to establish probable cause in a criminal investigation or to make an arrest.

(b) To establish probable cause in a criminal investigation or to make an arrest, a state or local law enforcement agency may use facial recognition technology match results only in conjunction with other lawfully obtained information and evidence.

(Act 2022–420, § 2.)

CHAPTER 20A.

ALABAMA SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION ACT.

§ 15–20A–1. Short title.

This chapter shall be known and may be cited as the Alabama Sex Offender Registration and Community Notification Act.

(Act 2011–640, p. 1569, § 1.)

§ 15–20A–2. Legislative findings.

The Legislature makes all of the following findings:

(1) Registration and notification laws are a vital concern as the number of sex offenders continues to rise. The increasing numbers coupled with the danger of recidivism place society at risk. Registration and notification laws strive to reduce these dangers by increasing public safety and mandating the release of certain information to the public. This release of information creates better awareness and informs the public of the presence of sex offenders in the community, thereby enabling the public to take action to protect themselves. Registration and notification laws aid in public awareness and not only protect the community but serve to deter sex offenders from future crimes through frequent in-person registration. Frequent in-person registration maintains constant contact between sex offenders and law enforcement, providing law enforcement with priceless tools to aid them in their investigations including obtaining information for identifying, monitoring, and tracking sex offenders.

(2) Juvenile sex offenders also pose a risk to the community. Due to juvenile sex offenders offending in their formative years, it is imperative that they receive sex offender treatment. At the completion of sex offender treatment, all juvenile sex offenders must undergo a risk assessment, and a hearing must be held by the court to determine their level of risk to the community and the level of notification that should be provided to best protect the public. Juvenile sex offenders adjudicated delinquent of the most serious offenses who pose a greater threat should be subject to more stringent requirements.

(3) Homeless sex offenders are a group of sex offenders who need to be monitored more frequently for the protection of the public. Homeless sex offenders present a growing concern for law enforcement due to their mobility. As the number of homeless sex offenders increases, locating, tracking, and monitoring these offenders becomes more difficult.

(4) Sexually violent offenders also cause increased concern for law enforcement. These predators are repeat sexual offenders who use physical violence, offend on multiple victims, and prey on children. Due to their likelihood to engage in future sexually violent behavior, they present an extreme threat to the public safety. The Legislature declares that its intent

in imposing additional tracking and monitoring requirements on sexually violent predators is to assist law enforcement in carrying out their duties and, most importantly, to protect the public, especially children.

(5) Sex offenders, due to the nature of their offenses, have a reduced expectation of privacy. In balancing the sex offender's rights, and the interest of public safety, the Legislature finds that releasing certain information to the public furthers the primary governmental interest of protecting vulnerable populations, particularly children. Employment and residence restrictions, together with monitoring and tracking, also further that interest. The Legislature declares that its intent in imposing certain registration, notification, monitoring, and tracking requirements on sex offenders is not to punish sex offenders but to protect the public and, most importantly, promote child safety.

(Act 2011–640, p. 1569, § 2.)

§ 15–20A–3. Applicability.

(a) This chapter is applicable to every adult sex offender convicted of a sex offense as defined in Section 15–20A–5, without regard to when his or her crime or crimes were committed or his or her duty to register arose.

(b) Any adult sex offender shall be subject to this chapter for life.

(c) This chapter is applicable to juvenile sex offenders who are adjudicated delinquent pursuant to the Alabama Juvenile Justice Act, Sections 12–15–101 to 12–15–601, inclusive, formerly Sections 12–15–1 to 12–15–176, inclusive, Code of Alabama 1975, of a sex offense as defined in Section 15–20A–5.

(d) A juvenile sex offender adjudicated delinquent of a sex offense as defined in Section 15–20A–5 on or after July 1, 2011, shall be subject to this chapter for the duration of time as provided in Section 15–20A–28. A juvenile sex offender adjudicated delinquent of a sex offense as defined in Section 15–20A–5 prior to July 1, 2011, shall be subject to registration and verification pursuant to this chapter for 10 years from the last date of release on the sex offense subjecting the juvenile sex offender to registration, and the juvenile sex offender shall be subject to notification during the registration period if notification was previously ordered by the sentencing court.

(e) This chapter is applicable to youthful offender sex offenders who are adjudicated as a youthful offender pursuant to the Youthful Offender Act, Sections 15–19–1 to 15–19–7, of a sex offense as defined in Section 15–20A–5.

(f) A youthful offender sex offender adjudicated as a youthful offender of a sex offense as defined in Section 15–20A–5 on or after July 1, 2011, shall be subject to this chapter as provided in Section 15–20A–35. A youthful offender sex offender adjudicated as a youthful offender of a sex offense as defined in Section 15–20A–5 prior to July 1, 2011, shall be treated as follows:

(1) If the youthful offender sex offender was not previously adjudicated or convicted of a sex offense, he or she shall be treated as a juvenile sex offender adjudicated prior to July 1, 2011, pursuant to subsection (d).

(2) If the youthful offender sex offender was previously adjudicated or convicted of a sex offense, he or she shall be treated as an adult sex offender pursuant to subsection (b).

(Act 2011–640, p. 1569, § 3.)

§ 15–20A–4. Definitions.

For purposes of this chapter, the following words shall have the following meanings:

(1) ADULT SEX OFFENDER. A person convicted of a sex offense.

(2) CHILD. A person who has not attained the age of 12.

(3) CHILDCARE FACILITY. A licensed child daycare center, a licensed child-care facility, or any other childcare service that is exempt from licensing pursuant to Section 38–7–3, if it is sufficiently conspicuous that a reasonable person should know or recognize its location or its address has been provided to local law enforcement.

(4) CONVICTION. A verdict or finding of guilt as the result of a trial, a plea of guilty, a plea of nolo contendere, or an Alford plea regardless of whether adjudication was withheld. Conviction includes, but is not limited to, a conviction in a United States territory, a conviction in a federal or military tribunal, including a court martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian reservation or other federal property, a conviction in any state of the United States or a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5)(B) of Public Law 109–248. Cases on appeal are deemed convictions until reversed or overturned.

(5) EMPLOYMENT. Compensated work or a volunteer position for any period of time, regardless of whether the work is full-time, part-time, self-employment, or as an independent contractor or day laborer, provided that employment does not include any time spent traveling as a necessary incident to performing the work.

(6) FIXED RESIDENCE. A building or structure, having a physical address or street number, that provides shelter in which a person resides.

(7) HOMELESS. The state of lacking a fixed residence.

(8) IMMEDIATE FAMILY MEMBER. A parent or grandparent; child, grandchild, or sibling of any age by blood, adoption, or marriage; or spouse.

(9) IMMEDIATELY. Within three business days.

(10) JURISDICTION. Any state of the United States, any United States territory, the District of Columbia, or any federally recognized Indian tribe.

(11) JUVENILE SEX OFFENDER. An individual who has not attained the age of 18 at the time of the offense and who is adjudicated delinquent of a sex offense.

(12) LOCAL LAW ENFORCEMENT. The sheriff of the county and the chief of police if the location subject to registration is within the corporate limits of any municipality, or, if applicable, the chief law enforcement officer for a federally recognized Indian tribe.

(13) MINOR. A person who has not attained the age of 18.

(14) OVERNIGHT VISIT. Any presence between the hours of 10:30 p.m. and 6:00 a.m.

(15) PREDATORY. An act directed at a stranger, a person of casual acquaintance, or with whom no substantial relationship exists, or a person with whom a relationship has been established or promoted for the purpose of victimization of that person or individuals over whom that person has control.

(16) PRIOR CONVICTION. The person has served and has been released or discharged from, or is serving, a separate period of incarceration, commitment, or supervision for the commission of a sex offense, as defined by Section 15–20A–5, prior to, or at the time of, committing another sex offense.

(17) REGISTERING AGENCY. Any agency with whom the sex offender registers required registration information.

(18) RELEASE. Release from a state prison, county jail, municipal jail, mental health facility, release or discharge from the custody of the Department of Youth Services or other juvenile detention, or placement on an appeal bond, probation, parole, or aftercare, placement into any facility or treatment program that allows the sex offender to have unsupervised access to the public, or release from any other facility, custodial or noncustodial, where the sex offender is sentenced or made a ward of that facility by a circuit, district, or juvenile court.

(19) REQUIRED REGISTRATION INFORMATION. Any information required pursuant to Section 15–20A–7.

(20) RESIDE. To be habitually or systematically present at a place. Whether a person is residing at a place shall be determined by the totality of the circumstances, including the amount of time the person spends at the place and the nature of the person's conduct at the place. The term reside includes, but is not limited to, spending more than four hours a day at the place on three or more consecutive days; spending more than four hours a day at the place on 10 or more aggregate days during a calendar month; or spending any amount of time at the place coupled with statements or actions that indicate an intent to live at the place or to remain at the place for the periods specified in this sentence. A person does not have to conduct an overnight visit to reside at a place.

(21) RESIDENCE. A fixed residence as defined by this section or other place where the person resides, regardless of whether the person declares or characterizes such place as a residence.

(22) RESPONSIBLE AGENCY. The person or government entity whose duty it is to obtain information from a sex offender and to transmit that information to the Alabama State Law Enforcement Agency, police departments, and sheriffs. For a sex offender being released from state prison, the responsible agency is the Department of Corrections. For a sex offender being released from a county jail, the responsible agency is the sheriff of that county. For a sex offender being released from a municipal jail, the responsible agency is the chief of police of that municipality. For a sex offender being placed on probation, including conditional discharge or unconditional discharge, without any sentence of incarceration, the responsible agency is the sentencing court or designee of the sentencing court. For a juvenile sex offender being released from the Department of Youth Services, the responsible agency is the Department of Youth Services. For a sex offender who is being released from a jurisdiction outside this state and who is to reside in this state, the responsible agency is the sheriff of the county in which the offender intends to establish a residence.

(23) RISK ASSESSMENT. A written report on the assessment of risk for sexually re-offending conducted by a sex offender treatment program or provider approved by the Department of Youth Services. The report shall include, but not be limited to, the following regarding the juvenile sex offender: Criminal history, mental status, attitude, previous sexual offender treatment and response to treatment, social factors, conditions of release expected to minimize risk of sexual re-offending, and characteristics of the sex offense.

(24) SCHOOL. A licensed or accredited public, private, or church school that offers instruction in grades pre-K–12 if it is sufficiently conspicuous that a reasonable person should know or recognize its location or its address has been provided to local law enforcement. The definition does not include a private residence in which students are taught by parents or tutors or any facility dedicated exclusively to the education of adults unless that facility has a childcare facility as defined in subdivision (3).

(25) SENTENCING COURT. The court of adjudication or conviction.

(26) SEX OFFENDER. Includes any adult sex offender, any youthful offender sex offender, and any juvenile sex offender.

(27) SEX OFFENSE INVOLVING A CHILD. A conviction for any sex offense in which the victim was a child or any offense involving child pornography.

(28) SEX OFFENSE INVOLVING A MINOR. A conviction for any sex offense in which the victim was a minor or any offense involving child pornography.

(29) SEXUALLY VIOLENT PREDATOR. A person who has been convicted of a sexually violent offense and who is likely to engage in one or more future sexually violent offenses or is likely to engage in future predatory sex offenses.

(30) STUDENT. A person who is enrolled in or attends, on a full-time or part-time basis, any public or private educational institution, including a

secondary school, trade or professional school, or institution of higher education.

(31) TEMPORARY LODGING INFORMATION. Lodging information including, but not limited to, the name and address of any location where the person is staying when away from his or her residence for three or more days and the period of time the person is staying at that location.

(32) VOLUNTEER POSITION. An arrangement whereby a person works without compensation for any period of time on behalf of a business, school, charity, child care facility, or other organization or entity, provided that a volunteer position does not include any time spent traveling as a necessary incident to performing the uncompensated work.

(33) YOUTHFUL OFFENDER SEX OFFENDER. An individual adjudicated as a youthful offender for a sex offense who has not yet attained the age of 21 at the time of the offense.

(Act 2011–640, p. 1569, § 4; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–5. Sex offenses.

For the purposes of this chapter, a sex offense includes any of the following offenses:

(1) Rape in the first degree, as provided by Section 13A–6–61.

(2) Rape in the second degree, as provided by Section 13A–6–62. A juvenile sex offender adjudicated delinquent of a violation of rape in the second degree is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(3) Sodomy in the first degree, as provided by Section 13A–6–63.

(4) Sodomy in the second degree, as provided by Section 13A–6–64. A juvenile sex offender adjudicated delinquent of a violation of sodomy in the second degree is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(5) Sexual misconduct, as provided by Section 13A–6–65, provided that on a first conviction or adjudication the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication of a sex offense, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or adjudication of a sex offense, the sex offender shall comply with all requirements of this chapter. A juvenile sex offender adjudicated delinquent of a violation of sexual misconduct is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was

adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(6) Sexual torture, as provided by Section 13A–6–65.1.

(7) Sexual abuse in the first degree, as provided by Section 13A–6–66.

(8) Sexual abuse in the second degree, as provided by Section 13A–6–67.

(9) Indecent exposure, as provided by Section 13A–6–68, provided that on a first conviction or adjudication of a sex offense, the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication of a sex offense, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or adjudication, the sex offender shall comply with all requirements of this chapter. A juvenile sex offender adjudicated of a violation of indecent exposure is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(10) Enticing a child to enter a vehicle, room, house, office, or other place for immoral purposes, as provided by Section 13A–6–69.

(11) Sexual abuse of a child less than 12 years old, as provided by Section 13A–6–69.1.

(12) Promoting prostitution in the first degree, as provided by Section 13A–12–111.

(13) Promoting prostitution in the second degree, as provided by Section 13A–12–112.

(14) Violation of the Alabama Child Pornography Act, as provided by Section 13A–12–191, 13A–12–192, 13A–12–196, or 13A–12–197. A juvenile sex offender adjudicated delinquent of a violation of the Alabama Child Pornography Act is presumed to be exempt from this chapter after the juvenile has been counseled on the dangers of the conduct for which he or she was adjudicated delinquent unless the sentencing court makes a determination that the juvenile sex offender is to be subject to this chapter.

(15) Unlawful imprisonment in the first degree, as provided by Section 13A–6–41, if the victim of the offense is a minor, and the record of adjudication or conviction reflects the intent of the unlawful imprisonment was to abuse the minor sexually.

(16) Unlawful imprisonment in the second degree, as provided by Section 13A–6–42, if the victim of the offense is a minor, and the record of adjudication or conviction reflects the intent of the unlawful imprisonment was to abuse the minor sexually.

(17) Kidnapping in the first degree, as provided by subdivision (4) of subsection (a) of Section 13A–6–43, if the intent of the abduction is to violate or abuse the victim sexually.

(18) Kidnapping of a minor, except by a parent, guardian, or custodian, as provided by Section 13A–6–43 or 13A–6–44.

(19) Incest, as provided by Section 13A–13–3.

(20) Transmitting obscene material to a child by computer, as provided by Section 13A–6–111.

(21) School employee engaging in a sex act or deviant sexual intercourse with a student, or having sexual contact or soliciting a sex act or sexual contact with a student, as provided by Sections 13A–6–81 and 13A–6–82.

(22) Foster parent engaging in a sex act, having sexual contact, or soliciting a sex act or sexual contact with a foster child, as provided by Section 13A–6–71.

(23) Facilitating solicitation of unlawful sexual conduct with a child, as provided by Section 13A–6–121.

(24) Electronic solicitation of a child, as provided by Section 13A–6–122.

(25) Facilitating the on-line solicitation of a child, as provided by Section 13A–6–123.

(26) Traveling to meet a child for an unlawful sex act, as provided by Section 13A–6–124.

(27) Facilitating the travel of a child for an unlawful sex act, as provided by Section 13A–6–125.

(28) Human trafficking in the first degree, as provided by Section 13A–6–152, provided that the offense involves sexual servitude.

(29) Human trafficking in the second degree, as provided by Section 13A–6–153, provided that the offense involves sexual servitude.

(30) Custodial sexual misconduct, as provided by Section 14–11–31.

(31) Sexual extortion, as provided by Section 13A–6–241.

(32) Directing a child to engage in a sex act, as provided in Section 13A–6–243.

(33) Any offense which is the same as or equivalent to any offense set forth above as the same existed and was defined under the laws of this state existing at the time of such conviction, specifically including, but not limited to, crime against nature, as provided by Section 13–1–110; rape, as provided by Sections 13–1–130 and 13–1–131; carnal knowledge of a woman or girl, as provided by Sections 13–1–132 through 13–1–135, or attempting to do so, as provided by Section 13–1–136; indecent molestation of children, as defined and provided by Section 13–1–113; indecent exposure, as provided by Section 13–1–111; incest, as provided by Section 13–8–3; offenses relative to obscene prints and literature, as provided by Sections 13–7–160 through 13–7–175, inclusive; employing, harboring, procuring or using a girl over 10 and under 18 years of age for the purpose of prostitution or sexual intercourse, as provided by Section 13–7–1; seduction, as defined and provided by Section 13–1–112; a male person peeping into a room occupied by a female, as provided by Section 13–6–6; assault with intent to

ravish, as provided by Section 13–1–46; and soliciting a child by computer, as provided by Section 13A–6–110.

(34) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (33), inclusive.

(35) Any crime committed in Alabama or any other state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction which, if it had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (34), inclusive.

(36) Any offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub.L. 109–248, the Sex Offender Registration and Notification Act (SORNA)).

(37) Any crime committed in another state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction if that jurisdiction also requires that anyone convicted of that crime register as a sex offender in that jurisdiction.

(38) Any offender determined in any jurisdiction to be a sex offender shall be considered a sex offender in this state.

(39) The foregoing notwithstanding, any crime committed in any jurisdiction which, irrespective of the specific description or statutory elements thereof, is in any way characterized or known as rape, carnal knowledge, sodomy, sexual assault, sexual battery, criminal sexual conduct, criminal sexual contact, sexual abuse, continuous sexual abuse, sexual torture, solicitation of a child, enticing or luring a child, child pornography, lewd and lascivious conduct, taking indecent liberties with a child, molestation of a child, criminal sexual misconduct, video voyeurism, or there has been a finding of sexual motivation.

(40) Any crime not listed in this section wherein the underlying felony is an element of the offense and listed in subdivisions (1) to (39), inclusive.

(41) Any other offense not provided for in this section wherein there is a finding of sexual motivation as provided by Section 15–20A–6.

(Act 2011–640, p. 1569, § 5; Act 2015–463, p. 1506, § 1; Act 2016–354, p. 867, § 2; Act 2017–414, § 5; Act 2018–528, § 4; Act 2019–465, § 1.)

§ 15–20A–6. Allegation of sexual motivation.

(a)(1) The indictment, count in the indictment, information, complaint or warrant charging the offense may include a specification of sexual motivation or the prosecuting attorney may file an allegation of sexual motivation in any criminal case classified as a felony or Class A misdemeanor if sufficient admissible evidence exists that would justify a finding of sexual motivation by a reasonable and objective finder of fact.

(2) If a specification is included in the indictment, count in the indictment, information, complaint, or warrant charging the offense the specification shall be stated at the end of the body of the indictment, count in the

indictment, information, complaint, or warrant and shall be in substantially the following form: ''SPECIFICATION or SPECIFICATION TO THE FIRST COUNT. The Grand Jurors (or insert appropriate name) further find and specify that the offender committed the offense with a sexual motivation.''

(3) If the prosecuting attorney files an allegation of sexual motivation, it shall be filed within a reasonable time after indictment to give sufficient notice to the defendant.

(b) If the indictment, count of the indictment, information, complaint, or warrant charging the offense includes a specification of sexual motivation or if the prosecuting attorney files an allegation of sexual motivation, the state shall prove beyond a reasonable doubt that the defendant committed the offense with a sexual motivation.

(c) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication as a youthful offender, of whether or not a sexual motivation was present at the time of the commission of the offense unless the defendant has a trial by jury.

(d) If a defendant has a trial by jury, the jury, if it finds the defendant guilty, shall also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation.

(e) If there is a finding of sexual motivation, the finding shall be made part of the record of conviction or adjudication.

(f) For purposes of this section, sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of the sexual gratification of the defendant.

(g) This section shall not apply to sex offenses as defined in subdivisions (1) to (40), inclusive, of Section 15–20A–5.

(Act 2011–640, p. 1569, § 6; Act 2015–463, p. 1506, § 1; Act 2018–528, § 4.)

§ 15–20A–7. Registration information — Required.

(a) The following registration information, unless otherwise indicated, shall be provided by the sex offender when registering:

(1) Name, including any aliases, nicknames, ethnic, or tribal names.

(2) Date of birth.

(3) Social Security number.

(4) Address of each residence.

(5) Name and address of any school the sex offender attends or will attend. For purposes of this subdivision, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education.

(6) Name and address of any employer where the sex offender works or will work, including any transient or day laborer information.

(7) The license plate number, registration number or identifier, description, and permanent or frequent location where all vehicles are kept for any vehicle used for work or personal use, including land vehicles, aircraft, and watercraft.

(8) Any telephone number used, including land line and cell phone numbers.

(9) Any email addresses or instant message address or identifiers used, including any designations or monikers used for self-identification in Internet communications or postings other than those used exclusively in connection with a lawful commercial transaction.

(10) A current photograph.

(11) A physical description of the sex offender including physical appearance, physical characteristics, and identifying marks such as scars and tattoos.

(12) Fingerprints and palm prints.

(13) A DNA sample. The DNA sample may be collected by the probation officer, sheriff, chief of police, or other responsible agency. Prior to collecting a DNA sample, the responsible agency shall determine if a DNA sample has already been collected for the sex offender by checking the Dru Sjodin National Sex Offender Public Registry website, the Alabama Department of Forensic Sciences DNATracker site, or with the Alabama State Law Enforcement Agency. If a DNA sample has not been previously collected for the sex offender, the responsible agency shall coordinate for the collection of a DNA sample with the sheriff of the county in which the registration is occurring. The collection of a DNA sample should be performed using materials recommended or provided by the Alabama Department of Forensic Sciences. The DNA sample shall be immediately forwarded by the entity collecting the sample to the Department of Forensic Sciences.

(14) A photocopy of the valid driver license or identification card.

(15) A photocopy of any and all passport and immigration documents.

(16) Any professional licensing information that authorizes the sex offender to engage in an occupation or carry out a trade or business.

(17) A full criminal history of the sex offender, including dates of all arrests and convictions, status of parole, probation, or supervised release, registration status, and outstanding arrest warrants.

(18) A list of any and all Internet service providers used by the sex offender.

(19) Any other information deemed necessary by the Secretary of the Alabama State Law Enforcement Agency.

(b) The registering agency is not required to obtain any of the following information each time the sex offender verifies his or her required registration information if the registering agency verifies the information has already been collected and has not been changed or altered:

(1) A current photograph.

(2) Fingerprints or palm prints.

(3) A DNA sample.

(4) A photocopy of the valid driver license or identification card.

(5) A photocopy of any and all passport and immigration documents.

(c) The registration information shall be transmitted to the Alabama State Law Enforcement Agency in a manner determined by the secretary of the department and promulgated in rule by the secretary upon recommendation of an advisory board consisting of representatives of the office of the Attorney General, District Attorneys Association, Chiefs of Police Association, Sheriffs Association, and the Alabama State Law Enforcement Agency. The advisory board members shall not receive any compensation or reimbursement for serving on the advisory board.

(d) The required registration information shall include a form explaining all registration and notification duties, including any requirements and restrictions placed on the sex offender. This form shall be signed and dated by the sex offender. If the sex offender fails to sign the form, the designee of the registering agency shall sign the form stating that the requirements have been explained to the sex offender and that the sex offender refused to sign.

(e) All required registration information shall be stored electronically in a manner determined by the Secretary of the Alabama State Law Enforcement Agency and shall be available in a digitized format by the Alabama State Law Enforcement Agency to anyone entitled to receive the information as provided in Section 15–20A–42.

(f) Any person who knowingly fails to provide the required registration information, or who knowingly provides false information, pursuant to this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 7; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–8. Registration information — Public registry website.

(a) All of the following registration information shall be provided on the public registry website maintained by the Alabama State Law Enforcement Agency and may be provided on any community notification documents:

(1) Name, including any aliases, nicknames, ethnic, or Tribal names.

(2) Address of each residence.

(3) Address of any school the sex offender attends or will attend. For purposes of this subdivision, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education.

(4) Address of any employer where the sex offender works or will work, including any transient or day laborer information.

(5) The license plate number and description of any vehicle used for work or personal use, including land vehicles, aircraft, and watercraft.

(6) A current photograph.

(7) A physical description of the sex offender.

(8) Criminal history of any sex offense for which the sex offender has been adjudicated or convicted.

(9) The text of the criminal provision of any sex offense of which the sex offender has been adjudicated or convicted.

(10) Status of the sex offender, including whether the sex offender has absconded.

(b) None of the following information shall be provided on the public registry website or any other notification documents:

(1) Criminal history of any arrests not resulting in conviction.

(2) Social Security number.

(3) Travel and immigration document numbers.

(4) Victim identity.

(5) Any email addresses or instant message addresses or identifiers used by the sex offender.

(6) Any Internet service providers used by the sex offender.

(c) Any other required registration information may be included on the website as determined by the Secretary of the Alabama State Law Enforcement Agency.

(d) All information shall immediately be posted on the public registry website upon receipt of the information by the Alabama State Law Enforcement Agency.

(e) The website shall include field search capabilities to search for sex offenders by name, city or town, county, zip code, or geographic radius.

(f) The website shall include links to sex offender safety and education resources.

(g) The website shall include instructions on how to seek correction of information that a person contends is erroneous.

(h) The website shall include a warning that information on the site should not be used to unlawfully injure, harass, or commit a crime against any person named in the registry or residing or working at any reported address and that any such action may result in civil or criminal penalties. The website shall also include a warning that, prior to including the individual on the website, the Alabama State Law Enforcement Agency did not consider or assess the individual's specific risk of reoffense or current dangerousness; that inclusion on the website is based solely on an individual's conviction record and state law; and that the Legislature's purpose in providing this data is to make the information more easily available and accessible, not to warn about any specific individual.

(Act 2011–640, p. 1569, § 8; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–9. Adult sex offender — Requirements prior to release.

(a) At least 30 days prior to release, or immediately upon notice of release if release is less than 30 days, of an adult sex offender from the county jail, municipal jail, Department of Corrections, or any other facility that has incarcerated the adult sex offender, or immediately upon conviction, if the adult sex offender is not incarcerated:

(1) The responsible agency shall inform the adult sex offender of his or her duty to register and, instruct the adult sex offender to read and sign a form stating that the duty to register has been explained. The adult sex offender shall sign the form stating that the duty to register has been explained and shall provide the required registration information. If the adult sex offender refuses to sign the form, the designee of the responsible agency shall sign the form stating that the requirements have been explained to the adult sex offender and that the adult sex offender refused to sign.

(2) If the adult sex offender declares his or her intent to reside within this state, the responsible agency shall immediately notify and provide the required registration information to the Alabama State Law Enforcement Agency, the Attorney General, the district attorney in the county of conviction, and local law enforcement where the adult sex offender intends to reside. The notification shall also include any other information available to the responsible agency which would be necessary to identify and trace the adult sex offender, including, but not limited to, each sex offense history or a copy of the pre-sentence investigation of the sex offense and the release date of the adult sex offender.

(3) If the adult sex offender declares his or her intent to reside outside of the state, the responsible agency shall immediately notify and provide the required registration information to the Alabama State Law Enforcement Agency, the Attorney General, the district attorney in the county of conviction, and the designated state law enforcement agency of the state to which the adult sex offender has declared his or her intent to reside. The notification shall also include any other information available to the responsible agency which would be necessary to identify and trace the adult sex offender, including, but not limited to, each sex offense history or a copy of the pre-sentence investigation of the sex offense and the release date of the sex offender.

(4) If an adult sex offender is not able to provide a residence prior to the time of release, then the responsible agency shall notify the sheriff of the county where the last conviction for a sex offense or violation of this chapter took place at least five days prior to the release of the adult sex offender. Upon notice of the release date from the responsible agency, the sheriff of the county of the last conviction for a sex offense or a violation of this chapter shall make arrangements to have the adult sex offender immediately remanded to his or her custody to register in accordance with Section 15–20A–10 at the time of release.

(5) Any adult sex offender who is due to be released due to the expiration of his or her sentence and who refuses to provide the required registration information shall be treated as follows:

a. If the adult sex offender has not accumulated any incentive time pursuant to Section 14–9–41 or any other law, he or she shall be charged with violating this section. At least five days prior to his or her release date, the Department of Corrections shall notify the sheriff in the county where the last conviction for a sex offense or violation of this chapter took place, which county shall be the proper venue for arrest and prosecution of violation of this section. Upon notice of the release date, the sheriff from the county of the last conviction for a sex offense or violation of this chapter shall make arrangements to have the adult sex offender immediately remanded to his or her custody at the time of release. Any adult sex offender charged with violating this section may only be released on bond on the condition that the adult sex offender is in compliance with this section before being released.

b. If the adult sex offender has accumulated correctional incentive time pursuant to Section 14–9–41 or any other law, the adult sex offender shall be charged with non-compliance with this section and shall not be allowed early release, but instead shall forfeit all correctional incentive time that has accrued pursuant to Section 14–9–41, or other good time allowed by law.

(b) An adult sex offender who knowingly fails to comply with this section by failing to provide the required registration information shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 9; Act 2015–463, p. 1506, § 1.)

§ 15–20A–10. Adult sex offender — Registration with local law enforcement; residence restrictions.

(a)(1) Immediately upon release from incarceration, or immediately upon conviction if the adult sex offender is not incarcerated, the adult sex offender shall appear in person and register all required registration information with local law enforcement in each county in which the adult sex offender resides or intends to reside, accepts or intends to accept employment, accepts or intends to accept a volunteer position, and begins or intends to begin school attendance.

(2) An adult sex offender who registers pursuant to subdivision (1) shall have seven days from release to comply with the residence restrictions pursuant to subsection (a) of Section 15–20A–11.

(b) Immediately upon establishing a new residence, accepting employment, accepting a volunteer position, or beginning school attendance, the adult sex offender shall appear in person to register with local law enforcement in each county in which the adult sex offender establishes a residence, accepts employment, accepts a volunteer position, or begins school attendance.

(c)(1) Immediately upon transferring or terminating any residence, employment, or school attendance, the adult sex offender shall appear in person to notify local law enforcement in each county in which the adult sex offender is transferring or terminating residence, employment, or school attendance.

(2) Whenever a sex offender transfers his or her residence, as provided in subdivision (1) from one county to another county, the sheriff of the county from which the sex offender is transferring his or her residence shall immediately notify local law enforcement in the county in which the sex offender intends to reside. If a sex offender transfers his or her residence, as provided in subdivision (1) from one county to another jurisdiction, the sheriff of the county from which the sex offender is transferring his or her residence shall immediately notify the chief law enforcement agency in the jurisdiction in which the sex offender intends to reside.

(d) Immediately upon any name change, the adult sex offender shall immediately appear in person to update the information with local law enforcement in each county in which the adult sex offender is required to register.

(e)(1) Upon changing any required registration information, including by transferring or terminating a residence the adult sex offender shall immediately appear in person and update the information with local law enforcement in each county in which the adult sex offender resides. Provided, however, any changes in telephone numbers, email addresses, instant message addresses, or other on-line identifiers or Internet service providers may be reported to local law enforcement in person, electronically, or telephonically as required by the local law enforcement agency.

(2) Notwithstanding any other provision of law regarding the establishment of residence, an adult sex offender has transferred or terminated his or her residence for purposes of subdivision (1) whenever the adult sex offender vacates his or her residence or fails to spend three or more consecutive days at his or her residence without previously notifying local law enforcement or completing a travel notification document pursuant to Section 15–20A–15.

(f) An adult sex offender shall appear in person to verify all required registration information during the adult sex offender's birth month and every three months thereafter, regardless of the month of conviction, for the duration of the adult sex offender's life with local law enforcement in each county in which the adult sex offender resides.

(g) At the time of registration, the adult sex offender shall be provided a form explaining any and all duties and restrictions placed on the adult sex offender. The adult sex offender shall read and sign this form stating that he or she understands the duties and restrictions imposed by this chapter. If the adult sex offender refuses to sign the form, the designee of the registering agency shall sign the form stating that the requirements have been explained to the adult sex offender and that the adult sex offender refused to sign.

(h) For purposes of this section, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education.

(i) If an adult sex offender was convicted and required to register prior to July 1, 2011, then the adult sex offender shall begin quarterly registration after his or her next biannual required registration date.

(j) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 10; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–11. Adult sex offender — Prohibited residence locations, etc.

(a) No adult sex offender shall establish a residence or maintain a residence after release or conviction within 2,000 feet of the property on which any school, childcare facility, or resident camp facility is located unless otherwise exempted pursuant to Sections 15–20A–23 and 15–20A–24. For the purposes of this section, a resident camp facility includes any place, area, parcel, or tract of land which contains permanent or semi-permanent facilities for sleeping owned by a business, church, or nonprofit organization used primarily for educational, recreational, or religious purposes for minors and the location of the resident camp has been provided to local law enforcement. Resident camp does not include a private residence, farm, or hunting or fishing camp.

(b) No adult sex offender shall establish a residence or maintain a residence after release or conviction within 2,000 feet of the property on which his or her former victim, or an immediate family member of the victim, resides unless otherwise exempted pursuant to Section 15–20A–24 or Section 15–20A–16.

(c) Changes to property within 2,000 feet of a registered address of an adult sex offender which occur after the adult sex offender establishes residency shall not form the basis for finding that the adult sex offender is in violation of this section unless the sex offender has been released or convicted of a new offense after establishing residency.

(d) No adult sex offender shall reside or conduct an overnight visit with a minor. Notwithstanding the foregoing, an adult sex offender may reside with a minor if the adult sex offender is the parent, grandparent, stepparent, sibling, or stepsibling of the minor, unless one of the following conditions applies:

(1) Parental rights of the adult sex offender have been or are in the process of being terminated as provided by law.

(2) The adult sex offender has been convicted of any sex offense in which any of the minor children, grandchildren, stepchildren, siblings, or stepsiblings of the adult sex offender was the victim.

(3) The adult sex offender has been convicted of any sex offense in which a minor was the victim and the minor resided or lived with the adult sex offender at the time of the offense.

(4) The adult sex offender has been convicted of any sex offense involving a child, regardless of whether the adult sex offender was related to or shared a residence with the child victim.

(5) The adult sex offender has been convicted of any sex offense involving forcible compulsion in which the victim was a minor.

(e)(1) Notwithstanding any other provision of law regarding establishment of residence, an adult sex offender shall be deemed to have established a residence wherever he or she resides following release, regardless of whether the adult sex offender resided at the same location prior to the time of conviction.

(2) Notwithstanding any other provision of law regarding establishment of residence, an adult sex offender has transferred his or her residence for purposes of Section 15–20A–10(e)(1) whenever the adult sex offender vacates his or her residence or fails to spend three or more consecutive days at his or her residence without previously notifying local law enforcement or obtaining a travel notification document pursuant to Section 15–20A–15.

(f) An adult sex offender is exempt from subsections (a) and (b) during the time the adult sex offender is in the facility of a licensed health care provider or is incarcerated in a jail, prison, mental health facility, or any other correctional placement facility wherein the adult sex offender is not allowed unsupervised access to the public.

(g) An adult sex offender shall not be found in violation of subsection (a) on the basis of any address, street number, place, or parcel that has been approved in writing by local law enforcement prior to establishing a residence. Local law enforcement shall promulgate, publicize, and enforce a policy that affords sex offenders a reasonable opportunity to obtain preapproval of a proposed residence.

(h) For the purposes of this section, the 2,000–foot measurement shall be taken in a straight line from nearest property line to nearest property line.

(i) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 11; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–12. Adult sex offender — Homelessness.

(a) An adult sex offender who no longer has a fixed residence shall be considered homeless and shall appear in person and report such change in fixed residence to local law enforcement where he or she is located immediately upon such change in fixed residence.

(b) In addition to complying with the registration and verification requirements pursuant to Section 15–20A–10, a homeless adult sex offender who lacks a fixed residence, or who does not provide an address at a fixed

residence at the time of release or registration, shall report in person once every seven days to law enforcement agency where he or she resides. If the sex offender resides within the city limits of a municipality, he or she shall report to the chief of police. If the adult sex offender resides outside of the city limits of a municipality he or she shall report to the sheriff of the county. The weekly report shall be on a day specified by local law enforcement and shall occur during normal business hours.

(c) A homeless adult sex offender who lacks a fixed address shall comply with the residence restrictions set forth in Section 15–20A–11.

(d)(1) Each time a homeless adult sex offender reports under this section, he or she shall provide all of the following information:

a. Name.

b. Date of birth.

c. Social Security number.

d. A detailed description of the location or locations where he or she has resided during the week.

e. A list of the locations where he or she plans to reside in the upcoming week with as much specificity as possible.

(2) The registering agency is not required to obtain the remaining required registration information from the homeless adult sex offender each time he or she reports to the registering agency unless the homeless adult sex offender has any changes to the remaining required registration information.

(e) If an adult sex offender who was homeless obtains a fixed residence in compliance with the provisions of Section 15–20A–11, the adult sex offender shall immediately appear in person to update the information with local law enforcement in each county of residence.

(f) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 12; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–13. Adult sex offender — Employment restrictions.

(a) No adult sex offender shall accept or maintain employment or a volunteer position at any school, childcare facility, mobile vending business that provides services primarily to children, or any other business or organization that provides services primarily to children, or any amusement or water park.

(b) No adult sex offender shall accept or maintain employment or a volunteer position within 2,000 feet of the property on which a school or childcare facility is located unless otherwise exempted pursuant to Sections 15–20A–24 and 15–20A–25.

(c) No adult sex offender, after having been convicted of a sex offense involving a child, shall accept or maintain employment or a volunteer position within 500 feet of a playground, park, athletic field or facility, or any other

business or facility having a principal purpose of caring for, educating, or entertaining minors.

(d) Changes to property within 2,000 feet of an adult sex offender's place of employment which occur after an adult sex offender accepts employment shall not form the basis for finding that an adult sex offender is in violation of this section.

(e) It shall be unlawful for the owner or operator of any childcare facility or any other organization that provides services primarily to children to knowingly provide employment or a volunteer position to an adult sex offender.

(f) For purposes of this section, the 2,000–foot measurement shall be taken in a straight line from nearest property line to nearest property line.

(g) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 13; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–14. Adult sex offender — Requirements upon entering state.

(a) Any adult sex offender who declares he or she is entering the state to establish a residence or who enters this state to establish a residence shall immediately appear in person and register all required registration information with local law enforcement in the county where the adult sex offender intends to establish or establishes a residence.

(b) Any adult sex offender who enters this state to accept employment or a volunteer position or to become a student shall immediately appear in person and register all required registration information with local law enforcement in the county where the adult sex offender accepts employment or the volunteer position or becomes a student.

(c) Whenever an adult sex offender registers pursuant to this section, he or she shall be subject to the requirements of this chapter.

(d) Within 30 days of initial registration, the adult sex offender shall provide each registering agency with a certified copy of his or her sex offense conviction; however, an adult sex offender shall be exempt from this subsection if the adult sex offender provides adequate documentation that the certified record is no longer available or has been destroyed.

(e) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 14; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–15. Adult sex offender — Travel.

(a) Immediately before an adult sex offender temporarily leaves his or her county of residence for a period of three or more consecutive days, the adult sex offender shall report in person to the sheriff in each county of residence and complete and sign a travel notification document.

(b) The travel notification document shall be a form prescribed by the Alabama State Law Enforcement Agency to collect dates of travel, the intended destination or destinations, temporary lodging information, and any other information reasonably necessary to monitor a sex offender who plans to travel.

(c) If a sex offender intends to travel to another country, he or she shall report in person to the sheriff in each county of residence and complete a travel notification document at least 21 days prior to such travel. If the travel to another country is for a family or personal medical emergency or a death in the family, then the sex offender shall report in person to the sheriff in each county of residence immediately prior to travel. Any information reported to the sheriff in each county of residence shall immediately be reported to the United States Marshals Service and the Alabama State Law Enforcement Agency.

(d) The travel notification document shall explain the duties of the adult sex offender regarding travel as prescribed by the Alabama State Law Enforcement Agency and a certification that the adult sex offender understands the duties required of him or her and that the information he or she provided on the travel notification document is true and correct. No sex offender shall provide false information on the travel notification document.

(e) The sheriff in each county of residence shall immediately notify local law enforcement in the county or the jurisdiction to which the adult sex offender will be traveling.

(f) Upon return to the county of residence, the adult sex offender shall immediately report to the sheriff in each county of residence.

(g) All completed travel notification documents shall be included with the adult sex offender's required registration information.

(h) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 15; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–16. Adult sex offender — Contact with former victims.

(a) No adult sex offender shall contact, directly or indirectly, in person or through others, by phone, mail, or electronic means, any former victim.

(b) No adult sex offender shall knowingly come within 100 feet of a former victim.

(c) No sex offender shall make any harassing communication, directly or indirectly, in person or through others, by phone, mail, or electronic means to the victim or any immediate family member of the victim.

(d) A petition to exclude an adult sex offender from the requirements of subsections (a) and (b) of this section and Section 15–20A–11(b) may be filed in accordance with the requirements of Section 15–20A–24(c). The court shall conduct a hearing and shall exclude an adult sex offender from the provisions of this section provided that:

(1) The victim appears in court at the time of the hearing and requests the exemption in writing in open court.

(2) The court finds by clear and convincing evidence that the victim's court appearance and written request pursuant to subdivision (1) were made voluntarily.

(3) The victim is over the age of 19 at the time of the request.

(4) The district attorney or prosecuting attorney shall be notified of the hearing and shall have the right to be present and heard.

(e) Notwithstanding any state or local law or rule assigning costs and fees for filing and processing civil and criminal cases a petition filed shall be assessed a filing fee in the amount of two hundred dollars ($200) to be distributed as provided in Section 15–20A–46.

(f) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 16; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–17. Adult sex offender — Loitering in certain areas; requirements for entering K–12 school property or attending K–12 school events.

(a)(1) No adult sex offender, after having been convicted of a sex offense involving a minor, shall loiter on or within 500 feet of the property line of any property on which there is a school, childcare facility, playground, park, athletic field or facility, school bus stop, college or university, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors.

(2) Under this subsection, loiter means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose. An adult sex offender does not violate this subsection unless he or she has first been asked to leave a prohibited location by a person authorized to exclude the adult sex offender from the premises. An authorized person includes, but is not limited to, any law enforcement officer, security officer, any owner or manager of the premises, a principal, teacher, or school bus driver if the premises is a school, childcare facility, or bus stop, a coach, if the premises is an athletic field or facility, or any person designated with that authority.

(3) For purposes of this subsection, a school bus stop is any location where a motor vehicle owned or operated by or on behalf of a public or private school stops on a regular basis for the purpose of transporting children to and from school.

(b)(1) No adult sex offender, after having been convicted of a sex offense involving a minor, shall enter onto the property of a K–12 school while school is in session or attend any K–12 school activity unless the adult sex offender does all of the following:

a. Notifies the principal of the school, or his or her designee, before entering onto the property or attending the K–12 school activity.

b. Immediately reports to the principal of the school, or his or her designee, upon entering the property or arriving at the K–12 school activity.

c. Complies with any procedures established by the school to monitor the whereabouts of the sex offender for the duration of his or her presence on the school property or attendance at the K–12 school activity. For a public K–12 school, the local school board shall adopt a policy to effectuate this section.

(2) Procedures established to effectuate this subsection are limited to rules that allow the principal of the school, or his or her designee, to discreetly monitor the adult sex offender.

(3) For the purposes of this subsection, a K–12 school activity is an activity sponsored by a school in which students in grades K–12 are the primary intended participants or for whom students in grades K–12 are the primary intended audience including, but not limited to, school instructional time, after school care, after school tutoring, athletic events, field trips, school plays, or assemblies.

(c) Any person who knowingly violates subsection (a) or subsection (b) shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 17; Act 2014–421, p. 1537, § 1; Act 2015–463, p. 1506, § 1.)

§ 15–20A–18. Adult sex offender — Identification requirements.

(a) Every adult sex offender who is a resident of this state shall obtain from the Alabama State Law Enforcement Agency, and always have in his or her possession, a valid driver license or identification card issued by the Alabama State Law Enforcement Agency. If any adult sex offender is ineligible to be issued a driver license or official identification card, the Alabama State Law Enforcement Agency shall provide the adult sex offender some other form of identification card or documentation that, if it is kept in the possession of the adult sex offender, shall satisfy the requirements of this section. If any adult sex offender is determined to be indigent, an identification card, or other form of identification or documentation that satisfies the requirements of this section, shall be issued to the adult sex offender at no cost. Indigence shall be determined by order of the court prior to each issuance of a driver license or identification card.

(b) The adult sex offender shall obtain from the Alabama State Law Enforcement Agency a valid driver license or identification card bearing a designation that enables law enforcement officers to identify the licensee as a sex offender within 14 days of his or her initial registration following release, initial registration upon entering the state to become a resident, or immediately following his or her next registration after July 1, 2011.

(c) Whenever the Alabama State Law Enforcement Agency issues or renews a driver license or identification card to an adult sex offender, the driver license or identification card shall bear a designation that, at a minimum, enables law enforcement officers to identify the licensee as a sex offender.

(d) Upon obtaining or renewing a driver license or identification card bearing a designation that enables law enforcement officers to identify the licensee as a sex offender, the adult sex offender shall relinquish to the Alabama State Law Enforcement Agency any other driver license or identification card previously issued to him or her by a state motor vehicle agency which does not bear any designation enabling law enforcement officers to identify the licensee as a sex offender. Nothing in this section shall require an adult sex offender to relinquish, or preclude an adult sex offender from possessing, any form of identification issued to him or her by an entity other than a state motor vehicle agency, including, but not limited to, the United States, a federal department or agency, a municipal or county government entity, an educational institution, or a private employer.

(e) No adult sex offender shall mutilate, mar, change, reproduce, alter, deface, disfigure, or otherwise change the form of any driver license or identification card which is issued to the adult sex offender by the Alabama State Law Enforcement Agency and which bears any designation enabling law enforcement officers to identify the licensee as a sex offender. An adult sex offender having in his or her possession a driver license or identification card issued to him or her by the Alabama State Law Enforcement Agency bearing any designation enabling law enforcement officers to identify the licensee as a sex offender which has been mutilated, marred, changed, reproduced, altered, defaced, disfigured, or otherwise changed shall be prima facie evidence that he or she has violated this section.

(f) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 18; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–19. Adult sex offender — Sexually violent predator.

(a) The state, upon conviction and prior to sentencing, may petition the sentencing court to enter an order declaring a person convicted in this state of a sexually violent or predatory offense as a sexually violent predator.

(b) At sentencing, a court may declare a person to be a sexually violent predator. For the purposes of this section, a person is a sexually violent predator if either of the following applies:

(1) The person is a repeat sexually violent offender.

(2) The person commits a sexually violent offense and is likely to engage in one or more sexually violent offenses in the future.

(c) A person is a repeat sexually violent offender for the purposes of this section if the person is convicted of more than one sexually violent offense.

(d) For the purposes of this section, a sexually violent offense is any of the following:

(1) A sex offense committed by forcible compulsion, violence, duress, menace, fear of immediate bodily injury to the victim or another person, or threatening to retaliate in the future against the victim or any other person.

(2) A sex offense involving a child.

(3) Any sex offense involving the enticement or solicitation of a minor for sexual purposes.

(4) Any sex offense that is predatory in nature.

(5) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (4), inclusive.

(6) Any other offense for which the court makes a specific finding on the record that, based on the circumstances of the case, the person's offense should be considered a sexually violent offense.

(e) Any of the following factors may be considered as evidence tending to indicate that there is a likelihood that the person will engage in the future in one or more sexually violent offenses:

(1) The person has been convicted two or more times, in separate criminal actions, of a sexually violent offense. For purposes of this subdivision, convictions that result from or are connected with the same act or result from offenses committed at the same time are one conviction.

(2) The person has been convicted of a sexually violent offense involving two or more victims regardless of when the acts or convictions occurred.

(3) Available information or evidence suggests that the person chronically commits offenses with a sexual motivation.

(4) The person has committed one or more offenses in which the person has tortured or engaged in ritualistic acts with one or more victims.

(5) The person has committed one or more sex offenses in which one or more victims were physically harmed to the degree that the particular victim's life was in jeopardy.

(6) Any other evidence deemed relevant by the court.

(f) If the state so petitions, it shall present clear and convincing evidence that the sex offender is likely to engage in one or more future sexually violent offenses or is likely to engage in future predatory sex offenses.

(g) Any sex offender determined in any other state to be a sexually violent predator shall be considered a sexually violent predator in this state.

(h) A sexually violent predator, as a condition of the sex offender's release from incarceration, shall be subject to electronic monitoring and be required to pay the costs of such monitoring, as set forth in Section 15–20A–20, for a period of no less than 10 years from the date of the sexually violent predator's release. This requirement shall be imposed by the sentencing court as a part

of the sexually violent predator's sentence, as provided in subsection (c) of Section 13A–5–6, and Section 15–20A–20.

(Act 2011–640, p. 1569, § 19.)

§ 15–20A–20. Adult sex offender — Electronic monitoring.

(a) The Alabama State Law Enforcement Agency shall implement a system of active and passive electronic monitoring that identifies the location of a monitored person and that can produce upon request reports or records of the person's presence near or within a crime scene or prohibited area, the person's departure from specified geographic limitations, or curfew violations by the offender. The Director of the Alabama State Law Enforcement Agency may promulgate any rules as are necessary to implement and administer this system of active electronic monitoring including establishing policies and procedures to notify the person's probation and parole officer or other court-appointed supervising authority when a violation of his or her electronic monitoring restrictions has occurred.

(b) The Board of Pardons and Paroles or a court may require, as a condition of release on parole, probation, community corrections, court referral officer supervision, pretrial release, or any other community-based punishment option, that any person charged or convicted of a sex offense be subject to electronic monitoring as provided in subsection (a).

(c) Any person designated a sexually violent predator pursuant to Section 15–20A–19, upon release from incarceration, shall be subject to electronic monitoring supervised by the Board of Pardons and Paroles, as provided in subsection (a), for a period of no less than 10 years from the date of the sexually violent predator's release. This requirement shall be imposed by the sentencing court as a part of the sentence of the sexually violent predator in accordance with subsection (c) of Section 13A–5–6.

(d) Any person convicted of a Class A felony sex offense involving a child as defined in Section 15–20A–4, upon release from incarceration, shall be subject to electronic monitoring supervised by the Board of Pardons and Paroles, as provided in subsection (a), for a period of no less than 10 years from the date of the sex offender's release. This requirement shall be imposed by the sentencing court as a part of the sex offender's sentence in accordance with subsection (c) of Section 13A–5–6.

(e) Anyone subject to electronic monitoring pursuant to this section, unless he or she is indigent, shall be required to reimburse the supervising entity a reasonable fee to defray supervision costs. The Board of Pardons and Paroles, the sentencing court, or other supervising entity shall determine the amount to be paid based on the financial means and ability to pay of the person, but such amount shall not exceed fifteen dollars ($15) per day.

(f) The supervising entity shall pay the Alabama State Law Enforcement Agency a fee, to be determined by the center, but not exceeding ten dollars ($10) per day, to defray monitoring equipment and telecommunications costs.

(g) It shall constitute a Class C felony for any person to knowingly alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring under this section.

(h) The procurement of any product or services necessary for compliance with Act 2005–301, including any system of electronic monitoring, any equipment, and the building of a website, shall be subject to the competitive bid process.

(Act 2011–640, p. 1569, § 20; Act 2015–463, p. 1506, § 1.)

§ 15–20A–21. Adult sex offender — Community notification.

(a) Immediately upon the release of an adult sex offender or immediately upon notice of where the adult sex offender plans to establish, or has established a fixed residence, the following procedures shall apply:

(1) In the Cities of Birmingham, Mobile, Huntsville, and Montgomery, the chief of police shall notify all persons who have a legal residence within 1,000 feet of the declared fixed residence of the adult sex offender and all schools and childcare facilities within three miles of the declared fixed residence of the adult sex offender that the adult sex offender will be establishing or has established as his or her fixed residence.

(2) In all other cities in Alabama with a resident population of 5,000 or more, the chief of police, or if none, then the sheriff of the county, shall notify all persons who have a legal residence within 1,500 feet of the declared fixed residence of the adult sex offender and all schools and childcare facilities within three miles of the declared fixed residence of the adult sex offender that the adult sex offender will be establishing or has established his or her fixed residence.

(3) In all other municipalities with a resident population of less than 5,000, and in all unincorporated areas, the sheriff of the county in which the adult sex offender intends to reside shall notify all persons who have a legal residence within 2,000 feet of the declared fixed residence of the adult sex offender and all schools and childcare facilities within three miles of the declared fixed residence of the adult sex offender that the adult sex offender will be establishing or has established as his or her fixed residence.

(b) A community notification flyer shall be made by regular mail or hand delivered to all legal residences required by this section and include registration information pursuant to Section 15–20A–8. In addition, any other method reasonably expected to provide notification may be utilized, including, but not limited to, posting a copy of the notice in a prominent place at the office of the sheriff and at the police station closest to the declared fixed residence of the released adult sex offender, publicizing the notice in a local newspaper, posting electronically, including the Internet, or other means available.

(c) Nothing in this chapter shall be construed as prohibiting the Secretary of the Alabama State Law Enforcement Agency, a sheriff, or a chief of police

from providing community notification under the provisions of this chapter by regular mail, electronically, or by publication or periodically to persons whose legal residence is within the guidelines of this chapter or more than the applicable distance from the residence of an adult sex offender.

(d) When a homeless adult sex offender who lacks a fixed residence registers pursuant to Section 15–20A–12, notification shall be provided by posting a copy of the notice in a prominent place at the office of the sheriff and at the police station closest to the declared residence of the released adult sex offender, publicizing the notice in a local newspaper, or posting the notice electronically, including the Internet or other means available.

(Act 2011–640, p. 1569, § 21; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–22. Adult sex offender — Registration fee.

(a) An adult sex offender shall pay a registration fee in the amount of ten dollars ($10) to each registering agency where the adult sex offender resides beginning with the first quarterly registration on or after July 1, 2011, and at each quarterly registration thereafter.

(b) Each time an adult sex offender terminates his or her residence and establishes a new residence, he or she shall pay a registration fee in the amount of ten dollars ($10) to each registering agency where the adult sex offender establishes a new residence.

(c) If, at the time of registration, the adult sex offender is unable to pay the registration fee, the registering agency may require the adult sex offender to pay the fee in installments not to exceed 90 days. The registering agency shall waive the registration fee if the adult sex offender has an order from the court declaring his or her indigence. In the event the adult sex offender is determined to be indigent, a periodic review of the adult sex offender's indigent status shall be conducted by the court to determine if the offender is no longer indigent. Further, if the offender is determined to be indigent by the sentencing court, nothing in this chapter shall prohibit the offender from being placed on a payment plan where the entire fee is collected in total.

(d)(1) The fees collected under this section shall be appropriated to the registering agency to defray the costs associated with sex offender registration, verification, and notification.

(2) Any and all registration fees collected by the sheriff, or his or her designee, shall be deposited in the county general fund earmarked for use of the sheriff and shall be paid to the sheriff upon his or her request to be used at the discretion of the sheriff for any law enforcement purpose related to sex offender registration, notification, tracking, or apprehension.

(3) The monies provided in this section and the use of the funds shall in no way diminish or take the place of any other reimbursement or other source of income established for the sheriff or the operation of his or her office.

(4) Any and all registration fees collected by a chief of police, or his or her designee, shall be deposited into the municipal general fund and made available to the affected law enforcement agency or department upon requisition of the chief law enforcement official of such agency or department and shall be used for any lawful purpose related to sex offender registration, notification, tracking or apprehension.

(5) The monies provided in this section and the use of the funds shall in no way diminish or take the place of any other reimbursement or other source of income established for the chief of police or the operation of his or her office.

(e) Any person who willfully fails to pay the required registration fee at the time of registration, or at the time at which the installment payment is due, shall be guilty of a Class B misdemeanor. Upon a second or subsequent conviction for willful failure to pay the required registration fee, the adult sex offender shall be guilty of a Class A misdemeanor.

(Act 2011–640, p. 1569, § 22; Act 2015–463, p. 1506, § 1.)

§ 15–20A–23. Adult sex offender — Relief from residency restriction.

(a) A sex offender required to register under this chapter may petition the court for relief from the residency restriction pursuant to subsection (a) of Section 15–20A–11 during the time a sex offender is terminally ill or permanently immobile, or the sex offender has a debilitating medical condition requiring substantial care or supervision or requires placement in a residential health care facility.

(b) A petition for relief pursuant to this section shall be filed in the civil division of the circuit court of the county in which the sex offender seeks relief from the residency restriction.

(c) The sex offender shall serve a copy of the petition by certified mail on all of the following:

(1) The prosecuting attorney in the county of adjudication or conviction, if the sex offender was adjudicated or convicted in this state.

(2) The prosecuting attorney of the county where the sex offender seeks relief from the residency restriction.

(3) Local law enforcement where the sex offender was adjudicated or convicted if the sex offender was adjudicated or convicted in this state.

(4) Local law enforcement where the adult sex offender seeks relief from the residency restriction.

(d) The petition and documentation to support the request for relief shall include all of the following:

(1) A certified copy of the adjudication or conviction requiring registration, including a detailed description of the sex offense.

(2) A list of each county, municipality, and jurisdiction where the sex offender is required to register or has ever been required to register.

(3) The sex offender's criminal record and an affidavit stating that the sex offender has no pending criminal charges.

(4) Notarized documentation of the sex offender's condition by his or her medical provider.

(5) A release allowing the prosecuting attorney or the court to obtain any other medical records or documentation relevant to the petition.

(6) Any other information requested by the court relevant to the petition.

(e) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the sex offender is required to register of the petition and the dates and times of any hearings or other proceedings in connection with the petition.

(f) The court shall hold a hearing within 30 days of the filing of the petition. Upon request of the prosecuting attorney, and for good cause shown, the hearing may be continued to allow the prosecuting attorney to obtain any relevant records pertinent to the hearing. At the hearing the prosecuting attorney and the victim shall have the opportunity to be heard.

(g) The court shall issue an order releasing the sex offender from the residency restrictions pursuant to subsection (a) of Section 15–20A–11 if the court finds by clear and convincing evidence that the sex offender (1) is terminally ill, permanently immobile, has a debilitating medical condition requiring substantial care or supervision, or requires placement in a residential health care facility and (2) does not pose a substantial risk of perpetrating any future sexual offense. The court may relieve a sex offender from any residency restrictions indefinitely or for a specific period of time.

(h) The court shall send a copy of any order releasing a sex offender from residency restrictions pursuant to subsection (a) of Section 15–20A–11 to the prosecuting attorney and the Alabama State Law Enforcement Agency.

(i) If the court finds that the sex offender still poses a risk, has provided false or misleading information in support of the petition, or failed to serve the petition and supporting documentation upon the parties as provided for in subsection (c), then the petition shall be denied.

(j) If the petition for release is denied, the sex offender may not file a subsequent petition for at least 12 months from the date of the final order on the previous petition unless good cause is shown and the sex offender's mental or physical condition has severely changed.

(k) If at any time the sex offender is no longer terminally ill, permanently immobile, or no longer suffers from a debilitating medical condition requiring substantial care or supervision or no longer requires placement in a residential health care facility, the sex offender shall immediately register in person with local law enforcement in each county of residence, update all required registration information, and comply with the residency restriction pursuant to subsection (a) of Section 15–20A–11.

(l) No sex offender petitioning the court under this section for an order terminating the sex offender's obligation to comply with the residency restrictions is entitled to publicly funded experts or publicly funded witnesses.

(m) Upon request of the state, the court may reinstate the restrictions pursuant to subsection (a) of Section 15–20A–11 for good cause shown, including, but not limited to, whenever the grounds for a relief order issued pursuant to subsection (g) are revealed to be false or no longer true. No filing fee may be assessed for a petition filed under this subsection.

(n) Notwithstanding any state or local rule assigning costs and fees for filing and processing civil and criminal cases, a sex offender's petition under this section shall be assessed a filing fee in the amount of two hundred dollars ($200) to be distributed as provided in Section 15–20A–46. The filing fee may be waived initially and taxed as costs at the conclusion of the case if the court finds that payment of the fee will constitute a substantial hardship. A verified statement of substantial hardship, signed by the sex offender and approved by the court, shall be filed with the clerk of court.

(*o*) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(p) A person who knowingly provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 23; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–24. Adult sex offender — Relief from registration and notification.

(a) At disposition, sentencing, upon completion of probation, or upon completion of a term of registration ordered by the sentencing court, a sex offender may petition the court for relief from the requirements of this chapter resulting from any of the following offenses, provided that he or she meets the requirements set forth in subsection (b):

(1) Rape in the second degree, as provided by subdivision (1) of subsection (a) of Section 13A–6–62.

(2) Sodomy in the second degree, as provided by subdivision (1) of subsection (a) of Section 13A–6–64.

(3) Sexual abuse in the second degree, as provided by subdivision (2) of subsection (a) of Section 13A–6–67.

(4) Sexual misconduct, as provided by Section 13A–6–65.

(5) Any crime committed in this state or any other jurisdiction which, if had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (4), inclusive.

(6) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (5), inclusive.

(b) The sex offender shall prove by clear and convincing evidence all of the following to obtain relief under this section:

(1) The sex offense did not involve force and was only a crime due to the age of the victim.

(2) At the time of the commission of the sex offense, the victim was 13 years of age or older.

(3) At the time of the commission of the sex offense, the sex offender was less than five years older than the victim.

(c) If the petition for relief is filed after sentencing or disposition, the petition for relief shall be filed as follows:

(1) If the adult or youthful offender sex offender was adjudicated or convicted in this state, the petition for relief shall be filed in the civil division of the circuit court where the adult or youthful offender sex offender was adjudicated or convicted.

(2) If the adult or youthful offender sex offender was adjudicated or convicted in a jurisdiction outside of this state, the petition for relief shall be filed in the civil division of the circuit court in the county in which the adult or youthful offender sex offender resides.

(3) If the juvenile sex offender was adjudicated in this state, the petition for relief shall be filed in the juvenile court.

(4) If the juvenile sex offender was adjudicated in a jurisdiction outside of this state, the petition for relief shall be filed in the juvenile court in the county in which the juvenile sex offender resides.

(d)(1) The sex offender shall serve a copy of the petition by certified mail on all of the following:

a. The prosecuting attorney in the county of adjudication or conviction, if the sex offender was adjudicated or convicted in this state.

b. The prosecuting attorney of the county where the sex offender resides.

c. Local law enforcement where the sex offender was adjudicated or convicted, if the sex offender was adjudicated or convicted in this state.

d. Local law enforcement where the adult sex offender resides.

(2) Failure of the sex offender to serve a copy of the petition as required by this subsection shall result in an automatic denial of the petition.

(e) The petition and documentation to support the request for relief shall include all of the following:

(1) The offense that the sex offender was initially charged with and the offense that the sex offender was adjudicated or convicted of, if different.

(2) A certified copy of the adjudication or conviction requiring registration including a detailed description of the sex offense, if the petition is filed upon completion of probation or a term of registration.

(3) Proof of the age of the victim and the age of the sex offender at the time of the commission of the sex offense.

(4) A list of each registering agency in each county and jurisdiction in which the sex offender is required to or has ever been required to register, if the petition is filed upon completion of probation or a term of registration.

(5) The sex offender's criminal record and an affidavit stating that the sex offender has no pending criminal charges.

(6) Any other information requested by the court relevant to the request for relief.

(f) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the sex offender is required to register of the petition and the dates and times of any hearings or other proceedings in connection with the petition.

(g) The court shall hold a hearing prior to ruling on the petition. At the hearing, the prosecuting attorney and the victim shall have the opportunity to be heard.

(h) The court shall issue an order releasing the sex offender from some or all requirements of this chapter pursuant to subsection (i) if the court finds by clear and convincing evidence that the sex offender does not pose a substantial risk of perpetrating any future sex offense. In determining whether to grant relief, the court may consider any of the following:

(1) Recommendations from the sex offender's probation officer, including, but not limited to, the recommendations in the presentence investigation report and the sex offender's compliance with supervision requirements.

(2) Recommendations from the prosecuting attorney.

(3) Any written or oral testimony submitted by the victim or the parent, guardian, or custodian of the victim.

(4) The facts and circumstances surrounding the offense.

(5) The relationship of the parties.

(6) The criminal history of the sex offender.

(7) The protection of society.

(8) Any other information deemed relevant by the court.

(i) The court may grant full or partial relief from this chapter. If the court grants relief, the court shall enter an order detailing the relief granted and provide a copy of the order to the prosecuting attorney and the Alabama State Law Enforcement Agency.

(j) If the court denies the petition, the sex offender may not petition the court again until 12 months after the date of the order denying the petition.

(k) A sex offender is not eligible for relief under this section if he or she was adjudicated or convicted of a sex offense previous to or subsequent to the offense of which he or she is petitioning the court for relief or has any pending criminal charges for any sex offense.

(l) In addition to sex offenders adjudicated or convicted of a sex offense on or after July 1, 2011, a sex offender adjudicated or convicted of any of the offenses specified in subsection (a) prior to July 1, 2011, who meets the eligibility requirements specified in subsection (b), except as otherwise provided for in subsection (k), may petition the court for relief pursuant to this section.

(m) Notwithstanding any state or local law or rule assigning costs and fees for filing and processing civil and criminal cases, except when this relief is sought at the time of sentencing or disposition, a sex offender's petition under this section shall be assessed a filing fee in the amount of two hundred dollars ($200) to be distributed as provided in Section 15–20A–46. The filing fee may be waived initially and taxed as costs at the conclusion of the case if the court finds that payment of the fee will constitute a substantial hardship. A verified statement of substantial hardship, signed by the sex offender and approved by the court, shall be filed with the clerk of court.

(n) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(*o*) Any person who knowingly provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 24; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–25. Adult sex offender — Relief from employment restriction.

(a) A sex offender may petition at sentencing, or if after sentencing, a sex offender may file a petition in the civil division of the circuit court in the county where the sex offender seeks to accept or maintain employment for relief from the employment restrictions pursuant to subsection (b) of Section 15–20A–13. A sex offender adjudicated or convicted of any of the following sex offenses shall not be entitled to relief under this section:

(1) Rape in the first degree, as provided by Section 13A–6–61.

(2) Sodomy in the first degree, as provided by Section 13A–6–63.

(3) Sexual abuse in the first degree, as provided by Section 13A–6–66.

(4) Sex abuse of a child less than 12 years old, as provided by Section 13A–6–69.1.

(5) Sexual torture, as provided by Section 13A–6–65.1.

(6) Any sex offense involving a child.

(7) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (6), inclusive.

(8) Any offense committed in any other jurisdiction which, if it had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (7), inclusive.

(b)(1) The sex offender shall serve a copy of the petition by certified mail on all of the following:

a. The prosecuting attorney in the county of adjudication or conviction, if the sex offender was adjudicated or convicted in this state.

b. The prosecuting attorney of the county in which the sex offender seeks to accept or maintain employment.

c. Local law enforcement where the sex offender was adjudicated or convicted, if the sex offender was adjudicated or convicted in this state.

d. Local law enforcement where the sex offender seeks to accept or maintain employment.

(2) Failure of the sex offender to serve a copy of the petition as required by this subsection shall result in an automatic denial of the petition.

(c) The petition and documentation to support the petition shall include all of the following:

(1) A certified copy of the adjudication or conviction requiring registration, including a detailed description of the sex offense, if the petition is filed after sentencing.

(2) A list of each registering agency in each county and jurisdiction in which the sex offender is required to register or has ever been required to register, if the petition is filed after conviction.

(3) The sex offender's criminal record and an affidavit stating that the sex offender has no pending criminal charges.

(4) The location where the sex offender is employed or intends to obtain employment.

(5) Justification as to why the court should grant relief.

(6) Any other information requested by the court relevant to the petition.

(d) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the sex offender is required to register of the petition and the dates and times of any hearings or other proceedings in connection with the petition.

(e) The court shall hold a hearing prior to ruling on the petition. At the hearing, the prosecuting attorney and the victim shall have the opportunity to be heard.

(f) The court shall issue an order releasing the sex offender from the requirements of the employment restrictions pursuant to subsection (b) of Section 15–20A–13 if the court finds by clear and convincing evidence that the sex offender does not pose a substantial risk of perpetrating any future sex offense. The court may consider any of the following factors in determining whether to grant relief:

(1) The nature of the offense.

(2) Past criminal history of the sex offender.

(3) The location where the sex offender is employed or intends to obtain employment.

(4) Any other information deemed relevant by the court.

(g) If the court grants the petition, the court shall enter an order detailing the relief granted and provide a copy of the order to the prosecuting attorney where the petition was filed and to the Alabama State Law Enforcement Agency.

(h) A sex offender is not eligible for relief under this section if he or she was adjudicated or convicted of a sex offense previous to or subsequent to the offense of which he or she is petitioning the court for relief or has any pending criminal charges for any sex offense.

(i) Upon request of the state, the court may reinstate the restrictions pursuant to subsection (b) of Section 15–20A–13 for good cause shown, including, but not limited to, whenever the grounds for a relief order issued pursuant to subsection (f) are revealed to be false or no longer true. No filing fee may be assessed for a petition filed under this subsection.

(j) Notwithstanding any state or local law or rule assigning costs and fees for filing and processing civil and criminal cases, except when this relief is sought at the time of sentencing, a sex offender's petition under this section shall be assessed a filing fee in the amount of two hundred dollars ($200) to be distributed as provided in Section 15–20A–46. The filing fee may be waived initially and taxed as costs at the conclusion of the case if the court finds that payment of the fee will constitute a substantial hardship. A verified statement of substantial hardship, signed by the sex offender and approved by the court, shall be filed with the clerk of court.

(k) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(l) A person who knowingly provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 25; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–26. Juvenile sex offender — Treatment; risk assessment.

(a) Upon adjudication of delinquency for a sex offense, a juvenile sex offender shall be required to receive sex offender treatment by a sex offender treatment program or provider approved by the Department of Youth Services.

(b) Upon completion of sex offender treatment, the juvenile sex offender shall be required to undergo a sex offender risk assessment. The treatment provider shall provide a copy of the risk assessment to the sentencing court, the prosecuting attorney, and the juvenile probation office not less than 60 days prior to the projected release of the juvenile sex offender from a facility where the juvenile sex offender does not have unsupervised access to the public or immediately upon completion of the risk assessment if the juvenile sex offender is not in a facility where the juvenile sex offender does not have unsupervised access to the public.

(c) Upon receiving the risk assessment, the juvenile probation office shall provide a copy of the risk assessment to the state and either the attorney for

the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender. In addition, the juvenile probation office shall immediately notify the attorney for the juvenile sex offender and either the parent, guardian, or custodian of the pending release of the juvenile sex offender from a facility where the juvenile sex offender does not have unsupervised access to the public.

(d) Within 60 days of receiving the risk assessment, the court shall conduct a hearing to determine the risk of the juvenile sex offender to the community and the level of notification that shall apply.

(e) No juvenile sex offender shall be removed from the supervision of the juvenile court until such time as the juvenile sex offender has completed treatment, the treatment provider has filed a risk assessment with the sentencing court, and the sentencing court has conducted a hearing to determine the risk of the juvenile sex offender to the community and the level of notification that shall apply.

(Act 2011–640, p. 1569, § 26; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–27. Juvenile sex offender — Community notification.

(a) In determining whether to apply notification requirements to a juvenile sex offender, the sentencing court shall consider any of the following factors relevant to the risk of re-offense:

(1) Conditions of release that minimize the risk of re-offense, including, but not limited to, whether the juvenile sex offender is under supervision of probation, parole, or aftercare; receiving counseling, therapy, or treatment; or residing in a home situation that provides guidance and supervision.

(2) Physical conditions that minimize the risk of re-offense, including, but not limited to, advanced age or debilitating illness.

(3) Criminal history factors indicative of high risk of re-offense, including whether the conduct of the juvenile sex offender was found to be characterized by repetitive and compulsive behavior.

(4) Whether psychological or psychiatric profiles indicate a risk of recidivism.

(5) The relationship between the juvenile sex offender and the victim.

(6) The particular facts and circumstances surrounding the offense.

(7) The level of planning and participation in the offense.

(8) Whether the offense involved the use of a weapon, violence, or infliction of serious bodily injury.

(9) The number, date, and nature of prior offenses.

(10) The response to treatment of the juvenile sex offender.

(11) Recent behavior, including behavior while confined or while under supervision in the community.

(12) Recent threats against persons or expressions of intent to commit additional crimes.

(13) The protection of society.

(14) Any other factors deemed relevant by the court.

(b) If the sentencing court determines that the juvenile sex offender shall be subject to notification, the level of notification shall be applied as follows:

(1) If the risk of re-offense is low, notification that the juvenile sex offender will be establishing or has established a fixed residence shall be provided by local law enforcement to the principal of the public or nonpublic school where the juvenile sex offender will attend after release and, if a public school, to the local superintendent of education with jurisdiction over that school. This notification shall include the name, actual living address, date of birth of the juvenile sex offender, and a statement of the sex offense for which he or she has been adjudicated delinquent, including the age and gender of the victim. This information shall be considered confidential by the school and the local superintendent of education and be shared only with the teachers and staff with supervision over the juvenile sex offender. Whoever, except as specifically provided herein, directly or indirectly discloses or makes use of or knowingly permits the use of information concerning a juvenile sex offender described in this section, upon conviction thereof, shall be guilty of a Class C felony within the jurisdiction of the juvenile court.

(2) If the risk of re-offense is moderate, notification that the juvenile sex offender will be establishing, or has established, a fixed residence shall be provided by local law enforcement to all schools and childcare facilities within three miles of the declared fixed residence of the juvenile sex offender. A community notification flyer shall be mailed by regular mail or hand delivered to all schools or childcare facilities as required by this subsection. No other method may be used to disseminate this information.

(3) If the risk of re-offense is high, the public shall receive notification as though the juvenile sex offender were an adult sex offender in accordance with Section 15–20A–21.

(c) The sentencing court shall enter an order stating whether the juvenile sex offender shall be subject to notification and the level of notification that shall be applied. The court shall provide a copy of the order to the prosecuting attorney and to the Alabama State Law Enforcement Agency.

(d) The determination of notification by the sentencing court shall not be subject to appeal.

(Act 2011–640, p. 1569, § 27; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5; Act 2018–528, § 2.)

§ 15–20A–28. Juvenile sex offender — Lifetime registration and notification.

(a) A juvenile adjudicated delinquent of any of the following sex offenses, who was 14 or older at the time of the offense, shall be subject to registration and notification, if applicable, for life:

(1) Rape in the first degree, as provided by Section 13A–6–61.

(2) Sodomy in the first degree, as provided by Section 13A–6–63.

(3) Sexual abuse in the first degree, as provided by Section 13A–6–66.

(4) Sexual torture, as provided by Section 13A–6–65.1.

(5) Any offense committed in any other jurisdiction which, if had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (4), inclusive.

(6) Any offense, committed in this state or any other jurisdiction, comparable to or more severe than aggravated sexual abuse as described in 18 U.S.C. § 2241(a) or (b).

(7) Any attempt or conspiracy to commit any of the offenses listed in subdivisions (1) to (6), inclusive.

(b) A juvenile sex offender subject to lifetime registration may petition the sentencing juvenile court for relief from registration and notification, if notification was ordered, 25 years after the juvenile sex offender is released from the offense subjecting the juvenile sex offender to registration in accordance with this chapter, pursuant to Section 15–20A–34.

(c) A juvenile sex offender who is not subject to lifetime registration pursuant to subsection (a), shall be subject to this chapter for a period of 10 years from the date of first registration.

(d) The sentencing court or the juvenile court where the juvenile sex offender resides, if the juvenile sex offender's adjudication of delinquency occurred in another jurisdiction, may give a juvenile sex offender credit for the time the juvenile sex offender was registered in another jurisdiction.

(e) A juvenile sex offender who is subsequently adjudicated as a youthful offender sex offender or convicted of another sex offense during his or her registration period shall be considered solely an adult sex offender.

(Act 2011–640, p. 1569, § 28; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–29. Juvenile sex offender — Requirements prior to release.

(a) Prior to the release of a juvenile sex offender, the following shall apply:

(1) The juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall provide the required registration information to the responsible agency.

(2) If the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender declares a residence outside of the state, the responsible agency shall immediately notify the Alabama State Law Enforcement Agency and the designated state law enforcement agency of the state to which the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender has declared the residence. The notification shall include all information available to the responsible agency that would be necessary to identify and trace the juvenile sex offender, including, but

not limited to, the risk assessment and a current photograph of the juvenile sex offender.

(3) If the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender declares a residence within this state, the responsible agency shall immediately notify the Alabama State Law Enforcement Agency, and local law enforcement in each county, in which the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender has declared the residence. The notification shall include all information available to the responsible agency that would be necessary to identify and trace the juvenile sex offender, including, but not limited to, the risk assessment and a current photograph of the juvenile sex offender.

(b) When a juvenile sex offender becomes the age of majority, the parent, guardian, or custodian of the juvenile sex offender shall no longer be subject to this section and the juvenile sex offender shall instead be solely responsible for all requirements pursuant to this section.

(c) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 29; Act 2015–463, p. 1506, § 1.)

§ 15–20A–30. Juvenile sex offender — Registration with local law enforcement; residence restrictions.

(a) Immediately upon release or immediately upon adjudication of delinquency if the juvenile sex offender is not committed, the juvenile sex offender and the parent, custodian, or guardian shall register all required registration information with local law enforcement in each county in which the juvenile sex offender resides or intends to reside.

(b) Whenever a juvenile sex offender establishes a new residence, the juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall immediately appear in person to register all required registration information with local law enforcement in each county of residence.

(c) If the parent, custodian, or guardian of a juvenile sex offender transfers or terminates the residence of the juvenile sex offender, or the custody of the juvenile sex offender is changed to a different parent, custodian, or guardian resulting in a transfer of residence, the original parent, custodian, or guardian with custody shall immediately notify local law enforcement in each county of residence.

(d) Whenever a juvenile sex offender changes any required registration information including, but not limited to, his or her school attendance status, the juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall immediately appear in person to update the required registration information with local law enforcement in each county in which the juvenile sex offender resides.

(e) A juvenile sex offender required to register for life pursuant to Section 15–20A–28 shall appear in person with his or her parent, custodian, or

guardian to verify all required registration information during the birth month of the juvenile sex offender and every three months thereafter with the local law enforcement in each county of residence unless the juvenile sex offender has been relieved from registration requirements pursuant to Section 15–20A–34.

(f) A juvenile sex offender required to register for 10 years pursuant to Section 15–20A–28 shall appear in person with his or her parent, custodian, or guardian to verify all required registration information during the birth month of the juvenile sex offender and every year thereafter with local law enforcement in each county of residence unless the juvenile sex offender has been relieved from registration requirements pursuant to Section 15–20A–24.

(g) At the time of registration, the juvenile sex offender shall be provided a form explaining all duties and any restrictions placed on the juvenile sex offender. The juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall read and sign this form stating that he or she understands the duties and restrictions placed on the juvenile sex offender and his or her parent, custodian, or guardian.

(h) When a juvenile sex offender becomes the age of majority, the parent, custodian, or guardian of the juvenile sex offender shall no longer be subject to the requirements of this section, and the juvenile sex offender shall instead be solely responsible for the requirements in this section.

(i) A person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 30; Act 2015–463, p. 1506, § 1; Act 2018–528, § 2.)

§ 15–20A–31. Juvenile sex offender — Employment restrictions.

(a) During the time a juvenile sex offender is subject to the registration requirements of this chapter, the juvenile sex offender shall not accept or maintain employment or a volunteer position at any school, childcare facility, or any other business or organization that provides services primarily to children.

(b) It shall be unlawful for the owner or operator of any childcare facility or any other organization that provides services primarily to children to knowingly provide employment or a volunteer position to a juvenile sex offender.

(c) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 31; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–32. Juvenile sex offender — Requirements upon entering state.

(a) A juvenile sex offender or youthful offender sex offender, or equivalent thereto, who is not currently a resident of this state, shall immediately appear in person and register all required registration information upon establishing

a residence, accepting employment or a volunteer position, or beginning school attendance in this state with local law enforcement in each county where the juvenile sex offender or youthful offender sex offender resides or intends to reside, accepts employment or a volunteer position, or begins school attendance.

(b) Within 30 days of initial registration, the juvenile sex offender or youthful offender sex offender shall provide each registering agency with a certified copy of his or her sex offense adjudication; however, a juvenile sex offender or youthful offender sex offender shall be exempt under this subsection if the court of adjudication seals the records and refuses to provide a certified copy or the records have been destroyed by the court.

(c) Whenever a juvenile sex offender enters this state to establish a residence, he or she shall be subject to the requirements of this chapter as it applies to juvenile sex offenders in this state.

(d) Whenever a youthful offender sex offender, or equivalent thereto, enters this state to establish a residence, he or she shall be subject to the requirements of this chapter as it applies to youthful offender sex offenders in this state.

(e) A juvenile sex offender or youthful offender sex offender entering this state to accept employment or a volunteer position or to begin school attendance, but not to establish a residence, must immediately appear in person and register any subsequent changes to the required registration information with local law enforcement in each county where he or she is required to register.

(f) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 32; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–33. Juvenile sex offender — Retention of court records.

Notwithstanding any other provision of law, the court records of juvenile sex offenders are to be retained, either in paper format or electronically, and not to be destroyed for a period of 75 years from the date of adjudication.

(Act 2011–640, p. 1569, § 33.)

§ 15–20A–34. Juvenile sex offender — Relief from lifetime registration requirements.

(a) A juvenile sex offender subject to lifetime registration pursuant to Section 15–20A–28 may file a petition requesting the sentencing juvenile court to enter an order relieving the juvenile sex offender of the requirements pursuant to this chapter 25 years after the juvenile sex offender is released from the custody of the Department of Youth Services or sentenced, if the juvenile sex offender was placed on probation, for the sex offense requiring registration pursuant to this chapter.

(b) The petition shall be filed as follows:

(1) If the juvenile sex offender was adjudicated delinquent of a sex offense in this state, the petition shall be filed in the juvenile court of the county in which the juvenile sex offender was adjudicated delinquent.

(2) If the juvenile sex offender was adjudicated delinquent of a sex offense in a jurisdiction outside of this state, the petition shall be filed in the juvenile court of the county in which the juvenile sex offender resides.

(c)(1) The juvenile sex offender shall serve a copy of the petition by certified mail on all of the following:

a. The prosecuting attorney in the county of adjudication, if the juvenile sex offender was adjudicated delinquent in this state.

b. The prosecuting attorney of the county in which the juvenile sex offender resides.

c. Local law enforcement where the juvenile sex offender was adjudicated delinquent, if the juvenile sex offender was adjudicated delinquent in this state.

d. Local law enforcement where the juvenile sex offender resides.

(2) Failure of the juvenile sex offender to serve a copy of the petition as required by this subsection shall result in an automatic denial of the petition.

(d) The petition and documentation to support the petition shall include all of the following:

(1) A certified copy of the adjudication of delinquency requiring registration.

(2) Documentation of the juvenile sex offender's release date or sentencing date if the juvenile sex offender was placed on probation.

(3) Evidence that the juvenile sex offender has completed a treatment program approved by the Department of Youth Services.

(4) A list of each county and jurisdiction in which the juvenile sex offender is required to register or has ever been required to register.

(5) The juvenile sex offender's criminal record and an affidavit stating that the juvenile sex offender has no pending criminal charges.

(6) Any other information requested by the court relevant to the petition.

(e) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the offense for which the juvenile sex offender is required to register of the petition and of the dates and times of any hearings or other proceedings in connection with the petition.

(f) The court shall hold a hearing prior to ruling on the petition. At the hearing, the prosecuting attorney and the victim shall have the opportunity to be heard.

(g) The court may consider any of the following factors to determine whether to grant relief:

(1) Recommendations from the juvenile sex offender's probation officer, including, but not limited to, the recommendations in the predisposition report and the juvenile sex offender's compliance with supervision requirements.

(2) Recommendations from the juvenile sex offender's treatment provider, including, but not limited to, whether the juvenile sex offender successfully completed a treatment program approved by the Department of Youth Services.

(3) Recommendations from the prosecuting attorney.

(4) Any written or oral testimony submitted by the victim or the parent, custodian, or guardian of the victim.

(5) The facts and circumstances surrounding the offense including, but not limited to, the age and number of victims, whether the act was premeditated, and whether the offense involved the use of a weapon, violence, or infliction of serious bodily injury.

(6) Any criminal behavior of the juvenile sex offender before and after the adjudication of delinquency that requires reporting.

(7) The stability of the juvenile sex offender in employment and housing and his or her community and personal support system.

(8) The protection of society.

(9) Any other factors deemed relevant by the court.

(h) If the court is satisfied by clear and convincing evidence that the juvenile sex offender is rehabilitated and does not pose a threat to the safety of the public, the court shall grant relief.

(i) The court shall provide a copy of any order granting relief to the prosecuting attorney and to the Alabama State Law Enforcement Agency.

(j) Upon receipt of a copy of an order granting relief as provided in this section, the Alabama State Law Enforcement Agency shall remove the juvenile sex offender from the public registry website. If the registering agencies maintain a local registry of sex offenders who are registered with their agencies, the registering agencies shall remove the registration information of the juvenile sex offender from the local sex offender public registry, if notification applied.

(k) If the court denies the petition for relief, the juvenile sex offender shall wait at least 12 months from the date of the order denying the petition before petitioning the court again.

(l) Notwithstanding any state or local law or rule assigning costs and fees for filing and processing civil and criminal cases, the fee for filing the petition for relief under this section shall be two hundred dollars ($200) to be distributed as provided in Section 15–20A–46. The filing fee may be waived initially and taxed as costs at the conclusion of the case if the court finds that payment of the fee will constitute a substantial hardship. A verified state-

ment of substantial hardship, signed by the sex offender and approved by the court, shall be filed with the clerk of court.

(m) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(n) A person who knowingly provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 34; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–35. Youthful offender treated as juvenile or adult.

For the purposes of this chapter, a youthful offender sex offender who has not been previously adjudicated or convicted of a sex offense and who has not yet attained the age of 18 at the time of the offense shall be considered a juvenile sex offender. A youthful offender sex offender who has been previously adjudicated or convicted of a sex offense as a juvenile sex offender, youthful offender sex offender, or adult sex offender, or who has attained the age of 18 at the time of the offense shall be treated as an adult sex offender convicted of a sex offense. A youthful offender sex offender who is treated as a juvenile sex offender for purposes of this chapter may not be released from the jurisdiction of the sentencing court until the youthful offender sex offender has undergone sex offender treatment and a risk assessment as required by Section 15–20A–26.

(Act 2011–640, p. 1569, § 35; Act 2015–463, p. 1506, § 1.)

§ 15–20A–36. Name change of offender.

(a) No sex offender shall change his or her name unless the change is incident to a change in the marital status of the sex offender or is necessary to effect the exercise of the religion of the sex offender. Such a change shall be immediately reported to local law enforcement in each county in which the sex offender is required to register. If the sex offender is subject to the notification provisions of this chapter, the reporting of a name change under this section shall invoke notification.

(b) Any person who knowingly violates this section shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 36; Act 2015–463, p. 1506, § 1.)

§ 15–20A–37. Failure to register; absconding.

(a) When a sex offender declares, and the county is notified that a sex offender intends to reside, maintain employment or a volunteer position, or attend school in the county and the sex offender fails to appear for registration, the county that received the notice shall immediately inform the sheriff of the county that provided the notice that the sex offender failed to appear for registration.

(b) When a sex offender fails to register or cannot be located, an effort shall immediately be made by the sheriff in the county in which the sex offender failed to register or is unable to be located to determine whether the sex offender has absconded.

(c) If no determination can be made as to whether the sex offender has absconded, the sheriff of the county in which the sex offender failed to appear for registration shall immediately notify the Alabama State Law Enforcement Agency and the United States Marshals Service that the sex offender cannot be located and provide any information available to determine whether the sex offender absconded to the United States Marshals Service.

(d) Once a determination is made that the sex offender has absconded, the following shall occur:

(1) The sheriff of the county in which the sex offender has absconded shall immediately obtain a warrant for the arrest of the sex offender.

(2) The sheriff of the county in which the sex offender has absconded shall immediately notify the United States Marshals Service and the Alabama State Law Enforcement Agency.

(3) The Alabama State Law Enforcement Agency shall immediately update its public registry website to reflect that the sex offender has absconded.

(4) The Alabama State Law Enforcement Agency shall immediately notify the Criminal Justice Information Center, who shall immediately notify the National Criminal Information Center.

(5) The Alabama State Law Enforcement Agency shall immediately notify the National Sex Offender Registry to reflect that the sex offender has absconded and enter the information into the National Crime Center Wanted Person File.

(e) A sex offender who knowingly fails to appear for registration after declaring his or her intent to reside, be employed, or attend school in a county without notifying local law enforcement in that county that he or she will no longer establish a residence, maintain employment or a volunteer position, or attend school, shall be guilty of a Class C felony.

(Act 2011–640, p. 1569, § 37; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–38. Escape from correctional facility.

(a) If a sex offender escapes from a state or local correctional facility, juvenile detention facility, or any other facility that would not permit unsupervised access to the public, the responsible agency, within 24 hours, shall notify the Alabama State Law Enforcement Agency, local law enforcement who had jurisdiction at the time of adjudication or conviction of the sex offense, the sheriff of the county and each chief of police of every municipality in the county where the sex offender escaped, and the United States Marshals Service.

(b) The responsible agency shall provide each law enforcement agency listed in subsection (a) with the following information:

(1) The name and aliases of the sex offender.

(2) The amount of time remaining to be served by the sex offender.

(3) The nature of the crime for which the sex offender was incarcerated.

(4) A copy of the fingerprints and current photograph of the sex offender and a summary of the criminal record of the sex offender.

(Act 2011–640, p. 1569, § 38; Act 2015–463, p. 1506, § 1.)

§ 15–20A–39. Harboring, assisting, concealing, or withholding information about a sex offender.

(a) A person is guilty of the crime of harboring, assisting, concealing, or withholding information about a sex offender if the person has knowledge or reason to believe that a sex offender is required to register and the person assists the sex offender in avoiding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this chapter if the person does any of the following:

(1) Harbors, attempts to harbor, or assists another person in harboring or attempting to harbor the sex offender.

(2) Allows a sex offender to reside at his or her residence to avoid registration if the address is not the address the sex offender listed as his or her residence address.

(3) Warns a sex offender that a law enforcement agency is attempting to locate the sex offender.

(4) Provides the sex offender with money, transportation, weapon, disguise, or other means of avoiding discovery or apprehension.

(5) Conceals, attempts to conceal, or assists another in concealing or attempting to conceal the sex offender.

(6) Provides information to a law enforcement agency regarding a sex offender which the person knows to be false.

(b) For the purposes of this section, the term law enforcement agency includes, but is not limited to, the Board of Pardons and Paroles.

(c) Knowingly harboring, assisting, or concealing a sex offender is a Class C felony.

(Act 2011–640, p. 1569, § 39; Act 2015–463, p. 1506, § 1.)

§ 15–20A–40. Public records — Certified copies of adjudication or conviction.

(a) It is the intent of the Legislature that a duplicate of a certified copy of a public record be admissible and is not dependent on the original custodian of record to gain admissibility. Further, the Legislature finds that the certifica-

tion by the clerk of the court and the certification by the Alabama State Law Enforcement Agency assures reliability and trustworthiness.

(b) The clerk of the court shall forward a certified copy of a sex offender's adjudication or conviction to the Alabama State Law Enforcement Agency within 30 days of receipt of the order of adjudication or conviction of any of the offenses listed in Section 15–20A–5.

(c) Any state, county, or municipal law enforcement agency, the Attorney General, or a district attorney may request a duplicate of the sex offender's adjudication or conviction from the Alabama State Law Enforcement Agency.

(d) Upon the request of any of the agencies listed in subsection (c), the custodian of records, or its designee, of the Alabama State Law Enforcement Agency shall immediately certify all of the following:

(1) That the Alabama State Law Enforcement Agency received the certified copy of the sex offender's conviction or adjudication from the clerk of the court pursuant to subsection (b).

(2) That the original certified copy received from the clerk of the court remains in the possession of the Alabama State Law Enforcement Agency.

(3) That no changes or alterations have been made to the original certified copy.

(e) Upon certification by the Alabama State Law Enforcement Agency as provided in subsection (d), the Alabama State Law Enforcement Agency shall immediately forward the certified documents to the requesting agency.

(f) Notwithstanding any other law or rule of evidence, a certified copy of the record of adjudication or conviction as defined in subsection (b), provided by the Alabama State Law Enforcement Agency, as provided in subsection (d), shall be proof of the sex offender's adjudication or conviction of a sex offense and shall be admissible into evidence, without further proof, in any court in this state.

(g) For the purpose of this section, the term conviction or adjudication shall mean a final conviction or adjudication, regardless of whether the conviction or adjudication is on appeal.

(h) Any clerk of a court, who willfully or intentionally fails to report any such conviction or adjudication in his or her court shall be guilty of a Class A misdemeanor.

(Act 2011–640, p. 1569, § 40; Act 2015–463, p. 1506, § 1.)

§ 15–20A–41. Victim assistance.

(a) After a sex offender's conviction or adjudication, and upon request of the Attorney General's Office, the office of the prosecuting attorney or the clerk of the court shall immediately forward the victim's name and most current address, if available, to the Attorney General's Office of Victim Assistance.

(b) When providing notice of a parole hearing, the Board of Pardons and Paroles shall provide the Attorney General's Office of Victim Assistance with any victim information on victims whose offenders are subject to this chapter.

(c) Upon request of the victim, the Attorney General's Office of Victim Assistance shall send a notice to the victim notifying the victim of the pending release of the sex offender and the location at which the sex offender intends to reside. This request by the victim shall be made electronically or in writing to the Attorney General's Office of Victim Assistance.

(d) It shall be the responsibility of the victim to inform the Attorney General's Office of Victim Assistance of any change to the victim's address or any other pertinent information. If the notice sent by the Attorney General's Office of Victim Assistance is returned as undeliverable, no further action shall be required of the Attorney General's Office of Victim Assistance. (Act 2011–640, p. 1569, § 41.)

§ 15–20A–42. Collection and dissemination of information by Alabama State Law Enforcement Agency.

(a) Any jurisdiction or agency responsible for registering a sex offender shall immediately forward all required registration information and any changes to the required registration information received to the Alabama State Law Enforcement Agency in a manner determined by the Secretary of the Alabama State Law Enforcement Agency and promulgated in rule by the secretary upon recommendation of an advisory board consisting of representatives of the office of the Attorney General, District Attorneys Association, Chiefs of Police Association, Sheriffs Association, and the Alabama State Law Enforcement Agency. The advisory board members shall not receive any compensation or reimbursement for serving on the advisory board.

(b) Upon notification or discovery of the death of a sex offender, the registering agency shall immediately notify the Alabama State Law Enforcement Agency.

(c) The Alabama State Law Enforcement Agency shall immediately enter all registration information received into its sex offender database.

(d) All information received by the Alabama State Law Enforcement Agency shall be immediately forwarded to the following by the Alabama State Law Enforcement Agency:

(1) The National Criminal Information Center or any other law enforcement agency for any lawful criminal justice purpose.

(2) The Sex Offender Registration and Notification Act Exchange Portal.

(3) The National Sex Offender Registry.

(4) Each county and municipality where the sex offender resides, is an employee, or is a student.

(5) Each county and municipality from or to which a change of residence, employment, or student status occurs.

(6) The campus police in each county or jurisdiction where the sex offender is a student.

(7) The United States Marshals Service, if the sex offender is terminating residence in a jurisdiction to relocate to a foreign country.

(8) The Attorney General's Office of Victim Assistance.

(e) Upon request, all registration information shall be available in electric form to all federal, state, county, and municipal law enforcement agencies, prosecuting attorneys, probation officers, and any agency responsible for conducting employment-related background checks under the National Child Protection Act of 1993 (42 U.S.C. § 5119a).

(f) No existing state laws, including, but not limited to, statutes that would otherwise make juvenile and youthful offender records confidential, shall preclude the disclosure of any information requested by a responsible agency, a law enforcement officer, a criminal justice agency, the Office of the Attorney General, or a prosecuting attorney for purposes of administering, implementing, or enforcing this chapter. No state law shall preclude the disclosure of any information concerning a juvenile sex offender or youthful offender sex offender to the Department of Human Resources for the purpose of conducting an assessment with regard to a person as provided by law.

(g) The sheriff of each county shall maintain a register or roster of the names of all persons registered by him or her pursuant to this chapter. The information contained in the register or roster shall be made available, upon request, to all federal, state, county, and municipal law enforcement agencies, prosecuting attorneys, or probation officers for the administration, implementation, or enforcement of this chapter.

(h) Notwithstanding any other provision of law to the contrary, a sex offender's Internet identifiers as described in subdivision (9) of subsection (a) of Section 15–20A–7, and a sex offender's Internet service providers as described in subdivision (18) of subsection (a) of Section 15–20A–7, may only be disclosed pursuant to federal law or to law enforcement for the purpose of administering, implementing, or enforcing this chapter or to prevent or investigate a crime by the sex offender based on an articulable basis for suspicion. In no event shall such information be disclosed other than for one of the purposes identified in the preceding sentence. A violation of this subsection shall constitute a Class A misdemeanor.

(Act 2011–640, p. 1569, § 42; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–43. Registration and notification requirements mandatory.

(a) Except as provided in Sections 15–20A–5, 15–20A–16, 15–20A–23, 15–20A–24, 15–20A–25, 15–20A–34 or the former 15–20–21(4)(a), the requirements of this chapter are mandatory and shall not be altered, amended, waived, or suspended by any court. Any court order altering, amending, waiving, or suspending sex offender registration and notification require-

ments, except as provided in Sections 15–20A–5, 15–20A–16, 15–20A–23, 15–20A–24, 15–20A–25, 15–20A–34 or the former 15–20–21(4)(a), shall be null, void, and of no effect.

(b) The Board of Pardons and Paroles shall not grant relief from any provisions of this chapter to any sex offender unless all three of the following conditions are met:

(1) At the time of the commission of the sex offense, the sex offender was less than five years older than the victim.

(2) At the time of the commission of the sex offense, the victim was 13 years of age or older.

(3) The sex offense did not involve force and was only a crime due to the age of the victim.

(Act 2011–640, p. 1569, § 43; Act 2015–463, p. 1506, § 1; Act 2017–414, § 5.)

§ 15–20A–44. Rulemaking authority.

(a) The Secretary of the Alabama State Law Enforcement Agency shall adopt rules establishing an administrative hearing for persons who are only made subject to this chapter pursuant to subdivision (35) of Section 15–20A–5.

(b) The Secretary of the Alabama State Law Enforcement Agency shall adopt rules setting forth a listing of offenses from other jurisdictions that are to be considered criminal sex offenses under subdivision (35) of Section 15–20A–5. Thereafter, any individual convicted of any offense set forth in the listing shall immediately be subject to this chapter and shall not be entitled to an administrative hearing as provided in subsection (a).

(c) The Secretary of the Alabama State Law Enforcement Agency may adopt any rules as are necessary to implement and enforce this chapter.

(Act 2011–640, p. 1569, § 44; Act 2015–463, p. 1506, § 1; Act 2018–528, § 4; Act 2019–465, § 1.)

§ 15–20A–45. Penalties.

(a) A sex offender who is convicted of any offense specified in this chapter, in addition to any imprisonment or fine, or both, and in addition to any other fees, costs, and assessments, imposed for the commission of the underlying offense, shall be punished by a fine of two hundred fifty dollars ($250).

(b) The fines collected in subsection (a) shall be distributed as follows:

(1) Fifty dollars ($50) to the Highway Traffic Safety Fund in the Alabama State Law Enforcement Agency.

(2) Twenty-five dollars ($25) to the Circuit Clerk's Restitution Recovery Fund.

(3) Twenty-five dollars ($25) to the State General Fund.

(4) Fifty dollars ($50) to the District Attorney's Fund or the fund prescribed by law for district attorney fees.

(5) Fifty dollars ($50) to the Office of Prosecution Services for the Alabama Computer Forensics Labs.

(6) Fifty dollars ($50) to the law enforcement agency who requested the warrant subject to the following:

a. If the warrant was requested by the sheriff, or his or her designee, any and all monies collected under this subsection shall be deposited in the county general fund earmarked for use by the sheriff and shall be paid to the sheriff upon request by the sheriff to be used at the discretion of the sheriff for any law enforcement purpose related to sex offender registration, notification, tracking, or apprehension.

b. The monies provided in this subdivision and the use of the funds shall in no way diminish or take the place of any other reimbursement or other source of income established for the sheriff or the operation of his or her office.

c. If the warrant was requested by a municipality, any proceeds from this subdivision shall be deposited into the municipal general fund and made available to the affected law enforcement agency or department upon requisition of the chief law enforcement official of such agency or department and shall be used for any lawful purpose related to sex offender registration notification, tracking, or apprehension. The monies provided in this paragraph shall in no way diminish or take the place of any other reimbursement or other source of income established for the chief of police for the operation of his or her office.

(c) Fines ordered pursuant to this section shall not be waived, suspended, or remitted.

(Act 2011–640, p. 1569, § 45; Act 2015–463, p. 1506, § 1.)

§ 15–20A–46. Disposition of funds.

(a) The two hundred dollar ($200) filing fee paid by a sex offender who petitions the court for relief pursuant to Sections 15–20A–16, 15–20A–23, 15–20A–24, 15–20A–25, or 15–20A–34 shall be distributed as follows:

(1) Fifty dollars ($50) to the Circuit Clerk's Restitution Recovery Fund.

(2) Fifty dollars ($50) to the sheriff of the county subject to the following:

a. Any and all monies collected under this subdivision shall be deposited in the county general fund earmarked for use by the sheriff and shall be paid to the sheriff upon request by the sheriff to be used at the discretion of the sheriff for any law enforcement purpose related to sex offender registration, notification, tracking, or apprehension.

b. The monies provided in this subdivision and the use of the funds shall in no way diminish or take the place of any other reimbursement or other source of income established for the sheriff or the operation of his or her office.

(3) Fifty dollars ($50) to the District Attorney's Fund or the fund prescribed by law for district attorney fees.

(4) Fifty dollars ($50) to Alabama Network of Children's Advocacy Centers.

(b) The filing fee shall not be remitted.

(Act 2011–640, p. 1569, § 46; Act 2015–463, p. 1506, § 1.)

§ 15–20A–47. Construction.

Nothing in this chapter shall be construed as creating a cause of action against the state or any of its agencies, officials, employees, or political subdivisions based on the performance of any duty imposed by this chapter or the failure to perform any duty imposed by this chapter.

(Act 2011–640, p. 1569, § 47.)

§ 15–20A–48. Relation to other laws.

(a) For the purposes of Sections 13A–5–2, 13A–5–6, 14–9–41, 15–18–8, 15–22–27.3, or any other section of the Code of Alabama 1975, a criminal sex offense involving a child shall mean a conviction for any sex offense in which the victim was a child under the age of 12 or any offense involving child pornography.

(b) For the purpose of Section 12–15–107(a)(7), a juvenile probation officer shall notify the state and either the parent, legal guardian, or legal custodian of a juvenile sex offender, or the child's attorney for the juvenile sex offender, of the pending release of the sex offender and provide them with a copy of the risk assessment pursuant to subsection (c) of Section 15–20A–26.

(c) For the purpose of Section 12–15–116(a)(5), a juvenile court shall have exclusive original jurisdiction to try any individual who is 18 years of age or older and violates any of the juvenile criminal sex offender provisions of subdivision (1) of subsection (b) of Section 15–20A–27.

(d) For the purpose of Section 13A–5–6(c), an offender is designated a sexually violent predator pursuant to Section 15–20A–19.

(e) For the purpose of Sections 36–18–24(b)(6) and 36–18–25(c)(1), sexual offenses shall include, but not be limited to, those offenses pursuant to Section 15–20A–5.

(f) For the purpose of Section 32–6–49.24, a person who is registered as a sex offender or convicted of a crime that requires registration as a sex offender is a person who is required to register as a sex offender pursuant to this chapter. A crime or offense that requires registration as a sex offender shall include, but not be limited to, those offenses pursuant to Section 15–20A–5.

(g) For the purpose of Sections 38–13–2 and 38–13–4, a sex crime shall also include any offense listed in this chapter pursuant to Section 15–20A–5.

(Act 2011–640, p. 1569, § 48.)

CHAPTER 23.

ALABAMA CRIME VICTIMS.

ARTICLE 1.

CRIME VICTIMS' COMPENSATION.

§ 15–23–1. Short title.

This article shall be known and may be cited as the ''Alabama Crime Victims Compensation Act.''

(Acts 1984, No. 84–658, p. 1308, § 1.)

§ 15–23–2. Legislative findings, etc.

The Legislature hereby finds, determines and declares that victims of violent crime are often reduced to bereft and destitute circumstances as a result of the criminal acts perpetrated against them, that the financial or economic resources of such victims and their dependents are in many instances distressed or depleted as a result of injuries inflicted upon them by violent criminals.

That the general social and economic welfare of such victims and their dependents is and ought to be intimately affected with the public interest, that the deplorable plight of these unfortunate citizens should not go unnoticed by our institutions and agencies of government.

The Legislature hereby further finds, determines and declares that it is to the benefit of all that victims of violence and their dependents be assisted financially and socially whenever possible.

To this end the Legislature intends to provide a means whereby victims of violent crime and their dependents may be provided compensation in the amount of actual expenses incurred as a direct result of criminal acts of other persons.

The provisions of this article are to be construed so as to accomplish this purpose and to promote the same which is hereby declared to be the public policy of this state.

(Acts 1984, No. 84–658, p. 1308, § 2.)

§ 15–23–3. Definitions.

As used in this article the following words shall include, but are not limited to the following meanings unless the context clearly requires a different meaning:

(1) COMMISSION. The Alabama Crime Victims Compensation Commission as created by Section 15–23–4.

(2) CRIMINALLY INJURIOUS CONDUCT. Criminally injurious conduct includes any of the following acts:

a. An act occurring or attempted within the geographical boundaries of this state which results in serious personal injury or death to a victim for which punishment by fine, imprisonment, or death may be imposed.

b. An act occurring or attempted outside the geographical boundaries of this state in another state of the United States of America which is punishable by fine, imprisonment, or death and which results in personal injury or death to a citizen of this state, and shall include an act of terrorism, as defined in Section 2331 of Title 18, United States Code, committed outside of the United States, against a resident of this state; provided however, the citizen at the time such act was committed had a permanent place of residence within the geographical boundaries of this state, and in addition thereto any of the following circumstances apply, that the citizen:

1. Had a permanent place of employment located within the geographical boundaries of this state.

2. Was a member of the regular Armed Forces of the United States of America; or the United States Coast Guard; or was a full-time member of the Alabama National Guard, Alabama Air National Guard, U.S. Army Reserve, U.S. Naval Reserve, or U.S. Air Force Reserve.

3. Was retired and receiving Social Security or other retirement income.

4. Was 60 years of age or older.

5. Was temporarily in another state of the United States of America for the purpose of receiving medical treatment.

6. Was temporarily in another state of the United States of America for the purpose of performing employment-related duties required by an employer located within the geographical boundaries of this state as an express condition of employment or employee benefits.

7. Was temporarily in another state of the United States of America for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within the geographical boundaries of this state as an express condition of employment or employee benefits.

8. Was a full-time student at an academic institution, college, or university located in another state of the United States of America.

9. Had not departed the geographical boundaries of this state for a period exceeding 30 days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

The term ''criminally injurious conduct'' shall not mean: An act committed outside the geographical boundaries of this state upon a person who was not at the time a citizen of Alabama, or an act committed outside the geographical boundaries of this state upon a person who at the time had departed the geographical boundaries of this state for the purpose of

becoming a citizen of, or establishing a permanent place of residence in, another state.

(3) VICTIM. A person who suffered serious personal injury or death as a result of criminally injurious conduct.

(4) DEPENDENT. A natural person wholly or partially dependent upon the victim for care or support, and includes a child of the victim born after the death of the victim where the death occurred as a result of criminally injurious conduct.

(5) CLAIMANT. Any of the following persons applying for compensation under this article:

a. A victim.

b. A dependent of a deceased victim, if such victim died as a result of criminally injurious conduct.

c. A person authorized to act on behalf of a victim or a dependent of a deceased victim if such victim died as a result of criminally injurious conduct.

(6) ALLOWANCE EXPENSE. Charges incurred for needed products, services, and accommodations, including, but not limited to, medical care, rehabilitation, rehabilitative occupational rehabilitation, rehabilitative occupational training, and other remedial treatment and care. It also includes a total charge not in excess of seven thousand dollars ($7,000) for expenses related to funeral, cremation, or burial.

(7) WORK LOSS. Loss of income from work the victim or claimant would have performed if the victim had not been injured or died, reduced by any income from substitute work actually performed by the victim or claimant or by income the victim or claimant would have earned in available appropriate substitute work which he or she was capable of performing but unreasonably failed to undertake. Work loss also includes loss of income of an offender charged with domestic violence under Sections 13A–6–130, 13A–6–131, and 13A–6–132 when the victim was residing with the offender at the time of commission of the offense and the offender's income was a significant source of direct support for the victim.

(8) REPLACEMENT SERVICES LOSS. Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died.

(9) ECONOMIC LOSS OF A DEPENDENT. A loss after the death or injury of the victim of contributions of things of economic value to the dependent, not including services which would have been received from the victim if he or she had not suffered the fatal injury, less expenses of the dependent avoided by reason of death or injury of the victim.

(10) REPLACEMENT SERVICES LOSS OF DEPENDENT. The loss reasonably incurred by dependents after death of the victim in obtaining ordinary and necessary services in lieu of those the deceased victim would have per-

formed for their benefit had the deceased victim not suffered the fatal injury, less expenses of the dependent avoided by reason of death of the victim and not subtracted in calculating the economic loss of the dependent.

(11) ECONOMIC LOSS. Monetary detriment consisting only of allowable expense, work loss, replacement services loss and, if injury causes death, economic loss and replacement services loss of a dependent, but shall not include noneconomic loss or noneconomic detriment.

(12) NONECONOMIC LOSS or DETRIMENT. Pain, suffering, inconvenience, physical impairment, and nonpecuniary damage.

(13) COLLATERAL SOURCE. Source of income, financial or other benefits or advantages for economic loss other than the compensation paid by the compensation commission which the claimant has received or is entitled to receive or is readily available to the claimant, from any one or more of the following:

a. The offender.

b. The government of the United States or any agency thereof, in the form of benefits, such as Social Security, Medicare and Medicaid, a state or any of its political subdivisions or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excessive or secondary to benefits under this article.

c. Any temporary nonoccupational disability insurance.

d. Workers' compensation.

e. Wage continuation programs of any employer.

f. Proceeds of a contract of insurance payable to the claimant for loss which the victim sustained because of the criminally injurious conduct.

g. A contract providing prepaid hospital and other health care services or benefits for disability.

(14) OFFICE OF PROSECUTION SERVICES. The Office of Prosecution Services as established by Section 12–17–230.

(Acts 1984, No. 84–658, p. 1308, § 3; Acts 1986, No. 86–510, p. 993, § 1; Acts 1990, No. 90–470, p. 677, § 1; Act 98–492, p. 945, § 1; Act 2014–335, p. 1232, § 1.)

§ 15–23–4. Alabama Crime Victims Compensation Commission — Created; composition; meetings; rulemaking authority; bond; compensation.

(a) The Alabama Crime Victims Compensation Commission is created and shall be composed of three residents of this state, who shall be appointed by the Governor with the advice and consent of the Senate, for terms of four years each or until their successors are appointed and qualified. Provided however, initial appointments shall be as follows: One member shall be appointed for two years, one member shall be appointed for three years, and one member shall be appointed for four years. All appointments to fill

vacancies shall be for the duration of the unexpired term and subsequent appointments shall be for four-year terms. The membership of the board shall be inclusive and the Governor shall coordinate his or her appointments so that the diversity of gender, race, and geographical areas is reflective of the makeup of this state.

(b) At least one member shall be a law enforcement officer with a minimum of 10 years' experience in or with a law enforcement agency which has among its primary duties and responsibilities the investigation of violent crimes and the apprehension or arrest of the perpetrators.

(c) At least one member shall be a victim of a crime of violence who suffered serious personal injury as a result of the crime, a member of a victim's immediate family or a member of a deceased victim's immediate family if the deceased victim died as a result of a crime of violence, or an officer of a nonprofit charitable crime victims organization established pursuant to the laws of Alabama.

(d) Each year the commission shall elect a chair from its membership.

(e) The commission may appoint an executive director who shall serve at the pleasure of the commission and shall be paid a salary in an amount to be determined by the commission.

(f) The commission shall have its principal place of business in the county where the State Capitol is located.

(g) The commission shall hold, at its principal place of business, quarterly public meetings at times and places as its members may elect.

(h) Any two members of the commission shall constitute a quorum for purposes of transacting the business of the commission and two votes in favor shall be necessary for a decision by the commission at any meeting of the commission.

(i) The commission shall establish rules for the administration of its duties and responsibilities pursuant to this chapter.

(j) The chair of the commission shall keep a true record of all of the proceedings of the meetings of the commission. At the call of any member, the vote on any pending question shall be taken by ayes and nays, and the same shall be entered in the record. The record of the proceedings of the commission shall be open to any member of the commission and to the public. A copy of the record, certified by the chair, shall be competent evidence in all courts.

(k) The commission may not disclose the names and addresses of victims or claimants who have applied for compensation pursuant to this article or the facts or circumstances of the criminally injurious conduct perpetrated against them.

(l) All members and employees of the commission handling money or exercising authority over any property, before entering the discharge of their duties, shall provide a bond with a surety company authorized to do business in this state, as surety, payable to the commission in an amount or amounts

sufficient to protect the commission against any loss with respect to the funds, money, or property handled, conditioned for the faithful discharge of their duties and responsibilities and further conditioned upon their faithfully accounting for all monies, funds, or properties coming into their possession in the capacity of their employment.

(m) The Attorney General or the district attorney of the county where the State Capitol is located, upon written request by the commission, shall represent the commission in all litigation where the commission is a party or in which the commission has an interest. The Attorney General shall serve as a legal advisor to the commission.

(n) All commission members shall be paid two hundred fifty dollars ($250) per day and mileage for attendance of commission meetings. Mileage and per diem shall be the same as allowed state employees when a commission member is traveling on official business of the commission and shall be paid from the Alabama Crime Victims Compensation Fund.

(Acts 1984, No. 84–658, p. 1308, § 4; Acts 1986, No. 86–510, p. 993, § 2; Act 98–492, p. 945, § 1; Act 2009–749, p. 2268, § 1; Act 2022–196, § 1.)

§ 15–23–5. Alabama Crime Victims Compensation Commission — Powers and duties.

The commission shall have all the powers and privileges of a corporation and all of its business shall be transacted in the name of the commission. In addition to any other powers and duties specified elsewhere in this article, the commission may do any of the following:

(1) Regulate its own procedures except as otherwise provided in this chapter.

(2) Define any term not defined in this article.

(3) Prescribe forms necessary to carry out the purposes of this article.

(4) Obtain access to investigative reports made by law enforcement officers or law enforcement agencies which may be necessary to assist the commission in making a determination of eligibility for compensation under this article; provided, however, the reports and the information contained herein, when received by the commission, shall be confidential and under no circumstances may the commission disclose the same except to a grand jury.

(5) Take judicial notice of general, technical, and scientific facts within their specialized knowledge.

(6) Publicize the availability of compensation and information regarding the filing of claims.

(7) Collect all monies provided by this article to be collected by the commission.

(8) Provide for and maintain all necessary administrative facilities and personnel.

(9) Provide for payment of all administrative salaries, fees, and expenses.

(10) Cause its monies to be invested and its investments sold or exchanged and the proceeds and income collected.

(11) Determine who is a victim or dependent.

(12) Consider all applications for compensation or other benefits provided for in this article.

(13)a. Authorize the executive director to determine eligibility for all applications for compensation and authorize payment for approved and reduced claims.

b. The commission shall review all contested cases pursuant to the Alabama Administrative Procedure Act. The commission may affirm, reverse, or modify the executive director's claims decisions.

(14) Adopt rules to expedite the administration of the affairs of the commission not inconsistent with this article.

(15) Provide descriptive literature and promotional items respecting the commission and its duties.

(16) Pay all compensation or other benefits that may be determined to be due under this article and under the rules of the commission.

(17) Employ agents, attorneys, actuaries, and other specialized personnel as needed by the commission.

(18) Receive by gift, grant, devise, or bequest any monies or properties of any nature or description.

(19) Accept and administer loans, grants, and donations from the federal government, its agencies, and all other sources, public and private, for carrying out any of its functions.

(20) Develop a comprehensive analysis of the problems regarding victims of crime within the criminal justice system or systems of this state and formulate model programs, plans, or methods for lessening the physical, mental, or financial burdens placed on innocent crime victims by the operation of the criminal justice system both on the state and local level.

(21) Identify laws, rules, or regulations proposed or adopted by any agency or institution of this state or any political subdivision thereof which have or will have a significant adverse or beneficial impact upon crime victims and to advocate the adoption, repeal, or modification thereof in the interest of innocent victims of crime.

(22) Collect, develop, and maintain statistical information, records, and reports to carry out its powers, duties, or functions pursuant to this article. All agencies and institutions of this state or the political subdivisions thereof, upon a written request by the commission, shall furnish the commission statistical information or data as requested by the commission to fulfill its duties and responsibilities.

(23) Award loans or grants of money, equipment, or personnel to public or private nonprofit corporations or associations, agencies of the State of

Alabama or political subdivisions thereof, or to state, county, or municipal law enforcement, prosecutorial, or judicial agencies upon terms and conditions as the commission may deem proper for the purpose of developing, enhancing, or establishing bona fide model crime victims service programs which emphasize the collection of restitution from criminals as an integral part of the criminal justice process. The loans or grants shall only be awarded when sufficient funds are available in excess of reasonably anticipated or projected claims for compensation.

(24) Provide for the cost of forensic medical examinations for the purpose of gathering evidence and treatment for preventing sexually transmitted infections in sexual abuse crimes and offenses.

(25) Carry out any powers expressly granted elsewhere in this article to the commission.

(26) All other powers necessary for the proper administration of this article.

(Acts 1984, No. 84–658, p. 1308, § 5; Acts 1986, No. 86–510, p. 993, § 3; Acts 1990, No. 90–470, p. 677, § 2; Acts 1995, No. 95–494, p. 994, § 1; Act 2014–335, p. 1232, § 1; Act 2022–196, § 1.)

§ 15–23–6. Alabama Crime Victims Compensation Commission — Annual report required.

The commission shall publish annually a report showing the fiscal transactions of the commission for the preceding year, the amount of the accumulated cash and securities of the commission and a balance sheet showing the financial condition of the commission by means of an actuarial evaluation of the assets and liabilities of the commission.

(Acts 1984, No. 84–658, p. 1308, § 6.)

§ 15–23–7. Audit of financial affairs of commission authorized.

The Director of the Department of Examiners of Public Accounts shall at least once a year and at such other times as such director shall deem appropriate cause to be performed a detailed audit of the financial affairs of the commission and shall promptly notify the appropriate grand jury as to any possible violations of law.

(Acts 1984, No. 84–658, p. 1308, § 7.)

§ 15–23–8. Compensation for economic loss resulting from criminal conduct — Authorized; procedure.

(a) The commission may award compensation for economic loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements for compensation have been met.

(b) The commission shall hear and determine all matters relating to claims for compensation, and shall have the power to reinvestigate or reopen claims without regard to statutes of limitation.

(c) The commission shall have the power to subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence.

(Acts 1984, No. 84–658, p. 1308, § 8.)

§ 15–23–9. Compensation for economic loss resulting from criminal conduct — Collateral source contribution not required.

The commission shall not require any claimant to seek or accept any collateral source contribution, unless the claimant was receiving or was entitled to receive such benefits prior to the occurrence giving rise to the claim under the provisions of this article; provided, however, no applicant shall be denied compensation solely because such applicant is entitled to income from a collateral source.

(Acts 1984, No. 84–658, p. 1308, § 9.)

§ 15–23–10. Compensation for economic loss resulting from criminal conduct — Hearing required generally; procedure in contested cases; settlement by consent order, etc.

(a) Every party to a claim shall be afforded an opportunity to appear and be heard and to offer evidence and argument on any issue relevant to the claim, and to examine witnesses and offer evidence in reply to any matter of an evidentiary nature in the record relevant to the claim.

(b) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice pursuant to regulations promulgated by the commission. A record of the proceedings of the hearing in a contested case shall be made and shall be transcribed upon request of any party who shall pay transcription costs unless otherwise ordered by the commission.

(c) The commission may, without a hearing, settle a claim by stipulation, agreed settlement, consent order or default.

(Acts 1984, No. 84–658, p. 1308, § 10.)

§ 15–23–11. Filing claim under article constitutes waiver of physician-patient privilege.

(a) Any person filing a claim under the provisions of this article shall be deemed to have waived any physician-patient privilege as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant.

(b) If the mental, physical or emotional condition of a claimant is material to a claim, the commission upon physical examination may order an autopsy

of a deceased victim. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made. The order shall also require the person to file with the commission a detailed written report of the examination or autopsy. The report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognoses and other conclusions and reports of earlier examinations of the same conditions.

(c) The commission, upon request, shall furnish the victim a copy of such report. If the victim is deceased, the commission, on request, shall furnish a copy of the report to the claimant.

(d) The commission may require the claimant to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.

(Acts 1984, No. 84–658, p. 1308, § 11.)

§ 15–23–12. When compensation not awarded, diminished, etc.; reconsideration of award.

(a) Compensation shall not be awarded in any of the following circumstances:

(1) A claim has been filed with the commission later than one year after the injury or death upon which the claim is based, unless the commission finds there was good cause for the failure to file within that time.

(2) To a claimant who was the offender, or an accomplice of the offender, or who encouraged or in any way participated in the criminally injurious conduct.

(3) If the award would unjustly benefit the offender or accomplice of the offender.

(4) The criminally injurious conduct resulting in injury or death was reported to a law enforcement officer later than 72 hours after its occurrence, unless the commission finds there was good cause for the failure to report within that time.

(b) Compensation otherwise payable to a claimant may be diminished or denied to the extent that the economic loss is recouped from collateral sources; or to the extent that the degree of responsibility for the cause of the injury or death is attributable to the victim as determined by the commission.

(c) The commission, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw, or reduce an award of compensation.

(d) The commission, on its own motion or on request of the claimant, may reconsider a decision granting or denying an award or determining its amount. An order on reconsideration of an award shall not require a refund of amounts previously paid, unless the award was obtained by fraud. The

right of reconsideration does not affect the finality of a commission decision for the purpose of judicial review.

(Acts 1984, No. 84–658, p. 1308, § 12; Acts 1990, No. 90–470, p. 677, § 3; Acts 1995, No. 95–494, p. 994, § 2; Act 98–492, p. 945, § 1.)

§ 15–23–13. Award not contingent on prosecution or conviction of offender; effect of proof of conviction; suspension of proceedings under article.

Except as provided elsewhere in this article, an award may be made whether or not any person is prosecuted or convicted. Proof of conviction of a person whose acts give rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of the conviction or certiorari is pending, or a rehearing or new trial has been ordered. The commission may suspend the proceedings pending disposition of criminal prosecution that has been commenced or is imminent, but may make a tentative award under this section.

(Acts 1984, No. 84–658, p. 1308, § 13.)

§ 15–23–14. Award of compensation subrogates commission to rights of claimant as to collateral source; funds recovered from collateral source held in trust for commission; disposition of trust funds; notice of action to recover damages; restitution hearings.

(a) If compensation is awarded, the commission shall be subrogated to all the rights of a claimant to receive or recover from a collateral source to the extent that compensation was awarded.

(b) In the event the claimant recovers compensation, other than under the provisions of this article, for injuries or death resulting from criminally injurious conduct, the claimant shall retain, as trustee for the commission, so much of the recovered funds as necessary to reimburse the Alabama Crime Victims Compensation Fund to the extent that compensation was awarded to the claimant from that fund. The funds retained in trust shall be promptly paid over to the commission and deposited in the Alabama Crime Victims Compensation Fund.

Whenever the commission shall deem it necessary to protect, maintain or enforce the commission's right to subrogation or to exercise any of its powers or to carry out any of its duties or responsibilities the commission may initiate legal proceedings or intervene in legal proceedings.

(c) If a claimant initiates any legal proceeding to recover restitution or damages related to the criminally injurious conduct upon which compensation is claimed or awarded, the claimant shall give the commission written notice within 15 days of the filing of the action. The commission may intervene in the proceeding as a complainant to recover the compensation awarded. If a claimant fails to give such written notice to the commission within the stated

time period, or prior to any attempt by claimant to reach a negotiated settlement of claims for recovery of damages related to the criminally injurious conduct, the commission's right of subrogation to receive or recover funds from claimant, to the extent that compensation was awarded by the commission, shall not be reduced in any amount or percentage by the costs incurred by claimant attributable to such legal proceedings or settlement; including, but not limited to, attorney's fee, expert witness fees, investigative costs or cost of court. If such notice is given, attorney fees may be awarded in an amount not to exceed 15 percent of the amount subrogated to the commission.

(d) Whenever compensation is awarded to a claimant who is entitled to restitution from a criminal defendant, the commission may initiate restitution hearings in such criminal proceedings or intervene in the same. The commission shall be entitled to receive restitution in such proceedings to the extent that compensation was awarded. The commission shall be subrogated to all the rights and remedies of such claimant for the collection of restitution to the extent compensation was awarded; provided however, the commission shall be exempt from the payment of any fees or other charges for the recording of restitution orders in the offices of the judges of probate.

(Acts 1984, No. 84–658, p. 1308, § 14; Acts 1986, No. 86–510, p. 993, § 4; Acts 1990, No. 90–470, p. 677, § 4.)

§ 15–23–15. Amount and method of compensation; future economic loss; exemption from state and local taxes, etc.

(a) Compensation for work loss, replacement services loss, dependent's economic loss, and dependent's replacement services loss may not exceed six hundred dollars ($600) per week.

(b) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed twenty thousand dollars ($20,000) in the aggregate.

(c) The commission may provide for the payment to a claimant in a lump sum or in installments. At the request of the claimant, the commission may convert future economic loss, other than allowable expense, to a lump sum, but only upon a finding by the commission that the award in a lump sum will promote the interests of the claimant.

(d) An award payable in installments for future economic loss may be made only for a period as to which the commission can reasonably determine future economic loss. An award payable in installments for future economic loss may be modified by the commission upon its findings that a material and substantial change of circumstances has occurred.

(e) An award shall not be subject to state or municipal taxation or to execution, attachment, or garnishment, except as the same may pertain to an obligation for the support of dependent children or as the same may pertain to a creditor which has provided products, services, or accommodations, the costs of which are included in the award.

(f) An assignment by the claimant to any future award under the provisions of this article is unenforceable, except any of the following assignments:

(1) An assignment of any award for work loss to assure payment of court-ordered child support.

(2) An assignment of any award for an allowable expense to the extent that the benefits are for the cost of products, services, or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee.

(Acts 1984, No. 84–658, p. 1308, § 15; Acts 1990, No. 90–470, p. 677, § 5; Act 98–492, p. 945, § 1; Act 2014–335, p. 1232, § 1.)

§ 15–23–16. Alabama Crime Victims Compensation Fund; created; purposes; composition; administered or managed by commission.

(a) There is hereby established a special fund to be known as the Alabama Crime Victims Compensation Fund.

(b) The fund shall be placed under the management or administration of the Alabama Crime Victims Compensation Commission for purposes of providing compensation or other benefits to crime victims and for purposes of implementing this article.

(c) The fund shall consist of all moneys collected or received by the Alabama Crime Victims Compensation Commission from any source.

(d) The commission shall have control of the funds not inconsistent with this article and with the laws of Alabama.

(e) All moneys of the commission shall be covered into the State Treasury or deposited in a special trust account and may be withdrawn therefrom by vouchers or check signed by the chair of the commission pursuant to authorization given by the commissioner. All investments of moneys in the fund shall be either deposited with the State Treasurer for safekeeping upon receipt of the State Treasurer therefor or deposited with the bank in a custodial account. The commission shall have authority to expend moneys in the fund in accordance with this article and to invest any moneys so received pending other needs therefor in any investments which are legal investments for insurance companies under the laws of the state.

(f) No member of the commission shall have any interest in the investments or receive any commission with respect thereto.

(g) It shall be the duty of the commission to keep detailed permanent records of all expenditures and disbursements from the fund.

(h) The commission is authorized to accept and use funds available to it from all sources, such as grants, appropriations, gifts, donations, and other sources for purposes of implementing this article.

(i) The commission may not award any moneys for the six months immediately following passage of this article.

(j) The commission may not award or promise to award more moneys than are available in the fund.

(k) The commission shall not spend more than 25 percent of its funds for administrative costs.

(Acts 1984, No. 84–658, p. 1308, § 16; Acts 1995, No. 95–494, p. 994, § 3.)

§ 15–23–17. Assessment of additional costs and penalties; collection and disposition of additional assessments, etc.

(a) In all criminal and quasi-criminal proceedings for the violation of laws of the state or municipal ordinances which are tried in any court or tribunal in this state, wherein the defendant is adjudged guilty or pleads guilty, or is adjudicated a juvenile delinquent or youthful offender, or wherein a bond is forfeited and the result of the forfeiture is a final disposition of the case or wherein any penalty is imposed, there is imposed an additional cost of court in the amount of two dollars ($2) for each traffic infraction, ten dollars ($10) in each proceeding where the offense constitutes a misdemeanor and/or a violation of a municipal ordinance other than traffic infractions, and fifteen dollars ($15) in each proceeding where the offense constitutes a felony, but there shall be no additional costs imposed for violations relating to parking of vehicles.

The amount of all costs shall be remitted by the person or authority collecting the costs to the chair of the commission on the tenth day of each month next succeeding that in which the cost is paid. It shall be the duty of the clerk or other authority collecting the court costs to keep accurate records of the amounts due the commission for the benefit of the fund under this section.

(b) In addition to the imposition of any other costs, penalties, or fines imposed pursuant to law, any person convicted or pleading guilty to a felony or a misdemeanor or a violation for which the person is adjudicated a juvenile delinquent, or a youthful offender, shall be ordered to pay a victim compensation assessment of not less than fifty dollars ($50), nor more than ten thousand dollars ($10,000), for each felony for which the person was convicted or adjudicated and not less than twenty-five dollars ($25), nor more than one thousand dollars ($1,000), for each misdemeanor or violation for which the person was convicted, adjudicated, or otherwise disposed of when the court orders that costs be paid. In imposing this penalty, the court shall consider factors such as the severity of the crime, the prior criminal record, and the ability of the defendant to pay, as well as the economic impact of the victim compensation assessment on the dependents of the defendant. Any person adjudicated a juvenile delinquent shall be ordered to pay a victim compensation assessment of not less than twenty-five dollars ($25), nor more than one thousand dollars ($1,000), for each adjudication, regardless of the underlying charge, but the assessment or penalty authorized by this subsection shall not be assessed or collected for any conservation, forestry, or water safety offense, nor any traffic offense, except those that are punishable as a felony offense or

involve the operation or actual physical control of any vehicle while intoxicated or under the influence of drugs, or reckless driving. If a court fails to specifically impose an assessment required by this section, the clerk of court shall automatically assess a victim compensation assessment in the minimum amount provided herein. The additional assessment or penalty shall be collected by the clerk of court insuring that the first twenty-five dollars ($25) of each felony assessment and twelve dollars and fifty cents ($12.50) of each misdemeanor assessment shall be promptly paid over to the commission. The second twenty-five dollars ($25) of each felony assessment and twelve dollars and fifty cents ($12.50) of each misdemeanor assessment shall be promptly paid to the Office of Prosecution Services. Any victim assessment fees ordered above the minimum shall be paid to the commission fund.

(c) The Office of Prosecution Services shall create a Victim Services Fund and the assessments received by the Office of Prosecution Services shall be deposited into the Victim Services Fund. The funds received by the Office of Prosecution Services shall be distributed by the Executive Committee of the Alabama District Attorneys Association to the various district attorneys' offices to employ a minimum of one full-time victim service officer in each circuit and to provide other direct services to victims as needed.

(Acts 1984, No. 84–658, p. 1308, § 17; Acts 1986, No. 86–510, p. 510, § 5; Acts 1990, No. 90–470, p. 677, § 6; Acts 1995, No. 95–494, p. 994, § 4.)

§ 15–23–18. Penalties — Influence peddling.

(a) Any person who confers, offers, or agrees to confer anything of value upon a member, agent or employee of the Alabama Crime Victims Compensation Commission with the intent that such member's or agent's or employee's vote, opinion, judgment or exercise of discretion or other action in such member's or agent's or employee's official capacity will thereby be influenced shall be guilty of a Class B felony.

(b) Any member, agent or employee of the Alabama Crime Victims Compensation Commission who shall solicit, accept, or agree to solicit or accept anything of value upon an agreement or understanding that such member's or agent's or employee's vote, opinion, judgment or exercise of discretion or other action as such member, agent, or employee will thereby be influenced shall be guilty of a Class B felony.

(c) It shall not be a defense to a prosecution under this section that the member, agent or employee sought to be influenced was not qualified to act in the desired way because of a lack of jurisdiction or for any other reason.

(Acts 1984, No. 84–658, p. 1308, § 18.)

§ 15–23–19. Penalties — Failure of commission member to disclose conflict of interest.

(a) A member, agent or employee of the Alabama Crime Victims Compensation Commission commits the crime of failing to disclose a conflict of interest

if such member, agent or employee exercises any discretionary function in connection with a commission contract, purchase, payment or other pecuniary transaction pertaining to the commission without advance public disclosure of a known potential conflicting interest in the transaction.

(b) A ''potential conflicting interest'' exists, but is not limited to, when the member, agent or employee of the commission is a director, president, general manager or similar executive officer, or owns directly or indirectly a substantial portion of any nongovernmental entity participating in the transaction.

(c) Public disclosure shall mean a public announcement and written notification to the Attorney General.

(d) Failing to disclose a conflict of interest is a Class C felony.

(Acts 1984, No. 84–658, p. 1308, § 19.)

§ 15–23–20. Penalties — Alteration of commission records, etc.

Any member, agent or employee of the Alabama Crime Victims Compensation Commission who shall knowingly make a false entry or falsely alter any commission record; or who shall intentionally destroy, mutilate, conceal, remove or otherwise impair the verity or availability of any commission record with the knowledge of a lack of authority to do so; or who shall possess a record of the commission and refuse to deliver up such record upon proper request of a person lawfully entitled to receive the same shall be guilty of a Class C felony.

(Acts 1984, No. 84–658, p. 1308, § 20.)

§ 15–23–21. Penalties — Furnishing false information; failure to disclose material fact, etc.

(a) Any person who shall knowingly furnish any false information to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof with the intent to defraud the said commission; or with the intent to obtain an award of compensation for a person not entitled to receive the same shall be guilty of a Class C felony.

(b) Any person who shall knowingly fail or omit to disclose a material fact or circumstance to the Alabama Crime Victims Compensation Commission or to any member, agent or employee thereof which is material to a claim for an award of compensation with the intent to defraud the commission or with the intent to cause a person to obtain or receive an award of compensation to which such person is not entitled shall be guilty of a Class C felony.

(Acts 1984, No. 84–658, p. 1308, § 21.)

§ 15–23–22. Penalties — Unauthorized control over money or securities of commission.

(a) Any person who shall knowingly obtain or exert any unauthorized control over any money or securities held on behalf of or in trust for the

Alabama Crime Victims Compensation Commission with intent to deprive such commission of such money or securities shall be guilty of a Class C felony.

(b) Any person who shall knowingly obtain by deception any control over any money or securities held on behalf of or in trust for the Alabama Crime Victims Compensation Commission with intent to deprive such commission of such money or securities shall be guilty of a Class C felony.

(Acts 1984, No. 84–658, p. 1308, § 22.)

§ 15–23–23. Certain persons deemed ineligible for compensation.

Any person who shall perpetrate any criminally injurious conduct on the person of another or who shall be convicted of a felony after making application to the Alabama Crime Victims Compensation Commission for compensation shall not be eligible or entitled to receive compensation pursuant to any provision of this article.

(Acts 1984, No. 84–658, p. 1308, § 23.)

ARTICLE 2.

CRIME COUNSELOR CONFIDENTIALITY.

§ 15–23–40. Short title.

This article shall be entitled ''The Victim Counselor Confidentiality Act of 1987.''

(Acts 1987, No. 87–598, p. 1040, § 1.)

§ 15–23–41. Definitions.

As used in this article, unless a contrary meaning is clearly intended from the context in which the term appears, the following terms have the respective meanings hereinafter set forth and indicated:

(1) CONFIDENTIAL COMMUNICATION. Any information exchanged between a victim and a victim counselor in private or in the presence of a third party who is necessary to facilitate communication or further the counseling process and which is disclosed in the course of the counselor's treatment of the victim for any emotional or psychological condition resulting from a sexual assault or family violence.

(2) VICTIM. A person who consults a victim counselor for assistance in overcoming adverse emotional or psychological effects of a sexual assault or family violence.

(3) SEXUAL ASSAULT. Any sexual offense enumerated in Sections 13A–6–60 through 13A–6–70.

(4) FAMILY VIOLENCE. The occurrence of one or more of the following acts between family or household members:

a. Attempting to cause or causing physical harm.

b. Placing another in fear of imminent serious physical harm.

(5) FAMILY or HOUSEHOLD MEMBERS. Children, spouses, former spouses, persons of the opposite sex living as spouses now or in the past, or persons 60 years of age or older living in the same household and related by blood or marriage.

(6) VICTIM COUNSELING. Assessment, diagnosis, and treatment to alleviate the adverse emotional or psychological impact of a sexual assault or family violence on the victim. Victim counseling includes, but is not limited to, crisis intervention.

(7) VICTIM COUNSELING CENTER. A private organization or unit of a government agency which has as one of its primary purposes the treatment of victims for any emotional or psychological condition resulting from a sexual assault or family violence.

(8) VICTIM COUNSELOR. Any employee or supervised volunteer of a victim counseling center or other agency, business, or organization that provides counseling to victims who is not affiliated with a law enforcement agency or a prosecutor's office and whose duties include treating victims for any emotional or psychological condition resulting from a sexual assault or family violence.

(Acts 1987, No. 87–598, p. 1040, § 2.)

§ 15–23–42. Confidentiality of communications with victim counselor.

(a) A victim, a victim counselor without the consent of the victim, or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party, cannot be compelled to give testimony or to produce records concerning confidential communications for any purpose in any criminal proceeding.

(b) A victim counselor or a victim cannot be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.

(c) The confidential communication privilege of a victim counselor with respect to communications made between the counselor and the victim shall terminate upon the death of the victim.

(Acts 1987, No. 87–598, p. 1040, § 2; Acts 1995, No. 95–536, p. 1094, § 1.)

§ 15–23–43. Waiver of protection; exception for suit against counselor by victim.

(a) A victim does not waive the protections afforded by this article by testifying in court about the crime.

(1) However, if the victim partially discloses the contents of a confidential communication in the course of testifying, then either party may request the court to rule that justice requires the protections of this section be waived, to the extent they apply to that portion of the communication.

(2) Any waiver shall apply only to the extent necessary to require any witness to respond to counsel's questions concerning the confidential communication that are relevant to the facts and circumstances of the case.

(b) A victim counselor cannot waive the protections afforded to a victim under this section. However, if a victim brings suit against a victim counselor or the agency, business, or organization in which the victim counselor was employed or served as a volunteer at the time of the counseling relationship and the suit alleges malpractice during the counseling relationship, the victim counselor may testify or produce records regarding confidential communications with the victim and is not liable for doing so.

(Acts 1987, No. 87–598, p. 1040, § 2.)

§ 15–23–44. Other testimonial privilege not limited by provisions.

Nothing in this article shall be construed to limit any other testimonial privilege available to any person under other statutes or rules.

(Acts 1987, No. 87–598, p. 1040, § 2.)

§ 15–23–45. Victim counselors not relieved of duty to report certain crimes.

This article shall not be construed to relieve victim counselors of any duty to report suspected child abuse or neglect or any evidence that the victim is about to commit a crime.

(Acts 1987, No. 87–598, p. 1040, § 2.)

§ 15–23–46. Victim counselors not to prescribe drugs, practice medicine, or practice other professions without license.

Nothing in this article shall be construed to permit a victim counselor to administer or prescribe drugs in any form, or in any manner to engage in the practice of medicine as defined by the laws of this state or to engage in any act or to perform any service which act or service requires a license as described in Chapters 8A, 21, 24, 26, or 30 of Title 34, unless such victim counselor is duly licensed by the appropriate licensing agency. Nothing in this article shall be construed to enlarge or expand the scope of practice of any of the licensed professions or occupations enumerated above by virtue of an individual being designated as or holding the position of victim counselor.

(Acts 1987, No. 87–598, p. 1040, § 2.)

ARTICLE 3.

CRIME VICTIMS' RIGHTS.

§ 15–23–60. Definitions.

As used in this article, the following words shall have the following meanings:

(1) ACCUSED. A person who has been arrested for committing a criminal offense and who is held for an initial appearance or other proceeding before trial.

(2) APPELLATE PROCEEDING. An oral argument held in open court before the Alabama Court of Criminal Appeals, the Supreme Court of Alabama, a federal court of appeals, or the United States Supreme Court.

(3) ARREST. The actual custodial restraint of a person or his or her submission to custody.

(4) COMMUNITY STATUS. Extension of the limits of the places of confinement of a prisoner through work release, supervised intensive restitution (SIR), and initial consideration of pre-discretionary leave, passes, and furloughs.

(5) COURT. All state courts including juvenile courts.

(6) CRIME VICTIM ADVOCATE. A person who is employed or authorized by a public entity or a private entity that receives public funding primarily to provide counseling, treatment, or other supportive assistance to crime victims.

(7) CRIMINAL OFFENSE. Conduct that gives a law enforcement officer or prosecutor probable cause to believe that a felony involving physical injury, the threat of physical injury, or a sexual offense, or any offense involving spousal abuse or domestic violence has been committed.

(8) CRIMINAL PROCEEDING. A hearing, argument, or other matter scheduled by and held before a trial court but does not include a lineup, grand jury proceeding, or other matter not held in the presence of the court.

(9) CUSTODIAL AGENCY. A municipal or county jail, the State Department of Corrections, juvenile detention facility, Department of Youth Services, the Board of Pardons and Paroles, or a secure mental health facility having custody of a person who is arrested or is in custody for a criminal offense.

(10) DEFENDANT. A person or entity that is formally charged by complaint, indictment, information, or petition, of committing a criminal offense.

(11) FINAL DISPOSITION. The ultimate termination of the criminal prosecution of a defendant by a trial court, including dismissal, acquittal, or imposition of a sentence.

(12) IMMEDIATE FAMILY. The spouse, parent, child, sibling, or grandparent of the victim, unless that person is in custody for an offense or is the accused.

(13) LAWFUL REPRESENTATIVE. A person who is designated by the victim, who is a member of the immediate family, or appointed by the court and who will act in the best interests of the victim.

(14) POST-ARREST RELEASE. The discharge of the accused from confinement on recognizance, bond, or other condition.

(15) POST-CONVICTION RELEASE. Parole, or discharge from confinement by an agency having custody of the prisoner.

(16) POST-CONVICTION RELIEF PROCEEDING. A hearing, argument, or other matter that is held in any court and that involves a request for relief from a conviction, sentence, or adjudication.

(17) PRISONER. A person who has been convicted or adjudicated of a criminal offense against a victim and who has been sentenced to the custody of the sheriff, the Alabama Department of Corrections, Department of Youth Services, juvenile detention facility, a municipal jail, or a secure mental health facility.

(18) RIGHT. Any right granted to the victim by the laws of this state.

(19) VICTIM. A person against whom the criminal offense has been committed, or if the person is killed or incapacitated, the spouse, sibling, parent, child, or guardian of the person, except if the person is in custody for an offense or is the accused.

(Acts 1995, No. 95–583, p. 1234, § 1.)

§ 15–23–61. Designated representative.

(a) If a victim is physically or emotionally unable to exercise any right established by this article, but is able to designate a lawful representative, the designated representative or person may exercise the same rights that the victim is entitled to exercise. The victim may revoke his or her designated representation at any time and thereafter exercise his or her rights.

(b) If a victim is incompetent, deceased, or otherwise incapable of designating another person to act in his or her behalf, the court may appoint a lawful representative who is not a witness in the case. If at any time the victim is no longer incompetent, incapacitated, or otherwise incapable of acting, the victim may personally exercise his or her rights.

(c) If the victim is a minor, the parent or other immediate family of the victim, or other designated representative as determined by the court, may exercise all of the rights of the victim on behalf of the victim.

(Acts 1995, No. 95–583, p. 1234, § 2.)

§ 15–23–62. Law enforcement agency required to provide victim with information concerning services, compensation benefits, etc.

Within 72 hours, unless the victim is unavailable or incapacitated as a result of the crime, after the initial contact between a victim of a reported

crime and the law enforcement agency either responding to the report of the crime of the victim or another person, or having responsibility for investigating the crime, the law enforcement agency shall provide to the victim in a manner and form designed and produced for the appropriate governmental agency or office, the following information:

(1) The availability of emergency and crisis services.

(2) The availability of victims' compensation benefits and the name, address, and telephone number of the Alabama Crime Victims Compensation Commission.

(3) The name of the law enforcement officer and telephone number of the law enforcement agency with the following statement attached: ''If within 60 days you are not notified of an arrest in your case, you may call the telephone number of the law enforcement agency for the status of the case.''

(4) The procedural steps involved in a criminal prosecution.

(5) The rights authorized by the Alabama Constitution on rights of victims, including a form to invoke these rights.

(6) The existence and eligibility requirements of restitution and compensation pursuant to Section 15–18–65 et seq. and Section 15–23–1 et seq.

(7) A recommended procedure if the victim is subjected to threats or intimidation.

(8) The name and telephone number of the office of the prosecuting attorney to contact for further information.

(Acts 1995, No. 95–583, p. 1234, § 3.)

§ 15–23–63. Prosecuting attorney required to notify victim of charges and proceedings; request for notice.

(a) Upon written request of the victim, the prosecuting attorney shall notify the victim of all charges filed against the defendant, criminal proceedings, except initial appearances, as soon as practicable, including any changes that may occur.

(b) The victim shall provide to and maintain with the office of the prosecuting attorney a request for notice on a form provided by the agency. The form shall include the telephone number and address of the victim. If the victim fails to keep this information current, his or her request for notice shall be considered withdrawn and void. Except as otherwise provided, all notices provided to a victim pursuant to this article shall be on forms developed and produced for the appropriate government agency or office.

(Acts 1995, No. 95–583, p. 1234, § 4.)

§ 15–23–64. Prosecuting attorney required to confer with victim prior to final disposition of offense.

The prosecuting attorney shall confer with the victim prior to the final disposition of a criminal offense, including the views of the victim about a nol

pros, reduction of charge, sentence recommendation, and pre-trial diversion programs.

(Acts 1995, No. 95–583, p. 1234, § 5.)

§ 15–23–65. Prosecuting attorney required to confer with victim before commencement of trial.

The prosecuting attorney shall confer with the victim before the commencement of a trial. Any information received by the victim relating to the substance of the case shall be confidential, unless otherwise authorized by law or required by the courts to be disclosed.

(Acts 1995, No. 95–583, p. 1234, § 6.)

§ 15–23–66. No right to direct prosecution.

The rights of the victim do not include the authority to direct the prosecution of the case.

(Acts 1995, No. 95–583, p. 1234, § 7.)

§ 15–23–67. Right to be present throughout proceedings.

The victim has the right to be present throughout all criminal proceedings pursuant to Section 15–14–50 et seq.

(Acts 1995, No. 95–583, p. 1234, § 8.)

§ 15–23–68. Waiting area for victim; court to minimize contact of victim with defendant.

The court shall provide a waiting area for the victim separate from the defendant, relatives of the defendant, and defense witnesses, if an area is available and the use of the area is practical. If a separate waiting area is not available, or its use impractical, the court shall minimize contact of the victim with the defendant, relatives of the defendant, and defense witnesses during court proceedings. For victims of domestic violence, if a separate waiting area is not available, the presiding circuit judge shall create procedures so that the defendant has no contact with the victim.

(Acts 1995, No. 95–583, p. 1234, § 9; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1.)

§ 15–23–69. Testimony concerning information about victim; information about victim in court file.

(a) Based upon the reasonable apprehension of the victim of acts or threats of physical violence or intimidation by the defendant, the family of the defendant, or by anyone at the direction of the defendant, against the victim or the immediate family of the victim, the prosecutor may petition the court to direct that the victim or any other witness not be compelled to testify during pre-trial proceedings or to any trial, facts that could divulge the

identity, residence, or place of employment of the victim, or other related information without consent of the victim unless necessary to the prosecution of the criminal proceeding. If the court schedules a hearing on the merits of the petition, it shall be held in camera.

(b) The address, phone number, place of employment, and other related information about the victim contained in the court file shall not be public record.

(Acts 1995, No. 95–583, p. 1234, § 10.)

§ 15–23–70. Right to refuse defendant's request for interview.

The victim has the right to refuse a request by the defendant, the attorney of the defendant, or by any other person acting on behalf of the defendant, for an interview or other communication with the victim.

(Acts 1995, No. 95–583, p. 1234, § 11.)

§ 15–23–71. Plea agreement.

The victim has the right to be present at any proceeding at which a negotiated plea for the person accused of committing the criminal offense against the victim will be presented to the court. The court shall not accept a plea agreement unless:

(1) The prosecuting attorney advises the court that, before requesting the negotiated plea, reasonable efforts were made to confer with the victim.

(2) Reasonable efforts are made to give the victim notice of the plea proceeding, including the offense to which the defendant will plead guilty, the date that the plea will be presented to the court, the terms of any sentence agreed to as part of the negotiated plea, and that the victim has the right to be present.

(3) The prosecuting attorney advises the court that, to the best of his or her knowledge, the notice requirements of this article have been met.

(Acts 1995, No. 95–583, p. 1234, § 12.)

§ 15–23–72. Right to pre-sentence information.

The prosecuting attorney shall provide to the victim the date of a conviction, acquittal, or dismissal of the charges filed against the defendant and prior to sentencing, when applicable, notice of the following:

(1) The criminal offense for which the defendant was convicted, acquitted, or the effect of a dismissal of the charges filed against the defendant.

(2) If the defendant is convicted, on request, the victim shall be notified, if applicable, of the following:

a. The existence and function of the pre-sentence report.

b. The name, address, and telephone number of the office of the Board of Pardons and Paroles which is preparing the pre-sentence report.

c. The right to make a victim impact statement.

d. The right of the defendant to view the pre-sentence report.

e. The right to be present and be heard at any sentencing proceeding.

f. The time, place, and date of the sentencing proceeding.

g. If the court orders restitution, the right to pursue collection of the restitution as provided by Section 15–18–65 et seq.

(Acts 1995, No. 95–583, p. 1234, § 13.)

§ 15–23–73. Impact statement; right to review pre-sentence investigative report.

(a) The victim may submit a written impact statement or make an oral impact statement to the probation officer for use in preparing a pre-sentence report. The probation officer shall consider the economic, physical, and psychological impact that the criminal offense has had on the victim and the immediate family of the victim.

(b) The victim shall have the right to review a copy of the pre-sentence investigative report, subject to the applicable federal or state confidentiality laws, at the same time the document is available to the defendant or his or her counsel.

(Acts 1995, No. 95–583, p. 1234, § 14.)

§ 15–23–74. Right to present evidence, statement, etc., during sentencing or restitution proceedings.

The victim has the right to present evidence, an impact statement, or information that concerns the criminal offense or the sentence during any pre-sentencing, sentencing, or restitution proceeding.

(Acts 1995, No. 95–583, p. 1234, § 15.)

§ 15–23–75. Right to information concerning defendant's sentence, request for notice, post-conviction review, etc.

The victim has the right to the following information:

(1) As soon as practicable, after the date of sentencing, the office of the prosecuting attorney shall notify the victim of the sentence imposed on the defendant.

(2) The names, addresses, and telephone numbers of the appropriate agencies and departments to whom request for notice should be provided.

(3) The status of any post-conviction court review or appellate proceeding or any decisions arising from those proceedings shall be furnished to the victim by the Office of the Attorney General or the office of the district attorney, whichever is appropriate, immediately after the status is known.

(4) If the terms and conditions of a post-arrest release include a requirement that the accused post a bond, the sheriff or municipal jailer shall, upon request, notify the victim of the release on bond of the defendant.

(5) The agency having physical custody of a prisoner shall, if provided a request for notice, and as soon as practicable, give notice to the victim of the escape and, subsequently, the return of the prisoner into custody.

(Acts 1995, No. 95–583, p. 1234, § 16.)

§ 15–23–76. Right to be present and heard at court proceeding.

It is the discretion of the victim to exercise the right to be present and heard, where authorized by law, at a court proceeding. The absence of the victim at the proceeding of the court does not preclude the court from going forth with the proceeding. The right of the victim to be heard may be exercised, where authorized by law, at the discretion of the victim, through an oral statement or submission of a written statement.

(Acts 1995, No. 95–583, p. 1234, § 17.)

§ 15–23–77. Right to have property returned.

(a) Prior to the admission of evidence to the court, on request of the victim, after consultation and written approval by the district attorney or Attorney General, the law enforcement agency responsible for investigating the criminal offense shall return to the victim any property belonging to the victim that was taken during the course of the investigation, or shall inform the victim of the reasons why the property will not be returned. The law enforcement agency shall make reasonable efforts to return the property to the victim as soon as possible.

(b) If the property of the victim has been admitted as evidence during a trial or hearing, the court may, upon request of the district attorney or the Attorney General, order its release to the victim if a photograph can be substituted. If evidence is released pursuant to this subsection, the attorney for the defendant or investigator may inspect and independently photograph the evidence before it is released.

(Acts 1995, No. 95–583, p. 1234, § 18.)

§ 15–23–78. Right to information from agency having physical custody of prisoner.

Any custodial agency having physical custody of the prisoner, if provided a request for notice, shall mail to the victim the following information:

(1) Notice of an end of sentence release within 15 days prior to the end of the sentence of the prisoner.

(2) Notice of the death within 15 days after the prisoner has died.

(Acts 1995, No. 95–583, p. 1234, § 19.)

§ 15–23–79. Submission of victim's statement into prisoner's records.

(a) The victim shall have the right to be notified, upon written request, that he or she may submit a written statement, or recorded oral transcription, which shall be entered into the prisoner's Department of Corrections records. The statement shall be considered during any review for community status of the prisoner or prior to release of the prisoner.

(b) The victim shall have the right to be notified by the Board of Pardons and Paroles and allowed to be present and heard at a hearing when parole or pardon is considered pursuant to Section 15–22–36 et seq.

(Acts 1995, No. 95–583, p. 1234, § 20.)

§ 15–23–80. Facility with custody of defendant to send victim release opinion.

Upon written request of the victim, the Alabama Department of Mental Health and Mental Retardation, or other facility with custody of the criminal defendant, shall send the victim a copy to the address stated in the request, of its release opinion which was provided to the appropriate court pursuant to Section 15–16–63 et seq.

(Acts 1995, No. 95–583, p. 1234, § 21.)

§ 15–23–81. Victim to respond to subpoena or to participate in proceeding preparation without loss of employment or fear of loss.

The victim shall respond to a subpoena to testify in a criminal proceeding or participate in the reasonable preparation of criminal proceeding without the loss of employment or the intimidation, threats, or fear of the loss of employment.

(Acts 1995, No. 95–583, p. 1234, § 22.)

§ 15–23–82. Clerk of court to accept and disburse restitution.

The clerk of the court is authorized and shall accept partial payments from defendants when directed to do so by the court, pursuant to the conditions in Section 12–19–26. The clerk of the court shall disburse restitution to victims or the authorized recipient, including partial periodic payments as ordered under any judgment, decree, or order of the circuit or district court, pursuant to Section 15–18–65 et seq. The disbursements shall be made to the victims or the authorized recipient no later than the time provided in Rule 4, Alabama Rules of Judicial Administration. The clerk of the court shall, at the end of each month, provide to the district attorney and probation office a list of the names of defendants who are delinquent in their restitution payments

under a court-approved installment plan or any other deferred-payment time period specified by the court in its sentencing order.

(Acts 1995, No. 95–583, p. 1234, § 23.)

§ 15–23–83. Assertion of rights by Attorney General or district attorney.

The Attorney General or district attorney may assert any right to which the victim is entitled.

(Acts 1995, No. 95–583, p. 1234, § 24.)

§ 15–23–84. Failure to provide right or notice not grounds for setting aside sentence.

The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

(Acts 1995, No. 95–583, p. 1234, § 25.)

ARTICLE 4.

TESTING OF PERSON CHARGED WITH CERTAIN SEX CRIMES UPON REQUEST OF ALLEGED VICTIM.

§ 15–23–100. Definitions.

As used in this article, the following words shall have the following meanings:

(1) ALLEGED VICTIM. A person or persons to whom transmission of body fluids from the perpetrator of the crime occurred or was likely to have occurred in the course of the alleged crime.

(2) PARENT OR GUARDIAN OF THE ALLEGED VICTIM. A parent or legal guardian of an alleged victim who is a minor or incapacitated person.

(3) POSITIVE REACTION. A positive test with a positive confirmatory test result as specified by the Department of Public Health.

(4) SEXUALLY TRANSMITTED DISEASE. Those diseases designated by the State Board of Health as sexually transmitted diseases for the purposes of this article.

(5) TRANSMISSION OF BODY FLUIDS. The transfer of blood, semen, vaginal secretions, or other body fluids identified by the Department of Public Health, from the alleged perpetrator of a crime to the mucous membranes or potentially broken skin of the victim.

(Act 2006–572, p. 1504, § 1.)

§ 15–23–101. Motion to order person charged to be tested for sexually transmitted diseases.

When a person has been charged with the crime of rape, sodomy, sexual misconduct, sexual torture, sexual abuse, assault by bodily fluids, or any other crime in which the victim was compelled to engage in sexual activity by force or threat of force, and it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, upon the request of the victim or the parent or guardian of a minor victim, the district attorney shall file a motion with the court for an order requiring the person charged to submit to a test for any sexually transmitted disease.

(Act 2006–572, p. 1504, § 2; Act 2019–465, § 1.)

§ 15–23–102. Order to submit to testing; designation of attending physician; additional testing; access to results; post-test counseling.

(a)(1) If the district attorney files a motion under Section 15–23–101, the court shall order the person charged to submit to testing if the court determines there is probable cause to believe that the person charged committed the crime of rape, sodomy, sexual misconduct, sexual torture, sexual abuse, assault by bodily fluids, or any other crime where the victim was compelled to engage in sexual activity by force or threat of force and the transmission of body fluids was involved.

(2) If a warrant, information, or indictment has been issued and the defendant is in custody or has been served with the warrant, information, or indictment, the test shall be performed within 48 hours of service of the court order requiring the defendant to submit to testing.

(b) When a test is ordered under Section 15–23–101, the victim of the crime or a parent or guardian of the minor victim shall designate an attending physician who has agreed in advance to accept the victim as a patient to receive information on behalf of the victim.

(c) If any sexually transmitted disease test results in a negative reaction, the court shall order the person to submit to any follow-up tests at the intervals and in the manner as shall be determined by the State Board of Health.

(d) The result of any test ordered under this section is not a public record and shall be available only to the following:

(1) The victim.

(2) The parent or guardian of the minor victim.

(3) The attending physician of the victim.

(4) The person tested.

(e) If any sexually transmitted disease test ordered under this section results in a positive reaction, the individual subject to the test shall receive

post-test counseling. Counseling and referral for appropriate health care, testing, and support services as directed by the State Health Officer shall be provided to the victim at the request of the victim or the parent or guardian of the minor victim.

(Act 2006–572, p. 1504, § 3; Act 2019–465, § 1.)

§ 15–23–103. Confidentiality of results.

(a) The results of tests or reports, or information therein, obtained under Section 15–23–102 shall be confidential and shall not be divulged to any person not authorized to receive the information.

(b) A violation of this section is a Class C misdemeanor.

(Act 2006–572, p. 1504, § 4.)

§ 15–23–104. Payment of costs.

This article shall be implemented by the Department of Public Health to the extent state funds are available to pay all costs associated with the requirements of this article. The court may order the person charged to pay for or reimburse the state for the cost of all testing.

(Act 2006–572, p. 1504, § 5.)

Article 5.

Sexual Assault Survivors Bill of Rights.

§ 15–23–120. Short title.

This article shall be known and may be cited as the Sexual Assault Survivors Bill of Rights.

(Act 2021–481, § 1.)

§ 15–23–121. Rights of sexual assault victims.

(a) A sexual assault survivor has the following rights:

(1)a. Not to be prevented from, or charged for, receiving a medical forensic examination.

b. For the purposes of this subdivision, a health care provider may bill a health insurer for providing a medical forensic examination.

(2) To have a sexual assault evidence collection kit or its probative contents preserved by law enforcement agencies, without charge, for at least 20 years or until the survivor reaches 40 years of age if the survivor was a minor when the assault occurred.

(3) Upon request, to be informed by the investigating law enforcement agency, of test results from the sexual assault evidence kit, including a DNA profile match, or other information collected as part of a medical forensic

examination, if the disclosure would not impede or compromise an ongoing law enforcement investigation.

(4) Upon written request, to be informed of policies governing the collection and preservation of a sexual assault evidence collection kit.

(5) Upon written request, to receive written notification, from the investigating law enforcement agency with custody of the kit or its probative contents, of the intended destruction or disposal of the kit or its probative contents at least 60 days before the intended destruction or disposal.

(6) Upon written request, to be granted further preservation of the kit or its probative contents for an additional 20 years.

(7) To be informed of the rights under this subsection.

(b) The term sexual assault, as used in this section, is defined as any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

(Act 2021–481, § 2.)

§ 15–23–122. Survivor notification.

The Attorney General shall develop a survivor notification document to be distributed by a law enforcement officer or a medical provider upon initial contact with a survivor of sexual assault. The notification document shall be made available on the Attorney General's public website. The document shall include, but is not limited to, the following information:

(1) A clear statement that the survivor has the right not to be prevented from, nor charged for, receiving a sexual assault medical forensic examination.

(2) A clear statement that the survivor has a right to have a sexual assault medical forensic examination, regardless of whether the survivor reports to or cooperates with law enforcement.

(3) The availability and contact information of a sexual assault advocate.

(4) The availability of protective orders, policies related to their enforcement, and the process to obtain protective orders.

(5) Policies regarding the storage, preservation, and disposal of sexual assault evidence collection kits.

(6) The process, if any, to request the preservation of sexual assault evidence collection kits.

(7) Instructions for requesting the test results upon the forensic or probative evidence of the kits from the investigating law enforcement agency.

(8) Information about state and federal compensation funds available for medical or other costs associated with the case and the availability of victim compensation and restitution.

(Act 2021–481, § 3.)

§ 15–23–123. Sexual Assault Task Force.

(a) The Attorney General shall establish the Sexual Assault Task Force. The task force shall develop, coordinate, and disseminate national protocols, produced by the U.S. Department of Justice, regarding the care and treatment of sexual assault survivors and the preservation of forensic evidence.

(b) The task force shall consist of the following members:

(1) Two appointees selected by the Attorney General, with at least one appointee selected from the Alabama Crime Victims' Compensation Commission.

(2) Two appointees selected by the Governor.

(3) One appointee selected by the District Attorneys Association.

(4) One appointee selected by the Department of Forensic Sciences.

(5) One appointee selected by the Medical Association of the State of Alabama.

(6) Three members of the Senate appointed by the chair of the Senate Judiciary Committee.

(7) Three members of the House of Representatives appointed by the chair of the House Judiciary Committee.

(8) One appointee selected by the Alabama Sheriffs Association.

(9) One appointee selected by the Commissioner of Mental Health.

(10) One appointee selected by the Alabama Hospital Association.

(11) One appointee selected by the Commissioner of the State Department of Human Resources.

(c) The appointing authorities shall coordinate their appointments to assure the task force membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state.

(d) Task force members shall serve without compensation, but may be reimbursed for actual expenses associated with attending meetings by the respective appointing authorities according to applicable law.

(e) The task force shall consult with all of the following:

(1) Stakeholders in law enforcement, prosecution, forensic laboratory, counseling, forensic examiner, medical facility, and medical provider communities.

(2) Representatives of at least three entities with demonstrated expertise in sexual assault prevention, sexual assault victim advocacy, or representation of sexual assault victims, and at least one representative shall be a sexual assault victim.

(f) The task force shall have the following responsibilities specifically regarding the care and treatment of sexual assault survivors and preservation of evidence:

(1) Develop recommendations for improving the coordination of the dissemination and implementation of national protocols, produced by the U.S.

Department of Justice, to physicians, hospitals, forensic examiners, medical associations, and leaders in the medical community.

(2) Develop recommendations to promote the coordination of the dissemination and implementation of national protocols, produced by the U.S. Department of Justice, to the Attorney General, the Secretary of the Alabama State Law Enforcement Agency, the Director of the Department of Forensic Sciences, and other leaders in the law enforcement community.

(3) Collect feedback from stakeholders, practitioners, and leadership throughout law enforcement, victim services, forensic science practitioners, and health care communities on ways to best ensure implementation of the national protocols produced by the U.S. Department of Justice.

(4) Perform other activities, such as activities relating to development, dissemination, outreach, engagement, or training associated with advancing victim-centered care for sexual assault survivors.

(g) No later than August 1, 2023, the task force shall submit to the Attorney General, the Legislature, and the Governor, a report containing the findings and recommended actions of the task force.

(Act 2021–481, § 4.)

§ 15–23–124. Construction of article.

Nothing in this article shall be construed to establish a standard of care for medical providers or physicians, or otherwise modify, amend, repeal, or supersede any provision of Section 6–5–333, the Alabama Medical Liability Act of 1987, commencing with Section 6–5–540, or the Alabama Medical Liability Act of 1996, commencing with Section 6–5–548, or any amendment to any of these laws or judicial interpretation of these laws.

(Act 2021–481, § 5.)

TITLE 20.

FOOD, DRUGS, AND COSMETICS.

CHAPTER 2.

CONTROLLED SUBSTANCES.

ARTICLE 1.

GENERAL PROVISIONS.

§ 20–2–1. Short title.

This chapter may be cited as the Alabama Uniform Controlled Substances Act.

(Acts 1971, No. 1407, p. 2378, § 511.)

§ 20–2–2. Definitions.

When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) ADMINISTER. The direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

a. A practitioner or, in his or her presence, his or her authorized agent.

b. The patient or research subject at the direction and in the presence of the practitioner.

(2) AGENT. An authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(3) CERTIFYING BOARDS. The State Board of Medical Examiners, the State Board of Health, the State Board of Pharmacy, the State Board of Dental Examiners, the State Board of Podiatry, and the State Board of Veterinary Medical Examiners.

(4) CONTROLLED SUBSTANCE. A drug, substance, or immediate precursor in Schedules I through V of Article 2 of this chapter.

(5) COUNTERFEIT SUBSTANCE. Substances which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device or any likeness thereof of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(6) DELIVER or DELIVERY. The actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(7) DISPENSE. To deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(8) DISPENSER. A practitioner who dispenses.

(9) DISTRIBUTE. To deliver other than by administering or dispensing a controlled substance.

(10) DISTRIBUTOR. A person who distributes.

(11) DRUG.

a. Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary or any supplement to any of them.

b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals.

c. Substances (other than food) intended to affect the structure or any function of the body of man or animals.

d. Substances intended for use as a component of any article specified in paragraphs a., b., or c. Such term does not include devices or their components, parts, or accessories.

(12) IMMEDIATE PRECURSOR. A substance that the State Board of Pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(13) MANUFACTURE. The production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; except, that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by either of the following:

a. A practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice.

b. A practitioner or his or her authorized agent under his or her supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.

(14) MARIJUANA. All parts of the plant Cannabis sativa L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Marijuana does not include hemp as defined in Section 2–8–381.

(15) NARCOTIC DRUG. Any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph a., but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine.

(16) OPIATE. Any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under this section, the dextrorotatory isomer of 3–methoxy–n–methylmorphinan and its salts (dextromethorphan). Such term does include its racemic and levorotatory forms.

(17) OPIUM POPPY. The plant of the species Papaver somniferum L., except its seeds.

(18) PERSON. Individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity.

(19) POPPY STRAW. All parts, except the seeds, of the opium poppy, after mowing.

(20) PRACTITIONER.

a. A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense,

conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(21) PRODUCTION. The manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(22) STATE. When applied to a part of the United States, the term includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(23) ULTIMATE USER. A person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

(Acts 1971, No. 1407, p. 2378, § 101; Acts 1976, No. 699, p. 965, § 1; Acts 1989, No. 89–242, p. 342, § 3; Act 2001–971, 3rd Sp. Sess., p. 873, § 2; Act 2016–293, p. 730, § 5; Act 2019–502, § 1.)

§ 20–2–3. Immunity of persons reporting suspected use, etc., of controlled substance by minor child.

All persons employed in any capacity in the public, private, and church elementary and secondary schools shall be immune from civil liability for communicating information to the parents of a minor child, law enforcement officers, or health care providers concerning the suspected use, possession, sale, distribution of any controlled substance as defined in Chapter 2 of Title 20, by any minor child as defined by law. Notwithstanding the foregoing, this immunity shall not apply if said person communicated such information maliciously and with knowledge that it was false.

(Acts 1985, No. 85–239, p. 138.)

ARTICLE 2.

STANDARDS AND SCHEDULES.

§ 20–2–20. Administration of chapter.

(a) The State Board of Health, unless otherwise specified, shall administer this chapter and may add substances to or delete or reschedule all substances enumerated in the schedules in Sections 20–2–23, 20–2–25, 20–2–27, 20–2–29, or 20–2–31 pursuant to the procedures of the State Board of Health. In making a determination regarding a substance, the State Board of Health shall consider all of the following:

(1) The actual or relative potential for abuse.

(2) The scientific evidence of its pharmacological effect, if known.

(3) The state of current scientific knowledge regarding the substance.

(4) The history and current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) The risk to the public health.

(7) The potential of the substance to produce psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(b) After considering the factors enumerated in subsection (a), the State Board of Health shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.

(c) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the State Board of Health, the State Board of Health shall similarly control the substance under this chapter after the expiration of 30 days from publication in the federal register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30–day period, the State Board of Health objects to inclusion, rescheduling, or deletion. In that case, the State Board of Health shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the State Board of Health shall publish its decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this chapter by the State Board of Health, control under this chapter is stayed until the State Board of Health publishes its decision.

(d) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco.

(e) The State Board of Health shall exclude any nonnarcotic substance from a schedule if such substance, under the federal Food, Drug and Cosmetic Act, the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, and the law of this state may be lawfully sold over the counter without a prescription.

(Acts 1971, No. 1407, p. 2378, § 201; Act 2001–971, 3rd Sp. Sess., p. 873, § 2.)

§ 20–2–21. Nomenclature of controlled substances in schedules.

The controlled substances listed or to be listed in the schedules in Sections 20–2–23, 20–2–25, 20–2–27, 20–2–29, and 20–2–31 are included by whatever official, common, usual, chemical, or trade name designated.

(Acts 1971, No. 1407, p. 2378, § 202.)

§ 20–2–22. Schedule I — Standards for compilation.

The State Board of Health shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

(Acts 1971, No. 1407, p. 2378, § 203.)

§ 20–2–23. Schedule I — Listing of controlled substances.

(a) The Legislature finds the following:

(1) New synthetic substances are being created which are not controlled under the provisions of existing state law but which have a potential for abuse similar to or greater than that for substances controlled under existing state law. These new synthetic substances are called ''synthetic controlled substances or synthetic controlled substance analogues'' and can be designed to produce a desired pharmacological effect and to evade the controlling statutory provisions. Synthetic controlled substances or synthetic controlled substance analogues are being manufactured, distributed, possessed, and used as substitutes for controlled substances.

(2) The hazards attributable to the traffic in and use of a synthetic controlled substance or synthetic controlled substance analogues are increased because their unregulated manufacture produces variations in purity and concentration.

(3) Many new synthetic substances are untested, and it cannot be immediately determined whether they have useful medical or chemical purposes.

(4) The uncontrolled importation, manufacture, distribution, possession, or use of controlled substance analogues has a substantial and detrimental impact on the health and safety of the people of this state.

(5) Synthetic controlled substances or synthetic controlled substance analogues can be created more rapidly than they can be identified and controlled by action of the Legislature. There is a need for a speedy determination of their proper classification under existing law. It is therefore necessary to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances controlled under existing state law.

(b) The controlled substances listed in this section are included in Schedule I:

(1) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

a. Acetylmethadol;

b. Allylprodine;

c. Alphacetylmethadol;
d. Alphameprodine;
e. Alphamethadol;
f. Benzethidine;
g. Betacetylmethadol;
h. Betameprodine;
i. Betamethadol;
j. Betaprodine;
k. Clonitazene;
l. Dextromoramide;
m. Dextrorphan;
n. Diampromide;
o. Diethylthiambutene;
p. Dimenoxadol;
q. Dimepheptanol;
r. Dimethylthiambutene;
s. Dioxaphetyl butyrate;
t. Dipipanone;
u. Ethylmethylthiambutene;
v. Etonitazene;
w. Etoxeridine;
x. Furethidine;
y. Hydroxypethidine;
z. Ketobemidone;
aa. Levomoramide;
bb. Levophenacylmorphan;
cc. Morpheridine;
dd. Noracymethadol;
ee. Norlevorphanol;
ff. Normethadone;
gg. Norpipanone;
hh. Phenadoxone;
ii. Phenampromide;
jj. Phenomorphan;
kk. Phenoperidine;
ll. Piritramide;
mm. Proheptazine;

nn. Properidine;

oo. Racemoramide;

pp. Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

a. Acetorphine;

b. Acetyldihydrocodeine;

c. Benzylmorphine;

d. Codeine methylbromide;

e. Codeine–N–Oxide;

f. Cyprenorphine;

g. Desomorphine;

h. Dihydromorphine;

i. Etorphine;

j. Heroin;

k. Hydromorphinol;

l. Methyldesorphine;

m. Methyldihydromorphine;

n. Morphine methylbromide;

o. Morphine methylsulfonate;

p. Morphine–N–Oxide;

q. Myrophine;

r. Nicocodeine;

s. Nicomorphine;

t. Normorphine;

u. Pholcodine;

v. Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

a. 3,4–methylenedioxy amphetamine;

b. 5–methoxy–3,4–methylenedioxy amphetamine;

c. 3,4,5–trimethoxy amphetamine;

d. Bufotenine;

e. Diethyltryptamine;

f. Dimethyltryptamine;

g. 4–methyl–2,5–dimethoxy amphetamine;

h. Ibogaine;

i. Lysergic acid diethylamide;

j. Marihuana;

k. Mescaline;

l. Peyote;

m. N–ethyl–3–piperidyl benzilate;

n. N–methyl–3–piperidyl benzilate;

o. Psilocybin;

p. Psilocyn;

q. Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp, as defined in Section 2–8–381.

(4)a. A synthetic controlled substance that is any material, mixture, or preparation that contains any quantity of the following chemical compounds, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation or compound:

1. 3,4–Methylenedioxymethcathinone (Methylone), some trade or other names: 3,4–methylenedioxy–N–methylcathinone.

2. 3,4–Methylenedioxypyrovalerone, some other trade names: (MDPV).

3. 4–Methylmethcathinone (Mephedrone), some trade or other names: 4–methylephedrone.

4. 4–Methoxymethcathinone (Methedrone), some trade or other names: bk–PMMA.

5. 3–Fluoromethcathinone, some trade or other names: 3–FMC.

6. 4–Fluoromethcathinone (Flephedrone), some trade or other names: 4–FMC.

7. 1–[(5–fluoropentyl)–1H–indol–3–yl]–(2–iodophenyl)methanone, some trade or other names: AM–694.

8. 1–[(5–fluoropentyl)–1H–indol–3–yl]–(naphthalen–1–yl)methanone, some trade or other names: AM–2201.

9. (6aR, 10aR)–9–(hydroxymethyl)–6, 6–dimethyl–3–(2–methyloctan–2–yl)–6a,7,10,10a–tetrahydrobenzo[c]chromen–1–ol, some trade or other names: HU–210.

10. (6aS,10aS)–9–(Hydroxymethyl)–6,6–dimethyl–3–(2–methyloctan–2–yl)–6a,7,10,10a–tetrahydrobenzo[c]chromen–1–ol, some trade or other names: HU–211, Dexanabinol.

11. 1–Pentyl–2–methyl–3–(1–naphthoyl)indole, some trade or other names: JWH–007.

12. (2–Methyl–1–propyl–1H–indol–3–yl)–1–naphthalenylmethanone, some trade or other names: JWH–015.

13. Naphthalen–1–yl–(1–pentylindol–3–yl)methanone, some trade or other names: JWH–018.

14. 1–Hexyl–3–(naphthalen–1–oyl)indole, some trade or other names: JWH–019.

15. Naphthalen–1–yl–(butylindol–3–yl)methanone, some trade or other names: JWH–073.

16. 4–Methoxynaphthalen–1–yl–(1–pentylindol–3–yl)methanone, some trade or other names: JWH–081.

17. 4–Methoxynaphthalen–1–yl–(1–pentyl–2–methylindol–3–yl) methanone, some trade or other names: JWH–098.

18. 4–Methylnaphthalen–1–yl–(1–pentylindol–3–yl)methanone, some trade or other names: JWH–122.

19. (1–(2–Morpholin–4–ylethyl)indol–3–yl)–naphthalen–1–ylmethanone, some trade or other names: JWH–200.

20. 2–(2–Chlorophenyl)–1–(1–pentylindol–3–yl)ethanone, some trade or other names: JWH–203.

21. 4–Ethylnaphthalen–1–yl–(1–pentylindol–3–yl)methanone, some trade or other names: JWH–210.

22. 2–(2–Methoxyphenyl)–1–(1–pentylindol–3–yl)ethanone, some trade or other names: JWH–250.

23. 5–(2–fluorophenyl)–1–pentylpyrrol–3–yl)–naphthalen–1–ylmethanone, some trade or other names: JWH–307.

24. 1–Pentyl–3–(4–Chloro–1–naphthoyl)indole, some trade or other names: JWH–398.

25. 2–[(1R,3S)–3–hydroxycyclohexyl]–5–(2–methyloctan–2–yl)phenol (Cannabicyclohexanol), some trade or other names: CP 47, 497, and homologues.

26. 2–(2–Methoxyphenyl)–1–[1–(2–cyclohexylethyl)indol–3–yl]ethanone, some trade or other names: RCS–8, SR–18.

27. 2–(4–Methoxyphenyl)–1–(1–pentyl–indol–3–yl)methanone, some trade or other names: RCS–4.

28. (R)–(+)–[2,3–Dihydro–5–methyl–3–(4–morpholinylmethyl)pyrrolo[1,2,3–de]–1,4–benzoxazin–6–yl]–1–napthalenylmethanone, some trade or other names: WIN 55,212–2.

29. (4–Methoxyphenyl)–[2–methyl–1–(2–morpholin–4–ylethyl)indol–3–yl]methanone, some trade or other names: WIN 48,098, Pravadoline.

b. In addition to any material, mixture, or preparation that contains any quantity of the chemical compounds listed in paragraph a., a synthetic controlled substance also includes the following chemical compounds,

their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation or compound:

1. 1–[(N–methylpiperidin–2–yl)methyl]–3–(2–iodobenzoyl)indole, some trade or other names: (AM–2233).

2. 1–Pentyl–3–(1–adamantoyl)indole, some trade or other names: (AB001).

3. [1–[(1–methyl–2–piperidinyl)methyl]–1H–indol–3–yl]–1–naphthalenyl–methanone, some trade or other names: (AM1220).

4. 1–(5–Fluoropentyl)–3–(2,2,3,3–tetramethylcyclopropyoyl)indole, some trade or other names: (XLR11).

5. 1–Pentyl–3–(2,2,3,3–tetramethycyclopropoyl)indole, some trade or other names: (UR–144).

6. 6–Methyl–2[(4–methylphenyl)amino]–4H–3,1–benzoxazin–4–one, some trade or other names: (URB 754).

7. [1,1′–biphenyl]–3–yl–carbamic acid, cyclohexyl ester, some trade or other names: (URB 602).

8. (3′–(Aminocarbonyl)[1,1′–biphenyl]–3–yl)–cyclohexylcarbamate, some trade or other names: (URB597).

9. 1–(5–Fluoropentyl)–3–(4–methyl–1–naphthoyl)indole, some trade or other names: (MAM2201).

10. 1–naphthalenyl[4–(pentyloxy)–naphthalenyl]methanone, some trade or other names: (CB–13).

11. 1–(5–Chloropentyl)–3–(2,2,3,3–tetramethylcyclopropoyl)indole, some trade or other names: (5–Chloro–UR–144).

12. 1–(5–Fluoropentyl)–N–tricyclo[3,3,1,13,7]dec–1–yl–1H–indole–3–carboxamide, some trade or other names: (STS–135).

13. 1[(N–Methylpiperidin–2–yl)methyl]–3–(adamant–1–oyl)indole, some trade or other names: (AM1248).

14. N–Adamantyl–1–pentyl–1H–indole–3–carboxamide, some trade or other names: (SDB–001, 2NE1).

15. 1–Pentyl–N–tricyclo[3,3,1,13,7]dec–1–yl–1H–indazole–3–carboxamide, some trade or other names: (AKB48, APINACA).

16. 3–Naphthoylindole.

17. 1–[2–(4–Morpholinyl)ethyl]–3–(2,2,3,3–tetramethylcyclopropyl)indole, some trade or other names: (A 796,260).

18. 1–[(tetrahydropyran–4–ylmethyl)–1H–indol–3–yl]–(2,2,3,3–tetramethylcyclopropyl)methanone, some trade or other names: (A 834,735).

19. 1–(Pent–4–en–1–yl)–3–(4–methyl–1–naphthoyl)indole, some trade or other names: (JWH–122 4–pentenyl analog).

20. N–[(1S)–1–(aminocarbonyl)–2–methylpropyl]–1–[(4–fluorophenyl)methyl]–1H–indazole–3–carboxamide some trade or other names: (AB–FUBINACA).

21. [1–(5–bromopentyl)–1H–indol–3–yl](2,2,3,3–tetramethylcyclopropyl)methanone, some trade or other names: (5–Bromo–UR–144)

22. 5–(1,1–Dimethyloctyl)–2–[(1R,3S)–3–hydroxycyclohexylphenol, some trade or other names: (CP–47,497 C8 homolog).

23. 1–(5–Fluoropentyl)–N–tricyclo[3,3,1,13,7]dec–1–yl–1H–indazole–3–carboxamide, some trade or other names: (5F–AKB48, 5F–APINACA).

24. 1–(penta–4–ene)–3–(1–naphthoyl)indole, some trade or other names: (JWH–022).

25. 1–(5–Chloropentyl)–3–(1–naphthoyl)indole, some trade or other names: (Chloro–AM–2201, JWH–018 N–5–chloropentyl analog).

26. 1–(5–Hydroxypentyl)–3–(1–naphthoyl)indole, some trade or other names: (Hydroxy–AM–2201).

27. N–[(2E)–3–(2–Methoxyethyl)4,5–dimethyl–1,3–thiazole–2(3H)–ylidene]–2,2,3,3–tetramethylcyclopropane carboxamide, some trade or other names: (A 836,339).

28. 1–Pentyl–3–(2–iodobenzoyl)indole, some trade or other names: (AM 679).

29. 1–Pentyl–3–(2–methylphenacetyl)indole, some trade or other names: (JWH–251).

30. 1–pentyl–1H–indole–3–carboxylic acid 8–quinolinyl ester, some trade or other names: (PB–22, QUPIC).

31. 1–(5–fluoropentyl)–1H–indole–3–carboxylic acid 8–quinolinyl ester, some trade or other names: (5F–PB–22).

32. 1–pentyl–N–(naphthalen–1–yl)–1H–indole–3–carboxamide, some trade or other names: (MN–24, NNE1).

33. 1–(cyclohexylmethyl)–1H–indole–3–carboxylic acid 8–quinolinyl ester, some trade or other names: (BB–22, QUCHIC).

34. N–[(1S)–1–(aminocarbonyl)–2–methylpropyl]–1–pentyl–1H–indazole–3–carboxamide, some trade or other names: (AB–PINACA).

35. 7–methoxy–1–(2–morpholinoethyl)–N–((1S,2S,4R)–1,3,3–trimethylbicyclo[2.2.1]heptan–2–yl)–1H–indole–3–carboxamide, some trade or other names: (MN–25).

36. ADB–PINACA.

37. FUB–AKB–48.

38. FUB–PB–22.

39. Heptyl–UR144.

40. THJ–018.

41. THJ–2201.

42. 1–heptyl–3–(1–napthoyl)indole), some trade or other names: (JWH–20).

43. Napthalen–1–yl–(1–propyl–1H–indol–3–yl)methanone, some trade or other names: (JWH–072).

44. (6aR,10aR)–3–(1, 1–Dimethylbutyl)–6a, 7, 10, 10a–tetrahydro–6,6,9–trimethyl–6H–dibenzo[b,d]pyran, some trade or other names: (JWH–133).

45. 3–(napthalen–1–ylmethyl)–1–pentyl–1H–indole, some trade or other names: (JWH–175).

46. 1–pentyl–3–(4–methoxyophenylacetyl)indole, some trade or other names: (JWH–201).

47. 1–pentyl–3–(3–methoxyphenylacetyl)indole, some trade or other names: (JWH 302).

48. [(1R,2R,5R)–2–[2,6–dimethoxy–4–(2–methyloctan–2–yl)phenyl]–7,

7–dimethyl–4–bicyclo[3.1.1]hept–3–enyl]methanol, some trade or other names: (HU–308).

49. 3–hydroxy–2–[(1R,6R)–3–methyl–6–(1–methylethenyl)–2–cyclohexen–1–yl]–5–pentyl–2,5–cyclohexadiene–1,4–dione, some trade or other names: (HU–331).

50. N–cyclopropyl–11–(3–hydroxy–5–pentylphenoxy)–undecanamide, some trade or other names: (CB–25).

51. N–cyclopropyl–11–(2–hexyl–5–hydroxyphenoxy)–undecanamide, some trade or other names: (CB–52).

52. 2–[(1R,2R,5R)–5–hydroxy–2–(3–hydroxypropyl)cyclohexyl]–5–(2–methyloctan–2–yl)phenol, some trade or other names: (CB–55,940)(CB–55).

53. 4–Methylethylcathinone, some trade or other names: (4–MEC, 4–Methylethcathinone).

54. 4′–Methyl–alpha–pyrrolidinopropiophenone, some trade or other names: (MPPP, ZZ–1).

55. (RS)–1–naphthalen–2–yl–2–pyrrolidin–1–ylpentan–1–one, some trade or other names: (Naphyrone).

56. alpha,alpha–Diphenyl–2–piperidinemethanol, some trade or other names: (Pipradrol, Meratran).

57. (RS)–1–(4–methylphenyl)–2–(1–pyrrolidinyl)pentan–1–one, some trade or other names: (Pyrovalerone).

58. 3,4–Dimethylmethcathinone, some trade or other names: (3,4–DMMC).

59. 4–Fluoroamphetamine, some trade or other names: (4–FA).

60. 4–Fluoromethamphetamine, some trade or other names: (4–FMA).

61. Butylone, some trade or other names: (bk–MBDB).

62. alpha-Pyrrolidinopentiophenone, some trade or other names: (alpha–PVP).

63. beta-keto-Dimethylbenzodioxolylbutanamine, some trade or other names: (bk–DMBDB).

64. 2–(methylamino)–1–phenylbutan–1–one, some trade or other names: (Buphedrone).

65. (RS)–2–ethylamino–1–phenyl–propan–1–one, some trade or other names: (N–Ethylcathinone).

66. 2–Fluoroamphetamine, some trade or other names: (2–FA).

67. Methoxetamine, some trade or other names: (MXE).

68. 2–Methylamino–1–phenylpentan–1–one, some trade or other names: (Pentedrone).

69. 3,4–Methylenedioxycathinone, some trade or other names: (MDC).

70. 2–Fluoromethamphetamine, some trade or other names: (2–FMA).

71. 4–methylmethamphetamine, some trade or other names: (4–MMA).

72. 4–Fluoroisocathinone, some trade or other names: (4–FIC).

73. 3–Fluoromethamphetamine, some trade or other names: (3–FMA).

74. Methiopropamine, some trade or other names: (MPA).

75. alpha-Pyrrolidinobutiophenone, some trade or other names: (alpha–PBP).

76. 4–Methoxy–N–methylcathinone, some trade or other names: (Methedrone, bk–PMMA).

77. alpha-Pyrrolidinopropiophenone, some trade or other names: (alpha–PPP).

78. (RS)–2–benzhydrylpiperidine, some trade or other names: (Desoxypipradrol).

79. 3,4–Methylenedioxyethylcathinone, some trade or other names: (MDEC).

80. 3,4–Methylenedioxy–alpha–pyrrolidinobutiophenone, some trade or other names: (MDPBP).

81. 1–(1,3–benzodioxol–5–yl)–2–(methylamino)pentan–1–one (Pentylone, bk–MBDP).

82. 3–Fluoroamphetamine, some trade or other names: (3–FA).

83. 3–Fluoromethcathinone, some trade or other names: (3–FMC).

84. 2–Fluoromethcathinone, some trade or other names: (2–FMC).

85. 1–(1,3–benzodioxol–5–yl)–2–(dimethylamino)propan–1–one (bk–MDDMA).

86. N,N–Diethylcathinone, some trade or other names: (Amfepramone, DEC).

87. 1,3–Dimethylamylamine, some trade or other names: (DMAA).

88. N, N–Dimethylcathinone, some trade or other names: (DMC).

89. N–Ethyl–3,4–methylenedioxycathinone, some trade or other names: (bk–MDEA).

90. N–Ethylamphetamine, some trade or other names: (EMA).

91. N–Ethylcathinone, some trade or other names: (EC).

92. 2–Ethylethcathinone, some trade or other names: (2–EEC).

93. 4–Ethyl–N–ethylcathinone, some trade or other names: (4–EEC).

94. 2–(5–Methoxy–1–benzofuran–3–yl)–N,N–dimethylethanamine, some trade or other names: (Dimembfe).

95. 2–(5–Methoxy–1–benzofuran–3–yl)N–ethylethamine.

96. 4–Methoxymethamphetamine, some trade or other names: (PMMA).

97. 4–Methoxy–N–ethylamphetamine, some trade or other names: (PMEA).

98. 4–Methoxy–N–ethylcathinone, some trade or other names: (ETHEDRONE).

99. 3–Methylmethcathinone, some trade or other names: (3–MMC).

100. 4–Methyl–alpha–pyrrolidinobutiophenone, some trade or other names: (MPBP).

101. 2–Methylethcathinone, some trade or other names: (2–MEC).

102. 3–Methylethcathinone, some trade or other names: (3–MEC).

103. 2–Ethylethcathinone, some trade or other names: (2–EEC).

104. 3–Ethylethcathinone, some trade or other names: (3–EEC).

105. 3–Ethylmethcathinone, some trade or other names: (3–EMC).

106. 3′,4′–Methylenedioxy–alpha–pyrrolidinopropiophenone, some trade or other names: (MDPPP).

107. alpha-Pyrrolidinopentiothiophenone, some trade or other names: (alpha–PVT).

108. 3–Methoxymethcathinone, some trade or other names: (3–MeOMC).

109. N–Methyl–1,3–benzodioxolylbutanamine, some trade or other names: (MBDB).

110. Ethcathinone, some trade or other names: (ETHYLPROPION, ETH–CAT).

111. Ethylone (3,4–methylenedioxy–N–ethylcathinone).

112. N–N–Diethyl–3,4–methylenedioxycathinone.

113. 3,4–methylenedioxy–propiophenone.

114. 2–Bromo–3,4–methylenedioxypropiophenone.

115. 3,4–methylenedioxy–propiophenone–2–oxime.

116. N–Acetyl–3,4–methylenedioxycathinone.

117. N–Acetyl–N–Methyl–3,4–methylenedioxycathinone.

118. N–Acetyl–N–Ethyl–3,4–methylenedioxycathinone.

119. 4–Bromomethcathinone.

120. 3–Bromomethcathinone.

121. Eutylone (beta–Keto–Ethylbenzodioxolylbutanamine).

122. 4′–Methoxy–alpha–pyrrolidinopropiophenone, some trade or other names: (MOPPP).

123. 4′–Methyl–alpha–pyrrolidinohexiophenone, some trade or other names: (MPHP).

124. Benocyclidine (BCP) or Benzothiophenylcyclohexylpiperidine, some trade or other names: (BTCP).

125. 4–Fluoro–(methylamino)butyrophenone, some trade or other names: (F–MABP).

126. 3–Methyl–4–Methoxymethacathinone, some trade or other names: (3–Me–4–MeO–MCAT).

127. 4–Methyl–(ethylamino)–butryophenone, some trade or other names: (Me–EABP).

128. 4–Ethyl–methcathinone, some trade or other names: (4–EMC).

129. 4–methoxy–N–ethylcathinone (bk–PMC;p–methox–ethcathinone).

130. 4′–Methoxy–alpha–pyrroldino–propiophenone (MeOPPP; 4′–MeO–PPP).

131. 3–Fluorocathinone (3–FC).

132. 4–Fluorocathinone (4–FC).

133. 4–methyl–buphedrone (4–MeMABP; 4MeBP; BZ–6378).

134. 3,4–Methylenedioxy–N–benzylcathinone, some trade or other names: (BMDP).

135. N–Benzyl–butylone, some trade or other names: (BMDB).

136. N–Hydroxy–3,4–methlyenedioxymethcathinone.

137. N–ethylbuphedrone, some trade or other names: (NEB).

138. 4–Fluorobuphedrone, some trade or other names: (4–FBP).

139. 4–Methoxy–pyrrolidinbutrophenone (4–MeO–PBP).

140. 4–Ethyl–pyrrolidinobutrophenone, some trade or other names: (4–Et–PBP).

141. 5–(2–aminopropyl)indole, some trade or other names: (5–IT).

142. 1–phenyl–2–(piperidin–1–yl)butan–1–one.

143. 2,4,5–Trimethyl–methacathinone, some trade or other names: (2,4,5–TMMC).

144. alpha-pyrrolidino-heptiophenone, some trade or other names: (alpha–PHpP).

145. 4–Methylamphetamine (4–MA: pTAP; PAL–313; 4–MeA; PmeA).

146. N–Ethyl–methamphetamine.

147. 4–(2–Aminopropyl)benzofuran, some trade or other names: (4–APB).

148. 5–(2–Aminopropyl)–2,3–dihydro–1H–indene (5–APDI; IAP; AIP; indanylaminoporpane).

149. 6,7–Methylenedioxy–2–aminotetralin, some trade or other names: (MDAT).

150. 4–Methylthioamphetamine (4–MTA; P1882).

151. 4–Chloroamphetamine (p–chloro–amphetamine).

152. 2,4,6–Trimethoxyamphetamine, some trade or other names: (TMA–6).

153. 2,4,5–Trimethoxyamphetamine, some trade or other names: (TMA–2).

154. 2,5–Dimethylamphetamine, some trade or other names: (2,5–DMA).

155. 3,4–Dimethylamphetamine, some trade or other names: (3,4–DMA).

156. N–propylamphetamine.

157. 4–Hydroxyamphetamine.

158. 3–Hydroxyamphetamine.

159. Methylenedioxydimethylamphetamine, some trade or other names: (MDDM).

160. 2–Aminoindane, some trade or other names: (2–AI).

161. 5,6–Methylenedioxy–N–methyl–aminoindane, some trade or other names: (MDMAI).

162. 2C–T–21.

163. 2C–B–Fly.

164. 3,4–dimethyl–2,5–dimethoxyphenethylamine (2C–G).

165. 25D–NBOMe.

166. 25G–NBOMe.

167. 25N–NBOMe.

168. Bromo-benzyldifuranyl-isopropylamine, some trade or other names: (Bromo Dragon Fly).

169. 3C–B fly.

170. 2,5–Dimethoxy–4–ethylthioamphetamine, some trade or other names: (Aleph–2).

171. 1–[(4–ethoxy–2,5–dimethoxy)phenyl]propan–2–amine, some trade or other names: (MEM).

172. 1–[2,5–dimethoxy–4–(propylthio)phenyl]propan–2–amine, some trade or other names: (Aleph–7).

173. N–benzyl–2–phenylethylanamine.

174. N,N–dimethyl–2–phenylethanamine.

175. 6–chloro–2–aminotetralin, some trade or other names: (6–CAT).

176. 2–phenylpropan–1–amine, some trade or other names: (B–Me–PEA).

177. 2–Phenethylamine, some trade or other names: (2–PEA).

178. 1–methylamino–1–(3,4–methylenedioxyphenyl)propane, some trade or other names: (M–ALPHA).

179. Camfetamine.

180. Methoxyphenamine.

181. 4–methylaminorex, some trade or other names: (4–MAR; 4–MAX; U4Euh; Euphoria; Ice).

182. (1–thiophen–2–yl)propan–2–amine (Thienoamphetamine).

183. Dimethocaine.

184. 4–Fluoroephedrine.

185. 4–methyaminorex (p–methyl derivative).

186. 1–[(N–methylpiperidin–2–yl)methyl]–2–methyl–3–(naphthalen–1–oyl)–6–nitroindole (AM1221).

187. (1–butyl–1H–indol–3–yl)(4–methoxyphenyl)–methanone (RCS–4 (C4) homolog).

188. 5–[3–(1–naphthoyl)–1H–indole–1–yl]pentanenitrile, some trade or other names: (AM2232).

189. 1–(Pentyl)–3–(4–bromo–1–naphthoyl)–indole, some trade or other names: (JWH–387).

190. 1–(Pentyl)–3–(4–fluoro–1–naphthoyl)–indole, some trade or other names: (JWH–412).

191. 1–(5–chlorpentyl)–3–(2–iodobenzoyl)indole, some trade or other names: (AM694 Derivative).

192. (2–iodo–5–nitrophenyl)–[1–[(1–methylpiperidin–2–yl]methyl]1H–indol–3–yl]–methanone, some trade or other names: (AM1241).

193. 1–Pentyl–3–[1–(4–propyl)naphthoyl]indole, some trade or other names: (JWH–182).

194. JWH–081 2–methoxynaphthyl isomer, some trade or other names: (JWH–267).

195. (3–methoxyphenyl)(1–pentyl–1H–indol–3–yl)methanone, some trade or other names: (RCS–4 3–methoxy isomer).

196. [1–(5–fluoropentyl)–1H–indol–3–yl](4–ethyl–1–naphthalenyl)–methanone (EAM–2201).

197. ADB–FUBINACA.

198. ADBICA.

199. AM–279.

200. JWH–370.

201. NNE–1.

202. MAM–2201 chloropentyl derivative.

203. 1–(5–fluoropentyl)–3–(2–methyl–benzoyl)indole.

204. 1–(5–fluoropentyl)–3–(2–ethylbenzoyl)indole.

205. AB–005.

206. AB–005 Azepane isomer.

207. 4–hydroxy–3,3,4–trimethyl–1–(1–pentyl–1H–indol–3–yl)pentan–1–one (4–HTMPIPO).

208. UR–12.

209. 5–Fluoro–ADBICA.

210. BAY–38–7271; KN 38–7271.

211. JTE–907.

212. Org 27569.

213. Org 27759.

214. Org 29647.

215. LY 2183240.

216. JTE 7–31.

217. URB 937.

218. 3–methoxy–eticyclidine, some trade or other names: (3–MeO–PCE).

219. 1–Phenylcyclohexanamine, some trade or other names: (PCA).

220. 4–Methyl–phencyclidine, some trade or other names: (4–Me–PCP).

221. 4–Methoxy–eticyclidine, some trade or other names: (4–MeO–PCE).

222. 4–Methoxyphencyclidine, some trade or other names: (Methoxydine; 4MeO–PCP).

223. 3–Methoxyphencyclidine, some trade or other names: (3–MeO–PCP).

224. 1–phenyl–N–propylcyclohexanamine, some trade or other names: (PCPr).

225. N–(2–methoxyethyl)–1–phenylcyclohexanamine, some trade or other names: (PCMEA).

226. N–(2–ethoxyethyl)–1–phenylcyclohexanamine, some trade or other names: (PCEEA).

227. N–(3–methoxypropyl)–1–phenylcyclohexanamine, some trade or other names: (PCMPA).

228. 3–Hydroxy–phencyclidine, some trade or other names: (3–OH–PCP).

229. Methoxyketamine, some trade or other names: (2–MeO–2–deschloro–ketamine).

230. Tiletamine, some trade or other names: (TCE).

231. N–ethylnorketamine.

232. N–Methyltryptamine, some trade or other names: (NMT).

233. N–Methyl–N–isopropyltryptamine, some trade or other names: (MiPT; MIPT).

234. 4–hydroxy–N,N–methylisopropyltryptamine, some trade or other names: (4–OH–MiPT).

235. 4–Acetoxy–N,N–diisopropyl–tryptamine (4–AcO–DiPT: 4–AcO–DIPT; 4–Acetoxy–MiPT).

236. 4–Methoxy–N,N–dimethyltryptamine, some trade or other names: (4–MeO–DMT).

237. 5–Hydroxytryptamine, some trade or other names: (5–HT).

238. 5–acetoxy–N,N–dimethyltryptamine, some trade or other names: (5–AcO–DMT).

239. 5–Methoxy–N,N–dipropyltryptamine, some trade or other names: (5–MeO–DPT).

240. d–Lysergic acid amide, some trade or other names: (LSA; ergine).

241. 2,5–dimethoxy–4–chloroamphetamine, some trade or other names: (DOC).

242. N–(2–Methoxybenzyl)–4–iodo–2,5–dimethoxyphenethylamine, some trade or other names: (25I–NBOMe).

243. 4–Ethyl–2,5–dimethoxyphenethylamine, some trade or other names: (2C–E).

244. 2,5–Dimethoxy–4–iodophenethylamine, some trade or other names: (2C–I).

245. 6–(2–Aminopropyl)–2,3–dihydrobenzofuran, some trade or other names: (6–APDB).

246. 6–(2–Aminopropyl)benzofuran, some trade or other names: (6–APB).

247. 5–(2–Aminopropyl)–2,3–dihydrobenzofuran, some trade or other names: (5–APDB).

248. 5–(2–Aminopropyl)benzofuran, some trade or other names: (5–APB).

249. 2,5–Dimethoxy–4–(n)–propylthiophenethylamine, some trade or other names: (2C–T–7).

250. 2,5–Dimethoxy–4–(n)–propylphenethylamine, some trade or other names: (2C–P).

251. 2,5–Dimethoxy–4–bromoamphetamine, some trade or other names: (DOB).

252. 2,5–Dimethoxy–4–bromobenzylpiperazine, some trade or other names: (2C–B–BZP).

253. 2,5–Dimethoxy–4–bromophenethylamine, some trade or other names: (2C–B).

254. 2,5–Dimethoxy–4–chlorophenethylamine, some trade or other names: (2C–C).

255. 2,5–Dimethoxy–(4–ethylthio)phenethylamine, some trade or other names: (2C–T–2).

256. 2,5–Dimethoxy–4–iodoamphetamine, some trade or other names: (DOI).

257. 2,5–Dimethoxy–4–methylamphetamine, some trade or other names: (DOM).

258. 2,5–Dimethoxyphenethylamine, some trade or other names: (2C–H).

259. 2–(2,5–Dimethoxyphenyl–4–bromo)–N–(2–methoxybenzyl)ethanamine, some trade or other names: (25B–NBOMe).

260. 2–(2,5–Dimethoxyphenyl–4–chloro)–N–(2–methoxybenzyl)ethanamine, some trade or other names: (25C–NBOMe).

261. 2–(2,5–Dimethoxyphenyl–4–ethyl)–N–(2–methoxybenzyl)ethanamine, some trade or other names: (25E–NBOMe).

262. 2–Ethylmethcathinone, some trade or other names: (2–EMC).

263. 2–(2,5–Dimethoxyphenyl)–N–(2–methoxybenzyl)ethanamine, some trade or other names: (25H–NBOMe).

264. BZP (Benzylpiperazine).

265. para-Fluorophenylpiperazine.

266. 1–(4–Methylphenyl)piperazine.

267. meta-Cholorophenylpiperazine.

268. para-Methoxyphenylpiperazine.

269. DBZP (1,4–dibenzylpiperazine).

270. TFMPP (3–Trifluoromethylphenylpiperazine).

271. 2C–T–4 (2,5–Dimethoxy–4–isopropylthiophenethylamine.

272. 2C–T (2,5–Dimethoxy–4–methylthiophenethylamine).

273. 2C–D (2–(2,5–Dimethoxy–4–methylphenyl)ethanamine).

274. 2C–N 2,5–Dimethoxy–4–nitrophenethylamine.

275. 5–methoxy–N,N–diallyltryptamine, some trade or other names: (5–MeO–DALT).

276. 5–Methoxy–N,N–Diisopropyltryptamine, some trade or other names: (5–MeO–DIPT).

277. 5–Methoxy–alpha–methyltryptamine, some trade or other names: (5–MeO–AMT).

278. 4–Acetoxy–N,N–dimethyltryptamine, some trade or other names: (4–AcO–DMT).

279. 4–Hydroxy–N,N–diethyltryptamine, some trade or other names: (4–HO–DET).

280. 4–Hydroxy–N,N–diisopropyltryptamine, some trade or other names: (4–HO–DIPT).

281. 4–Hydroxy–N–methyl–N–ethyltryptamine, some trade or other names: (4–OH–MET).

282. 5–Methoxy–N,N–diethyltryptamine, some trade or other names: (5–MeO–DET).

283. 5–Methoxy–N–methyl–N–isopropyltryptamine, some trade or other names: (5–MeO–MIPT).

284. 4–Acetoxy–N,N–diethyltryptamine, some trade or other names: (4–AcO–DET).

285. 4–Acetoxy–N–methyl–N–isopropyltryptamine, some trade or other names: (4–AcO–MIPT).

286. N,N–Dipropyltryptamine, some trade or other names: (DPT).

287. N,N–Diisopropyltryptamine, some trade or other names: (DIPT).

288. 4–Methoxy–N–methyl–N–isopropyltryptamine, some trade or other names: (4–MeO–MIPT).

289. Tyramine (4–Hydroxyphenethylamine).

290. 5–Hydroxy–alpha–methyltryptamine.

291. 5–Hydroxy–N–methyltryptamine.

292. 5–Methoxy–N,N–dimethyltryptamine.

293. 5–Methyl–N,N–dimethyltryptamine.

294. Diphenylprolinol, some trade or other names: (D2PM; diphenyl–2–pyrrolidinemethanol).

295. 3,4 Dichloromethylphenidate, some trade or other names: (3,4–CTMP).

296. 3–chloromethyl–phenidate, some trade or other names: (3–CTMP).

297. 4–Methylmethylphenidate.

298. 4–Fluoromethyl–phenidate, some trade or other names: (4–FTMP).

299. Ethylphenidate.

300. Etizolam (Etilaam, Etizola, Sedekopan, Pasaden, Depas).

301. Phenazepam.

302. Pyrazolam.

303. CL–218,872.

304. Zopiclone.

305. Salvinorin A.

306. AH–7921.

307. O–Desmethyltramadol, some trade or other names: (O–DT; ODT).

308. Desmorphine (Dihydrodesoxymorphine; permonid; krokodil; crocodile).

309. Acetyl Fentanyl (desmethylfentanyl).

310. 1–cyclohexyl–4–(1,2–diphenylethyl)piperazine (MT–45).

311. 1–(2–methoxyphenyl)piperazine, some trade or other names: (MOPIP).

312. 1–(4–Chlorophenyl)piperazine, some trade or other names: (pCPP).

313. para-Methoxyphenyl-piperazine, some trade or other names: (MBZP).

314. Methylmethaqualone.

315. Etaqualone.

316. 5–Iodo–2–aminoindane, some trade or other names: (5–IAI).

317. 5,6–(Methylenedioxy)–2–aminoindane, some trade or other names: (5,6–MDAI).

318. 4,5–(Methylenedioxy)–2–aminoindane, some trade or other names: (4,5–MDAI).

319. MMAI.

320. W–15.

321. W–18.

322. Mitragynine.

323. Hydroxymitragynine.

324. Butyrfentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–pyridinyl-]butyramide).

325. Beta–Hydroxythiofentanyl (N–phenyl–N–{1–[2–hydroxy–2–(2–thienyl)ethyl]–4–piperdinyl}–propanamide).

326. 4–methylphenethyl acetyl fentanyl (N–phenyl–N–{1–[2–(4–methylphenyl)ethyl]–4–piperdinyl}–acetamide).

327. Acrylfentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–piperdinyl]–prop–2–enamide).

328. 3–Allylfentanyl (N–phenyl–N–[1–(2–phenylethyl)–(3s,4R)–3–prop–2–enyl–4–piperidinyl]–propanamide).

329. Benzodioxole fentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–piperidinyl]–benzo[d][1,3]dioxole–5–carboxamide).

330. Benzyl carfentanil (N–phenyl–N–(1–benzyl–4–methylcarboxylate–4–piperidinyl)–propanamide).

331. Brifentanil (N–(2–fluorophenyl)–N–{(3R,4S)–1–[2–(4–ethyl–5–oxotetrazol–1–yl)eth-
yl]–3–methyl–4–piperdinyl}–2–methoxyacetamide).

332. Cyclopentylfentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–piperidinyl)–cyclopentanecarboxamide).

333. 2,5–Dimethylfentanyl (N–phenyl–N–[1–(2–phenylethyl)–2,5–dimethyl–4–piperidinyl]–propranamide).

334. 4–Fluoroisobutyryl fentanyl (N–(4–fluorophenyl)–N–[1–(2–phenylethyl)–4–piperidinyl)–isobutyramide).

335. Furanyl fentanyl (N–phenyl–N–[1–(2–phenylethyl)piperidin–4–yl]furan–2–carboxamide).

336. Furanylethyl fentanyl (N–phenyl–N–[1–(2–furanylethyl)–4–piperidinyl]–propanamide).

337. Isobutyryl fentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–piperdinyl]–2–methylpropanamide).

338. Lofentanil (N–phenyl–N–[1–(2–phenylethyl)–(3R,4S)–3–methyl–4–methylcarboxylate–4–piperidinyl]–propanamide).

339. 4–Methoxybutyrfentanyl (N–(4–methoxyphenyl)–N–[1–(2–phenylethyl)–4–piperidinyl]–butyramide).

340. 4–Methoxymethylfentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–methoxymethyl–4–piperidinyl]–propanamide).

341. Meta-fluorobutyryl fentanyl (N–(3–fluorophenyl)–N–[1–(2–phenylethyl)–4–piperidnyl)–butyramide).

342. Meta-fluorofentanyl (N–(3–fluorophenyl)–N–[1–(2–phenylethyl)–4–piperidnyl)–propanamide).

343. 3–Methylbutyrfentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–piperidinyl]–butyramide).

344. N–Methylcarfentanyl (N–phenyl–N–(1–methyl–4–methylcarboxylate–4–piperidinyl)–propanamide).

345. Methoxyacetylfentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–piperidinyl]–2–methoxyacetamide).

346. Mirfentanyl (N–(2–pyrazinyl)–N–[1–(2–phenylethyl)–4–piperidinyl]–2–furamide).

347. Ocfentanil (N–(2–fluorophenyl)–N–[1–(2–phenylethyl)–4–piperdinyl]–2–methoxyacetamide).

348. Ohmefentanyl (N–phenyl–N–[1–(2–hydroxy–2–phenylethyl)–3–methyl–4–piperidinyl]–propanamide).

349. Ortho-fluorobutyryl fentanyl (N–(2–fluorophenyl)–N–[1–(2–phenylethyl)–4–piperidnyl)–butyramide).

350. Ortho-fluorofentanyl (N–(2–fluorophenyl)–N–[1–(2–phenylethyl)–4–piperidnyl)–propanamide).

351. Para-chlorofentanyl (N–(4–chlorophenyl)–N–[1–(2–phenylethyl)–4–piperidinyl]–propanamide).

352. Para-chloroisobutyryl fentanyl (N–(4–chlorophenyl)–N–[1–(2–phenylethyl)–4–piperidinyl]–isobutyramide).

353. 4–Fluorobutyryl fentanyl (N–(4–fluorophenyl)–N–[1–(2–phenylethyl)–4–piperidinyl]–butyramide).

354. Para-methoxyfentanyl (N–(4–methoxyphenyl)–N–[1–(2–phenylethyl)–4–piperidinyl]–propanamide).

355. Para-methylfentanyl (N–(4–methylphenyl)–N–[1–(2–phenylethyl)–4–piperidinyl]–propanamide).

356. 4–Phenyl fentanyl (N–phenyl–N–[4–phenyl–1–(2–phenylethyl)–4–piperidinyl]–propanamide).

357. Trefentanyl (N–(2–fluorophenyl)–N–{1–[2–(4–ethyl–5–oxo–4,5–dihydro–1H–tetrazol–1–yl)ethyl]–4–phenyl–4–piperdinyl}–propanamide).

358. Valeryl fentanyl (N–phenyl–N–[1–(2–phenylethyl)–4–piperidinyl]–pentanamide).

359. Alpha–Methylacetylfentanyl (N–phenyl–N–[1–phenylpropan–2–yl)–4–piperidinyl]–acetamide).

360. Alpha–Methylbutyrfentanyl (N–phenyl–N–[1–phenylpropan–2–yl)–4–piperidinyl]–butyramide).

361. Alpha–Methylthiofentanyl (N–phenyl–N–[1–(1–thienyl–2–ylpropan–2–yl)–4–piperidinyl]–propanamide).

362. Beta–Hydroxy fentanyl (N–phenyl–N–[1–(2–hydroxy–2–phenylethyl)–4–piperidinyl]–propanamide).

363. Beta–Methyl fentanyl (N–phenyl–N–[1–(2–phenylpropyl)–4–piperdinyl]–propanamide).

364. U–47700 (3,4–Dichloro–N–[(1R,2R)–2–(dimethylamino)cyclohexyl]–N–methylbenzamide).

365. W–19 ((Z)–N–{1–[2–(4–aminophenyl)ethyl]piperidin–2–ylidene}–4–chlorobenzenesulfonamide).

366. Flubromazolam (8–bromo–6–(2–fluorophenyl)–1–methyl–4H–[1,2,4]triazolo[4,3–a][1,4]benzodiazepine).

367. Tianeptine.

(5)a. A synthetic controlled substance analogue, being a material, mixture, or preparation that contains any chemical structure of which is chemically similar to the chemical structure of any other controlled substance in Schedule I or Schedule II or that satisfies any one of the following:

1. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system that mimics or is similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or Schedule II.

2. With respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or Schedule II and the substance is actually capable of producing a stimulant, depressant, or hallucinogenic effect on the central nervous system that mimics, is similar to, or is greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or Schedule II.

3. Has been demonstrated to have binding activity at one or more cannabinoid receptors.

4. Is capable of exhibiting cannabinoid-like activity.

5. Any compound structurally analogous to, mimicking, or derived from 3–(1–naphthoyl)indole or 1H–indol–3–yl–(1–naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

6. Any compound structurally analogous to, mimicking, or derived from 3–(1–naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide,

alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

7. Any compound structurally analogous to, mimicking, or derived from 1–(1–naphthylmethyl)indene by substitution at the 3–position of the indene ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

8. Any compound structurally analogous to, mimicking, or derived from 3–phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

9. Any compound structurally analogous to, mimicking, or derived from 2–(3–hydroxycyclohexyl)phenol by substitution at the 5–position of the phenolic ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl, whether or not substituted in the cyclohexyl ring to any extent.

10. Any compound structurally analogous to, mimicking, or derived from 3–(2,2,3,3–tetramethylcyclopropoyl)indole or 1H–indol–3–yl–(2,2,3,3–tetramethylcyclopropoyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indole ring to any extent.

11. Any compound structurally analogous to, mimicking, or derived from 3–(adamant–1–oyl)indole or 1H–indol–3–yl–(1–adamantyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indole ring to any extent.

12. Any compound structurally analogous to, mimicking, or derived from N–(1–naphthalenyl)indole–3–carboxyamide or 1H–indol–(N–naphthyl)–3–carboxamide by substitution at the nitrogen atom of the indole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperi-

din–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

13. Any compound structurally analogous to, mimicking, or derived from N–(adamantan–1yl)indole–3–carboxyamide or 1H–indol–3–carboxamide–(1–adamantyl) by substitution at the nitrogen atom of the indole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indole ring to any extent.

14. Any compound structurally analogous to, mimicking, or derived from N–(adamantan–1yl)indazole–3–carboxyamide or 1H–indazole–3–carboxamide–(1–adamantyl) by substitution at the nitrogen atom of the indazole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indazole ring to any extent.

15. Any compound structurally analogous to, mimicking, or derived from N–[(1S)–1–(aminocarbonyl)–2–methylpropoyl]indazole–3–carboxyamide or 1H–indazole–3–carboxamide–N–[(1S)–1–(aminocarbonyl)–2–methylpropoyl] by substitution at the nitrogen atom of the indazole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indazole ring to any extent.

16. Any compound structurally analogous to, mimicking, or derived from 3–(1–naphthoyl)indazole or 1H–indazole–3–yl–(1–naphthyl)methane by substitution at the nitrogen atom of the indazole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indazole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

17. Any compound structurally analogous to, mimicking, or derived from 3–(carboxylic acid 8–quinolinyl ester)indole or 1H–indol–3–carboxylic acid–(8–quinolinyl)ester by substitution at the nitrogen atom of the indole ring by alkyl, alkyl halide, aryl halide, alkyl aryl halide, alkenyl, aliphatic alcohol, cycloalkylmethyl, cycloalkylethyl, (N–alkylpiperidin–2–yl)methyl, (tetrahydropyran–4–yl)methyl, or 2–(4–morpholinyl)ethyl whether or not further substituted in the indole ring to any extent, whether or not substituted in the quinoline ring to any extent.

18. Any compound structurally related to 2–(4–iodo–2,5–dimethoxyphenyl) ethanamine by substitution of the iodo moiety (4 position) with other halides, alkyl, alkyl halides, thioalkyl, cycloalkyl, cycloalkylhalides and/or substitution at the nitrogen atom of the ethanamine with alkyl, alkyl halide, alkenyl, cycloalkylmethyl, cycloalkylethyl, phenyl, benzyl whether or not further substituted in the (either) phenyl ring to any extent.

19. Any compound structurally related to 2,5–dimethoxy–4–chloroamphetamine by substitution of the chloro moiety (4 position) with other halides, alkyl, alkyl halides, thioalkyl, cycloalkyl, cycloalkylhalides and/or substitution at the nitrogen atom with alkyl, alkyl halide, alkenyl, cycloalkylmethyl, cycloalkylethyl, phenyl, benzyl whether or not further substituted in the (either) phenyl ring to any extent.

20. Any compound structurally related to 2–amino–1–phenyl–1–propanone (cathinone) by substitution of the amine with alkyl, alkyl halide, alkenyl, cycloalkylmethyl, cycloalkylethyl, phenyl, benzyl whether or not further substituted in the (either) phenyl ring to any extent.

21. Any compound structurally related to a–pyrrolidinopentiophenone (a–pvp) whether or not further substituted in the phenyl ring to any extent, whether or not further substituted in the pyrrolidine ring to any extent.

b. A synthetic controlled substance or analogue in subdivision (4) or this subdivision does not include any of the following:

1. Any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act.

2. With respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by 21 U.S.C. § 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

c. A controlled substance analogue is treated as a controlled substance in Schedule I.

d. After the Alabama Department of Forensic Sciences has determined a substance to be a synthetic controlled substance analogue under this section, the department shall notify the Alabama Department of Public Health with information relevant to scheduling as provided by Section 20–2–20.

(Acts 1971, No. 1407, p. 2378, § 204; Act 2012–267, p. 517, §§ 1, 2; Act 2014–184, p. 530, § 2; Act 2015–316, p. 954, § 1(b)(1); Act 2015–368, § 1(b)(1); Act 2016–279, p. 688, § 1; Act 2018–552, § 1; Act 2019–502, § 1; Act 2021–325, § 1.)

§ 20–2–24. Schedule II — Standards for compilation.

The State Board of Health shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

(Acts 1971, No. 1407, p. 2378, § 205.)

§ 20–2–25. Schedule II — Listing of controlled substances.

The controlled substances listed in this section are included in Schedule II:

(1) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.

b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph a, but not including the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

e. Phenibut and any salt, sulfate, free acid, or other preparation of phenibut, and any salt, sulfate, free acid, compound, derivative, precursor, or preparation thereof that is chemically equivalent or identical with phenibut.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

a. Alphaprodine;

b. Anileridine;

c. Bezitramide;

d. Dihydrocodeine;

e. Diphenoxylate;

f. Fentanyl;

g. Isomethadone;

h. Levomethorphan;

i. Levorphanol;

j. Metazocine;

k. Methadone;

l. Methadone — Intermediate, 4–cyano–2–dimethylamino–4, 4–diphenyl butane;

m. Moramide — Intermediate, 2–methyl–3–morpholino–1, 1–diphenyl–propane–carboxylic acid;

n. Pethidine;

o. Pethidine — Intermediate-A, 4–cyano–l–methyl–4–phenylpiperidine;

p. Pethidine—Intermediate-B, ethyl–4–phenylpiperidine–4–carboxylate;

q. Pethidine—Intermediate-C, 1–methyl–4–phenylpiperidine–4–carboxylic acid;

r. Phenazocine;

s. Piminodine;

t. Racemethorphan;

u. Racemorphan.

(Acts 1971, No. 1407, p. 2378, § 206; Act 2021–325, § 1.)

§ 20–2–26. Schedule III — Standards for compilation.

The State Board of Health shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(Acts 1971, No. 1407, p. 2378, § 207.)

§ 20–2–27. Schedule III — Listing of controlled substances.

(a) The controlled substances listed in this section are included in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

a. Amphetamine, its salts, optical isomers, and salts of its optical isomers;

b. Phenmetrazine and its salts;

c. Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

d. Methylphenidate.

(2) Unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

b. Chlorhexadol;

c. Glutethimide;

d. Lysergic acid;

e. Lysergic acid amide;

f. Methyprylon;

g. Phencyclidine;

h. Sulfondiethylmethane;

i. Sulfonethylmethane;

j. Sulfonmethane.

(3) Nalorphine.

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

a. Not more than 1.8 grams of codeine or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

b. Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

c. Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

d. Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

e. Not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

f. Not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

g. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

h. Not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(b) The State Board of Health may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of subsection (a) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(Acts 1971, No. 1407, p. 2378, § 208.)

§ 20–2–28. Schedule IV — Standards for compilation.

The State Board of Health shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

(Acts 1971, No. 1407, p. 2378, § 209.)

§ 20–2–29. Schedule IV — Listing of controlled substances.

(a) The controlled substances listed in this section are included in Schedule IV:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a. Barbital;

b. Chloral betaine;

c. Chloral hydrate;

d. Ethchlorvynol;

e. Ethinamate;

f. Methohexital;

g. Meprobamate;

h. Methylphenobarbital;

i. Paraldehyde;

j. Petrichloral;

k. Phenobarbital.

(b) The State Board of Health may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (a) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

(Acts 1971, No. 1407, p. 2378, § 210.)

§ 20–2–30. Schedule V — Standards for compilation.

The State Board of Health shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

(Acts 1971, No. 1407, p. 2378, § 211.)

§ 20–2–31. Schedule V — Listing of controlled substances.

The controlled substances listed in this section are included in Schedule V:

(1) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams;

b. Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams;

c. Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams;

d. Not more than 2.5 milligrams of diphenozylate and not less than 25 micrograms of atropine sulfate per dosage unit;

e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(Acts 1971, No. 1407, p. 2378, § 212.)

§ 20–2–32. Revision and republication of schedules.

The State Board of Health shall revise and republish the schedules annually.

(Acts 1971, No. 1407, p. 2378, § 213.)

ARTICLE 3.

REGULATION OF MANUFACTURE AND DISTRIBUTION.

§ 20–2–50. Certifying boards to promulgate rules and charge reasonable fees for registration and administration of provisions relating to manufacture, etc., of controlled substances; disposition of fees collected.

(a) The certifying boards shall promulgate rules and charge reasonable fees to defray expenses incurred in registration and administration of the provisions of this article in regard to the manufacture, dispensing, or distribution of controlled substances within the state.

(b) The fees collected to defray expenses shall be retained by the certifying boards.

(Acts 1971, No. 1407, p. 2378, § 301; Acts 1976, No. 699, p. 965, § 2.)

§ 20–2–51. Registration of persons manufacturing, distributing, or dispensing controlled substances — General requirements.

(a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state must obtain annually a registration issued by the certifying boards in accordance with its rules.

(b) Persons registered by the certifying boards under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(c) The following persons need not register and may lawfully possess controlled substances under this article:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman or an employee thereof whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The certifying boards may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if they find it consistent with the public health and safety.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The certifying boards may inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by them.

(Acts 1971, No. 1407, p. 2378, § 302.)

§ 20–2–52. Registration of persons manufacturing, distributing, or dispensing controlled substances — Standards; requirements as to practitioners conducting research; effect of federal registration.

(a) The certifying boards shall register only an applicant certified by their respective boards to manufacture, dispense, or distribute controlled substances enumerated in Schedules I, II, III, IV and V; provided, that the State Board of Pharmacy shall register all manufacturers and wholesalers unless they determine that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the abovementioned boards shall consider the following factors:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material in any application filed under this article;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) Any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The State Board of Health need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the State Board of Health evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this article.

(Acts 1971, No. 1407, p. 2378, § 303; Acts 1976, No. 699, p. 965, § 3.)

§ 20–2–53. Registration of persons manufacturing, distributing, or dispensing controlled substances — Order to show cause; proceedings; review; issuance of stay.

(a) Before denying, suspending, or revoking a registration or refusing a renewal of registration, the certifying boards shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the certifying board at a time and place not less than 30 days after the date of service of the order, but in the case of a denial of renewal of registration the show cause order shall be served not later than 30 days before the expiration of the registration. These proceedings shall be conducted in accordance with the Alabama Administrative Procedure Act and the procedures established by the respective certifying board without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) Anyone adversely affected by any order of a certifying board denying, suspending, or revoking a registration or refusing the renewal of a registration, whether or not such suspension, revocation, or registration is limited, may obtain judicial review thereof by filing a written petition for review with the Circuit Court of Montgomery County in accordance with Section 41–22–20.

(c) The following procedures shall take precedence over subsection (c) of Section 41–22–20 relating to the issuance of a stay of any order of the certifying board suspending, revoking, or restricting a registration. The suspension, revocation, or restriction of a registration shall be given immediate effect, and no stay or supersedeas shall be granted pending judicial review of a decision by the certifying board to suspend, revoke, or restrict a registra-

tion unless a reviewing court, upon proof by the party seeking judicial review, finds in writing that the action of the certifying board was taken without statutory authority, was arbitrary or capricious, or constituted a gross abuse of discretion. Notwithstanding any other provision of law to the contrary, any action commenced for the purpose of seeking judicial review of the administrative decisions of a certifying board, including writ of mandamus, or judicial review pursuant to the Alabama Administrative Procedure Act, must be filed, commenced, and maintained in the Circuit Court of Montgomery County, Alabama.

(d) From the judgment of the circuit court, either the certifying board or the affected party who invoked the review may obtain a review of any final judgement of the circuit court under Section 41–22–21. No security shall be required of the certifying board.

(Acts 1971, No. 1407, p. 2378, § 305; Acts 1982, No. 82–492, p. 815, § 2; Act 2002–140, p. 359, § 3.)

§ 20–2–54. Registration of persons manufacturing, distributing, or dispensing controlled substances — Revocation or suspension of registration — Grounds and procedure generally.

(a) A registration under Section 20–2–52 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the certifying boards upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under this article;

(2) Has been convicted of a crime under any state or federal law relating to any controlled substance;

(3) Has had his or her federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;

(4) Has violated the provisions of Chapter 23 of Title 34; or

(5) Has, in the opinion of the certifying board, excessively dispensed controlled substances for any of his patients.

a. A registrant may be considered to have excessively dispensed controlled substances if his certifying board finds that either the controlled substances were dispensed for no legitimate medical purpose, or that the amount of controlled substances dispensed by the registrant is not reasonably related to the proper medical management of his patient's illnesses or conditions. Drug addiction shall not be considered an illness or condition which would justify continued dispensing of controlled substances, except in gradually decreasing dosages administered to the patient for the purpose of curing the addiction.

b. A registrant who is a physician licensed to practice medicine in the State of Alabama may be considered to have excessively dispensed controlled substances if he or she prescribes, orders, dispenses, administers,

supplies, or otherwise distributes any Schedule II amphetamine and/or Schedule II amphetamine-like anorectic drug, and/or Schedule II sympathomimetic amine drug or compound thereof, and/or any salt, compound, isomer, derivative, or preparation of the foregoing which are chemically equivalent thereto, and/or other non-narcotic Schedule II stimulant drug, which drugs or compounds are classified under Schedule II of the Alabama Uniform Controlled Substances Act, Section 20–2–24, to any person except for the therapeutic treatment of:

1. Narcolepsy.

2. Hyperkinesis.

3. Brain dysfunction of sufficiently specific diagnosis, or etiology which clearly indicates the need for these substances in treatment or control.

4. Epilepsy.

5. Differential psychiatric evaluation of clinically significant depression provided however, that such treatment shall not extend beyond a period of 30 days unless the patient is referred to a licensed practitioner specializing in the treatment of depression.

6. Clinically significant depression shown to be refractory to other therapeutic modalities provided however, that such treatment shall not extend beyond a period of 30 days unless the patient is referred to a licensed practitioner specializing in the treatment of depression;

or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol must be submitted to and reviewed and approved by the State Board of Medical Examiners before the investigation has begun. A physician prescribing, ordering, or otherwise distributing the controlled substances listed above in the manner permitted by this subsection shall maintain a complete record which must include documentation of the diagnosis and reason for prescribing, the name, dose, strength, and quantity of the drug, and the date prescribed or distributed. The records required under this subsection shall be made available for inspection by the certifying board or its authorized representative upon request. Those Schedule II stimulant drugs enumerated above shall not be dispensed or prescribed for the treatment or control of exogenous obesity.

(b) The certifying boards may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the certifying boards suspend or revoke a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the

deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The certifying boards shall promptly notify the Drug Enforcement Administration of the United States Department of Justice of all orders suspending or revoking registration and all forfeitures of controlled substances.

(Acts 1971, No. 1407, p. 2378, § 304; Acts 1979, No. 79–204, p. 313, § 1; Acts 1983, 4th Ex. Sess., No. 83–890, § 2; Act 2001–971, 3rd Sp. Sess., p. 873, § 2.)

§ 20–2–54.1. Rules and regulations.

The certifying boards under the Alabama Uniform Controlled Substances Act, the State Board of Medical Examiners, and the Medical Licensure Commission are each authorized to promulgate such rules and regulations as may be required to implement the provisions of this chapter.

(Acts 1983, 4th Ex. Sess., No. 83–890, § 4.)

§ 20–2–55. Registration of persons manufacturing, distributing, or dispensing controlled substances — Revocation or suspension of registration — Suspension without prior order to show cause.

The certifying boards may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 20–2–54 or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the certifying boards or dissolved by a court of competent jurisdiction.

(Acts 1971, No. 1407, p. 2378, § 305.)

§ 20–2–56. Maintenance of records and inventories by registrants generally.

Persons registered to manufacture, distribute, or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and with any additional rules issued by the State Board of Medical Examiners, the State Board of Health, or the State Board of Pharmacy.

(Acts 1971, No. 1407, p. 2378, § 306; Acts 1976, No. 699, p. 965, § 4.)

§ 20–2–57. Distribution of certain controlled substances by one registrant to another registrant.

Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance

with the provisions of federal law respecting order forms shall be deemed compliance with this section.

(Acts 1971, No. 1407, p. 2378, § 307.)

§ 20–2–58. Dispensing of controlled substances in Schedule II; maintenance of records and inventories by registered pharmacies.

(a) Except as otherwise provided in this section or as otherwise provided by law, a pharmacist may dispense directly a controlled substance in Schedule II only pursuant to a written prescription signed by the practitioner. Except as provided in subsections (b) and (c), a prescription for a Schedule II controlled substance may be transmitted by the practitioner or the agent of the practitioner to a pharmacy via facsimile equipment; provided, the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance.

(b) A prescription written for a Schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner or the agent of the practitioner to the home infusion pharmacy by facsimile. The facsimile shall serve as the original written prescription.

(c) A prescription written for Schedule II substances for a resident of a long-term care facility may be transmitted by the practitioner or the agent of the practitioner to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription.

(d) Each registered pharmacy shall maintain the inventories and records of controlled substances as follows:

(1) Inventories and records of all controlled substances listed in Schedules I and II shall be maintained separately from all other records of the pharmacy, and prescriptions for the substances shall be maintained in a separate prescription file.

(2) Inventories and records of controlled substances listed in Schedules III, IV, and V shall be maintained either separately from all other records of the pharmacy or in the form that the information required is readily retrievable from ordinary business records of the pharmacy, and prescriptions for the substances shall be maintained either in a separate prescription file for controlled substances listed in Schedules III, IV, and V only or in the form that they are readily retrievable from the other prescription records of the pharmacy.

(e) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV which is a prescription drug as determined under State Board of Health statute, may not be dispensed without a written or oral prescription of a practitioner. The prescription may not be filled or refilled more than six

months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(f) A practitioner or pharmacist may not knowingly or intentionally prescribe, administer, or dispense a controlled substance enumerated in Schedules II through V except for a legitimate medical purpose pursuant to a prescription by a practitioner acting in the usual course of his or her professional practice.

(g) In an emergency situation, a pharmacist may dispense a Schedule II controlled substance for a resident of a long-term care facility, a patient receiving hospice services, or a patient receiving home health care services pursuant to an emergency oral prescription transmitted by the practitioner to the dispensing pharmacy. The quantity dispensed pursuant to an emergency oral prescription shall be limited to the amount adequate to treat the patient during the emergency period, not to exceed 72 hours. The practitioner, within seven days of the emergency oral prescription, shall provide the dispensing pharmacy with a written prescription for the quantity prescribed.

(Acts 1971, No. 1407, p. 2378, § 308; Acts 1995, No. 95–732, p. 1565, § 1; Act 98–617, p. 1358, § 1; Act 2006–183, p. 256, § 1; Act 2019–537, § 1.)

Article 3A.

Qualified Alabama Controlled Substances Registration.

§ 20–2–60. Definitions.

As used in this article the following words shall have the following meanings:

(1) Administer. The direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient by any of the following:

a. A supervising physician, or, in his or her presence, his or her authorized agent.

b. An assistant to physician.

c. The patient at the direction and in the presence of the supervising physician or assistant to physician.

(2) Assistant to physician. Any person who is a graduate of an approved program, is licensed by the board, and is registered by the board to perform medical services under the supervision of a physician approved by the board to supervise an assistant to physician.

(3) Board. The Board of Medical Examiners of the State of Alabama.

(4) Physician supervision. A formal relationship between a licensed assistant to physician and a supervising physician under whom the assistant to physician is authorized to practice as evidenced by a written job description approved in accordance with Article 7, Chapter 24, Title 34. Physician supervision requires that there shall be at all times a direct continuing and

close supervisory relationship between the assistant to physician and the supervising physician to whom that assistant is registered. The term supervision does not require direct on-site supervision of the assistant to physician; however, it does require the professional oversight and direction as may be required by the regulations and guidelines of the board.

(5) PRESCRIBE or PRESCRIBING. The act of issuing a prescription for a controlled substance.

(6) PRESCRIPTION. Any order for a controlled substance written or signed or transmitted by word of mouth, telephone, telegraph, closed circuit television, or other means of communication by a legally competent supervising physician or assistant to physician authorized by law to prescribe and administer such drug which is intended to be filled, compounded, or dispensed by a pharmacist.

(7) SUPERVISING PHYSICIAN. A doctor of medicine or a doctor of osteopathy licensed to practice medicine in Alabama who has been approved by the board to supervise assistants to physicians and who holds a valid, current, and unrestricted Alabama Controlled Substances Registration Certificate.

(Act 2009–489, p. 891, § 1.)

§ 20–2–61. Certification; access to records; establishment of protocols, formularies, or medical regimens.

(a) The board is designated as the certifying board for the registration and approval of an assistant to physician in obtaining or renewing a Qualified Alabama Controlled Substances Registration Certificate. The board is authorized to adopt regulations concerning the application procedures, fees, fines, punishments, and conduct of any disciplinary hearings for such applicants. The board shall establish a unique Qualified Alabama Controlled Substances Registration Certificate number that identifies the particular applicant as an assistant to physician with a valid Qualified Alabama Controlled Substances Registration Certificate.

(b) The board, and its agents, attorneys, or investigators shall be permitted access to the records of any assistant to physician, including patient records, which would relate to a request for a QACSC, a renewal of a QACSC or the possible violations of any provisions of the Alabama Uniform Controlled Substances Act, this article, or applicable regulations of the board.

(c) The board may establish protocols, formularies, or medical regimens which relate to, govern, or regulate a QACSC, and any such protocol, formulary, or medical regimen shall not be considered a rule or regulation under the Alabama Administrative Procedure Act.

(Act 2009–489, p. 891, § 1.)

§ 20–2–62. Qualifications for certificate.

The board may grant a Qualified Alabama Controlled Substances Registration Certificate to an assistant to physician who:

(1) Is practicing with appropriate physician supervision as defined herein and in accordance with this article; Title 34, Chapter 24, Article 7, and all rules and regulations pertaining to physician supervision between qualified physicians and qualified assistants to physicians.

(2) Submits proof of successful completion of a course or courses approved by the board which includes advanced pharmacology and prescribing trends relating to controlled substances.

(3) Provides accurate and complete documentation of a minimum of 12 months of active, clinical employment with physician supervision following National Commission on Certification of Physician Assistants (NCCPA) certification.

(Act 2009–489, p. 891, § 1.)

§ 20–2–63. Prescriptive authority of a certified assistant to physician.

(a) Upon receipt of a Qualified Alabama Controlled Substances Registration Certificate and a valid registration number issued by the United States Drug Enforcement Administration, an assistant to physician may prescribe, administer, authorize for administration, or dispense only those controlled substances listed in Schedules III, IV, and V of Article 2 of Chapter 2 of this title in accordance with rules adopted by the board and any protocols, formularies, and medical regimens established by the board for regulation of a QACSC.

(b) An assistant to physician shall not utilize his or her QACSC for the purchasing, obtaining, maintaining, or ordering of any stock supply or inventory of any controlled substance in any form.

(c) An assistant to physician authorized to prescribe, administer, or dispense controlled substances in accordance with this article shall not prescribe, administer, or dispense any controlled substance to his or her own self, spouse, child, or parent.

(Act 2009–489, p. 891, § 1.)

§ 20–2–64. Denial of application.

The board may deny an application of an assistant to physician requesting a Qualified Alabama Controlled Substances Registration Certificate, deny a request for a renewal of a QACSC, or initiate disciplinary action against an assistant to physician possessing a Qualified Alabama Controlled Substances Registration Certificate based on the following grounds:

(1) Fraud or deceit in applying for, procuring, or attempting to procure a Qualified Alabama Controlled Substances Registration Certificate in the State of Alabama.

(2) Conviction of a crime under any state or federal law relating to any controlled substance.

(3) Conviction of a crime or offense which affects the ability of the assistant to physician to practice with due regard for the health or safety of his or her patients.

(4) Prescribing a drug or utilizing a Qualified Alabama Controlled Substances Registration Certificate in such a manner as to endanger the health of any person or patient of the assistant to physician or supervising physician.

(5) Suspension or revocation of the registration number issued to the assistant to physician by the United States Drug Enforcement Administration.

(6) Excessive dispensing or prescribing of any drug to any person or patient of the assistant to physician or supervising physician.

(7) Unfitness or incompetence due to the use of or dependence on alcohol, chemicals, or any mood altering drug to such an extent as to render the assistant to physician unsafe or unreliable to prescribe drugs or to hold a Qualified Alabama Controlled Substances Registration Certificate.

(8) Any violation of a requirement set forth in this article or a rule adopted pursuant to this article.

(Act 2009–489, p. 891, § 1.)

§ 20–2–65. Disciplinary action — Hearing; restriction, suspension, or revocation of certificate.

(a) Any hearing for disciplinary action against an assistant to physician holding a valid Qualified Alabama Controlled Substances Registration Certificate for violations of this article shall be before the board.

(b) The board shall have the authority to restrict, suspend, or revoke a Qualified Alabama Controlled Substances Registration Certificate, or to assess an administrative fine against a Qualified Alabama Controlled Substances Registration Certificate whenever an assistant to physician shall be found guilty on the basis of substantial evidence of any of the acts or offenses enumerated in Section 20–2–64. The board shall also have the authority to reinstate or to deny reinstatement of a Qualified Alabama Controlled Substances Registration Certificate.

(c) The board may limit revocation or suspension of a Qualified Alabama Controlled Substances Registration Certificate to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(d) The board shall promptly notify the Drug Enforcement Administration of the United States Department of Justice of all orders suspending or revoking a Qualified Alabama Controlled Substances Registration Certificate.

(e) Any hearing conducted before the board shall be considered a contested case under the Alabama Administrative Procedure Act, Section 41–22–1, and shall be conducted in accordance with the requirements of that act.

(Act 2009–489, p. 891, § 1.)

§ 20–2–66. Disciplinary action — Judicial review.

(a) An assistant to physician adversely affected by an order of the board denying an application for a Qualified Alabama Controlled Substances Registration Certificate or the renewal of a Qualified Alabama Controlled Substances Registration Certificate may obtain judicial review thereof by filing a written petition for review with the Circuit Court of Montgomery County in accordance with Section 41–22–20.

(b) An assistant to physician adversely affected by an order of the board suspending, revoking, or restricting a Qualified Alabama Controlled Substances Registration Certificate, whether or not such suspension, revocation, or restriction is limited; assessing an administrative fine; or denying reinstatement of a Qualified Alabama Controlled Substances Registration Certificate, may obtain judicial review thereof by filing a written petition for review with the Circuit Court of Montgomery County in accordance with Section 41–22–20.

(c) The following procedures shall take precedence over subsection (c) of Section 41–22–20 relating to the issuance of a stay of any order of the board suspending, revoking, or restricting a Qualified Alabama Controlled Substances Registration Certificate. The suspension, revocation, or restriction of a Qualified Alabama Controlled Substances Registration Certificate shall be given immediate effect and no stay or supersedeas shall be granted pending judicial review of a decision by the board to suspend, revoke, or restrict a Qualified Alabama Controlled Substances Registration Certificate unless a reviewing court, upon proof by the party seeking judicial review, finds in writing that the action of the board was taken without statutory authority, was arbitrary or capricious or constituted a gross abuse of discretion.

(d) From the judgment of the circuit court, either the board or the affected party who invoked judicial review may obtain a review of any final judgment of the circuit court under Section 41–22–21. No security shall be required of the board.

(Act 2009–489, p. 891, § 1.)

§ 20–2–67. Fees; costs; administrative fines.

(a) The board is authorized to charge and collect fees to defray expenses incurred in the registration and issuance of Qualified Alabama Controlled Substances Registration Certificates and the administration of the provisions of this article. The types and amounts of fees shall be established in rules adopted by the board. The fees shall be retained by the board and may be expended for the general operation of the board.

(b) The board may require an assistant to physician who has been found to be in violation of Section 20–2–64 or whose application for a Qualified Alabama Controlled Substances Registration Certificate or its renewal or reinstatement has been denied, to pay the administrative costs, fees, and expenses of the board incurred in connection with any proceedings before the

board referred to in Section 20–2–65 or in connection with any investigation of the board to determine eligibility of an applicant for a Qualified Alabama Controlled Substances Registration Certificate including, but not limited to, the actual costs of independent medical review and expert testimony, fees, and expenses paid to outside counsel by the board, deposition, costs, travel expenses for board staff, charges incurred for obtaining documentary evidence, and such other categories of expenses as may be prescribed in rules published by the board. Payment of any such costs, fees, or expenses ordered by the board shall be made and enforced in the same manner as an administrative fine.

(c) Any administrative fine assessed by the board shall be paid to the board and shall not exceed the amount of one thousand dollars ($1,000) for each violation of any of the provisions of Section 20–2–64, or any rule or regulation promulgated by the board. Any administrative fine collected by the board may be expended for the general operation of the board.

(Act 2009–489, p. 891, § 1.)

§ 20–2–68. Liability for actions regarding investigations or disciplinary proceedings.

Any member of the board, any agent, employee, consultant, or attorney of the board, any person making any report or rendering any opinion or supplying any evidence or information or offering any testimony to the board in connection with any investigation or hearing conducted by the board as authorized in this article, shall be immune from any lawsuit or legal proceeding for any conduct in the course of his or her official duties with respect to such investigations or hearings.

(Act 2009–489, p. 891, § 1.)

§ 20–2–69. Promulgation of rules.

The board may adopt rules necessary to carry out the intent, purposes, and provisions of this article.

(Act 2009–489, p. 891, § 1.)

Article 4.

Offenses and Penalties.

§ 20–2–70. Prohibited acts A.

Repealed by Acts 1987, No. 87–603, p. 1047, § 12, effective October 21, 1987.

§ 20–2–71. Prohibited acts B.

(a) It is unlawful for any person:

(1) To knowingly or intentionally distribute or dispense a controlled substance in violation of Section 20–2–58;

(2) Who is a registrant to manufacture a controlled substance not authorized by his or her registration or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(3) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter; provided, however, that upon the first conviction of a violator under this provision the violator shall be guilty of a Class A misdemeanor. Subsequent convictions shall subject the violator to the felony penalty provision set forth in subsection (b);

(4) To refuse an entry into any premises for any inspection authorized by this chapter; or

(5) To knowingly keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances or which is used for keeping or selling them in violation of this chapter.

(b) Any person who violates this section is guilty of a Class B felony.

(Acts 1971, No. 1407, p. 2378, § 402; Acts 1987, No. 87–603, p. 1047, § 6; Act 2019–537, § 1.)

§ 20–2–72. Prohibited acts C.

(a) It is unlawful for any person:

(1) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by Section 20–2–57;

(2) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) To acquire or obtain possession of a controlled substance or a precursor chemical enumerated in Section 20–2–181 by misrepresentation, fraud, forgery, deception, or subterfuge;

(4) To furnish false or fraudulent material information in or omit any material information from any application, report, or other document required to be kept or filed under this chapter or any record required to be kept by this chapter; or

(5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Any person who violates this section is guilty of a Class B felony, except that any person who violates subdivision (a)(3) of this section is guilty of a Class C felony.

(Acts 1971, No. 1407, p. 2378, § 403; Acts 1987, No. 87–603, p. 1047, § 7; Act 2012–237, p. 445, § 2.)

§ 20–2–73. Transferred to § 13A–12–215 by Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2, effective September 30, 1988.

§ 20–2–74. Prescription, administration, etc., of controlled substances by practitioners of veterinary medicine for use of human beings or by practitioners of dentistry for persons not under treatment in regular practice of profession.

(a) It shall be unlawful for any practitioner of dentistry to prescribe, administer, or dispense any controlled substance enumerated in Schedules I through V for any person not under his treatment in his regular practice of his profession or for any practitioner of veterinary medicine to prescribe, administer, or dispense any controlled substance enumerated in Schedules I through V for the use of human beings; provided, however, that the provisions of this section shall be construed not to prevent any lawfully authorized practitioner of medicine from furnishing or prescribing in good faith for the use of any habitual user of substances enumerated in Schedules I through V who is under his professional care such substances as he may deem necessary for their treatment, when such prescriptions are not given or substances furnished for the purpose of maintaining addiction or abuse.

(b) Any person who violates this section shall be guilty of a Class B felony.

(Acts 1971, No. 1407, p. 2378, § 505; Acts 1987, No. 87–603, p. 1047, § 9.)

§ 20–2–75. "Drug related object" defined; distribution prohibited; affirmative defenses; penalty; contraband subject to forfeiture. Repealed by Acts 1986, No. 86–425, p. 771, § 4, effective April 29, 1986.

§ 20–2–75.1. Transferred to § 13A–12–260 by Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2, effective September 30, 1988.

§ 20–2–76. Penalties for second or subsequent offenses; when offense deemed second or subsequent offense. Repealed by Acts 1987, No. 87–603, p. 1047, § 12, effective October 21, 1987.

§ 20–2–77. Conviction or acquittal under federal law or state law to bar prosecution for same violation under chapter. Repealed by Acts 1987, No. 87–603, p. 1047, § 12, effective October 21, 1987.

§ 20–2–78. Penalties imposed for violations of chapter in addition to other civil or administrative penalties or sanctions.

Any penalty imposed for violation of this chapter is in addition to and not in lieu of any civil or administrative penalty or sanction otherwise authorized by law.

(Acts 1971, No. 1407, p. 2378, § 404.)

§ 20–2–79. Transferred to § 13A–12–250 by Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2, effective September 30, 1988.

ARTICLE 4A.

TRAFFICKING IN ILLEGAL DRUGS.

§§ 20–2–80, 20–2–81. Transferred to §§ 13A–12–231 and 13A–12–232 by Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2, effective September 30, 1988.

ARTICLE 5.

ENFORCEMENT.

§ 20–2–90. State Board of Pharmacy, Alabama State Law Enforcement Agency, etc., to enforce chapter; drug inspectors to meet minimum standards.

(a) The State Board of Pharmacy and its drug investigators shall enforce this chapter. The agents and officers of the Alabama State Law Enforcement Agency, the drug and narcotic agents and inspectors of the State Board of Health, the investigators of the State Board of Medical Examiners, the investigators of the Board of Dental Examiners, and all peace officers of the state and all prosecuting attorneys are also charged with the enforcement of this chapter. The agents and officers of the Alabama State Law Enforcement Agency, the drug investigators of the State Board of Pharmacy, the investigators of the State Board of Medical Examiners, the investigators of the Board of Dental Examiners, and the drug and narcotic agents and inspectors of the State Board of Health shall have the powers of peace officers in the performance of their duties to:

(1) Make arrests without warrant for any offense under this chapter committed in their presence, or if they have probable cause to believe that the person to be arrested has committed or is committing a violation of this chapter which may constitute a felony.

(2) Make seizures of property pursuant to this chapter.

(3) Carry firearms in the performance of their official duties.

(b) In addition to the requirements of subsection (a), drug investigators of the State Board of Pharmacy shall, beginning October 1, 1993, meet the minimum standards required of peace officers in this state.

(Acts 1971, No. 1407, p. 2378, § 501; Acts 1981, No. 81–657, p. 1073; Acts 1987, No. 87–578, p. 923, § 1; Acts 1993, No. 93–671, p. 1209, § 3; Act 2017–422, § 1.)

§ 20–2–91. Inspection of stocks of controlled substances and prescriptions, orders, etc., required by chapter; disclosure of information as to prescriptions, orders, etc., by enforcement personnel.

(a) Prescriptions, orders, and records required by this chapter and stocks of controlled substances enumerated in Schedules I, II, III, IV, and V shall be open for inspection only to federal, state, county, and municipal officers, the investigators of the Board of Dental Examiners, and the agents and officers of the Alabama State Law Enforcement Agency whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

(b) No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

(Acts 1971, No. 1407, p. 2378, § 502; Acts 1987, No. 87–578, p. 923, § 1.)

§ 20–2–92. Injunctions.

(a) The circuit courts of this state have jurisdiction to restrain or enjoin violations of this chapter.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or temporary restraining order under this section.

(Acts 1971, No. 1407, p. 2378, § 503.)

§ 20–2–93. Forfeitures; seizures.

(a) For the purposes of this section only, the following words shall have the following meanings:

(1) CHARGEABLE CRIMINAL OFFENSE. An offense in which property is used or otherwise implicated as property subject to forfeiture under subsection (b). The term includes any act that could be charged as a felony or misdemeanor, regardless of whether a formal criminal prosecution or delinquency proceeding has begun at the time the forfeiture was initiated.

(2) CONTRABAND. All property as described in subsections (t) and (u). The term includes drug paraphernalia, as defined in Section 13A–12–260, and illegal firearms.

(3) FORFEITURE ACTION. A civil action to forfeit property to the state which is initiated by the prosecuting authority in accordance with this section.

(4) INNOCENT OWNER. A bona fide purchaser, lienholder, mortgagee, or other owner, other than a defendant, of property that is subject to forfeiture, including any of the following:

a. A person who has a valid claim, lien, or other interest in the property seized, who did not have knowledge or consent to the conduct that caused the property to be forfeited, seized, or abandoned under subsection (n) and which property is subject to the requirements of subsection (w).

b. A person who has an interest in the property and did not participate in the commission of a crime or delinquent act giving rise to the forfeiture.

(5) INVENTORY. A written, itemized list of all property seized under this section that names all persons to whom the inventory is given at the time of the seizure, as provided in Rule 3.11 of the Alabama Rules of Criminal Procedure.

(6) KNOWLEDGE. An awareness or understanding of information, a fact, or a condition.

(7) PROSECUTING AUTHORITY. The Attorney General, a district attorney, or a designee thereof.

(8) RESPONDENT. Any person asserting a claim or interest in the property subject to the forfeiture action.

(9) SEIZING AGENCY. A state, county, or municipal law enforcement agency or department that seizes property in accordance with this section.

(10) SEIZURE ORDER. A written order issued by a court in connection with a seizure, establishing that probable cause exists to believe that the seizure is valid as described by this section. The term includes, but is not limited to, a search warrant issued pursuant to Article 1, commencing with Section 15–5–1, of Chapter 5 of Title 15.

(b) The following are subject to seizure and forfeiture:

(1) All controlled substances that have been grown, manufactured, distributed, dispensed, or acquired in violation of any law of this state.

(2) All raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of any law of this state.

(3) All monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of any law of this state; all proceeds traceable to such an exchange; and all monies, negotiable instruments, and securities used or intended to be used to facilitate any violation of any law of this state concerning controlled substances.

(4) All property that is used or intended for use as a container for property described in subdivision (1), (2), or (3).

(5) All conveyances, including aircraft, vehicles, or vessels, or agricultural machinery, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of, any property described in subdivision (1), (2), or (3).

(6) All books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used or intended for use in violation of any law of this state concerning controlled substances.

(7) All imitation controlled substances, as defined under the laws of this state.

(8) All real property or fixtures used or intended to be used for the manufacture, cultivation, growth, receipt, storage, handling, distribution, or sale of any controlled substance in violation of any law of this state.

(9) All property of any type whatsoever constituting, or derived from, any proceeds obtained directly, or indirectly, from any violation of any law of this state concerning controlled substances.

(c)(1) All of the following are exempt from seizure and forfeiture under this section:

a. United States currency totaling two hundred fifty dollars ($250) or less.

b. A motor vehicle that is less than five thousand dollars ($5,000) in market value.

(2) For purposes of seizures and forfeitures under subdivision (1), the Attorney General shall advise law enforcement agencies of publications the agencies may use to establish the value of a motor vehicle.

(3) The district attorney for a judicial circuit may increase the minimum dollar amounts provided in subdivision (1) for seizures and forfeitures that occur within the judicial circuit.

(d) Except as provided in subsection (c), property subject to forfeiture under this section may be seized by a seizing agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made under any of the following conditions:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant.

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter.

(3) The seizing agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(4) The seizing agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(e)(1) In the event of a seizure pursuant to subsection (d), proceedings under subsection (p) shall be instituted promptly. Prior to the commencement of a forfeiture action by the prosecuting authority under this section against property not seized pursuant to a warrant, the seizing agency shall do all of the following:

a. Within seven business days, or an extension of time for good cause shown, after the seizure pursuant to subsection (d), obtain a seizure order from any circuit or district judge in the jurisdiction of the seizure.

b. Within 14 days after obtaining a seizure order under paragraph a., the seizing agency shall present the seizure order and an application for forfeiture, which shall include an inventory, to the prosecuting authority in the jurisdiction for consideration.

(2)a. Upon the issuance of a seizure order pursuant to this subsection, the clerk of the court for the jurisdiction shall establish a circuit civil case number and file the order in that case number, which shall become the case number for the forfeiture action should a prosecuting authority file a forfeiture action pursuant to subsection (g).

b. At the request of the seizing agency, the court may order the filing sealed to protect the confidentiality of any ongoing investigation or witnesses.

(3) If the prosecuting authority has not filed a forfeiture action pursuant to this section after 90 days from the date of the seizure order, the clerk shall notify the judge assigned to the case who may review the case with the prosecuting authority for a possible dismissal due to inaction. Pursuant to an order under this subsection, the property shall be tendered to the owner within 14 business days after the dismissal, unless the property is contraband, in which case the property shall be destroyed at the conclusion of the criminal case.

(4) On motion by the prosecuting authority, property otherwise due to be tendered to the owner pursuant to subdivision (3) or subsection (f) may be retained by the prosecuting authority for the duration of the criminal prosecution only if the prosecuting authority proves, by a preponderance of the evidence, that the seized property is necessary for evidentiary purposes in the criminal prosecution, and that the use of affidavits, photographic evidence, or other admissible evidence is an insufficient means to establish an element of the underlying criminal offense.

(f) A forfeiture action may only be instituted after a finding of probable cause by the prosecuting authority that the seizure is valid. If the prosecuting authority does not find probable cause that the seizure is valid, the property shall be tendered to the owner within 14 business days of the denial, unless the property is contraband, in which case the property shall be destroyed at the conclusion of the criminal case.

(g) Upon compliance with subsection (f), the prosecuting authority may file a forfeiture action in the circuit court under this section within 42 days, or a

greater time upon a showing of good cause to the court, from the date of the seizure of the property.

(h) The seizing agency shall provide an inventory to any person in possession of the seized property at the time of the seizure. The inventory shall be prima facie evidence of notice of the seizure to any person served with the inventory at the time of the seizure.

(i)(1) Nothing in this section shall be construed to permit a seizing agency to conduct extrajudicial seizures or forfeitures.

(2) A law enforcement officer may not induce or require a person to waive, for purposes of a seizure or forfeiture action, the person's interest in property.

(j) On motion of any party, the court may stay the proceedings under this section, including any requirement under the Alabama Rules of Civil Procedure.

(k) Nothing in this section shall prevent the pro tanto dismissal of any party pursuant to the Alabama Rules of Civil Procedure.

(l) An innocent owner may petition the court for a hearing under Section 15–5–63 at any time after seizure of property and before entry of a conviction in the related criminal case.

(m) The state may stipulate that the interest of an innocent owner is exempt from forfeiture upon presentation of proof of the claim. The state shall file the stipulation with the court exercising jurisdiction over the forfeiture action, and the filing of the stipulation shall constitute an admission by the state that the interest is exempt from forfeiture. If a stipulation is submitted, no further claim, answer, or pleading shall be required of the stipulated innocent owner or lienholder, and a judgment shall be entered exempting that interest from forfeiture. An order under this subsection shall waive all court costs.

(n) Convictions or adjudications of chargeable criminal offenses may be considered by the court as prima facie evidence that the property seized is contraband, proceeds, or instrumentalities, and is due to be forfeited. The conviction or adjudication may be proven by the court taking judicial notice or by providing a certified copy of the conviction or adjudication to the court.

(*o*) All civil forfeiture cases are in rem and all issues shall be tried in the circuit court without the presence of a jury. The state must prove by a preponderance of the evidence the property subject to forfeiture is an instrumentality of, or proceeds derived directly from, a chargeable criminal offense.

(p)(1) The state may file for a default judgment against any party at any time pursuant to the Alabama Rules of Civil Procedure unless the case is stayed under subsection (j). The state may satisfy its burden for a default judgment with testimony taken under oath, or by presenting a sworn to and notarized affidavit.

(2) A respondent shall be deemed to have abandoned the property and any claims to the property, and a default judgment may be entered by the court, upon the occurrence of any of the following:

a. The death of the respondent.

b. The deportation of the respondent.

c. The absconding of the respondent. Violation of bond in the underlying criminal case and the issuance of a failure to appear warrant is prima facie evidence of the respondent's abandonment of the property.

(q) As part of an order of final judgment, pursuant to a trial or a default judgment hearing, the court shall not condemn and forfeit an instrumentality that is disproportionate to the underlying chargeable criminal offense or offenses that gave rise to the forfeiture action. Among other factors, the court may consider the following in determining whether a seizure is proportional to the underlying chargeable criminal offense or offenses:

(1) The extent to which the property was used in committing the chargeable criminal offense or offenses.

(2) The extent to which the respondent participated in the chargeable criminal offense or offenses.

(3) Any legitimate use of the property seized.

(4) The maximum possible prison sentence for the chargeable criminal offense or offenses.

(5) The maximum possible fines for the chargeable criminal offense or offenses.

(6) Possession of a firearm by the respondent during the chargeable criminal offense or offenses.

(7) The seriousness of the chargeable criminal offense or offenses and its impact on the community, including the duration of the activity and the harm caused.

(r) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the seizing agency, subject only to the orders and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the seizing agency may do any of the following:

(1) Place the property under seal.

(2) Remove the property to a place designated by the seizing agency.

(3) Require the seizing agency to take custody of the property and remove the property to an appropriate location for disposition in accordance with law.

(4) In the case of real property or fixtures, post notice of the seizure on the property, and file and record notice of the seizure in the probate office.

(s) When property is forfeited under this chapter, the seizing agency may do any of the following:

(1) Retain the property for official use; except for lawful currency of the United States of America which shall be disposed of in the same manner provided for the disposal of proceeds from a sale in subdivision (2).

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds from the sale authorized by this subdivision shall be used, first, for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of or custody, advertising, and court costs; and the remaining proceeds from the sale shall be awarded and distributed by the court to the seizing agency or prosecuting authority following a determination of the court of which law enforcement agencies are determined by the court to have been a participant in the investigation resulting in the seizure and litigation. The award and distribution shall be made on the basis of the percentage, as determined by the court, of which respective law enforcement agency or prosecuting authority contributed to the police work or litigation resulting in the seizure and forfeiture. Provided, however, any proceeds from sales authorized by this section awarded by the court to a county or municipal law enforcement agency shall be deposited into the respective county or municipal general fund and made available to the affected law enforcement agency or department upon requisition of the chief law enforcement official of the agency.

(3) Require the seizing agency to take custody of the property and remove it for disposition in accordance with law.

(t) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of any law of this state are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(u) Species of plants from which controlled substances in Schedules I and II may be derived, which have been planted or cultivated in violation of any law of this state or of which the owners or cultivators are unknown or which are wild growths, are contraband and may be seized and summarily forfeited to the state.

(v) As used in this subsection, the term ''false or secret compartment'' means any enclosure that is integrated into or attached to a vehicle, the purpose of which enclosure is to conceal, hide, or prevent discovery of contraband by a law enforcement officer. The term includes, but is not limited to, false, altered, or modified fuel tanks; original factory equipment on a vehicle that has been modified; and any compartment, space, or box that is added or attached to existing compartments, spaces, or boxes of the vehicle. Upon the seizure of a vehicle, the court may infer that the respondent intended to use a false or secret compartment to conceal a controlled substance or other contraband if the vehicle has a false or secret compartment that concealed a controlled substance or other contraband, or evidence is

shown of the previous concealment of a controlled substance or other contraband within the false or secret compartment.

(w) An innocent owner's interest in personal property, real property, or fixtures shall not be forfeited under this section for any act or omission unless the state proves by a preponderance of the evidence that the act or omission was committed or omitted with the knowledge or consent of that owner. An owner's interest in any type of property other than real property, personal property, and fixtures shall be forfeited under this section unless the owner proves that the act or omission subjecting the property to forfeiture was committed or omitted without the owner's knowledge or consent. Except as specifically provided to the contrary in this section, the procedures for the condemnation and forfeiture of property seized under this section shall be governed by and shall conform to the procedures set out in Sections 28–4–286 through 28–4–290, except that: (1) The burden of proof and standard of proof shall be as set out in this subsection instead of as set out in the last three lines of Section 28–4–290; and (2) the official filing the complaint shall also serve a copy of it on any person, corporation, or other entity having a perfected security interest in the property that is known to that official or that can be discovered through the exercise of reasonable diligence.

(x)(1) A prosecuting authority or seizing agency may not transfer or offer for adoption property seized under this section to a federal agency for the purpose of forfeiture under the federal Controlled Substances Act, Public Law 91–513 (Oct. 27, 1970), or other federal law, unless the property includes United States currency that exceeds ten thousand dollars ($10,000).

(2) Subdivision (1) only applies to a seizure by a state or local law enforcement agency pursuant to their own authority under this section and without involvement of the federal government. Nothing in subdivision (1) shall be construed to limit state and local agencies from participating in joint task forces with the federal government.

(3) State and local law enforcement agencies may not accept payment of any kind or distribution of forfeiture proceeds from the federal government if the state or local law enforcement agency violates subdivision (1). Any proceeds received as a result of any violation of subdivision (1) shall be directed to the State General Fund.

(Acts 1971, No. 1407, p. 2378, § 504; Acts 1981, No. 81–413, p. 650; Acts 1982, No. 82–426, p. 670, § 4; Acts 1983, 2nd Ex. Sess., No. 83–131, p. 137, § 1; Acts 1988, No. 88–651, p. 1038, § 2; Acts 1989, No. 89–525, p. 1074; Acts 1990, No. 90–472, p. 689, § 1; Act 2021–497, § 1.)

ARTICLE 6.

THERAPEUTIC RESEARCH.

§ 20–2–110. Short title.

This article shall be known as the ''Controlled Substances Therapeutic Research Act.''

(Acts 1979, No. 79–472, p. 870, § 1.)

§ 20–2–111. Legislative findings; cannabis research.

The Legislature finds that recent research has shown that the use of cannabis may alleviate nausea and ill-effects of cancer chemotherapy, and may alleviate the ill-effects of glaucoma. The Legislature further finds that there is a need for further research and experimentation with regard to the use of cannabis under strictly controlled circumstances. It is for these purposes that the Controlled Substances Therapeutic Research Act is hereby established.

(Acts 1979, No. 79–472, p. 870, § 2.)

§ 20–2–112. Definitions.

As used in this article the following words, unless the context clearly indicates the contrary, shall have the following meanings:

(1) CONTROLLED SUBSTANCE. The same as is defined in subdivision (5) of Section 20–2–2, as amended;

(2) CANNABIS. The same as those substances defined in subdivision (15) of Section 20–2–2, as amended, and particularly those substances defined as tetrahydrocannabinols, or a chemical derivative thereof;

(3) PRACTITIONER. A physician licensed to practice medicine in this state and particularly as herein enumerated.

(Acts 1979, No. 79–472, p. 870, § 3.)

§ 20–2–113. Controlled Substances Therapeutic Research Program — Established; review committee; rules and regulations; formulation with federal agencies.

There is hereby established by the State Board of Medical Examiners the Controlled Substances Therapeutic Research Program. The board shall administer the program by a review committee. The board shall promulgate such rules and regulations as are necessary for the proper administration and implementation of the program. Such promulgations shall be formulated to consider those pertinent rules and regulations promulgated by the Federal Drug Enforcement Agency, Food and Drug Administration and the National Institute on Drug Abuse.

(Acts 1979, No. 79–472, p. 870, § 4.)

§ 20–2–114. Controlled Substances Therapeutic Research Program — Limited to cancer chemotherapy and glaucoma patients; certification; exemption from prosecution.

Except as herein otherwise provided, the Controlled Substances Therapeutic Research Program shall be limited to cancer chemotherapy patients and glaucoma patients, who are certified to the review committee by an authorized practitioner as being in such medical condition necessary for the treatment of glaucoma, or the side effects of chemotherapy in cancer patients; such authorization shall be upon such terms and conditions as may be consistent with the public health and safety. To the extent of the applicable authorization, persons are exempt from prosecution in this state for possession, production, manufacture, or delivery of cannabis.

(Acts 1979, No. 79–472, p. 870, § 5.)

§ 20–2–115. Composition of review committee.

The review committee shall consist of: (a) one physician licensed to practice medicine in this state and certified by the American Board of Ophthalmology; (b) one physician licensed to practice medicine in this state, certified by the American Board of Internal Medicine and also certified in the subspecialty of medical oncology; (c) one physician licensed to practice medicine in this state, certified in the specialty of pediatrics and also certified in the subspecialty of pediatrics oncology; (d) one physician licensed to practice medicine in this state, certified in the specialty of gynecology and also certified in the subspecialty of gynecological oncology; (e) one physician licensed to practice medicine in this state, certified in the specialty of radiology and also certified in the subspecialty of radiation oncology; and (f) the Director of the Comprehensive Cancer Center of the University of Alabama in Birmingham.

(Acts 1979, No. 79–472, p. 870, § 6.)

§ 20–2–116. Certification in subspecialty of oncology required; certification by State Board of Medical Examiners; recertification.

Only physicians in the practice of medicine as prescribed in Section 20–2–115 and specifically certified by the State Board of Medical Examiners to dispense cannabis under the provisions of this article, shall be practitioners hereunder. Each practitioner shall make application for recertification every three years.

(Acts 1979, No. 79–472, p. 870, § 7; Acts 1981, No. 81–506, p. 869, § 1.)

§ 20–2–117. Contracts for receipt of cannabis; Board of Medical Examiners to promulgate guidelines, rules, and regulations.

The State Board of Medical Examiners may apply to contract with the National Institute of Drug Abuse for receipt of cannabis pursuant to the

regulations promulgated by the National Institute on Drug Abuse, the Food and Drug Administration, and the Drug Enforcement Administration. The board may formulate and promulgate such guidelines as are necessary for dispensing cannabis consistent with the public health and safety and under strictly controlled circumstances. The board further may establish the rules and regulations requiring accurate reporting and accountability by each practitioner to the board and any federal agency as required by law.

(Acts 1979, No. 79–472, p. 870, § 8; Acts 1981, No. 81–506, p. 869, § 2.)

§ 20–2–118. Annual reports to Governor and Legislature.

Each year, on or before the fifth day of the Regular Session of the Legislature the State Board of Medical Examiners, in conjunction with the board's review committee, shall report their findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives, regarding the effectiveness of the controlled substances.

(Acts 1979, No. 79–472, p. 870, § 9.)

§ 20–2–119. Enumeration as Schedule I or II substance inapplicable.

The enumeration of cannabis, tetrahydrocannabinols or a chemical derivative thereof as a Schedule I or II controlled substance under Article 2 of Chapter 2 of this title, as amended, does not apply to the use of such drugs or chemical derivatives thereof pursuant to the provisions of this article.

(Acts 1979, No. 79–472, p. 870, § 10.)

§ 20–2–120. Penalties.

Any person or any practitioner who prescribes or dispenses cannabis or any of its derivatives for reasons other than outlined in this article upon conviction thereof shall be guilty of a felony and shall be punished as provided in Section 13A–12–211.

(Acts 1979, No. 79–472, p. 870, § 11.)

ARTICLE 7.

IMITATION CONTROLLED SUBSTANCES.

§ 20–2–140. Short title.

This article shall be known and may be cited as the Imitation Controlled Substances Act.

(Acts 1982, No. 82–426, p. 670, § 1.)

§ 20–2–141. Definitions.

As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) CONTROLLED SUBSTANCE. A substance as defined in Section 20–2–2.

(2) IMITATION CONTROLLED SUBSTANCE. A substance, other than a legend controlled drug, that is not a controlled substance, which by dosage unit appearance (including color, size, shape, and markings), and by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In the cases where the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an ''imitation controlled substance'' (for example as in the case of a powder or liquid), the court or authority concerned should consider, in addition to all other logically relevant factors, the following factors as related to ''representations made'' in determining whether the substance is an ''imitation controlled substance'':

a. Statements made by the owner or anyone else in control of the substance concerning the nature of the substance, its use or effect.

b. Statements made to the recipient that the substance may be resold for an inordinate profit.

c. Whether the substance is packaged in a manner normally used for illicit controlled substances.

d. Evasive tactics or actions utilized by the owner or person in control of this substance to avoid detection by law enforcement authorities.

e. Prior convictions, if any, of an owner or anyone in control of the substance, under state or federal law related to controlled substances or fraud.

f. The proximity of the substances to controlled substances.

(3) DISTRIBUTE. The actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance.

(4) MANUFACTURE. The production, preparation, compounding, processing, encapsulating, packaging, or repackaging, labeling, or relabeling of an imitation controlled substance.

(Acts 1982, No. 82–426, p. 670, § 2; Acts 1983, 2nd Ex. Sess., No. 83–131, p. 137, § 1.)

§ 20–2–142. Legislative intent.

It is the intent of the Legislature to remove the merchandising of the ''imitation controlled substance'' or ''lookalike drug'' from the street corners, school yards, and campuses of our state, not to interfere with the legitimate distribution of ''over the counter'' formulations used for the treatment of illness dispensed or sold by licensed practitioners.

(Acts 1982, No. 82–426, p. 670, § 6.)

§ 20–2–143. Manufacture, distribution, possession, or advertisement of imitation controlled substances prohibited; penalties; immunity of certain persons from liability.

(a) *Manufacture or distribution.* It is unlawful for any person to manufacture, distribute, or possess with intent to distribute or sell an imitation

controlled substance. Any person who violates this subsection shall be guilty of a Class A misdemeanor under Title 13A.

(b) *Distribution to a minor.* Any person 18 years of age or older who violates subsection (a) of this section by distributing or selling an imitation controlled substance to a person under 18 years of age shall be guilty of a Class C felony under Title 13A.

(c) *Possession.* It is unlawful for any person to use or possess with intent to use, an imitation controlled substance. Any person who violates this subsection shall be guilty of a Class C misdemeanor under Title 13A.

(d) *Advertisement.* It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution or sale of an imitation controlled substance. Any person who violates this subsection shall be guilty of a Class B misdemeanor under Title 13A.

(e) *Immunity.* No civil or criminal liability shall be imposed by virtue of this article on any person registered under Chapter 2 of this title who manufactures, distributes, or possesses a placebo, or investigational new drug in the course of professional practice or research.

(Acts 1982, No. 82–426, p. 670, § 3.)

§ 20–2–144. Exceptions.

Nothing in this article shall apply to a noncontrolled substance that was initially introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate.

(Acts 1982, No. 82–426, p. 670, § 7.)

Article 8.

Solicitation, Attempt, and Conspiracy to Commit Controlled Substance Crime.

§§ 20–2–160 through 20–2–164. Transferred to §§ 13A–12–201 through 13A–12–205 by Acts 1988, 1st Ex. Sess., No. 88–918, p. 512, § 2, effective September 30, 1988.

Article 9.

Precursor Chemicals.

§ 20–2–180. Definitions.

As used in this article and unless otherwise specified, the following terms are defined as follows:

(1) Board or Board of Pharmacy. The Alabama State Board of Pharmacy.

(2) LISTED PRECURSOR CHEMICAL. A chemical substance specifically designated as such by the Alabama State Board of Pharmacy, that, in addition to legitimate uses, is used in the unlawful manufacture of a controlled substance or controlled substances.

(3) PERSON. Any individual, corporation, partnership, association, or other entity which manufactures, sells, transfers, or possesses a listed precursor chemical.

(Acts 1991, No. 91–589, p. 1085, § 1; Act 2001–971, 3rd Sp. Sess., p. 873, § 2.)

§ 20–2–181. Board to designate by rule listed precursor chemicals; interim list established.

(a) The Board of Pharmacy shall, within one year of July 29, 1991, designate by rule listed precursor chemicals.

(b) The Board of Pharmacy may subsequently by rule add chemicals as listed precursor chemicals following the criteria set forth in subdivision (2) of Section 20–2–180, and may also by rule delete any substance previously named as a listed precursor chemical. In no event shall a chemical also be designated as a listed precursor chemical if it has been determined to be a controlled substance or an immediate precursor chemical pursuant to the Alabama Uniform Controlled Substances Act, Section 20–2–1 et seq.

(c) If any chemical is designated or deleted as a listed precursor chemical under federal law and notice thereof is given to the Board of Pharmacy, the board shall similarly list or delete the substance under this article after the expiration of 30 days from publication in the federal register of a final rule or order designating or deleting such substance as a listed precursor chemical, unless, within 30 days from publication in the federal register of the final rule or order, the board objects to the designation or deletion. In that case, the board shall publish the reasons for objection in the Alabama Administrative Monthly and shall afford all interested parties an opportunity to submit written comments and to be heard. At the conclusion of the hearing and the comment period, the State Board of Pharmacy shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to the designation or deletion by the board, the designation or deletion is stayed until the board publishes its decision. Notwithstanding the provisions of the Alabama Administrative Procedure Act, Sections 41–22–1 through 41–22–27, no further rulemaking or administrative proceedings shall be required of the board with respect to the designation or deletion of substances similarly designated or deleted under federal law.

(d) Until the Board of Pharmacy adopts a rule designating listed precursor chemicals, as required by subsection (a), the following chemicals or substances are hereby deemed listed precursor chemicals:

(1) Acetic anhydride;

(2) Anthranilic acid and its salts;

(3) Benzyl cyanide;

(4) Ephedrine, its salts, optical isomers, and salts of optical isomers;

(5) Ergonovine and its salts;

(6) Ergotamine and its salts;

(7) Hydriodic acid;

(8) Isosafrol;

(9) Methylamine;

(10) N–Acetylanthranilic acid and its salts;

(11) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;

(12) Phenylacetic acid and its salts;

(13) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;

(14) Piperidine and its salts;

(15) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;

(16) Safrole; and

(17) 3,4–Methylenedioxyphenyl–2–propanone.

(Acts 1991, No. 91–589, p. 1085, § 2.)

§ 20–2–182. License required for furnishing listed precursor chemical; licensing procedure; record of transactions.

(a) A manufacturer, wholesaler, retailer, or other person who sells, transfers, manufactures, purchases for resale, or otherwise furnishes any listed precursor chemical defined in Section 20–2–181 must first obtain on a biennial basis a license issued by the Board of Pharmacy upon payment of a fee as prescribed by rule of the board to the secretary of the board. Licenses shall be issued biennially beginning in 2010. All licenses shall expire on December 31 of even-numbered years. Every holder of such a license in order to continue to be licensed shall pay a biennial renewal fee to be prescribed by rule of the board. The renewal fee shall be due on October 31 and shall be delinquent after December 31 of even-numbered years. The payment of the renewal fee shall entitle the holder thereof to renewal of his or her license at the discretion of the board. If any holder of such license fails to pay the renewal fee on or before the due date, the license may be reinstated only upon payment of a penalty of ten dollars ($10) for each lapsed month as prescribed by rule of the board.

(b) The procedure for obtaining a license to sell, transfer, manufacture, purchase for resale, or otherwise furnish a listed precursor chemical shall be as follows:

(1) Obtain an application from the Board of Pharmacy;

(2) Submit the application to the Board of Pharmacy;

(3) Demonstrate a legitimate reason to sell, transfer, or otherwise furnish listed precursor chemicals.

(c) The content of the application for a license shall include, but not be limited to, the following information:

(1) Name of business;

(2) Address of business other than a post office box number;

(3) Phone number of business;

(4) Names and addresses of business owners;

(5) Location of storage facility;

(6) Identification of listed precursor chemicals to be sold; and

(7) Criminal history of applicant.

(d) A licensee shall make an accurate and legible record of any transaction of listed precursor chemicals and maintain such record together with the following records for a period of at least two years:

(1) Inventory on hand;

(2) Purchase receipts;

(3) Manufacturing records including the date and quantity of any listed precursor chemicals manufactured, the quantity of listed precursor chemicals used in manufacturing any other substance or product, and the inventory on hand of listed precursor chemicals after the manufacturing of any other substance or product;

(4) Copies of the Board of Pharmacy licenses or permits;

(5) Records of substance disposal.

(Acts 1991, No. 91–589, p. 1085, § 3; Act 2009–576, p. 1688, § 1.)

§ 20–2–183. Permit for possession; requirements to receive permit; copies.

(a) Any person having a legitimate need for using a listed precursor chemical defined in Section 20–2–181, shall apply in person to the Board of Pharmacy for a permit to possess such chemical each time said chemical is obtained.

(b) The following must be submitted in person to the Board of Pharmacy to receive a permit for possession of listed precursor chemicals:

(1) A driver's license number or other personal identification certificate number, date of birth, residential or mailing address, other than a post office box number, and a driver's license or personal identification card issued by the Alabama State Law Enforcement Agency which contains a photograph of the recipient;

(2) In the event the applicant is a corporation, the information in this section shall be required of the person making application for the permit. In addition, the person making application for the permit on behalf of a corporation shall disclose his relationship to the corporation;

(3) The make, model, model year, state where licensed, and license number of the motor vehicle owned and operated by the recipient;

(4) The serial number of the permit issued in the name of the recipient by the Board of Pharmacy pursuant to this section, which shall be obtained from personal observation of the permit;

(5) A complete description of how the chemical is to be used; and

(6) The location where the chemical is to be stored and used.

(c) The permit shall consist of three parts, including:

(1) The original to be retained by the Board of Pharmacy;

(2) A copy to be retained by the manufacturer, wholesaler, retailer, or other person furnishing listed precursor chemicals; and

(3) A copy to be attached to the container of the listed precursor chemical and to be kept with the chemicals at all times.

(Acts 1991, No. 91–589, p. 1085, § 4.)

§ 20–2–184. Denial, suspension, or revocation of license.

A license or permit, obtained pursuant to Section 20–2–182 or 20–2–183, shall be denied, suspended, or revoked by the Board of Pharmacy upon finding that the license or permit holder has:

(1) Furnished false or fraudulent material information in any application filed under this article;

(2) Been convicted of a crime under any state or federal law relating to any controlled substance;

(3) Had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;

(4) Violated the provisions of Chapter 23 of Title 34; or

(5) Failed to maintain effective controls against the diversion of said precursors to unauthorized persons or entities.

(Acts 1991, No. 91–589, p. 1085, § 5.)

§ 20–2–185. Reporting transactions — Board to supply form.

(a) Any person who sells, transfers, purchases for resale, or otherwise furnishes to a person in this state a listed precursor chemical shall submit a report of the transaction on a form obtained from the Board of Pharmacy that includes the information required by Section 20–2–183.

(b) The Board of Pharmacy shall supply, upon the request of any manufacturer, wholesaler, retailer, or other person who sells, transfers, purchases for resale, or otherwise furnishes a listed precursor chemical a form for the submission of:

(1) The report required by subsection (a);

(2) The name and measured amount of the listed precursor chemical delivered;

(3) Such other information as the board may require pursuant to agency rule of the Board of Pharmacy.

(Acts 1991, No. 91–589, p. 1085, § 6.)

§ 20–2–186. Procedure upon discovery of loss or theft of chemicals — Records — Audits and inspections of records.

(a) Any person, licensed or permitted, who discovers a loss or theft of, or disposes of a chemical listed in Section 20–2–181 shall:

(1) Submit a report of the loss, theft, or disposal to the Board of Pharmacy no later than the third business day after the date the manufacturer, wholesaler, retailer, or other person discovers the loss or theft, or after the actual disposal; and

(2) Include the amount of loss, theft, or disposal in the report. Any disposal of listed precursor chemicals must be done in accordance with the rules and regulations of the United States Environmental Protection Administration and shall be performed at the expense of the permit or license holder.

(b) A manufacturer, wholesaler, retailer, or other person who sells, transfers, possesses, uses, or otherwise furnishes any listed precursor chemical shall:

(1) Maintain records as specified in Section 20–2–182, or as prescribed by the rule of the Board of Pharmacy;

(2) Permit law enforcement authorities to conduct on-site audits, inspections or inventories, and inspect all records made in accordance with this article at any reasonable time; and

(3) Cooperate with the audit, inspection or inventory, or copying of any records.

(Acts 1991, No. 91–589, p. 1085, § 7.)

§ 20–2–187. Adoption of rules; administrative fees authorized.

The Board of Pharmacy may adopt reasonable rules to effectuate the provisions of this article. The board is further authorized to charge reasonable fees to defray expenses incurred in issuing any licenses or permits or maintaining any records or forms required by this article and in the administration of the provisions of this article. Any fees to defray expenses as set forth above or in administering the provisions of this article shall be retained by the Board of Pharmacy.

(Acts 1991, No. 91–589, p. 1085, § 8.)

§ 20–2–188. Exceptions to requirements for sale or transfer of chemicals, and to licensing requirements.

(a) The provisions of this article shall not apply to the sale or transfer of products which include a listed precursor chemical if the product may be sold

lawfully with a prescription or over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.), or under a rule adopted pursuant to that act.

(b) Notwithstanding any other provision of this article, no person shall be required to obtain a listed precursor license or permit for the sale, receipt, transfer, manufacture, or possession of a listed precursor chemical when:

(1) Such person is a duly licensed physician, dentist, veterinarian, podiatrist, or pharmacist, when the sale, receipt, transfer, manufacture, or possession of such listed precursor chemical is a transaction otherwise lawfully authorized;

(2) A domestic lawful distribution in the usual course of business between agents or employees of a single regulated person;

(3) A delivery of a listed precursor chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman.

(Acts 1991, No. 91–589, p. 1085, § 9.)

§ 20–2–189. Property rights in chemicals forfeited upon violation.

All listed precursor chemicals as defined in Section 20–2–181, which have been, or which are intended to be sold, transferred, manufactured, purchased for resale, possessed, or otherwise transferred in violation of a provision of this article shall be subject to forfeiture to the state and no property right shall exist in them.

(Acts 1991, No. 91–589, p. 1085, § 10.)

§ 20–2–190. Penalties; sale of ephedrine, etc.; Alabama Drug Abuse Task Force.

(a) Any person who manufactures, sells, transfers, receives, or possesses a listed precursor chemical violates this article if the person:

(1) Knowingly fails to comply with the reporting requirements of this article;

(2) Knowingly makes a false statement in a report or record required by this article or the rules adopted thereunder;

(3) Is required by this article to have a listed precursor chemical license or permit, and is a person as defined by this article, and knowingly or deliberately fails to obtain such a license or permit. An offense under this subsection shall constitute a Class C felony.

(b) Notwithstanding the provisions of Section 20–2–188, a person who possesses, sells, transfers, or otherwise furnishes or attempts to solicit another or conspires to possess, sell, transfer, or otherwise furnish a listed precursor chemical or a product containing a precursor chemical or ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers

commits an offense if the person possesses, sells, transfers, or furnishes the substance with the knowledge or intent that the substance will be used in the unlawful manufacture of a controlled substance. An offense under this subsection shall constitute a Class B felony.

(c)(1) It shall be unlawful for any person, business, or entity to knowingly sell any ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers unless sold from a pharmacy licensed by the Alabama Board of Pharmacy. Any ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers sold within a pharmacy must be sold by an individual licensed as a pharmacist, a pharmacy technician licensed by the Alabama Board of Pharmacy, or by an employee of the pharmacy under the direct supervision and control of a licensed pharmacist.

(2) Products whose sole active ingredient is ephedrine or pseudoephedrine in strength of 30 mg. or more per tablet cannot be offered for retail sale loose in bottles, but must be sold only in blister packages.

(3) All packages of tablets containing ephedrine or pseudoephedrine shall be stored by a pharmacy by placing the products behind a counter, within the pharmacy where the public is not permitted.

(4) No person shall deliver, sell, or purchase products sold over-the-counter that contain a combined total of more than 3.6 grams per calendar day or more than 7.5 grams per 30 days, of ephedrine base or pseudoephedrine base. It shall not be a defense under this subdivision if no money was exchanged during a transaction that would otherwise be unlawful under this subdivision.

(5)a. Each pharmacy selling an over-the-counter product in compliance with paragraph b. of this subdivision shall require the purchaser of the product or products to be at least 18 years of age, to provide a valid, unsuspended driver's license or nondriver identification card issued by this state, a valid, unsuspended driver's license or nondriver identification card issued by another state, a United States Uniformed Services Privilege and Identification Card, or a United States or foreign passport, and to sign a record of each transaction. A record of each transaction shall include the magnetic transfer or electronic entry of information data from the identification card into the system, as well as the type of identification card used, including the number, name, date of birth, and current, valid address of the purchaser, the date and time of the sale, the name of the product being sold, as well as the total quantity in grams, of ephedrine or pseudoephedrine being sold. The system required pursuant to this section shall be available to the state and to pharmacies accessing the system without cost. Effective January 1, 2011, provided a system is available to the state without cost to the state or pharmacies for accessing the system, before completing a sale of a product covered by this section, a pharmacy shall submit the required information to the electronic sales tracking system established under subdivision (1) of subsection (i). The

seller shall not complete the sale if the system generates a stop sale alert except when the seller follows the procedure described under subsection (i) for overriding the stop sale alert when the seller has fear of bodily harm. Any seller who fails to comply with this subdivision shall be guilty of a Class A misdemeanor upon a first offense, and a Class C felony on a second or subsequent offense, except that sellers who exercise the override feature described under subdivision (3) of subsection (i) when a stop sale alert is generated shall not be subject to misdemeanor or felony charges. Absent negligence, wantonness, recklessness, or deliberate misconduct, any retailer maintaining the electronic sales tracking system in accordance with this subdivision shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection and shall be immune from liability to any third party unless the retailer has violated any provision of this subsection in relation to a claim brought for such violation. Any excessive or suspicious sales of such a product by any wholesaler, manufacturer, or repackager as defined in Section 34–23–1 shall be reported to the Alcohol Beverage Control Board and the Board of Pharmacy. Any person who fails to comply with this subdivision shall be guilty of a Class A misdemeanor upon a first offense, and a Class C felony upon a second or subsequent offense.

b. If a pharmacy selling an over-the-counter product in compliance with subdivision (3) experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with paragraph a. of this subdivision, the pharmacy shall maintain a written log or an alternative electronic recordkeeping mechanism that complies with all identification and documentation requirements of Act 2012–237, until the pharmacy is able to comply with paragraph a. of this subdivision.

(6) This subsection does not apply to products dispensed pursuant to a legitimate prescription.

(7) This subsection shall preempt all local ordinances or regulations governing the sale or purchase of products containing ephedrine or pseudoephedrine.

(8) A pharmacist who is the general owner or operator of an establishment where ephedrine or pseudoephedrine products are available for sale shall not be penalized pursuant to this section for conduct of an employee if the retailer documents that an employee training program was conducted by or approved by the Alabama Drug Abuse Task Force (ADATF), pursuant to subsection (h). As provided in subsection (h), the Alabama Board of Pharmacy shall develop or approve all training programs for those pharmacy employees referenced in subdivision (1) and submit such programs to the ADATF for approval. The ADATF must review any training programs submitted by the Alabama Board of Pharmacy at its next subsequent called or scheduled public meeting and within 7 days, report its decision in writing to the Alabama Board of Pharmacy.

(9) A violation of subdivision (1), (2), (3), or (4) shall constitute a Class A misdemeanor on a first offense and a Class C felony on subsequent offenses. The violations shall be punishable as provided by law.

(d) Any person who resides within any state that requires a prescription for any purchase of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers, or who presents a valid identification as provided in subdivision (5) of subsection (c) from any state that requires a prescription for any purchase of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers, may purchase those products only upon presentation of a valid prescription for the ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers. The electronic system established in Act 2012–237 shall generate a stop sale and block any purchase in violation of this subsection, absent a valid lawful prescription.

(e) Beginning October 1, 2005, any wholesaler, manufacturer, or repackager of drug products as defined in Section 34–23–1, other than a wholesaler, manufacturer, or repackager licensed by the Board of Pharmacy, shall obtain a registration annually from the Alcoholic Beverage Control Board which may promulgate and implement administrative rules for the registrations. Beginning October 1, 2010, any wholesaler, manufacturer, or repackager shall keep complete records of all sales and transactions involving a listed precursor chemical or a product containing a precursor chemical including the names of all parties involved in the transaction, the name of the products being sold, as well as the total quantity in grams, of the precursor chemical or product involved. Any wholesaler, manufacturer, or repackager selling a listed precursor chemical or product to an individual shall require the purchaser of the product or products to be at least 18 years of age and to provide government-issued photographic identification of himself or herself. The records shall be maintained for at least 36 months and the records shall be available for inspection by any law enforcement officer or investigator of the Board of Pharmacy during normal business hours. Failure to comply with subsection (d) and this subsection shall be a Class A misdemeanor for a first offense and a Class C felony for a second or subsequent offense.

(f) Beginning October 1, 2005, every retailer of ephedrine or pseudoephedrine, or a product containing ephedrine or pseudoephedrine, is required to be registered with the Alcoholic Beverage Control Board to lawfully sell ephedrine or pseudoephedrine products to consumers.

(g) In addition to any other penalty that may be provided, a sale of ephedrine or pseudoephedrine by a wholesaler, manufacturer, repackager, or retailer without a license as required by subsections (e) and (f) is a Class A misdemeanor for a first offense and a Class C felony for a second or subsequent offense. In addition to any other penalty that may be provided, a sale of ephedrine or pseudoephedrine in violation of this section by a wholesaler, manufacturer, repackager, or retailer who is licensed as required by subsection (e) or (f) shall result in cancellation of the required registration and forfeiture of the right to sell the products for at least two years or longer as determined by the Alcoholic Beverage Control Board.

(h)(1) The Alabama Drug Abuse Task Force (ADATF) is established and given the authority to do all of the following:

a. Approve or develop drug awareness, enforcement, education, prevention, and training programs. The programs shall be designed to curb the abuse of all dangerous, illegal, or abused drugs, including but not limited to, methamphetamine precursors, other key, critical, common ingredients used to make methamphetamine, or other illegal or abused drugs in the State of Alabama. These programs may be targeted for, but not limited to, employees of establishments where ephedrine or pseudoephedrine products or other key or critical or common ingredients in the illegal manufacture of methamphetamine or other illegal or dangerous drugs are available for sale. Education, prevention, and training programs also may be targeted to law enforcement, prosecutors, the judiciary, students, or that may further serve to protect, educate, and inform the public. The programs may be administered by the Alcoholic Beverage Control Board in conjunction with its program to restrict access to tobacco products by minors pursuant to Chapter 11, Title 28. The programs may be further administered by any law enforcement drug abuse and violent crime task force, the Alabama Department of Education, a licensed private drug education or prevention entity approved by the ADATF, or any other governmental or quasi-governmental agency or entity partnering with the ADATF to serve the purposes of this article. The Alabama Department of Public Health, ADATF, and the Alabama State Board of Education, shall enter into a memorandum of understanding to develop and implement the training, education, or prevention programs referenced in this section, and are authorized to expend any funds necessary to further the requirements and objectives of the ADATF and this subsection or any other legitimate drug abuse prevention or law enforcement purpose for the protection of the citizens of this state.

b. Advise the ABC Board, the Alabama Board of Pharmacy, Alabama law enforcement, prosecutorial entities, or other governmental or quasi-governmental agency or entity partnering with the ADATF regarding its responsibilities prescribed in this article.

c. Report to the Legislature by the 10th day of each legislative session, on the state of illegal drug abuse, trends in the use, distribution, and manufacture of illegal or synthetic drugs, and the use and misuse of related precursors in Alabama. The ADATF may only gather such information from legitimately verifiable sources or in a public forum. The report may include recommendations with regard to public policy, potential legislation, allocation of resources, or other recommendations which may aid in the curbing of drug abuse and drug crime or would best serve the safety and well being of the state. The report may include, but is not limited to, all of the following:

1. Statistical data involving drug abuse, drug crime, or drug related crime.

2. Efforts within the state involving education, prevention, and treatment of drug addiction.

3. Critical needs of law enforcement.

4. Organized crime efforts in the area of drug distribution, trafficking, manufacturing, or related criminal activity.

5. Critical needs for prisons.

6. Prosecution entities and the courts.

7. Other critical threat assessments involving the safety of the State of Alabama.

(2) The task force shall consist of the following members:

a. The Attorney General, or his or her designee.

b. The President of the Alabama State Board of Pharmacy, or his or her designee.

c. A representative appointed by the District Attorney's Association.

d. A member of a regional county drug task force as appointed by the District Attorney's Association.

e. The Secretary of the Alabama State Law Enforcement Agency, or his or her designee.

f. A representative appointed by the Chiefs of Police Association.

g. A member of a regional county drug task force as appointed by the Chiefs of Police Association.

h. A representative appointed by the Sheriff's Association.

i. A representative appointed by the Narcotics Officers Association.

j. A representative of the Alabama Association of Pharmacists.

k. The Commissioner of the Alabama Department of Revenue, or his or her designee.

l. A member or director of the Alabama Sentencing Commission.

m. The Chair of the Alabama Assistant District Attorneys Association.

n. The Director of the Alabama Department of Human Resources, or his or her designee.

o. A representative of the Alabama Retail Association.

p. A representative of the Alabama Administrative Office of Courts.

q. The Commissioner of the Alabama Department of Corrections, or his or her designee.

r. The State Superintendent of Education, or his or her designee.

s. A representative of the Commission of Environmental Management.

t. The Director of the Alabama Department of Forensic Sciences, or his or her designee.

u. The State Health Officer, or his or her designee.

v. A representative of the mental illness and substance abuse services of the Alabama Department of Mental Health.

w. The Director of the Office of Prosecution Services, or his or her designee.

x. A representative of the State Bureau of Investigations.

y. A representative of the Board of Dental Examiners.

z. A representative of the Alcoholic Beverage Control Board.

(3) The membership shall select a chair on a bi-annual basis.

(4) The membership of the task force shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(5) The chair of the task force shall be responsible for the conduct of the meetings and any correspondence or reports derived therefrom.

(6) The chair of the task force shall call an organizational meeting of the task force within 60 days of July 1, 2010, and the task force shall report its meeting schedule and procedural rules to the Clerk of the House of Representatives and the Secretary of the Senate within 10 days of the meeting. The task force shall instruct the State Bureau of Investigations regarding the creation of a drug abuse information system, as well as a drug offender tracking system pursuant to Section 20–2–190.2, to further the mission of the task force and assist law enforcement in the prevention of illegal drug activity. This system shall include, but not be limited to, data regarding illegal drug manufacture, trafficking, distribution, and usage trends across the state. This information shall be made available and be in a form and method which will enable the task force to have an accurate and detailed understanding of the nature of drug abuse and the geographical impact of the various abused drugs in Alabama.

(7) The task force may expend any funds from any source, including, but not limited to, donations, grants, and appropriations of public funds received for purposes of this subsection.

(8) No function or duties of the Drug Abuse Task Force shall be the responsibility or under the purview of the Governor of Alabama.

(9) The task force shall not be obligated to fund the development of programs described in subdivision (1) unless the Legislature appropriates funding to the task force for this purpose.

(10)a. A subcommittee shall be created within the task force to study the availability of ephedrine and ephedrine products. Members of the subcommittee shall include:

1. The Attorney General.

2. A member of the Legislature appointed by the Speaker of the House of Representatives.

3. A member of the Legislature appointed by the President Pro Tempore of the Senate.

4. A district attorney, or his or her designee, appointed by the Alabama District Attorneys Association, from a jurisdiction with a significant and statistically verifiable number of methamphetamine laboratory seizures.

5. A sheriff appointed by the Alabama Sheriff's Association, from a jurisdiction with a significant and statistically verifiable number of methamphetamine laboratory seizures.

6. A chief of police appointed by the Alabama Chiefs of Police Association, from a jurisdiction with a significant and statistically verifiable number of methamphetamine laboratory seizures.

7. The Director of the Alabama Department of Forensic Sciences, or his or her designee.

8. The Chair of the Alabama Drug Abuse Task Force.

b. On the tenth day of the next regular session of the Legislature, the subcommittee of the task force shall report to the ADATF and the Legislature a full and detailed assessment of all efforts to limit or ultimately eliminate the availability of ephedrine or ephedrine products to persons with the intent to use them for manufacturing methamphetamine.

c. The subcommittee of the task force shall evaluate and report the effectiveness of the electronic drug offender tracking system created in Section 20–2–190.2, as well as statutory provisions to track or block any illegal or inappropriate sales of ephedrine products. This evaluation and report shall include consideration of criminal statutes regarding the trafficking and manufacture of methamphetamine, industry efforts to prevent improper usage of ephedrine products, as well as other pertinent laws. Where possible, the task force shall also endeavor to project future capabilities to sustain or improve efforts to limit illegal access to ephedrine products for purposes of manufacturing methamphetamine.

d. The subcommittee of the task force, in its effort to provide a complete and accurate report, may utilize, but is not limited to, the use of the following resources:

1. Reports from any governmental or quasi-governmental entity.

2. Statistical data or reports from State Bureau of Investigations, National Precursor Log Exchange, Alabama Fusion Center, Drug Enforcement Administration, or any entity that has membership on the task force.

3. Other appropriate law enforcement, drug treatment, drug prevention, or medical entities that gather verifiable data regarding drug usage, abuse, or any drug crime or drug related crime.

4. Relevant public hearings by the ADATF.

5. Anecdotal information from named and legitimately verifiable sources.

6. All data or information must be sourced and verifiable.

e.1. Any report of the ADATF subcommittee to any governmental entity shall first be submitted to the Alabama Department of Public Health. The department shall evaluate the report. In its review, the department shall evaluate the quality and authenticity of the underlying sourced data. The department shall also determine if the data contained within the report is verifiable and if the ADATF or subcommittee of the task force followed generally accepted scientific or statistical methods in the compilation of the report.

2. In making its determination, the department may consider, but is not limited to, evaluating any method, process, research, calculations, design, control, analysis, hypothesis, or program utilized in the report.

3. In the event that the department determines that the proper methods were not followed, it shall notify the task force or subcommittee of the task force of any deficiencies in the report and allow the task force or subcommittee to revise the report to correct the deficiencies. Otherwise, the report shall contain a notation of the findings of any deficiencies by the department.

(i)(1) The State Bureau of Investigations shall implement a real-time electronic sales tracking system to monitor the over-the-counter, nonprescription sale of products in this state containing any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers, provided that such system is available to the state without cost to the state or retailers for accessing the system. The electronic sales tracking system shall have the technological capability to receive ephedrine and pseudoephedrine sales data from retail establishments submitted pursuant to this subsection. The electronic sales tracking system shall be capable of bridging with existing and future operational systems used by retail at no cost to such retail establishment. The State Bureau of Investigations may enter into a public-private partnership, through a memorandum of understanding or similar arrangement, to make the system available to retailers and law enforcement in the state.

(2) The information contained in this electronic sales tracking system shall be available to:

a. Any law enforcement agency or entity as authorized by the State Bureau of Investigations;

b. Pursuant to a subpoena.

(3) This database established pursuant to this subsection shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits set forth in subdivision (4) of subsection (c). The system shall contain an override function for use by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm. Each instance in which the override function is utilized shall be logged by the system.

(j)(1) Upon conviction for any violation of Section 13A–12–260 or 20–2–190, or any violation of a controlled substance or illegal drug crime under Title 13A or this title and in addition to restitution and other costs that may be ordered pursuant to Section 15–18–67, the primary investigative law enforcement or prosecutorial entity shall be entitled, upon request of the district attorney and an order of the court, to recover restitution from any defendant for any legitimate cost incurred in the course of the investigation or prosecution.

(2) Restitution may include, but shall not be limited to, any cost incurred by the primary investigative law enforcement entity of any hazardous material or environmental cleanup of substances related to the manufacture of a controlled substance.

(3) Any real property owner that demonstrates to the court that he or she had no knowledge of, or had no reason to have knowledge of, any illegal manufacturing of controlled substances on his or her property by a defendant convicted of a violation of Section 13A–12–260 or 20–2–190, or any violation of a controlled substance or illegal drug crime under Title 13A or this title, through the district attorney, may request a court order requiring the defendant to pay to the real property owner all reasonable costs, if any, associated with any legitimate environmental cleanup or remediation or repair of the real property where the defendant had committed a controlled substance crime.

(Acts 1991, No. 91–589, p. 1085, § 11; Act 2004–564, p. 1323, § 1; Act 2005–181, p. 365, § 1; Act 2009–283, p. 483, § 1; Act 2010–215, p. 352, §§ 1, 2; Act 2012–237, p. 445, § 2; Act 2017–422, § 1.)

§ 20–2–190.1. Smurfing prohibited.

(a) The Legislature finds the following:

(1) The danger of methamphetamine manufacture to the public and especially to law enforcement involved in the investigation and clean-up of clandestine methamphetamine laboratories is of paramount concern.

(2) Ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers are the essential ingredient in the manufacture of methamphetamine.

(b) It is the intent of the Legislature to prevent and criminally sanction the practice of smurfing. Smurfing is the common name for the act of a person within the state or from other states, acting alone or in concert, at the direction or behest of another to circumvent the provisions of state law by purchasing multiple quantities of pseudoephedrine and ephedrine compounds for the intent of combining or using such quantities for the purposes of manufacturing or attempting to manufacture methamphetamine.

(Act 2012–237, p. 445, § 1.)

§ 20–2–190.2. Electronic drug offender tracking system.

(a) For the purposes of this section, the following words shall have the following meanings:

(1) DRUG RELATED CONVICTION. Any conviction or plea of nolo contendere for the offense of possession, distribution, trafficking, or any degree of manufacture of controlled substances, or drug paraphernalia. A drug related conviction shall also include the inchoate crimes of attempt, solicitation, or conspiracy of any of the drug related crimes.

(2) DRUG OFFENDER. Any person who has any conviction listed in subdivision (1).

(b) Effective January 1, 2013, the State Bureau of Investigations shall implement a real-time electronic drug offender tracking system to catalogue all criminal convictions in this state of persons convicted of felonies or misdemeanors involving the possession, distribution, manufacture, or trafficking of controlled substances. This catalogue shall include, but not be limited to, paraphernalia convictions, violations of this article, in whole or in part, attempts, conspiracies, or solicitations to commit any crime involving the possession, distribution, or manufacture of controlled substances. A drug offender convicted of violations of Act 2012–237, possession of a controlled substance, or drug paraphernalia shall remain in the drug offender tracking system for seven years beginning upon each conviction. A drug offender convicted of manufacture, distribution, or trafficking of controlled substances shall remain in the drug offender tracking system for ten years beginning upon each conviction. A person's name shall be removed from the tracking system upon the expiration of the applicable seven or ten years from the adjudication or conviction of the last violation and confirmation that the drug offender has no new convictions.

(c) The electronic drug offender tracking system shall have the technological capability to receive ephedrine and pseudoephedrine sales data from pharmacies submitted pursuant to this section. The electronic drug offender tracking system shall be capable of bridging with existing and future operational systems used by pharmacies at no charge to the pharmacies. The State Bureau of Investigations may enter into a public-private partnership, through a memorandum of understanding or similar arrangement, to make the system available to pharmacies and law enforcement in the state.

(d)(1) Effective January 1, 2013, the State Bureau of Investigations, in cooperation with the National Association of Drug Diversion Investigators, which administers the National Precursor Log Exchange, shall devise a method to electronically notify the association at least every seven days of any person placed on the drug offender tracking system. The notification shall include the first, middle, and last names of the person, as well as the person's date of birth. The State Bureau of Investigations shall devise a method to issue a stop sale alert for any purchaser whose name has been submitted to the national registry.

(2) The State Bureau of Investigations shall notify the association when a person is removed from the drug offender tracking system as required under subsection (b).

(e) The information contained in this electronic drug offender tracking system shall be available:

(1) To any law enforcement agency or entity as authorized by the State Bureau of Investigations.

(2) Pursuant to a subpoena.

(f) The drug offender tracking system shall be capable of generating a stop sale alert, which shall be a notification that the purchaser has a previous conviction for a drug related offense and completion of the sale would result in a violation of law under Section 20–2–190. The system shall contain an override function for use by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm. Each instance in which the override function is utilized shall be logged by the system.

(g) Effective January 1, 2013, provided a system is available to the state without cost to the state or pharmacies for accessing the system, before completing a sale of a product covered by this section, a pharmacy shall submit the required information to the electronic drug offender tracking system established under subsection (b).

(h) If the pharmacy, after checking the electronic drug offender database, determines the purchaser is a drug offender, the pharmacist shall not complete the sale, except when the seller follows the procedure described under subsection (f) for overriding the stop sale alert when the seller has fear of bodily harm.

(i) Any seller who fails to comply with this section shall be guilty of a Class A misdemeanor for a first offense, and a Class C felony for a second or subsequent offense, except that sellers who exercise the override feature described under section (f) when a stop sale alert is generated shall not be subject to misdemeanor or felony charges. Absent negligence, wantonness, recklessness, or deliberate misconduct, any pharmacist maintaining the electronic drug offender tracking system in accordance with this section shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection and shall be immune from liability to any third party unless the pharmacy has violated any provision of this subsection in relation to a claim brought for such violation.

(j)(1) A drug offender convicted of violations of Act 2012–237, possession of a controlled substance, or drug paraphernalia shall be prohibited from the retail or prescription purchase of any ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers or product for the entire seven years the person is required to be included in the drug offender tracking system.

(2) A drug offender convicted of manufacture, distribution, or trafficking of controlled substances shall be prohibited from the retail or prescription purchase of any ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers, or product for the entire ten years the person is required to be included in the drug offender tracking system.

(k) A drug offender who knowingly and unlawfully purchases or attempts, solicits another, or conspires to purchase ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers or product in violation of this section, is guilty of a Class A misdemeanor, except upon a subsequent conviction, is guilty of a Class C felony.

(Act 2012–237, p. 445, § 3.)

ARTICLE 10.

CONTROLLED SUBSTANCES PRESCRIPTION DATABASE.

§ 20–2–210. Legislative findings.

The Alabama Legislature hereby finds that the diversion, abuse, and misuse of prescription medications classified as controlled substances under the Alabama Uniform Controlled Substances Act constitutes a serious threat to the health and welfare of the citizens of the State of Alabama. The Legislature further finds that establishment of a controlled substances prescription database to monitor the prescribing and dispensing of controlled substances will materially assist state regulators and practitioners authorized to prescribe and dispense controlled substances in the prevention of diversion, abuse, and misuse of controlled substances prescription medication through the provision of education and information, early intervention, and prevention of diversion, and investigation and enforcement of existing laws governing the use of controlled substances.

(Act 2004–443, p. 781, § 1.)

§ 20–2–211. Definitions.

For the purposes of this article, the following terms shall have the respective meanings ascribed by this section:

(1) CERTIFYING BOARDS. Those boards designated in subdivision (3) of Section 20–2–2.

(2) CONTROLLED SUBSTANCE. Any drug or medication defined as a controlled substance within the meaning of subdivision (4) of Section 20–2–2.

(3) DEPARTMENT. The Alabama Department of Public Health.

(4) LICENSING BOARD OR COMMISSION. The board, commission, or other entity that is authorized to issue a professional license to a pharmacist or an authorized practitioner.

(5) PHARMACIST. Any person, as defined in subdivision (17) of Section 34–23–1, licensed by the Alabama State Board of Pharmacy or otherwise permitted by Alabama or federal law to practice the profession of pharmacy within this state.

(6) PHARMACY. A retail establishment, as defined in subdivision (18) of Section 34–23–1, licensed by the Alabama State Board of Pharmacy.

(7) PRACTITIONER or AUTHORIZED PRACTITIONER. A medical, dental, podiatric, or optometric practitioner licensed, registered, or otherwise authorized by Alabama or federal law to prescribe, dispense, or furnish controlled substances within this state.

(8) STATE HEALTH OFFICER. The executive officer of the Alabama Department of Public Health as designated in Section 22–2–8.

(Act 2004–443, p. 781, § 2; Act 2018–146, § 1.)

§ 20–2–212. Controlled substances prescription database program; powers and duties of department; trust fund; advisory committee; review committee.

(a) The department may establish, create, and maintain a controlled substances prescription database program. In order to carry out its responsibilities under this article, the department is granted the following powers and authority:

(1) To adopt regulations, in accordance with the Alabama Administrative Procedure Act, governing the establishment and operation of a controlled substances prescription database program.

(2) To receive and to expend for the purposes stated in this article funds in the form of grants, donations, federal matching funds, interagency transfers, and appropriated funds designated for the development, implementation, operation, and maintenance of the controlled substances prescription database. The funds received pursuant to this subdivision shall be deposited in a new fund that is established as a separate special revolving trust fund in the State Treasury to be known as the Alabama State Controlled Substance Database Trust Fund. No monies shall be withdrawn or expended from the fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to this article. Any monies appropriated shall be budgeted and allocated pursuant to the Budget Management Act in accordance with Article 4 (commencing with Section 41–4–80) of Chapter 4 of Title 41, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act.

(3) To enter into one or more contracts with the State Board of Pharmacy for the performance of designated operational functions for the controlled substances prescription database, including, but not limited to, the receipt, collection, input, and transmission of controlled substances prescription data and such other operational functions as the department may elect.

(4) To create a Controlled Substances Prescription Database Advisory Committee and an Information Release Review Committee.

(b)(1) The mission of the Controlled Substance Prescription Database Advisory Committee is to consult with and advise the State Health Officer on matters related to the establishment, maintenance, and operation of the

database, access to the database information, how access is to be regulated, and security of information contained in the database.

(2) The advisory committee shall consist of the following:

a. One representative designated by the Medical Association of the State of Alabama.

b. One representative designated by the Alabama Dental Association.

c. One representative designated by the Alabama Pharmacy Association.

d. One representative designated by the Alabama Veterinary Medicine Association.

e. The director of the controlled substances prescription database program in the department.

f. One representative designated by the Alabama Hospital Association.

g. The Executive Director of the Alabama State Board of Pharmacy, or his or her designee.

h. The Executive Director of the Board of Medical Examiners, or his or her designee.

i. One representative designated by the Alabama Optometric Association.

j. One representative from each of the certifying boards established under the Alabama Uniform Controlled Substances Act.

k. One representative designated by the Alabama Medicaid Agency.

l. One representative designated by the Alabama Podiatry Association.

m. One representative designated by the Alabama Department of Mental Health.

n. The Attorney General, or his or her designee.

(3) If a member of the Controlled Substances Prescription Database Advisory Committee is unable to attend a meeting, the organization which appointed that member may designate one of its employees or agents as a proxy. A proxy may participate in all deliberations of the committee and vote on all questions considered by the advisory committee. Designations of a proxy must be in writing, must specify by name the individual who will serve as proxy, and must specify the date of the meeting at which the proxy is authorized to serve. There must be a separate written proxy designation for each meeting at which a proxy will serve.

(4) The appointing authorities of the committee shall coordinate their appointments to assure the committee membership is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of the state.

(5) Members of the Controlled Substances Prescription Database Advisory Committee may participate in a meeting by means of conference tele-

phone, video conference, or similar communications equipment by means of which all persons participating in the meeting may hear each other at the same time. Participation by such means shall constitute presence in person at a meeting for all purposes, including the establishment of a quorum. Telephone or video conference or similar communications equipment shall also allow members of the public the opportunity to simultaneously listen to or observe the meetings.

(c)(1) The mission of the Information Release Review Committee is to review statistical, research, or educational requests for information, departmental research requests, or department requests regarding publication of information from the controlled substances database.

(2) The review committee shall consist of one licensed practitioner appointed by the State Board of Medical Examiners, one licensed practitioner appointed by the State Board of Dental Examiners, one licensed pharmacist appointed by the State Board of Pharmacy, one representative experienced in medical informatics or clinical research appointed by the State Health Officer, and one representative experienced in medical informatics or clinical research appointed by the Attorney General.

(3) Members of the Information Release Review Committee may receive electronically from the department statistical, research, or educational requests for information, departmental research requests, or department requests regarding publication of information and may respond electronically in order to provide their approval or disapproval of those requests.

(Act 2004–443, p. 781, § 3; Act 2010–539, p. 928, § 1; Act 2010–581, p. 1297, § 1; Act 2013–256, p. 666, § 1; Act 2018–146, § 1.)

§ 20–2–213. Reporting requirements.

(a) Each of the entities designated in subsection (b) shall report to the department, or to an entity designated by the department, controlled substances prescription information as designated by regulation pertaining to all Class II, Class III, Class IV, and Class V controlled substances in such manner as may be prescribed by the department by regulation.

(b) The following entities or practitioners are subject to the reporting requirements of subsection (a):

(1) Licensed pharmacies, not including pharmacies of general and specialized hospitals, nursing homes, and any other health care facilities which provide inpatient care, so long as the controlled substance is administered and used by a patient on the premises of the facility.

(2) Mail order pharmacies or pharmacy benefit programs filling prescriptions for or dispensing controlled substances to residents of this state.

(3) Licensed physicians, dentists, podiatrists, or optometrists who dispense Class II, Class III, Class IV, and Class V controlled substances directly to patients, but excluding sample medications. For the purposes of this article, sample medications are defined as those drugs labeled as a

sample, not for resale under the laws and regulations of the Federal Food and Drug Administration. Controlled substances administered to patients by injection, topical application, suppository administration, or oral administration during the course of treatment are excluded from the reporting requirement.

(c) The manner of reporting controlled substance prescription information shall be in such manner and format as designated in the regulations of the department.

(d) The following data elements shall be used in transmitting controlled substance prescription information:

(1) Name or other identifying designation of the prescribing practitioner.

(2) Date prescription was filled or medications dispensed.

(3) Name of person and full address for whom the prescription was written or to whom the medications were dispensed.

(4) National Drug Code (NDC) of controlled substance dispensed.

(5) Quantity of controlled substance dispensed.

(6) Name or other identifying designation of dispensing pharmacy or practitioner.

(7) Other data elements consistent with standards established by the American Society for Automation in Pharmacy as may be designated by regulations adopted by the department.

(8) Method of payment and third-party payor identification of the controlled substance dispensed.

(e) In addition to any other applicable law or regulation, the failure of a licensed pharmacy or pharmacist or a licensed practitioner to comply with the requirements of this section shall constitute grounds for disciplinary action against the license of the pharmacy, pharmacist, or licensed practitioner by the appropriate licensing board or commission, and the imposition of such penalties as the licensing board or commission may prescribe. The department shall report to the appropriate licensing board, agency, or commission the failure of a licensed pharmacist or a licensed practitioner to comply with the reporting requirements of this section. Any report made by the department to a licensing board, agency, or commission shall be deemed a formal complaint and shall be investigated and appropriate action taken thereon.

(Act 2004–443, p. 781, § 4; Act 2013–256, p. 666, § 1; Act 2016–315, p. 786, § 1.)

§ 20–2–214. Limited access to database permitted for certain persons or entities.

(a) The following individuals or entities shall be permitted access to the information in the controlled substances database, subject to the limitations indicated below:

(1) Authorized representatives of the certifying boards; provided, however, that access shall be limited to information concerning the licensees of the certifying board, however, authorized representatives from the Board of Medical Examiners may access the database to inquire about certified registered nurse practitioners (CRNPs), or certified nurse midwives (CNMs) that hold a Qualified Alabama Controlled Substances Registration Certificate (QACSC).

(2) A licensed practitioner approved by the department who has authority to prescribe, dispense, or administer controlled substances. The licensed practitioner's access shall be limited to information concerning himself or herself, registrants who possess a Qualified Alabama Controlled Substances Registration Certificate over whom the practitioner exercises physician supervision or with whom he or she has a joint practice agreement, a certified registered nurse practitioner and a certified nurse midwife with a Qualified Alabama Controlled Substances Registration Certificate over whom the practitioner exercises professional oversight and direction pursuant to an approved collaborative practice agreement, a current patient of the practitioner, and individuals seeking treatment from the practitioner. Practitioners shall have no requirement or obligation under this article to access or check the information in the controlled substances database prior to prescribing, dispensing, or administering medications or as part of their professional practice. However, the applicable licensing boards may impose such a requirement or obligation by rule.

(3) Up to two employees designated by a licensed physician approved by the department who has authority to prescribe, dispense, or administer controlled substances, who may access the database on the physician's behalf.

(4) Up to two employees designated by a licensed dentist approved by the department who has authority to prescribe, dispense, or administer controlled substances, who may access the database on the dentist's behalf.

(5) A licensed certified registered nurse practitioner or a licensed certified nurse midwife approved by the department who is authorized to prescribe, administer, or dispense pursuant to a Qualified Alabama Controlled Substances Registration Certificate; provided, however, that access shall be limited to information concerning a current or prospective patient of the certified registered nurse practitioner or certified nurse midwife.

(6) A licensed assistant to physician approved by the department who is authorized to prescribe, administer, or dispense pursuant to a Qualified Alabama Controlled Substances Registration Certificate; provided, however, that access shall be limited to information concerning a current patient of the assistant to the physician or an individual seeking treatment from the assistant to physician.

(7) A coroner, deputy coroner, or a licensed medical examiner or the examiner's designee who is employed by the Alabama Department of Forensic Sciences; provided, however, that access shall be limited to infor-

mation concerning an investigation of the cause and manner of death of an individual. No coroner or deputy coroner shall be granted access to information pursuant to this subdivision unless he or she has received and completed training provided by the department and successfully passed a minimum standards exam administered by the department.

(8) A licensed pharmacist approved by the department; provided, however, that access is limited to information related to the patient or prescribing practitioner designated on a controlled substance prescription that a pharmacist has been asked to fill. Pharmacists shall have no requirement or obligation to access or check the information in the controlled substances database prior to dispensing or administering medications or as part of their professional practices.

(9) State and local law enforcement authorities as authorized under Section 20–2–91, and federal law enforcement authorities authorized to access prescription information upon application to the department accompanied by a declaration that probable cause exists for the use of the requested information.

(10) Employees of the department and consultants engaged by the department to operate the controlled substances database; provided, however, that access shall be limited to operating and administering the database, conducting departmental research when approved by the Information Release Review Committee, and implementing a research request authorized under subsection (b).

(11) The prescription drug monitoring program of any of the other states or territories of the United States, if recognized by the Alliance for Prescription Drug Monitoring Programs under procedures developed, certified, or approved by the United States Department of Justice or the Integrated Justice Information Systems Institute or successor entity subject to or consistent with limitations for access prescribed by this chapter for the Alabama Prescription Drug Monitoring Program.

(12) Authorized representatives of the Alabama Medicaid Agency; provided, however, that access shall be limited to inquiries concerning possible misuse or abuse of controlled substances by Medicaid recipients.

(13) Upon good cause shown to the State Health Officer or his or her designee, authorized representatives of the Board of Nursing may receive information concerning licensees of the Board of Nursing; provided, however, that requests shall be limited to information concerning a licensee of the Board of Nursing who is the subject of an investigation or disciplinary activity. Any certifying board, state or federal law enforcement agency, or other individual or entity authorized to access the information from the controlled substances database pursuant to this article may share information from the controlled substances database with the Board of Nursing, provided that the information concerns a licensee of the Board of Nursing who is the subject of an investigation or disciplinary activity.

(b) Subject to the approval of the Information Release Review Committee, the department may release or publish de-identified aggregate statewide and regional information for statistical, research, or educational purposes.

(1) Prior to being released or published, all information that identifies, or could reasonably be used to identify, a patient, a prescriber, a dispenser, or any other person who is the subject of the information, shall be removed, and at a minimum, such de-identification of the information shall comply with 45 C.F.R. § 164.514(b)(2), as amended.

(2) Release of information shall be made pursuant to a written data use agreement between the requesting individual or entity and the department.

(Act 2004–443, p. 781, § 5; Act 2009–489, p. 891, § 2; Act 2010–539, p. 928, § 1; Act 2010–581, p. 1297, § 1; Act 2013–223, p. 531, § 3; Act 2013–256, p. 666, § 1; Act 2018–146, § 1; Act 2021–383, § 1; Act 2022–384, § 1; Act 2024–80, § 1, eff. Oct. 1, 2024.)

§ 20–2–215. Confidentiality of database.

(a) The controlled substances database and all information contained therein and any records maintained by the department or by any entity contracting with the department which is submitted to, maintained, or stored as a part of the controlled substances prescription database, and any reproduction or copy of that information is declared privileged and confidential, is not a public record, and is not subject to subpoena or discovery in civil proceedings. This information is considered clinical in nature, subject to medical interpretation, and may only be used for any of the following:

(1) Investigatory or evidentiary purposes related to violations of state or federal law.

(2) Regulatory activities of licensing or regulatory boards of practitioners authorized to prescribe or dispense controlled substances.

(3) Informing pharmacists and practitioners in prescribing or dispensing controlled substances.

(4) Bona fide statistical, research, or educational purposes when information is properly de-identified as provided in this article.

(b) Nothing in this section shall apply to records not originating from the controlled substances database that are created or maintained in the regular course of business of a pharmacy, medical, dental, optometric, or veterinary practitioner, or other entity covered by this article and all information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because such information contained in those records was reported to the controlled substances prescription database in accordance with the provisions of this article.

(Act 2004–443, p. 781, § 6; Act 2013–256, p. 666, § 1; Act 2018–146, § 1.)

§ 20–2–216. Unauthorized disclosure of information; unauthorized access, alteration, or destruction of information.

Any person who intentionally makes an unauthorized disclosure of information contained in the controlled substances prescription database shall be guilty of a Class A misdemeanor. Any person or entity who intentionally obtains unauthorized access to or who alters or destroys information contained in the controlled substances prescription database shall be guilty of a Class C felony.

(Act 2004–443, p. 781, § 7.)

§ 20–2–217. Surcharge on controlled substance registration certificate.

There is hereby assessed a surcharge in the amount of ten dollars ($10) per year on the controlled substance registration certificate of each licensed medical, dental, podiatric, optometric, and veterinary medicine practitioner authorized to prescribe or dispense controlled substances and on the Qualified Alabama Controlled Substances Registration Certificate (QACSC) of each licensed assistant to physician, certified registered nurse practitioner, or certified nurse midwife. This surcharge shall be effective for every practitioner certificate and every Qualified Alabama Controlled Substances Registration Certificate (QACSC) issued or renewed, shall be in addition to any other fees collected by the certifying boards, and shall be collected by each of the certifying boards and remitted to the department at such times and in such manner as designated in the regulations of the department. The proceeds of the surcharge assessed herein shall be used exclusively for the development, implementation, operation, and maintenance of the controlled substances prescription database.

(Act 2004–443, p. 781, § 8; Act 2009–489, p. 891, § 2; Act 2010–539, p. 928, § 1; Act 2010–581, p. 1297, § 1; Act 2013–223, p. 531, § 3.)

§ 20–2–218. Reimbursement of certain costs incurred in compliance with article.

The department is authorized to grant funds to participating pharmacies for the purpose of reimbursing reasonable costs for dedicated equipment and software incurred by pharmacies in complying with the reporting requirements of this article. Such grants shall be funded by gifts, grants, donations, or other funds appropriated for the operation of the controlled substances prescription database. The department is authorized to determine standards and specifications for any equipment and software purchased by the authority of this section.

(Act 2004–443, p. 781, § 9.)

§ 20–2–219. Database funding.

The department may make deposits into the fund from any source, public or private, including grants or contributions of money or other items of value,

which it determines necessary to carry out the purpose of the program. Notwithstanding amounts contained in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated in future years.

(Act 2004–443, p. 781, § 10; Act 2013–256, p. 666, § 1.)

§ 20–2–220. Liability for reporting.

Any person or entity required to report information concerning controlled substance prescriptions to the department, or to its designated agent, pursuant to the requirements of this article shall not be liable to any person for any claim of damages as a result of the act of reporting the information and no lawsuit may be predicated thereon.

(Act 2004–443, p. 781, § 11.)

Article 11.

Prescribing of Certain Schedules of Controlled Substances by Certified Registered Nurse Practitioners and Certified Nurse Midwives.

§ 20–2–250. Definitions.

As used in this article, the following words shall have the following meanings:

(1) Administer. The direct application of a controlled substance whether by injection, inhalation, ingestion, or any other means, to the body of a patient by any of the following:

a. A collaborating physician or, in his or her presence, his or her authorized agent.

b. A certified registered nurse practitioner or certified nurse midwife.

c. The patient at the direction and in the presence of the collaborating physician, certified registered nurse practitioner, or certified nurse midwife.

(2) Board. The Board of Medical Examiners of the State of Alabama.

(3) Certified nurse midwife or CNM. An advanced practice nurse who is subject to a collaborative practice agreement with a collaborating physician pursuant to Title 34, Chapter 21, Article 5, and who has advanced knowledge and skills relative to the management of women's health care focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women, within a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the patient.

(4) Certified registered nurse practitioner or CRNP. An advanced practice nurse who is subject to a collaborative practice agreement with a collaborating physician pursuant to Title 34, Chapter 21, Article 5, and who has advanced knowledge and skills in the delivery of nursing services within

a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the patient.

(5) COLLABORATING PHYSICIAN. A doctor of medicine or doctor of osteopathy licensed to practice medicine in Alabama who agrees in writing to practice in collaboration with one or more certified registered nurse practitioners or certified nurse midwives in accordance with Title 34, Chapter 21, Article 5, and the rules and regulations adopted by the Board of Medical Examiners and the Board of Nursing.

(6) PRESCRIBE or PRESCRIBING. The act of issuing a prescription for a controlled substance.

(7) PRESCRIPTION. Any order for a controlled substance written or signed or transmitted by word of mouth, telephone, telegraph, closed circuit television, or other means of communication by a legally competent collaborating physician, certified registered nurse practitioner, or certified nurse midwife authorized by law to prescribe and administer the drug which is intended to be filled, compounded, or dispensed by a pharmacist.

(8) QACSC. A Qualified Alabama Controlled Substances Registration Certificate.

(Act 2013–223, p. 531, § 1.)

§ 20–2–251. Certifying board; advisory committee; access to records; protocols, formularies, medical regimens.

(a) The Board of Medical Examiners is hereby designated as the certifying board for the registration and approval of a certified registered nurse practitioner (CRNP) or a certified nurse midwife (CNM) in obtaining or renewing a Qualified Alabama Controlled Substances Registration Certificate (QACSC). The board may adopt regulations concerning the application procedures, fees, and grounds for the restriction, limitation, suspension, or revocation of a QACSC, excluding the charge of expenses for conducting an investigation or expenses of a hearing, and to provide for hearings in connection with the same. The board shall establish a unique QACSC number that identifies the particular applicant as a certified registered nurse practitioner or certified nurse midwife with a valid QACSC. However, nothing in this article shall permit the board to encroach on the powers, duties, and authority of the Board of Nursing in carrying out its legally authorized functions. The Board of Nursing shall remain the sole licensing and disciplinary authority for CRNPs and CNMs.

(b) An advisory committee shall be created to comment on proposed rules.

(c) The board and its agents, attorneys, or investigators shall be permitted access to the records of any CRNP or CNM, including patient records, which would relate to a request for a QACSC, a renewal of a QACSC, or a possible violation of any provision of the Alabama Uniform Controlled Substances Act, this article, or applicable regulations of the board.

(d)(1) The board may establish protocols, formularies, or medical regimens which relate to, govern, or regulate a QACSC, and any such protocol, formulary, or medical regimen shall not be considered a rule under the Alabama Administrative Procedure Act.

(2) The formulary of controlled substances that may be prescribed by CRNPs and CNMs shall be approved by the certifying board upon the recommendation of the joint practice committee established by Article 5, commencing with Section 34–21–80, Chapter 21, Title 34, but the formulary shall not be considered a rule under the Alabama Administrative Procedure Act.

(Act 2013–223, p. 531, § 1.)

§ 20–2–252. Certificate requirements.

The Board of Medical Examiners may grant a Qualified Alabama Controlled Substances Registration Certificate (QACSC) to a certified registered nurse practitioner (CRNP) or certified nurse midwife (CNM) who:

(1) Is practicing in accordance with this article, Title 34, Chapter 21, Article 5, and all rules and regulations pertaining to collaboration between a qualified physician and a qualified CRNP or a CNM.

(2) Submits proof of successful completion of a course or courses approved by the board which includes advanced pharmacology and prescribing trends relating to controlled substances and which is consistent with the same requirements for other mid-level providers.

(3) Provides accurate and complete documentation of 12 or more months of active, clinical practice with one or more collaborative practices agreement which is governed by Title 34, Chapter 21, Article 5 and which has received final approval from the Board of Medical Examiners and the Alabama Board of Nursing. Temporary approval practice and provisional approval practice shall not be used or considered to meet the requirement of 12 or more months of active, clinical practice.

(Act 2013–223, p. 531, § 1.)

§ 20–2–253. Prescription, administration, dispensing of controlled substances.

(a) Upon receipt of a Qualified Alabama Controlled Substances Registration Certificate (QACSC) and a valid registration number issued by the United States Drug Enforcement Administration, a certified registered nurse practitioner (CRNP) or certified nurse midwife (CNM) may prescribe, administer, authorize for administration, or dispense only those controlled substances listed in Schedules III, IV, and V of Article 2, Chapter 2, of this title in accordance with rules adopted by the Board of Medical Examiners and any protocols, formularies, and medical regimens established by the board for regulation of a QACSC.

(b) A CRNP or a CNM shall not utilize his or her QACSC for the purchasing, obtaining, maintaining, or ordering of any stock supply or inventory of any controlled substance in any form.

(c) A CRNP or a CNM authorized to prescribe, administer, or dispense controlled substances in accordance with this article may not prescribe, administer, or dispense any controlled substance to himself, herself, or his or her spouse, child, or parent.

(Act 2013–223, p. 531, § 1.)

§ 20–2–254. Grounds for denial of application or request for renewal, etc.

The Board of Medical Examiners may deny an application of a certified registered nurse practitioner (CRNP) or a certified nurse midwife (CNM) requesting a Qualified Alabama Controlled Substances Registration Certificate (QACSC), deny a request for a renewal of a QACSC, or initiate action against the QACSC of a CRNP or a CNM possessing a QACSC based on the following grounds:

(1) Fraud or deceit in applying for, procuring, or attempting to procure a QACSC in the State of Alabama.

(2) Conviction of a crime under any state or federal law relating to any controlled substance.

(3) Conviction of a crime or offense which affects the ability of the CRNP or CNM to practice with due regard for the health or safety of his or her patients.

(4) Prescribing a drug or utilizing a QACSC in such a manner as to endanger the health of any person or patient of the CRNP, CNM, or collaborating physician.

(5) Suspension or revocation of the registration number issued to the CRNP or CNM by the United States Drug Enforcement Administration.

(6) Excessive dispensing or prescribing of any drug to any person or patient of the CRNP, CNM, or collaborating physician.

(7) Unfitness or incompetence due to the use of or dependence on alcohol, chemicals, or any mood-altering drug to such an extent as to render the CRNP or CNM unsafe or unreliable to prescribe drugs or to hold a QACSC.

(8) Any violation of a requirement set forth in this article or a rule adopted pursuant to this article.

(Act 2013–223, p. 531, § 1.)

§ 20–2–255. Hearings; restriction, suspension, revocation of certificate.

(a) Any hearing regarding the issuance, restriction, limitation, suspension, or revocation of a Qualified Alabama Controlled Substances Registration Certificate (QACSC) held by a certified registered nurse practitioner or a

certified nurse midwife for any violations of this article shall be before the Board of Medical Examiners.

(b) The board shall have the authority to restrict, suspend, or revoke a QACSC, whenever a CRNP or a CNM is found guilty on the basis of substantial evidence of any of the acts or offenses enumerated in Section 20–2–254. The board shall also have the authority to reinstate or to deny reinstatement of a QACSC.

(c) The board may limit revocation or suspension of a QACSC to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(d) The board shall promptly notify the Drug Enforcement Administration of the United States Department of Justice and the Alabama Board of Nursing of all orders suspending or revoking a QACSC of a CRNP or a CNM.

(e) Any hearing conducted before the board in accordance with this section shall be considered a contested case under the Alabama Administrative Procedure Act, and shall be conducted in accordance with the requirements of this article.

(Act 2013–223, p. 531, § 1.)

§ 20–2–256. Judicial review.

(a) A certified registered nurse practitioner (CRNP) or certified nurse midwife (CNM) adversely affected by an order of the Board of Medical Examiners denying an application for a Qualified Alabama Controlled Substances Registration Certificate (QACSC) or the renewal of a QACSC may obtain judicial review thereof by filing a written petition for review with the Circuit Court of Montgomery County in accordance with Section 41–22–20.

(b) A CRNP or a CNM adversely affected by an order of the board suspending, revoking, or restricting a QACSC, whether or not such suspension, revocation, or restriction is limited; or denying reinstatement of a QACSC, may obtain judicial review thereof by filing a written petition for review with the Circuit Court of Montgomery County in accordance with Section 41–22–20.

(c) The following procedures shall take precedence over subsection (c) of Section 41–22–20 relating to the issuance of a stay of any order of the board suspending, revoking, or restricting a QACSC. The suspension, revocation, or restriction of a QACSC shall be given immediate effect and no stay or supersedeas shall be granted pending judicial review of a decision by the board to suspend, revoke, or restrict a QACSC unless a reviewing court, upon proof by the party seeking judicial review, finds in writing that the action of the board was taken without statutory authority, was arbitrary or capricious, or constituted a gross abuse of discretion.

(d) From the judgment of the circuit court, either the board or any affected party who invoked judicial review may obtain a review of any final judgment

of the circuit court under Section 41–22–21. No security shall be required of the board.

(Act 2013–223, p. 531, § 1.)

§ 20–2–257. Fees.

The Board of Medical Examiners may charge and collect fees to defray expenses incurred in the registration and issuance of a Qualified Alabama Controlled Substances Registration Certificate (QACSC) and the administration of this article shall be the same as other mid-level providers. The types and amounts of fees shall be established in rules adopted by the board. The fees shall be retained by the board and may be expended for the general operation of the board.

(Act 2013–223, p. 531, § 1.)

§ 20–2–258. Liability.

Any member of the Board of Medical Examiners, any agent, employee, consultant, or attorney of the board, any person making any report or rendering any opinion or supplying any evidence or information or offering any testimony to the board in connection with any investigation or hearing conducted by the board as authorized in this article, shall be immune from any lawsuit or legal proceeding for any conduct in the course of his or her official duties with respect to such investigations or hearings.

(Act 2013–223, p. 531, § 1.)

§ 20–2–259. Rules.

The Board of Medical Examiners may adopt rules necessary to carry out the intent, purposes, and provisions of this article.

(Act 2013–223, p. 531, § 1.)

Article 12.

Limited Purpose Schedule II Permit.

§ 20–2–260. Permit authorized.

(a) The Board of Medical Examiners may at any future date it chooses create a Limited Purpose Schedule II Permit (LPSP), and assess fees associated with the permit, that, along with any other necessary registration, may permit assistants to physicians, certified registered nurse practitioners, or certified nurse midwives to lawfully prescribe, administer, authorize for administration, or dispense only those controlled substances listed in Schedule II substances of Article 2 of Chapter 2 of this title in accordance, as specified and limited by the permit, with rules adopted by the board and any protocols, formularies, and medical regimens established by the board for regulation of a

LPSP. Any protocols, formularies, and medical regimens shall not be considered administrative rules under the Alabama Administrative Procedure Act.

(b) An assistant to physician, certified registered nurse practitioner, or certified nurse midwife shall not utilize his or her LPSP for the purchasing, obtaining, maintaining, or ordering of any stock supply or inventory of any controlled substance in any form.

(c) An assistant to physician, certified registered nurse practitioner, or certified nurse midwife authorized to prescribe, administer, or dispense controlled substances in accordance with this article shall not prescribe, administer, or dispense any controlled substance to his or her own self, spouse, child, or parent.

(d) The board may not permit assistants to physicians, certified registered nurse practitioners, or certified nurse midwives to lawfully prescribe, administer, authorize for administration, or dispense all controlled substances listed in Schedule II of Article 2 of Chapter 2 of this title. It is the intent of this article, if and when the board chooses to use this authority at some future date, that the LPSP may be used only at the board's discretion and as limited by the board to specific circumstances and specific drugs.

(Act 2013–223, p. 531, § 2.)

Article 13.

Opioid Antagonist Administration.

§ 20–2–280. Opioid antagonist prescriptions; administration; liability.

(a) For the purposes of this section, ''opioid antagonist'' means naloxone hydrocholoride or other similarly acting drug that is approved by the federal Food and Drug Administration for the treatment of an opioid overdose.

(b) A physician licensed under Article 3 of Chapter 24 of Title 34, or dentist licensed under Chapter 9 of Title 34, acting in good faith may directly or by standing order prescribe, and a pharmacist licensed under Chapter 23 of Title 34, or a registered nurse in the employment of the State Health Department or a county health department, may dispense, an opioid antagonist to either of the following:

(1) An individual at risk of experiencing an opiate-related overdose.

(2) A family member, friend, member of a fire department, rescue squad, volunteer fire department personnel, or other individual, including law enforcement, in a position to assist an individual at risk of experiencing an opiate-related overdose.

(c) As an indicator of good faith, the physician or dentist, prior to prescribing an opioid antagonist under this section, may require receipt of a written communication that provides a factual basis for a reasonable conclusion as to either of the following:

(1) The individual seeking the opioid antagonist is at risk of experiencing an opiate-related overdose.

(2) The individual other than the individual at risk of experiencing an opiate-related overdose and who is seeking the opioid antagonist is in relation to the individual at risk of experiencing an opiate-related overdose as a family member, friend, or otherwise in the position to assist the individual.

(d) An individual who receives an opioid antagonist that was prescribed pursuant to subsection (b) may administer an opioid antagonist to another individual if he or she has a good faith belief that the other individual is experiencing an opiate-related overdose and he or she exercises reasonable care in administering the opioid antagonist. Evidence of exercising reasonable care in administering the opioid antagonist shall include the receipt of basic instruction and information on how to administer the opioid antagonist.

(e) All of the following individuals are immune from any civil or criminal liability for actions authorized under this article:

(1) A physician or dentist who prescribes an opioid antagonist pursuant to subsection (b) and who has no managerial authority over the individuals administering the opioid antagonist or the State Health Officer or any county health officer who issues standing orders or other requirements pursuant to subsection (b).

(2) An individual who administers an opioid antagonist pursuant to subsection (d).

(3) A pharmacist, or registered nurse in the employment of the State Health Department or a county health department, who dispenses an opioid antagonist pursuant to subsection (b).

(Act 2015–364, p. 1133, § 1; Act 2016–307, p. 770, § 3.)

§ 20–2–281. Individuals under age of 21 seeking medical assistance for another.

(a) Notwithstanding any other law to the contrary, an individual under 21 years of age may not be prosecuted for the possession or consumption of alcoholic beverages if law enforcement, including campus safety police, became aware of the possession or consumption of alcohol solely because the individual was seeking medical assistance for another individual under this article.

(b) Excluding Section 32–5A–191, an individual may not be prosecuted for a misdemeanor controlled substance offense if law enforcement became aware of the offense solely because the individual was seeking medical assistance for another individual under this article.

(c) This section shall apply if, when seeking medical assistance on behalf of another, the individual did all of the following:

(1) Acted in good faith, upon a reasonable belief that he or she was the first to call for assistance.

(2) Used his or her own name when contacting authorities.

(3) Remained with the individual needing medical assistance until help arrived.

(Act 2015–364, p. 1133, § 2.)

§ 20–2–282. Training of law enforcement officers to carry and administer opioid antagonists.

On or before January 1, 2016, the Alabama Department of Public Health shall approve a specific training curriculum for completion by law enforcement officers who elect to carry and administer opioid antagonists.

(Act 2015–364, p. 1133, § 3.)

§ 20–2–283. Publication of standing orders, etc., for dispensing opioid antagonists.

The State Health Officer or the respective county health officers shall have authority to publish the standing order or orders, including any necessary guidelines or other requirements that shall be followed, for dispensing opioid antagonists under Section 20–2–280 in their jurisdictions.

(Act 2016–307, p. 770, § 1.)

§ 20–2–284. Authority to dispense opioid antagonists.

Any individual dispensing an opioid antagonist pursuant to Section 20–2–280 who is otherwise qualified, including a registered nurse in the employment of the State Health Department or a county health department, and who complies with the standing order or orders and other requirements of the State Health Office or a county health officer shall have authority to dispense an opioid antagonist as provided under Section 20–2–280.

(Act 2016–307, p. 770, § 2.)

Article 14.

Medication Assisted Treatment of Opioid Use; MAT Act of 2019.

§§ 20–2–300 through 20–2–302. Repealed by Act 2023–339, § 1, effective September 1, 2023.

CHAPTER 2A.

MEDICAL USE OF CANNABIS.

ARTICLE 1.

GENERAL PROVISIONS.

§ 20–2A–1. Short title.

This chapter shall be known and may be cited as the Darren Wesley 'Ato' Hall Compassion Act.

(Act 2021–450, § 1.)

§ 20–2A–2. Legislative findings.

The Legislature finds all of the following:

(1) It is not the intent of this chapter to provide for or enable recreational use of marijuana in the State of Alabama.

(2) Medical research indicates that the administration of medical cannabis can successfully treat various medical conditions and alleviate the symptoms of various medical conditions.

(3) There are residents in Alabama suffering from a number of medical conditions whose symptoms could be alleviated by the administration of medical cannabis products if used in a controlled setting under the supervision of a physician licensed in this state.

(4) A majority of states have adopted a program providing for the administration of cannabis or cannabis derivatives for medical use for residents of their states.

(5) Establishing a program providing for the administration of cannabis derivatives for medical use in this state will not only benefit patients by providing relief for pain and other debilitating symptoms, but also provide opportunities for patients with these debilitating conditions to function and have a better quality of life and provide employment and business opportunities for farmers and other residents of this state and revenue to state and local governments.

(6) It is important to balance the needs of employers to have a strong functioning workforce with the needs of employees who will genuinely benefit from using cannabis for a medical use in a manner that makes the employee a productive employee.

(7) The State of Alabama, therefore, wishes to create a health care market for medical cannabis. Notwithstanding any medical benefit of cannabis or cannabis derivatives, the recreational use of marijuana remains a significant threat to public health and safety. Allowing the cultivation, processing, dispensing, and use of cannabis for medical use without appropriate safeguards to prevent unlawful diversion for recreational use would pose a risk to public health and safety.

(8) The power to regulate intrastate commerce is vested in the several states under the Ninth and Tenth Amendments to the United States Constitution.

(9) The Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the United States Constitution and reserves to the people of Alabama certain rights as they were understood at the time Alabama was admitted into statehood in 1819, and the guarantee of these rights is a matter of contract between the State of Alabama and its people and the United States as of the time that the compact with the United States was agreed upon and adopted by Alabama and the United States in 1819.

(10) It is the intent of the Legislature to create within Alabama a wholly intrastate system for the cultivation, processing, and distribution of medical cannabis in the interest of protecting its own residents from the danger that recreational cannabis poses.

(11) Requiring licensees to prove a history of residency within the state for a period of time is directly related to avoiding an influx of companies engaged in the recreational production of marijuana; the state has a substantial interest in protecting its residents from the dangers of recreational marijuana.

(12) Requiring that licensed cultivators, processors, transporters, and dispensaries of cannabis for medical use possess the requisite skill, expertise, resources, and capital to conduct operations as proposed in their business plans, and favoring those applicants who already possess the requisite skill, expertise, resources, and capital, promotes the goals of stability in licensing and reduces the risks of unlawful diversion and misuse. A lengthy base of agronomic experience will help achieve those goals, as will past experience participating in an agronomic supply chain.

(13) Ensuring that all cultivation, processing, transportation, and dispensing operations remain intrastate in nature reduces the risk of exposing licensees to the potential penalties of federal law based on the activities of their licensed operations.

(14) There is a pattern in states that have legalized the use of medical cannabis or medical marijuana; frequently, in the years following authorization of medical use, recreational marijuana is subsequently authorized. It is the intent of the Legislature to avoid a shift from medical cannabis usage to recreational marijuana usage. Therefore, safeguards to adequately protect the residents of this state are essential.

(Act 2021–450, § 1.)

§ 20–2A–3. Definitions.

As used in this chapter, the following terms have the following meanings:

(1) APPLICANT. The entity or individual seeking a license under Article 4.

(2) BOARD. The State Board of Medical Examiners.

(3) CANNABIS. a. Except as provided in paragraph b., all parts of any plant of the genus cannabis, whether growing or not, including the seeds, extractions of any kind from any part of the plant, and every compound, derivative, mixture, product, or preparation of the plant.

b. The term does not include industrial hemp or hemp regulated under Article 11 of Chapter 8 of Title 2.

(4) COMMISSION. The Alabama Medical Cannabis Commission created pursuant to Section 20–2A–20.

(5) CULTIVATOR. An entity licensed by the commission under Section 20–2A–62 authorized to grow cannabis pursuant to Article 4.

(6) DAILY DOSAGE. The total amount of one or more cannabis derivatives, including, but not limited to, cannabidiol and tetrahydrocannabinol, which may be present in a medical cannabis product that may be ingested by a registered qualified patient during a 24–hour period, as determined by a registered certifying physician.

(7) DEPARTMENT. The Department of Agriculture and Industries.

(8) DISPENSARY. An entity licensed by the commission under Section 20–2A–64 authorized to dispense and sell medical cannabis at dispensing sites to registered qualified patients and registered caregivers pursuant to Article 4.

(9) DISPENSING SITE. A site operated by a dispensary licensee or an integrated facility licensee pursuant to Article 4.

(10) ECONOMIC INTEREST. The rights to either the capital or profit interests of an applicant or licensee or, if the applicant or licensee is a corporation, the rights to some portion of all classes of outstanding stock in the corporation.

(11) FACILITY or MEDICAL CANNABIS FACILITY. Any facility, or land associated with a facility, of a licensee.

(12) INTEGRATED FACILITY. An entity licensed under Section 20–2A–67 authorized to perform the functions of a cultivator, processor, secure transporter, and dispensary pursuant to Article 4.

(13) LICENSEE. A cultivator, processor, secure transporter, state testing laboratory, dispensary, or integrated facility licensed by the commission under Article 4.

(14) MEDICAL CANNABIS. a. A medical grade product in the form of any of the following, as determined by rule by the commission, that contains a derivative of cannabis for medical use by a registered qualified patient pursuant to this chapter:

1. Oral tablet, capsule, or tincture.

2. Non-sugarcoated gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape.

3. Gel, oil, cream, or other topical preparation.

4. Suppository.

5. Transdermal patch.

6. Nebulizer.

7. Liquid or oil for administration using an inhaler.

b. The term does not include any of the following:

1. Raw plant material.

2. Any product administered by smoking, combustion, or vaping.

3. A food product that has medical cannabis baked, mixed, or otherwise infused into the product, such as cookies or candies.

(15) MEDICAL CANNABIS CARD. A valid card issued pursuant to Section 20–2A–36.

(16) MEDICAL USE or USE OF MEDICAL CANNABIS or USE MEDICAL CANNABIS. The acquisition, possession, use, delivery, transfer, or administration of medical cannabis authorized by this chapter. The term does not include possession, use, or administration of cannabis that was not purchased or acquired from a licensed dispensary.

(17) PACKAGE. Any container that a processor may use for enclosing and containing medical cannabis. The term does not include any carry-out bag or other similar container.

(18) PATIENT REGISTRY. The Alabama Medical Cannabis Patient Registry System that is an electronic integrated system that tracks physician certifications, patient registrations, medical cannabis cards, the daily dosage and type of medical cannabis recommended to qualified patients by registered certifying physicians, and the dates of sale, amounts, and types of medical cannabis that were purchased by registered qualified patients at licensed dispensaries.

(19) PHYSICIAN CERTIFICATION. A registered certifying physician's authorization for a registered qualified patient to use medical cannabis.

(20) PROCESSOR. An entity licensed by the commission under Section 20–2A–63 authorized to purchase cannabis from a cultivator and extract derivatives from the cannabis to produce a medical cannabis product or products for sale and transfer in packaged and labeled form to a dispensing site pursuant to Article 4.

(21) QUALIFYING MEDICAL CONDITION. Any of the following conditions or symptoms of conditions, but only after documentation indicates that conventional medical treatment or therapy has failed unless current medical treatment indicates that use of medical cannabis is the standard of care:

a. Autism Spectrum Disorder (ASD).

b. Cancer-related cachexia, nausea or vomiting, weight loss, or chronic pain.

c. Crohn's Disease.

d. Depression.

e. Epilepsy or a condition causing seizures.

f. HIV/AIDS–related nausea or weight loss.

g. Panic disorder.

h. Parkinson's disease.

i. Persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to pregnancy, cannabis-induced cyclical vomiting syndrome, or cannabinoid hyperemesis syndrome.

j. Post Traumatic Stress Disorder (PTSD).

k. Sickle Cell Anemia.

l. Spasticity associated with a motor neuron disease, including Amyotrophic Lateral Sclerosis.

m. Spasticity associated with Multiple Sclerosis or a spinal cord injury.

n. A terminal illness.

o. Tourette's Syndrome.

p. A condition causing chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective.

(22) REGISTERED CAREGIVER. An individual who meets the requirements described in subsection (c) of Section 20–2A–30 and is authorized to acquire and possess medical cannabis and to assist one or more registered qualified patients with the use of medical cannabis pursuant to this chapter.

(23) REGISTERED CERTIFYING PHYSICIAN. A physician authorized by the State Board of Medical Examiners to certify patients for the use of medical cannabis under this chapter.

(24) REGISTERED QUALIFIED PATIENT. Either of the following:

a. An adult who meets the requirements described in subsection (a) of Section 20–2A–30 and is authorized to acquire, possess, and use medical cannabis pursuant to this chapter.

b. A minor who meets the requirements described in subsection (b) of Section 20–2A–30 and is authorized to use medical cannabis pursuant to this chapter with the assistance of a registered caregiver.

(25) SECURE TRANSPORTER. An entity licensed by the commission under Section 20–2A–65 authorized to transport cannabis or medical cannabis from one licensed facility or site to another licensed facility or site.

(26) STATE TESTING LABORATORY. An entity licensed under Section 20–2A–66 authorized to test cannabis and medical cannabis to ensure the product meets safety qualifications required under this chapter.

(27) STATEWIDE SEED–TO–SALE TRACKING SYSTEM. The tracking system established pursuant to Section 20–2A–54 that tracks all cannabis and medical cannabis in the state.

(28) UNIVERSAL STATE SYMBOL. The image established by the commission pursuant to Section 20–2A–53 made available to processors which indicates the package contains medical cannabis.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–4. Relation to other laws.

This chapter supersedes state criminal and civil laws pertaining to the recommending, acquisition, possession, use, cultivation, manufacturing, processing, research and development, and sale of medical cannabis. The acquisition, possession, use, cultivation, manufacturing, processing, research and development, transportation, testing, or sale of cannabis or medical cannabis in compliance with this chapter and rules of the commission does not constitute a violation of Article 5 of Chapter 12 of Title 13A, or any other law to the contrary.

(Act 2021–450, § 1.)

§ 20–2A–5. Data security.

All data related to the implementation of this chapter, including, but not limited to, application forms, licensing information, physician certifications, registration of qualified patients and designated caregivers, compliance, and the status of cannabis research programs must be maintained in a secure system developed or procured by the commission. Data may not be sold, and patient information shall remain confidential, except as otherwise permitted pursuant to this chapter, and may not be transferred or sold.

(Act 2021–450, § 1.)

§ 20–2A–6. Application of chapter; authorized use of medical cannabis construed for medical, employment, and child welfare purposes.

(a) This chapter does not do any of the following:

(1) Require an insurer, organization for managed care, health benefit plan, or any individual or entity providing coverage for a medical or health care service to pay for or to reimburse any other individual or entity for costs associated with the use of medical cannabis.

(2) Require any employer to permit, accommodate, or allow the use of medical cannabis, or to modify any job or working conditions of any employee who engages in the use of medical cannabis or for any reason seeks to engage in the use of medical cannabis.

(3) Prohibit any employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hiring, discharging, tenure, terms, conditions, or privileges of employment as a result, in whole or in part, of that individual's use of medical cannabis, regardless of the individual's impairment or lack of impairment resulting from the use of medical cannabis.

(4) Prohibit or limit the ability of any employer from establishing or enforcing a drug testing policy, including, but not limited to, a policy that prohibits the use of medical cannabis in the workplace or from implementing a drug-free workforce program established in accordance with Article 13, commencing with Section 25–5–330, of Chapter 5 of Title 25.

(5) Prohibit or limit any employer from adopting an employment policy requiring its employees to notify the employer if an employee possesses a medical cannabis card.

(6) Interfere with, impair, or impede, any federal restrictions on employment, including, but not limited to, regulations adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations.

(7) Permit, authorize, or establish any individual's right to commence or undertake any legal action against an employer for refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hiring, discharging, tenure, terms, conditions, or privileges of employment due to the individual's use of medical cannabis.

(8) Require a government medical assistance program, employer, property and casualty insurer, or private health insurer to reimburse an individual for costs associated with the use of medical cannabis.

(9) Affect, alter, or otherwise impact the workers' compensation premium discount available to employers who establish a drug-free workplace policy certified by the Department of Labor, Workers' Compensation Division, in accordance with Article 13, commencing with Section 25–5–330, of Chapter 5 of Title 25.

(10) Affect, alter, or otherwise impact an employer's right to deny, or establish legal defenses to, the payment of workers' compensation benefits to an employee on the basis of a positive drug test or refusal to submit to or cooperate with a drug test, as provided under Section 25–5–51.

(11) Affect, alter, or supersede any obligation or condition imposed on a parolee, probationer, or an individual participating in a pretrial diversion program or other court-ordered substance abuse rehabilitation program.

(b) For the purpose of obtaining needed medical care, including organ transplants, a registered qualified patient's authorized use of medical cannabis in accordance with this chapter is considered the equivalent of the authorized use of any other medication used at the direction of a licensed health care professional and may not constitute the use of an illicit substance or otherwise disqualify a registered qualified patient from such needed medical care.

(c) An individual who is discharged from employment because of that individual's use of medical cannabis, or refusal to submit to or cooperate with a drug test, shall be legally conclusively presumed to have been discharged for misconduct if the conditions of paragraph (3)a. of Section 25–4–78 are otherwise met.

(d) Nothing in this chapter shall prohibit the Department of Human Resources from considering a parent or caretaker's use of medical cannabis as a factor for determining the welfare of a child in any of the following circumstances:

(1) There is evidence of child abuse or neglect.

(2) The best interest of a child is determined for custody purposes.

(3) A background check is performed for a prospective foster, adoptive, or kinship caretaker.

(Act 2021–450, § 1.)

§ 20–2A–7. Possession of marijuana by registered qualified patient; liability of registered certifying physician; arrest or prosecution for conduct pursuant to chapter; violations of criminal law.

(a) A registered qualified patient 19 years of age or older or registered caregiver is not subject to arrest or prosecution for unlawful possession of marijuana if he or she possesses no more than 70 daily dosages of medical cannabis and has a valid medical cannabis card.

(b) A registered certifying physician who acts in good faith compliance with this chapter regarding the dosage established under this chapter and the applicable administrative rules established pursuant to this chapter shall be immune from civil and criminal prosecution and is not subject to arrest, prosecution, or penalty in any manner and may not be denied any right or privilege, including, but not limited to, protection from civil penalty for certifying patients under Section 20–2A–33 or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of medical cannabis to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition, provided that nothing shall prevent the board from disciplining a physician. Nothing in this chapter shall modify, amend, repeal, or supersede any provision of Section 6–5–333, the Alabama Medical Liability Act of 1987, commencing with Section 6–5–540, or the Alabama Medical Liability Act of 1996, commencing with Section 6–5–548, or any amendment to any of these laws or judicial interpretation of these laws.

(c) A licensee or any employee of that licensee is not subject to arrest or prosecution if the person is acting pursuant to this chapter and within the scope of his or her employment.

(d) A hospital, medical facility, assisted living facility, or hospice program where a registered qualified patient is receiving treatment in accordance with this chapter is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege solely for providing that treatment.

(e) Mere possession of, or application for, a medical cannabis card does not constitute probable cause or reasonable suspicion, nor shall it be used as the sole basis to support the search of the person, property, or home of the individual possessing or applying for the medical cannabis card. The possession of, or application for, a medical cannabis card does not preclude the existence of probable cause if probable cause exists on other grounds.

(f) Nothing in this chapter shall preclude the Alabama State Law Enforcement Agency or a local law enforcement agency from searching a licensee where there is probable cause to believe that a criminal law has been violated and the search is conducted in conformity with constitutional and state law.

(Act 2021–450, § 1.)

§ 20–2A–8. Diversion of medical cannabis or medical cannabis products; prohibited conduct.

(a)(1) An individual may not distribute, possess, manufacture, or use medical cannabis or a medical cannabis product that has been diverted from a registered qualified patient, a registered caregiver, or a licensed cultivator, processor, secure transporter, dispensary, or a state testing laboratory.

(2) An individual who violates this section is guilty of a Class B felony.

(3) The penalty under this section is in addition to any penalties that a person may be subject to for manufacture, possession, or distribution of marijuana under Title 13A.

(b) This chapter does not permit any individual to engage in, and does not prevent the imposition of any civil, criminal, or other penalty for engaging in any of the following conduct:

(1) Undertaking any task under the influence of cannabis, when doing so would constitute negligence, professional malpractice, or professional misconduct, or violation of law.

(2) Possessing or using medical cannabis on any property of a K–12 school or day care or child care facility, in any correctional facility, or in a vehicle unless the medical cannabis is in its original package and is sealed and reasonably inaccessible while the vehicle is moving.

(Act 2021–450, § 1.)

§ 20–2A–9. Annual written reports.

The commission shall provide annual written reports to the Legislature, with the first due no later than January 1, 2022, tracking implementation of this chapter. The report shall be made publicly available and posted on the commission's website. The report shall include all of the following:

(1) The number of patients applying for and receiving medical cannabis cards.

(2) The qualifying medical conditions identified to obtain the medical cannabis cards.

(3) Comments from physicians and other health care providers and from pharmacists.

(4) Revenues and expenses of card issuance and licensing of medical cannabis facilities.

(5) Relevant developments in other states' cannabis laws.

(6) Relevant scientific research.

(7) Applicable tax revenue.

(8) The commission's annual operating expenses and revenues.

(9) The number of total applicants for each type of license under Article 4 and the number of veterans, minorities, and women who applied and the number of these applicants who were denied a license.

(10) Any other information available to the commission that would inform public officials of how this chapter affects the public.

(11) Any suggested legislative changes to this chapter or other state laws, including all of the following:

a. Any suggestions to ensure that veterans, women, and minorities are not unfairly discriminated against in obtaining licenses under Article 4.

b. Changes to reflect changes in federal law or regulation.

c. Changes based on additional medical or scientific research.

(Act 2021–450, § 1.)

§ 20–2A–10. Medical Cannabis Commission Fund.

(a) There is created a special account in the State Treasury to be known as the Medical Cannabis Commission Fund. Expenditures from the Medical Cannabis Commission Fund may be made only by the commission to implement, administer, and enforce this chapter. Specifically, the Medical Cannabis Commission Fund includes all of the following:

(1) Tax proceeds collected pursuant to subsections (a) and (b) of Section 20–2A–80, less an amount sufficient to cover the cost of administration of the tax levies imposed under subsections (a) and (b) of Section 20–2A–80, which shall be retained by the Department of Revenue.

(2) License fees, civil penalties, and other fees or charges collected pursuant to Article 4.

(3) Any monies appropriated by the Legislature for the initial operation of the commission.

(b) Amounts in the Medical Cannabis Commission Fund shall be budgeted and allotted in accordance with Sections 41–4–80 through 41–4–96 and Sections 41–19–1 through 41–19–12, but shall not be limited by the fiscal year appropriation cap.

(c) Beginning October 1, 2025, any funds in the Medical Cannabis Commission Fund in excess of actual expenses from the previous fiscal year shall be distributed, less 10 percent, as follows:

(1) 60 percent shall be transferred to the General Fund.

(2) 30 percent shall be transferred to the Medical Cannabis Research Fund established pursuant to subsection (f) of Section 20–2A–100.

(Act 2021–450, § 1.)

§ 20–2A–11. Possession of lawfully obtained medical cannabis card.

The possession of a medical cannabis card lawfully obtained pursuant to this chapter does not infringe on the cardholder's state or federal constitutional rights.

(Act 2021–450, § 1.)

§ 20–2A–12. Severability.

The provisions of this chapter are severable. If any part of this chapter is declared invalid or unconstitutional, the declaration shall not affect the part that remains.

(Act 2021–450, § 1.)

§ 20–2A–13. Ineligibility to receive compensation due to impairment of employee by medical cannabis.

An employee who is injured or killed under circumstances that might otherwise make the employee or the employee's dependents eligible to receive worker's compensation benefits under Chapter 5 of Title 25 is, along with the employee's dependents, ineligible to receive compensation as defined in Section 25–5–1, if the injury or death occurred due to the employee's impairment by medical cannabis, which shall be conclusively presumed in the event of a positive drug test conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transportation in 49 C.F.R. Part 40, as provided under Section 25–5–51, or if the employee refuses to submit to or cooperate with a blood or urine test, as provided by that section.

(Act 2021–450, § 3.)

Article 2.

Alabama Medical Cannabis Commission.

§ 20–2A–20. Creation; composition; qualifications; compensation; meetings; officers and employees.

(a) The Alabama Medical Cannabis Commission is established. The commission shall consist of the following members, with initial members appointed not later than July 1, 2021:

(1) Three members appointed by the Governor, one of whom is a physician licensed to practice medicine in this state; one of whom is a licensed pharmacist; and one of whom has experience in agricultural lending or banking. Initial terms shall be four, three, and two years, respectively.

(2) Three members appointed by the Lieutenant Governor, one of whom is a physician licensed to practice medicine in this state certified in the specialty of pediatrics; one of whom is licensed to practice law in this state who specializes in health law; and one of whom is a biochemist. Initial terms shall be one, four, and three years, respectively.

(3) Two members appointed by the President Pro Tempore of the Senate, one of whom is a physician licensed to practice medicine in this state certified in the specialty of oncology; and one of whom has experience in multiple crop development and agricultural practices. Initial terms shall be two and one years, respectively.

(4) Two members appointed by the Speaker of the House of Representative, one of whom has a background and experience in mental health or substance abuse counselling and treatment; and one of whom has professional experience in agricultural systems management. Initial terms shall be four and three years, respectively.

(5) One member appointed by the Commissioner of Agriculture and Industries who is experienced in agricultural production or agronomic or other horticultural practices. The initial term shall be two years.

(6) One member appointed by the State Health Officer. The initial term shall be four years.

(7) One member appointed by the Attorney General, who shall be a nonvoting advisory member. The initial term shall be three years.

(8) One member appointed by the Secretary of the Alabama State Law Enforcement Agency, who shall be a nonvoting advisory member. The initial term shall be one year.

(b) Each commission member appointed to the commission is subject to confirmation by the Senate during the legislative session in which the appointment is made or, if the appointment is made when the Legislature is not in session, during the next special or regular session. An appointee may serve in the position pending confirmation by the Senate. Each member of the committee shall serve after the expiration of his or her term until his or her successor is appointed.

(c) A member may not be an owner, shareholder, director, board member, or otherwise have an economic interest in an applicant or license issued under Article 4. Any current public official, candidate for public office, current public employee, or registered lobbyist may not serve as a member.

(d) Members must be at least 30 years of age and residents of this state for at least five continuous years immediately preceding their appointment. The appointing officers shall coordinate their appointments so that diversity of gender, race, and geographical areas is reflective of the makeup of this state.

(e) After initial appointments, each member shall serve a term of four years, but may be reappointed for one additional term. If at any time there is a vacancy, a successor member shall be appointed by the respective appointing officer to serve for the remainder of the term. Members may be removed for cause by the appointing authority.

(f) The commission shall elect from the membership one member to serve as chair and one member to serve as vice-chair.

(g) While serving on business of the commission, members who are not public officials or public employees shall be entitled to a per diem of five

hundred dollars ($500) per day, as well as actual travel expenses incurred in the performance of duties as a member, as other state employees are paid, when approved by the chair.

(h) The commission shall meet at least six times per year and hold other meetings for any period of time as may be necessary for the commission to transact and perform its official duties and functions. A majority of voting members of the commission shall constitute a quorum for the transaction of any business, or in the performance of any duty, power, or function of the commission, and the concurrence of a majority of those present and voting in any matter within its duties is required for a determination of matters within its jurisdiction. A special meeting may be called by the chair, or upon the written request of two or more members. All members shall be duly notified by the commission director of the time and place of any regular or special meeting at least thirty days in advance of any meeting. Members may participate by telephone, video conference, or by similar communications equipment so that all individuals participating in the meeting may hear each other at the same time. Participating by such means shall constitute presence in person at a meeting for all purposes. The chair shall be responsible for setting and keeping a meeting schedule that ensures the commission meets the requirements of this chapter. A member who misses more than two meetings in one calendar year shall be subject to removal by his or her appointing authority.

(i)(1) The commission may employ a director to serve at the pleasure of the commission. The director's salary shall be fixed by the commission and shall not be subject to Section 36–6–6. The director shall be at least 30 years of age and have been a citizen and resident of this state for at least five years prior to employment. The director is the chief administrative officer of the commission, and all personnel employed by the commission shall be under the director's direct supervision. The director shall be solely responsible to the commission for the administration and enforcement of this chapter and responsible for the performance of all duties and functions delegated by the commission.

(2) The director shall maintain all records of the commission and also serve as secretary of the commission. The director shall prepare and keep the minutes of all meetings held by the commission, including a record of all business transacted and decisions rendered by the commission. A copy of the record of the minutes and business transacted and decisions rendered shall be kept on file at the commission's main office and shall be available for public inspection.

(3) If the director is licensed to practice law in this state, he or she shall act and serve as hearing officer when designated by the commission and shall perform such duties as the regular hearing officer.

(j) The commission may employ an assistant director who shall perform all duties and functions which may be assigned by the director or the commission. The assistant director, if licensed to practice law in this state, may also

be designated by the commission to sit, act, and serve as a hearing officer, and when designated as a hearing officer, the assistant director may perform the same duties and functions as the regular hearing officer.

(k) Each member of the commission shall be entitled to the immunity provided by Section 36–1–12.

(l) In any action or suit brought against the members of the commission in their official capacity in a court of competent jurisdiction, to review any decision or order issued by the commission, service of process issued against the commission may be lawfully served or accepted by the director on behalf of the commission as though the members of the commission were personally served with process.

(m) The commission may employ additional officers, including an inspection officer. The director, assistant director, and any other officer or employee shall be reimbursed for actual travel expenses as other state employees are paid, when approved by the chair.

(n) The commission shall retain legal counsel familiar with the requirements of this chapter and medical cannabis licensing and best practices in other states in order to assist the commission and staff with establishing a functional program and achieving compliance with applicable laws.

(*o*) All employees of the commission shall not be subject to the state Merit System Act.

(p) The commission shall be subject to the Alabama Administrative Procedure Act.

(Act 2021–450, § 1.)

§ 20–2A–21. Commission members prohibited from certain economic interests.

(a) A member of the commission and any individual employed by the commission may not be an owner, shareholder, director, or board member of, or otherwise have any economic interest in, a licensee. In addition, a member or employee of the commission may not have any family member who is employed by a licensee. A member or employee of the commission or his or her family member may not have an interest of any kind in any building, fixture, or premises occupied by any person licensed under this chapter; and may not own any stock or have any interest of any kind, direct or indirect, pecuniary or otherwise, by a loan, mortgage, gift, or guarantee of payment of a loan, in any licensee.

(b) A member or employee of the commission may not accept any gift, favor, merchandise, donation, contribution, or any article or thing of value, from any person licensed under this chapter.

(c) Any individual violating this section shall be terminated from employment or position, and as a consequence, the individual shall forfeit any pay or compensation which might be due.

(d) For purposes of this section, family member includes a spouse, child, parent, or sibling, by blood or marriage.

(e) A former member of the commission, for a period of two years after leaving service as a member of the commission, may not be an owner, shareholder, director, board member, or otherwise have an economic interest in an applicant or license issued under Article 4.

(f) In addition to any violation of Chapter 25 of Title 36, a violation of this section is a Class C misdemeanor.

(Act 2021–450, § 1.)

§ 20–2A–22. Implementation of chapter; administration and enforcement.

(a) The Alabama Medical Cannabis Commission shall implement this chapter by making medical cannabis derived from cannabis grown in Alabama available to registered qualified patients and by licensing facilities that process, transport, test, or dispense medical cannabis.

(b) The commission shall administer and enforce this chapter and all rules adopted pursuant to this chapter.

(Act 2021–450, § 1.)

Article 3.

Physician Certifications, Medical Cannabis Patient Registry, and Medical Cannabis Cards.

§ 20–2A–30. Registered qualified patient; registered caregiver.

(a)(1) A resident of this state who is 19 years of age or older is a registered qualified patient if he or she meets all of the following conditions:

a. Has been certified by a registered certifying physician as having a qualifying medical condition.

b. Is registered with the commission.

c. Has been issued a valid medical cannabis card by the commission.

(2) A registered qualified patient described in subdivision (1) may purchase, possess, or use medical cannabis, subject to subsection (d).

(b)(1) A resident of this state who is under the age of 19 is a registered qualified patient if he or she meets all of the following conditions:

a. Has been certified by a registered certifying physician as having a qualifying medical condition.

b. Is registered with the commission.

c. Has a qualified designated caregiver who is the patient's parent or legal guardian.

(2) A registered qualified patient described in subdivision (1) may use medical cannabis but may not purchase or possess medical cannabis.

(c)(1) A resident of this state is a registered caregiver if he or she meets all of the following conditions:

a. Is registered with the commission.

b. Has been issued a valid medical cannabis card by the commission.

c. Is at least 21 years of age, unless he or she is the parent or legal guardian of, and caregiver for, a registered qualified patient.

d. Is the parent, legal guardian, grandparent, spouse, or an individual with power of attorney for health care of a registered qualified patient.

(2) A registered caregiver described in subdivision (1) may purchase and possess medical cannabis, subject to subsection (d), but may not use medical cannabis unless he or she is also a registered qualified patient.

(3) The commission, by rule, may limit the number of registered qualified patients a registered caregiver may have under his or her care.

(4) A registered caregiver may receive compensation for services provided to a registered qualified patient pursuant to this chapter.

(d) Notwithstanding subdivision (2) of subsections (a) and (c), a registered qualified patient or registered caregiver may not purchase more than 60 daily dosages of medical cannabis and may not renew the supply more than 10 days before the 60–day period expires. At no time may a registered qualified patient or registered caregiver possess more than 70 daily dosages of medical cannabis.

(Act 2021–450, § 1.)

§ 20–2A–31. Registered certifying physician — Requirements.

(a) In order for a physician to qualify as a registered certifying physician, he or she must meet the following requirements:

(1) Hold an active license to practice medicine under Chapter 24 of Title 34.

(2) Complete a four-hour course related to medical cannabis and complete a subsequent examination, both of which shall be offered by a multispecialty statewide professional organization of physicians in this state that is recognized to accredit intrastate organizations to provide AMA PRA category 1 credits. The course must be administered at least annually and may be offered in a distance learning format, including an electronic online format upon request. The price of the course may not exceed five hundred dollars ($500). Every two years thereafter, in order to requalify, a certifying physician must complete a two-hour refresher course offered by an entity described in this subdivision.

(3) Pay an initial registration fee established by the board, not to exceed three hundred dollars ($300).

(4) Meet any additional qualifications established by rule by the board.

(b) Upon meeting the requirements of subsection (a), the board shall issue a registration certificate and registration number to each registered certifying

physician. The board shall maintain on its website an updated list of registered certifying physicians.

(c) The board, by rule, may establish requirements for registered certifying physicians to remain qualified, grounds for revoking registration, and a process for renewing registration of qualified certifying physicians, including payment of an annual registration renewal fee, not to exceed two hundred dollars ($200).

(Act 2021–450, § 1.)

§ 20–2A–32. Registered certifying physician — Prohibited conduct.

A registered certifying physician may not do any of the following:

(1) Except for the limited purpose of performing a medical cannabis-related study, accept, solicit, or offer any form of remuneration from or to a qualified patient, designated caregiver, or any licensee, including a principal officer, board member, agent, or employee of the licensee, to certify a patient, other than accepting payment from a patient for the fee associated with the examination, medical consultation, or other treatment, including, but not limited to, any third party reimbursement for the same.

(2) Accept, solicit, or offer any form of remuneration from or to a dispensary for the purpose of referring a patient to a specific dispensary.

(3) Offer a discount of any other item of value to a qualified patient who uses or agrees to designate a specific caregiver or use a specific dispensary to obtain medical cannabis.

(4) Hold a direct or indirect economic interest in a licensee.

(5) Serve on the board of directors or as an employee of a licensee.

(6) Refer qualified patients to a specific caregiver or a specific dispensary.

(7) Advertise in a dispensary.

(8) Advertise on the physician's website, brochures, or any other media that generally describe the scope of practice of the physician, any statement that refers to the physician as a ''medical cannabis'' or ''medical marijuana'' physician or doctor, or otherwise advertises his or her status as a registered certifying physician, other than the following: ''Dr. _____ is qualified by the State of Alabama to certify patients for medical cannabis use under the Alabama Compassion Act.''

(Act 2021–450, § 1.)

§ 20–2A–33. Physician certifications of patients; rulemaking authority; patient registry information.

(a) In order to certify a patient, a registered certifying physician must diagnose the patient with at least one qualifying medical condition or confirm that the patient has been medically diagnosed with at least one qualifying medical condition.

(b) Not later than December 1, 2021, the board shall adopt rules for the issuance of physician certifications for patients to use medical cannabis as recommended by a registered certifying physician. The rules shall include, but not be limited to, all of the following:

(1) Requirements for patient examination and the establishment of a physician-patient relationship.

(2) Requirements for relevant information to be included in the patient's medical record.

(3) Requirements for review of the patient's controlled drug prescription history in the controlled substance prescription database established under Article 10 of Chapter 2 of this title.

(4) Requirements for review of the patient registry.

(5) Requirements for obtaining the voluntary and informed written consent from the patient to use medical cannabis, or from the patient's designated caregiver to assist the patient with the use of medical cannabis, on a form created by the board and accessible at no charge on its website. The form shall include, but not be limited to, information relating to all of the following:

a. The federal and state classification of cannabis as a Schedule I controlled substance.

b. The approval and oversight status of cannabis by the Food and Drug Administration.

c. The current state of research on the efficacy of cannabis to treat the qualifying medical condition or conditions.

d. The potential for addiction.

e. The potential effect that cannabis may have on a patient's coordination, motor skills, and cognition, including a warning against operating heavy machinery, operating a motor vehicle, or engaging in activities that require an individual to be alert or respond quickly.

f. The potential side effects of cannabis use.

g. The risks, benefits, and drug interactions of cannabis.

h. A statement that the use of medical cannabis could result in termination from employment without recourse and that costs may not be covered by insurance or government programs.

i. That the patient's de-identified health information contained in the patient's medical record, physician certification, and patient registry may be used for research purposes or used to monitor compliance with this chapter, as further provided in subsection (c) of Section 20–2A–35.

(6) Requirements for the issuance and reissuance of physician certifications by certifying physicians, the permissible length of duration of a physician certification, and the process and circumstances under which a physician certification may be deactivated, as well as stipulations for timely updating of physician certifications on the patient registry.

(c) At the time of physician certification, the registered certifying physician shall enter electronically in the patient registry, in a manner determined by rule by the board, relevant information necessary to appropriately identify the patient; the respective qualifying medical condition or conditions of the patient; the daily dosage and type of medical cannabis recommended for medical use; and any other information the board, by rule, deems relevant.

(d) A physician certification does not constitute a prescription for medical cannabis.

(e) A physician certification shall be valid for a period of time as determined by the board, but in no event may a physician certification exceed 12 months in duration.

(f)(1) The commission, by rule, shall specify, by form and tetrahydrocannabinol content, a maximum daily dosage of medical cannabis that may be recommended by a registered certifying physician for a particular qualifying medical condition, which may not exceed the limits set forth in subdivision (2).

(2) The maximum daily dosage may not exceed 50 mg of delta–9–tetrahydrocannabinol; provided, however, the maximum daily dosage may be increased under either of the following circumstances:

a. A registered certifying physician may increase a patient's daily dosage if, after 90 days of continuous care under the physician during which time the patient was using medical cannabis, the physician determines that a higher daily dosage is medically appropriate, provided the maximum daily dosage under this paragraph may not exceed 75 mg of delta–9–tetrahydrocannabinol.

b. A registered certifying physician may increase a patient's daily dosage if the patient has been diagnosed with a terminal illness, provided, if the recommended daily dosage exceeds 75 mg of delta–9–tetrahydrocannabinol, the physician shall notify the patient that the patient's driver's license will be suspended.

(g) A registered certifying physician may not lawfully recommend the use of medical cannabis with a potency greater than three percent tetrahydrocannabinol to any minor for any qualifying medical condition. A minor may not legally use medical cannabis with a potency greater than three percent tetrahydrocannabinol, whether or not the minor has a valid medical cannabis card. A parent or legal guardian of a minor who holds a medical cannabis card may not legally possess medical cannabis with a potency greater than three percent tetrahydrocannabinol, unless the parent or guardian holds a valid medical cannabis card for his or her own qualifying medical condition.

(Act 2021–450, § 1.)

§ 20–2A–34. Suspension of driver's license.

Any person who is recommended a daily dosage of medical cannabis that exceeds 75 mg of delta–9–tetrahydrocannabinol under paragraph (f)(2)b. of

Section 20–2A–33 shall automatically have his or her driver's license suspended, regardless of whether he or she holds a valid medical cannabis card under this chapter.

(Act 2021–450, § 6.)

§ 20–2A–35. Alabama Medical Cannabis Patient Registry System.

(a) In order to commence, use, and maintain a reliable system to track all aspects of patient and caregiver qualification not later than September 1, 2022, the commission shall establish and administer an integrated, electronic patient and caregiver registry, known as the Alabama Medical Cannabis Patient Registry System, that does all of the following:

(1) Receives and records physician certifications.

(2) Receives and tracks qualified patient registration and issuance of medical cannabis cards.

(3) Receives and tracks designated caregiver registration and issuance of medical cannabis cards.

(4) Includes in the patient registry database for each qualified patient registrant the name of the qualified patient and the patient's designated caregiver, if applicable, the patient's registered certifying physician, the respective qualifying medical condition or conditions, the recommended daily dosage and type of medical cannabis, and any other information the commission, by rule, deems relevant.

(5) Verifies that a medical cannabis card is current and valid and has not been suspended, revoked, or denied.

(6) Tracks purchases of medical cannabis at dispensaries by date, time, amount, and type.

(7) Determines whether a particular sale of medical cannabis transaction exceeds the permissible limit.

(8) Tracks medical cannabis cards that are denied, revoked, or suspended.

(9) Interfaces as necessary with the statewide seed-to-sale tracking system established under Article 4.

(10) Provides access as further provided in subsection (b).

(b) The patient registry shall be accessible to the following:

(1) State and local law enforcement agencies, provided the database may only be accessed upon probable cause or reasonable suspicion of a violation of a controlled substance law or of driving under the influence, and access is strictly limited to information that is necessary to verify that an individual is registered and possesses a valid and current medical cannabis card and, if appropriate, to verify that the amount and type of product in the individual's possession complies with the daily dosage limit and type of medical cannabis recommended.

(2) Health care practitioners licensed to prescribe prescription drugs.

(3) Registered certifying physicians.

(4) Dispensaries.

(5) The State Board of Medical Examiners.

(6) Licensed pharmacists.

(c) The commission may monitor patient registrations in the patient registry for practices that could facilitate unlawful diversion or misuse of cannabis and shall recommend disciplinary action to the board as appropriate.

(Act 2021–450, § 1.)

§ 20–2A–36. Registration requirements; medical cannabis card.

(a) Once certified, a patient and, if applicable, the patient's designated caregiver, shall register in the patient registry. The commission shall develop the application and renewal process for patient and designated caregiver registration, that shall include, but not be limited to, an application form, relevant information that must be included on the form, any additional requirements for eligibility the commission deems necessary, and an application fee not to exceed sixty–five dollars ($65).

(b) If the certified patient or designated caregiver meets the criteria for registration, the commission shall place the patient or caregiver on the patient registry and issue the patient or designated caregiver a medical cannabis card. The commission shall determine the criteria for revoking or suspending a medical cannabis card. Medical cannabis cards shall be resistant to counterfeiting and tampering and, at a minimum, shall include all of the following:

(1) The name, address, and date of birth of the qualified patient or caregiver, as applicable.

(2) A photograph of the qualified patient or caregiver, as applicable.

(3) Identification of the cardholder as a qualified patient or a caregiver.

(4) The expiration date, as determined by commission rule.

(5) The following statement: ''This card is only valid in the State of Alabama''.

(c) Once a patient or designated caregiver is registered and issued a medical cannabis card, he or she is qualified to acquire, possess, or use medical cannabis, as applicable.

(d) If a registered qualified patient or registered caregiver loses his or her medical cannabis card, he or she shall notify the commission within 10 days of becoming aware the card is lost or stolen. The commission, by rule, shall determine the process and fee for replacing a lost or stolen card, including a process for invalidating the lost or stolen card.

(e) The commission shall adopt rules to implement this section and may impose civil penalties for violations of this section.

(Act 2021–450, § 1.)

ARTICLE 4.

CULTIVATION, PROCESSING, AND DISPENSING OF MEDICAL CANNABIS.

§ 20–2A–50. Licensing and regulation of medical cannabis.

(a) The state hereby preemptively regulates medical cannabis from seed-to-sale and shall reasonably regulate and control all aspects of the medical cannabis industry to meet the intent of this chapter. All functions and activities relating to the production of medical cannabis in the state shall be licensed, and licenses shall be granted to integrated facilities; as well as to independent entities in the following categories: Cultivator, processor, dispensary, secure transporter, and testing laboratory.

(b) The commission shall license, regulate, and enforce all aspects of medical cannabis under this article. The commission may seek and shall receive the cooperation of the Department of Agriculture and Industries in the regulation and enforcement of this article. The department may recover from the commission the department's costs of cooperation.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–51. License quantities; operation of dispensing sites.

(a) Where the commission is authorized under this article to determine the number of licenses of a specific license category the commission will grant, or increase the number of licenses of a specific license category to grant, the commission shall consider the population of the state, the number of active registered qualified patients, market demand, the unemployment rate, the need for agricultural and other business opportunities in communities, access to health care, infrastructure, and other factors the commission deems relevant in providing the greatest benefits to the residents of this state and taking into account the racial and economic makeup of the state.

(b) The commission shall ensure that at least one-fourth of all licenses, or in the case of Section 20–2A–67, one-fifth of all licenses, are awarded to business entities at least 51 percent of which are owned by members of a minority group or, in the case of a corporation, at least 51 percent of the shares of the corporation are owned by members of a minority group, and are managed and controlled by members of a minority group in its daily operations. For purposes of this subsection, minority group means individuals of African American, Native American, Asian, or Hispanic descent.

(c)(1) Notwithstanding any other provision of this chapter to the contrary, the commission shall not permit a dispensary to operate a dispensing site in any municipality or unincorporated area of a county unless the municipality or county has authorized the operation of dispensing sites within its boundaries, as provided in subdivision (2).

(2) Any county commission, by resolution, may authorize the operation of dispensing sites in the unincorporated areas of the county, and the governing body of any municipality, by ordinance, may authorize the operation of

dispensing sites within the corporate limits of the municipality. The county commission or municipal governing body shall notify the commission not more than seven calendar days after adopting the resolution or ordinance.

(3) This subsection does not prohibit a municipality from adopting zoning ordinances restricting the operation of dispensing sites within its corporate limits.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–52. Oversight of medical cannabis facility operations; inspections and audits of licensees; criminal background checks.

(a) The commission shall have all powers necessary and proper to fully and effectively oversee the operation of medical cannabis facilities licensed pursuant to this article, including the authority to do all of the following:

(1) Investigate applicants for licenses, determine the eligibility for licenses, and grant licenses to applicants in accordance with this article and the rules.

(2) Investigate all individuals employed by licensees.

(3) At any time, through its investigators, agents, or auditors, without a warrant and without notice to the licensee, enter the premises, offices, facilities, or other places of business of a licensee, if evidence of compliance or noncompliance with this article or rules is likely to be found and consistent with constitutional limitations, for the following purposes:

a. To inspect and examine all premises of licensees.

b. To inspect and examine relevant records of the licensee and, if the licensee fails to cooperate with an investigation, impound, seize, assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies, correspondence, records, and videotapes, including electronically stored records, money receptacles, or equipment in which the records are stored.

c. To inspect the person, and inspect or examine personal effects of an individual who holds a license, while that individual is present in a medical cannabis facility of the licensee.

d. To investigate alleged violations of this article.

(4) Investigate alleged violations of this article or rules and take appropriate disciplinary action against a licensee.

(5) Require all relevant records of licensees, including financial or other statements, to be kept on the premises authorized for operation of the licensee or in the manner prescribed by the commission.

(6) Eject, or exclude or authorize the ejection or exclusion of, an individual from the premises of a licensee if the individual violates this article, rules, or final orders of the commission; provided, however, the propriety of

the ejection or exclusion is subject to a subsequent hearing by the commission.

(7) Conduct periodic audits of licensees.

(8) Take disciplinary action as the commission considers appropriate to prevent practices that violate this article and rules.

(9) Take any other reasonable or appropriate action to enforce this article and rules.

(b) The commission shall adopt rules addressing the frequency of conducting periodic inspections and audits of respective licensees.

(c) The commission may enter into one or more memoranda of understanding with law enforcement agencies to assist with enforcement of this article.

(d) The commission may seek and shall receive the cooperation and assistance of the Alabama State Law Enforcement Agency in conducting criminal background checks and in fulfilling its responsibilities under this article. The Alabama State Law Enforcement Agency may recover its costs of cooperation under this article.

(e) The commission shall assist any prosecuting agency in the investigation or prosecution of a violation of a controlled substances law.

(f) Nothing in this article shall affect the authority of the Alabama Department of Environmental Management to administer and enforce any existing law over which the Alabama Department of Environmental Management has jurisdiction.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–53. License application requirements.

(a) The commission shall adopt rules as necessary to implement, administer, and enforce this article in a timely manner that allows persons to begin applying for a license by September 1, 2022. Rules must ensure safety, security, and integrity of the operation of medical cannabis facilities, that do all of the following for each category of license:

(1) Establish operating standards to ensure the health, safety, and security of the public and the integrity of medical cannabis facility operations.

(2) Require a minimum of two million dollars ($2,000,000) of liability and casualty insurance and establish minimum levels of other financial guarantees, if appropriate, that licensees must maintain.

(3) Establish qualifications and restrictions for individuals participating in or involved with operating medical cannabis facilities.

(4) Establish an on-site inspection process to be conducted at each facility of an applicant prior to being issued a license, as well as ongoing on-site inspections of the facilities of a licensee.

(5) Establish standards or requirements to ensure cannabis and medical cannabis remain secure at all times, including, but not limited to, require-

ments that all facilities of licensees remain securely enclosed and locked as appropriate.

(6) Subject to Section 20–2A–66, establish testing standards, procedures, and requirements for medical cannabis sold at dispensaries.

(7) Provide for the levy and collection of fines for a violation of this article or rules.

(8) Establish annual license fees for each type of license, provided the fee shall be not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000), depending on the category of license.

(9) Establish quality control standards, procedures, and requirements.

(10) Establish chain of custody standards, procedures, and requirements.

(11) In compliance with Chapters 27 and 30 of Title 22, establish standards, procedures, and requirements for waste product storage and disposal and chemical storage.

(12) Establish standards, procedures, and requirements for securely and safely transporting medical cannabis between facilities.

(13) Establish standards, procedures, and requirements for the storage of cannabis and medical cannabis.

(14) Subject to Section 20–2A–63, establish packaging and labeling standards, procedures, and requirements for medical cannabis sold at dispensaries.

(15) Establish marketing and advertising restrictions for medical cannabis products and medical cannabis facilities.

(16) Establish standards and procedures for the renewal, revocation, suspension, and nonrenewal of licenses.

(b) The commission, by rule, shall design a universal state symbol that is a color image and made available to licensed processors to include on all packages of medical cannabis, as required under Section 20–2A–63.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–54. Statewide seed-to-sale tracking system.

(a) In order to ensure that all medical cannabis sold in the state maintains product quality to protect the health and welfare of state residents, the commission shall establish a statewide seed-to-sale tracking system for use as an integrated cannabis and medical cannabis tracking, inventory, and verification system. The system must allow for interface with third-party inventory and tracking systems as described in Section 20–2A–60 to provide for access by this state, licensees, and law enforcement personnel, to the extent that they need and are authorized to receive or submit the information, to comply with, enforce, or administer this chapter.

(b) At a minimum, the system must be capable of storing and providing access to information that, in conjunction with the patient registry and with

one or more third-party inventory control and tracking systems under Section 20–2A–60, allows all of the following:

(1) Retention of a record of the date, time, amount, and price of each sale or transfer of medical cannabis to a registered qualified patient or registered caregiver.

(2) Effective seed-to-sale tracking of cannabis and medical cannabis sales and transfers among licensees and with regard to integrated facility licensees, among facilities of the licensee.

(3) Receipt and integration of information from third-party inventory control and tracking systems under Section 20–2A–60.

(c) The commission shall seek bids to establish, operate, and maintain the statewide seed-to-sale tracking system under this section. The commission shall do all of the following:

(1) Evaluate bidders based on the cost of the service and the ability to meet all of the requirements of this chapter.

(2) Give strong consideration to the bidder's ability to prevent fraud, abuse, and other unlawful or prohibited activities associated with the commercial trade in cannabis and medical cannabis in this state, and the ability to provide additional tools for the administration and enforcement of this chapter.

(3) Institute procedures to ensure that the person awarded the contract does not disclose or use the information in the system for any use or purpose except for the enforcement, oversight, and implementation of this chapter.

(4) Require the person awarded the contract to deliver the functioning system by 180 days after award of the contract.

(d) The commission may terminate a contract with the person awarded the contract for a violation of this chapter.

(e) The information in the statewide seed-to-sale tracking system is confidential and is exempt from disclosure under the Open Records Act, Article 3 of Chapter 12 of Title 36; provided, however, information in the system may be disclosed for purposes of enforcing this chapter.

(Act 2021–450, § 1.)

§ 20–2A–55. License application procedures.

(a) Beginning September 1, 2022, a person may apply to the commission for a license for an integrated facility or for a license in one of the following independent categories: Cultivator, processor, secure transporter, state testing laboratory, or dispensary. The application shall be made under oath on a form provided by the commission and shall contain information as prescribed by the commission, including, but not limited to, all of the following:

(1) The name, business address, business telephone number, and Social Security number or if applicable, federal tax identification number, of the applicant.

(2) With regard to each business entity that has any ownership interest in the applicant, all of the following:

a. The identity of every individual having an indirect or direct ownership interest in that business entity. For purposes of this paragraph, if the business entity is a trust, the application shall disclose the names and addresses of all trustees and beneficiaries; if a privately held corporation, the names and addresses of all shareholders, officers, and directors; if a publicly held corporation, the names and addresses of all shareholders holding a direct or indirect interest of greater than five percent, officers, and directors; if a partnership or limited liability partnership, the names and addresses of all partners; if a limited partnership or limited liability limited partnership, the names of all partners, both general and limited; or if a limited liability company, the names and addresses of all members and managers.

b.1. The identity of all of the following other entities, if the other entities are directly or indirectly involved in the cannabis industry, including, but not limited to, the cultivation, processing, packaging, labeling, testing, transporting, or sale of cannabis:

(i) Any subsidiary, affiliate, conglomerate, parent, or other entity that shares common ownership, directly or indirectly, with the business entity.

(ii) Any partnership of which the business entity is a partner.

(iii) Any limited liability company of which the business entity is a member or manager.

2. This paragraph shall be construed broadly to ensure the broadest disclosure and greatest transparency reasonably possible.

(3)a. With regard to each individual having any ownership interest in the applicant, the identity of all of the following entities, if the entities are directly or indirectly involved in the cannabis industry, including, but not limited to, the cultivation, processing, packaging, labeling, testing, transporting, or sale of cannabis:

1. Any business entity of which the individual or his or her spouse, parent, or child has any equity interest.

2. Any partnership of which the individual or his or her spouse, parent, or child has any equity interest.

3. Any limited liability company of which the individual or his or her spouse, parent, or child is a member or manager.

b. This subdivision shall be construed broadly to ensure the broadest disclosure and greatest transparency reasonably possible.

(4) Whether an owner, director, board member, or individual with a controlling interest in the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled substance-related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.

(5) Whether an applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing board or commission in this state or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing board or commission, the date each action was taken, and the reason for each action.

(6) Whether an applicant has filed, or been served with, a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, state, or local law, including the amount, type of tax, taxing agency, and time periods involved.

(7) A statement listing the names and titles of all public officials of any unit of government, and the spouses, parents, and children of those public officials, who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with an applicant.

(8) The anticipated or actual number of employees; and projected or actual gross receipts.

(9) Financial information in the manner and form required by rule by the commission.

(10) Records indicating that a majority of ownership is attributable to an individual or individuals with proof of residence in this state for a continuous period of no less than 15 years preceding the application date.

(11) For an applicant seeking an integrated facility license or a cultivator license, records indicating that a majority of ownership is attributable to an individual or individuals, or an entity or entities, with cumulative business experience in the field of commercial horticulture or agronomic production for a period of at least 15 years.

(b) Each owner, shareholder, director, board member, and individual with an economic interest in an applicant shall submit to a state and national criminal background check. The commission shall determine the manner in which fingerprints of the individual shall be submitted to the Alabama State Law Enforcement Agency along with a sufficient fee required to perform the criminal history records check by the agency and by the Federal Bureau of

Investigation. The applicant shall submit with its application the individual's written consent to the criminal history records check.

(c) A false application is cause for the commission to deny a license. The commission shall not consider an incomplete application but, within a reasonable time, shall return the application to the applicant with notification of the deficiency and instructions for submitting a corrected application. Information the commission obtains from the background investigation is exempt from disclosure under the Open Records Act, Article 3 of Chapter 12 of Title 36.

(d) An applicant shall provide written consent to the inspections, examinations, searches, and seizures provided for in subdivision (a)(3) of Section 20–2A–52 and to disclosure to the commission and its agents of otherwise confidential records, including tax records held by any federal, state, or local agency, or credit bureau or financial institution, while applying for or holding a license. Information the commission receives under this subsection is exempt from disclosure under the Open Records Act.

(e) An applicant shall certify that the applicant does not have an economic interest in any other license under this article.

(f) A nonrefundable application fee of two thousand five hundred dollars ($2,500) shall be paid at the time of filing to defray the costs associated with the background investigation conducted by the commission. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the commission. All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the commission in the course of its review or investigation of an application for a license under this article shall be disclosed only in accordance with this article. The information, records, interviews, reports, statements, memoranda, or other data are not admissible as evidence or discoverable in any action of any kind in any court or before any department, agency, board, commission, or authority, except for any action considered necessary by the commission, unless so ordered by a court of competent jurisdiction according to the Rules of Civil Procedure.

(g) If the commission identifies a deficiency in an application, the commission shall provide the applicant with a reasonable period of time, as determined by the commission by rule, but not more than 60 days, to correct the deficiency.

(Act 2021–450, § 1.)

§ 20–2A–56. Notice and comment period; license ineligibility; issuance or denial; fee; expiration and renewal.

(a) Before issuing any license under this article, the commission shall provide notice and a 30–day period during which members of the public may submit written comments regarding an applicant. The commission shall consider all comments received during the 30–day period. The commission may hold a public hearing as it deems necessary, at which the applicant may

present its business plan for the operation of its facilities and allow further comments or questions from the public. The hearing shall be conducted in a manner that allows members of the public to participate remotely by virtual means.

(b) An applicant is ineligible to receive a license if any of the following circumstances exist:

(1) An owner, director, board member, or individual with a controlling interest in the applicant has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years; provided, however, the commission shall not consider any conviction overturned on appeal or any charge that has been expunged pursuant to Chapter 27 of Title 15.

(2) The applicant has knowingly submitted an application for a license under this article that contains false information.

(3) An owner, director, board member, or individual with an economic interest in the applicant is a member of the commission.

(4) The applicant fails to demonstrate the ability to maintain adequate minimum levels of liability and casualty insurance or other financial guarantees for its proposed facility.

(5) The applicant cannot provide records described in subdivision (a)(10) of Section 20–2A–55.

(6) For an applicant seeking an integrated facility license or a cultivator license, the applicant cannot provide records described in subdivision (a)(11) of Section 20–2A–55.

(7) The applicant fails to meet other criteria established by rule.

(c) In determining whether to grant a license to an applicant, the commission may consider all of the following:

(1) The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a facility of the applicant and of any other individual that meets either of the following:

a. Controls, directly or indirectly, the applicant.

b. Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(2) The financial ability of the applicant to maintain required financial guarantees.

(3) The sources and total amount of the applicant's capitalization to operate and maintain the proposed facility.

(4) Whether an owner, director, board member, or individual with a controlling interest in the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, or had expunged any relevant criminal offense under the laws

of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise.

(5) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past seven years.

(6) Whether the applicant has been served with a complaint or other notice filed with any court or public agency regarding payment of any tax required under federal, state, or local law that has been delinquent for one or more years.

(7) Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.

(8) Whether at the time of application the applicant is a defendant in litigation involving its business practices.

(9) The applicant's ability to capitalize and conduct operations as proposed in its business plan, including business experience in related fields.

(10) The applicant's history of business activities as it applies to the specific license for which the applicant is seeking licensure.

(11) The proposed location of all proposed medical cannabis facilities as being suitable for all activities, not inconsistent with applicable zoning, and the applicant's ability to serve an identifiable geographic area.

(12) Whether the applicant meets other standards or requirements established under this article or by rules applicable to the license category.

(d) The commission shall review all applications for licenses and shall determine whether to grant or deny a license not more than 60 days after the date a license application was submitted, or if an applicant was notified of a deficiency under subsection (g) of Section 20–2A–55, the commission shall grant or deny a license not more than 60 days after the deficiency was corrected.

(e) After denial of a license, the commission, upon request, shall provide a public investigative hearing at which the applicant is given the opportunity to present testimony and evidence to establish its suitability for a license. Other testimony and evidence may be presented at the hearing, but the commission's decision must be based on the whole record before the commission and is not limited to testimony and evidence submitted at the public investigative hearing.

(f) Before issuing a license, the applicant shall pay the annual license fee, as established by the commission.

(g) A license shall be issued annually. Except as otherwise provided in this article, the commission shall renew a license if both of the following requirements are met:

(1) The licensee applies to the commission in a timely manner on a renewal form provided by the commission that requires information prescribed in rules and pays the annual license fee.

(2) The licensee meets the requirements of this article and any other renewal requirements set forth in the rules.

(h) If a license renewal application is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon application, payment of the annual license fee, and satisfaction of any renewal requirement and late fee set forth in rules. The licensee may continue to operate during the 60 days after the license expiration date if the license is renewed by the end of the 60–day period.

(i) License expiration does not terminate the commission's authority to impose sanctions on a licensee whose license has expired.

(j) A licensee shall consent in writing to inspections, examinations, searches, and seizures that are permitted under this article.

(k) An applicant or licensee has a continuing duty to provide information requested by the commission and to cooperate in any investigation, inquiry, or hearing conducted by the commission.

(Act 2021–450, § 1.)

§ 20–2A–57. Suspension, revocation, etc., of license.

(a) If any of the following occurs, the commission may deny, suspend, revoke, or restrict a license:

(1) An applicant or licensee fails to comply with this article or rules.

(2) A licensee no longer meets the eligibility requirements for a license under this article.

(3) An applicant or licensee fails to provide information the commission requests to assist in any investigation, inquiry, or commission hearing.

(b) The commission may impose civil fines of up to five thousand dollars ($5,000) against an individual and up to twenty-five thousand dollars ($25,000) or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of this article, rules, or an order of the commission. Assessment of a civil fine under this subsection is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of this article and is not grounds to suppress evidence in any criminal prosecution that arises under this article or any other law of this state.

(c) The commission shall comply with the hearing procedures of the Administrative Procedure Act when denying, revoking, suspending, or restricting a license or imposing a fine. The commission may suspend a license without notice or hearing upon a determination that the safety or health of registered qualified patients, registered caregivers, or employees is jeopardized by continuing a facility's operation. If the commission suspends a license under this subsection without notice or hearing, a prompt post-suspension hearing must be held to determine if the suspension should remain in effect. The suspension may remain in effect until the commission determines that the cause for suspension has been abated. The commission may revoke the license or

approve a transfer or sale of the license upon a determination that the licensee has not made satisfactory progress toward abating the hazard.

(d) Any party aggrieved by an action of the commission suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing before the commission upon request. A request for a hearing must be made to the commission in writing within 21 days after service of notice of the action of the commission. Notice of the action of the commission must be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail is considered complete on the business day following the date of the mailing.

(e) The commission may conduct investigative and contested case hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents; and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties of the commission under this article.

(f) Any person aggrieved by an action of the commission under this article, within 30 days after receiving notice of the action, may appeal the action to the circuit court in the county where the commission is located.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–58. Exclusivity of license; transfer request.

(a) Each license is exclusive to the licensee. A license, and any interest in or rights under a license, and any ownership interest or other beneficial interest in a licensed entity, may not be sold, transferred, assigned, conveyed, or otherwise disposed of in any manner, in whole or in part, voluntarily or involuntarily, directly or indirectly, except upon application to and approval of the commission.

(b) A nonrefundable application fee of two thousand five hundred dollars ($2,500) shall be paid to the commission at the time of filing any transfer request under subsection (a).

(c) The attempted transfer, sale, or other conveyance of an interest or right in a license, or transfer of an ownership interest or other beneficial interest in a licensed entity, without the approval of the commission, shall be grounds for suspension or revocation of the license or for other sanction considered appropriate by the commission.

(Act 2021–450, § 1.)

§ 20–2A–59. Criminal background check of prospective officers, employees, etc.

(a) The commission, prior to appointment, employment, or service for a licensee, shall require all officers, employees, contractors, and other individuals performing work of any character who would have access to cannabis, a medical cannabis facility, or related equipment or supplies, to submit to a

state and national criminal background check. The commission shall determine the manner in which fingerprints of the individuals shall be submitted to the Alabama State Law Enforcement Agency along with a sufficient fee required to perform the criminal background check by the agency and the Federal Bureau of Investigation. Notwithstanding any state law to the contrary, all records related to any criminal background check conducted pursuant to this subsection shall be accessible and made available, upon request, by the commission.

(b) If the criminal background check of a prospective officer, employee, or contractor indicates a pending charge or conviction within the past five years for a controlled substance-related felony or a controlled substance-related misdemeanor, a licensee may not appoint, hire, or contract with the prospective officer, employee, or contractor without written permission of the commission; provided, however, a licensee shall not consider any conviction overturned on appeal or any charge that has been expunged pursuant to Chapter 27 of Title 15.

(c) Each licensee shall enter all transactions, current inventory, and other information into the statewide seed-to-sale tracking system in accordance with rules adopted by the commission.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–60. Third-party inventory control and tracking system.

(a) Except as otherwise provided in subsection (b), a licensee shall adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide seed-to-sale tracking system to allow the licensee to enter or access information in the statewide seed-to-sale tracking system as required under this article and rules. The third-party inventory control and tracking system must have all of the following capabilities necessary for the licensee to comply with the requirements applicable to the licensee's license type:

(1) Tracking all cannabis plants, medical cannabis products, patient and caregiver purchase totals, waste, transfers, conversions, sales, and returns that are linked to unique identification numbers.

(2) Tracking lot and batch information throughout the entire chain of custody.

(3) Tracking all products, conversions, and derivatives throughout the entire chain of custody.

(4) Tracking cannabis plant, batch, and product destruction.

(5) Tracking transportation of product.

(6) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

a. Sold product.

b. Product inventory that is finished and available for sale.

c. Product that is in the process of transfer.

d. Product being processed into another form.

e. Postharvest raw product, such as product that is in the drying, trimming, or curing process.

(7) Reporting and tracking loss, theft, or diversion of product containing cannabis.

(8) Reporting and tracking all inventory discrepancies.

(9) Reporting and tracking adverse patient responses or dose-related efficacy issues.

(10) Reporting and tracking all sales and refunds.

(11) Receiving testing results electronically from a state testing laboratory via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.

(12) Identifying test results that may have been altered.

(13) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out all transactions authorized under the licensee's license in accordance with this article.

(14) Providing information to cross-check that product sales are made to a registered qualified patient, or a registered caregiver on behalf of a registered qualified patient, and that the product received the required testing.

(15) Providing the commission and state agencies with access to information in the database that they are authorized to access.

(16) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a license issued under this article.

(17) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the statewide seed-to-sale tracking system or is not authorized to access the particular information.

(18) Providing analytics to the commission regarding key performance indicators such as the following:

a. Total daily sales.

b. Total cannabis plants in production.

c. Total cannabis plants destroyed.

d. Total inventory adjustments.

(b) If the statewide seed-to-sale tracking system is capable of allowing a licensee to access or enter information into the statewide seed-to-sale tracking system without use of a third-party inventory control and tracking system, a licensee may access or enter information into the statewide seed-to-sale

tracking system directly and the licensee is not required to adopt and use a third-party inventory control and tracking system.

(Act 2021–450, § 1.)

§ 20–2A–61. Advertisement and display restrictions.

(a)(1) With regard to any physical structure or vehicle owned, leased, or otherwise used by a licensee, the licensee may not do either of the following:

a. Advertise medical cannabis brand names or use graphics related to cannabis or paraphernalia on the exterior of the physical structure or vehicle.

b. Display medical cannabis products or paraphernalia so as to be clearly visible from the exterior of the physical structure or vehicle.

(2) Restrictions in this subsection shall apply to any item located on real property on which a licensee's physical structures are located.

(b) Advertising for medical cannabis may not contain any statements, illustrations, or other material that would be appealing to minors.

(c) The commission shall adopt rules that establish restrictions and requirements for advertising, including signage, that may include limiting the media or forums where advertising may occur.

(Act 2021–450, § 1.)

§ 20–2A–62. Cultivator licensing.

(a)(1) A cultivator license authorizes all of the following:

a. The cultivation of cannabis.

b. The sale or transfer of cannabis to a processor.

c. If the cultivator contracts with a processor to process its cannabis into medical cannabis on the cultivator's behalf, the sale or transfer of medical cannabis to a dispensary.

(2) A cultivator license authorizes the cultivator to transfer cannabis only by means of a secure transporter.

(b) The commission shall issue no more than 12 cultivator licenses.

(c) An applicant for a license under this section shall meet all of the following requirements:

(1) Demonstrate the ability to secure and maintain cultivation facilities.

(2) Demonstrate the ability to obtain and use an inventory control and tracking system as required under Section 20–2A–60.

(3) Demonstrate the ability to commence cultivation of cannabis within 60 days of application approval notification.

(4) Demonstrate the ability to destroy unused or waste cannabis in accordance with rules adopted by the commission.

(5) Demonstrate the financial stability to provide proper testing of individual lots and batches.

(d) A licensed cultivator shall comply with all of the following, in accordance with rules adopted by the commission:

(1) All facilities shall be protected by a monitored security alarm system, be enclosed, and remain locked at all times.

(2) All individuals entering and exiting facilities shall be monitored by video surveillance and keypad or access card entry.

(3) All employees may not have any conviction within the past 10 years for a controlled substance-related felony or a controlled substance-related misdemeanor other than a conviction that was overturned on appeal or a charge that was expunged pursuant to Chapter 27 of Title 15.

(4) Cultivars selected by a licensee must be approved by the commission prior to acquisition of plant material for cultivation.

(e) A cultivator shall be subject to inspection by the commission.

(f) The cultivation of cannabis pursuant to this chapter shall be considered an agricultural purpose for purposes of Section 40–23–4.

(g) Nothing in this section shall be construed to prohibit the hydroponic growing of cannabis.

(Act 2021–450, § 1; Act 2024–290, § 1(b)(1), eff. May 8, 2024; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–63. Processor licensing.

(a)(1) A processor license authorizes all of the following:

a. The purchase or transfer of cannabis from a cultivator.

b. The processing of cannabis into medical cannabis which shall include properly packaging and labeling medical cannabis products, in accordance with this section.

c. The sale or transfer of medical cannabis to a dispensary.

(2) A processor license authorizes the processor to transfer medical cannabis only by means of a secure transporter.

(b) The commission shall issue no more than four processor licenses.

(c)(1) All medical cannabis products must be medical grade product, manufactured using documented good quality practices, and meet Good Manufacturing Practices, such that the product is shown to meet intended levels of purity and be reliably free of toxins and contaminants. Medical cannabis products may not contain any additives other than pharmaceutical grade excipients.

(2) The commission shall be responsible for enforcing Good Manufacturing Practices.

(d) Medical cannabis products may not be processed into a form that is attractive to or targets children, including all of the following which are prohibited:

(1) Any product bearing any resemblance to a cartoon character, fictional character whose target audience is children or youth, or pop culture figure.

(2) Any product bearing a reasonable resemblance to a product available for consumption as a commercially available candy.

(3) Any product whose design resembles, by any means, another object commonly recognized as appealing to, or intended for use by, children.

(4) Any product whose shape bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon rendering.

(e) All of the following shall apply to all packages and labels of medical cannabis products:

(1) Labels, packages, and containers shall not be attractive to minors and may not contain any content that reasonably appears to target children, including toys, cartoon characters, and similar images. Packages shall be designed to minimize appeal to children and must contain a label that reads: ''Keep out of reach of children.''

(2) All medical cannabis products must be packaged in child-resistant, tamper-evident containers.

(3) All medical cannabis product labels shall contain, at a minimum, the following information:

a. Lot and batch numbers.

b. A license identification number for the cultivator and a license identification number for the processor.

c. Cannabinoids content and potency.

d. The universal state symbol printed in color at least one-half inch by one-half inch in size.

(f) The commission shall establish one universal flavor for all gelatinous cube, cuboid, and lozenge medical cannabis products.

(g) The following statement shall be included on each label, if space permits, or as an insert within the package: ''WARNING: This product may make you drowsy or dizzy. Do not drink alcohol with this product. Use care when operating a vehicle or other machinery. Taking this product with medication may lead to harmful side effects or complications. Consult your physician before taking this product with any medication. Women who are breastfeeding, pregnant, or plan to become pregnant should discuss medical cannabis use with their physicians.''

(h) Any advertisement and any package or label may not contain any false statement or statement that advertises health benefits or therapeutic benefits of medical cannabis.

(i) The commission may require the implementation of a digital image such as a QR Code for purposes of tracking medical cannabis products. The digital image must interface with the statewide seed-to-sale tracking system.

(j) The commission shall determine what information from the label shall be entered into the statewide seed-to-sale tracking system.

(Act 2021–450, § 1; Act 2024–342, § 1, eff. June 1, 2024.)

§ 20–2A–64. Dispensary licensing.

(a)(1) A dispensary license authorizes all of the following:

a. The purchase or transfer of medical cannabis from a processor.

b. If a cultivator contracted with a processor to process its cannabis into medical cannabis on the cultivator's behalf, the purchase or transfer of medical cannabis from the cultivator.

c. The purchase or transfer of medical cannabis from an integrated facility.

d. The dispensing and sale of medical cannabis only to a registered qualified patient or registered caregiver.

(2) A dispensary license authorizes the dispensary to transfer medical cannabis only by means of a secure transporter, including transport between its dispensing sites.

(b) The commission shall issue no more than four dispensary licenses.

(c) A dispensary license authorizes the dispensary to transfer medical cannabis to or from a state testing laboratory for testing by means of a secure transporter.

(d) A licensed dispensary shall comply with all of the following:

(1) Each dispensing site must be located at least one thousand feet from any school, day care, or child care facility.

(2) Each dispensing site must be equipped with surveillance cameras that are focused on each point of entry and that operate on a continuous basis. The dispensary must maintain surveillance records for a minimum of 60 days following the date of recording.

(3) Sell and dispense medical cannabis at a dispensing site to a registered qualified patient or registered caregiver only after it has been tested and bears the label required for retail sale.

(4) Enter all transactions, current inventory, and other information into the statewide seed-to-sale tracking system as required in Section 20–2A–54.

(5) Only allow dispensing of medical cannabis by certified dispensers, as provided in subsection (e).

(6) Not allow the use of medical cannabis products on the premises.

(7) Only allow registered qualified patients and registered caregivers on the premises.

(e)(1) As used in this subsection, certified dispenser means an employee of a dispensary who dispenses medical cannabis to a registered qualified patient or registered caregiver and who has been trained and certified by the commission.

(2) The commission shall establish and administer a training program for dispensers that addresses proper dispensing procedures, including the requirements of this subsection, and other topics relating to public health and safety and preventing abuse and diversion of medical cannabis. The commission shall certify trained dispensers and may require, as a qualification to remain certified, periodic training.

(3) A certified dispensary shall comply with all of the following:

a. Before dispensing medical cannabis, inquire of the patient registry to confirm that the patient or caregiver holds a valid, current, unexpired, and unrevoked medical cannabis card and that the dispensing of medical cannabis conforms to the type and amount recommended in the physician certification and will not exceed the 60–day daily dosage purchasing limit.

b. Enter into the patient registry the date, time, amount, and type of medical cannabis dispensed.

c. Comply with any additional requirements established by the commission by rule.

(4) The commission shall adopt rules to implement this subsection.

(f) A licensee may operate up to three dispensing sites, each of which must be located in a different county from any other dispensing site; provided, however, the commission may authorize a licensee to operate a greater number of dispensing sites if, at least one year after the date when the maximum number of total dispensing sites authorized under this section and Section 20–2A–67 are operating, the commission determines that the patient pool has reached a sufficient level to justify an additional dispensing site in an underserved or unserved area of the state. Notwithstanding the foregoing, a licensee may not operate any dispensing site in the unincorporated area of a county or in a municipality that has not adopted a resolution or ordinance authorizing the operation of dispensing sites under subsection (c) of Section 20–2A–51.

(Act 2021–450, § 1.)

§ 20–2A–65. Secure transporter licensing.

(a) A secure transporter license authorizes the licensee to store and transport cannabis and medical cannabis for a fee upon request of a licensee. A license does not authorize transport to a registered qualified patient or registered caregiver.

(b) A secure transporter shall comply with all of the following:

(1) Each employee who has custody of cannabis or medical cannabis shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past

five years or have been convicted of a misdemeanor involving a controlled substance within the past five years.

(2) A route plan and manifest shall be entered into the statewide seed-to-sale tracking system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(3) The cannabis or medical cannabis shall be transported in one or more sealed containers and not be accessible while in transit.

(4) A secure transporting vehicle may not bear markings or other indication that it is carrying cannabis or medical cannabis.

(c) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of cannabis or medical cannabis to determine compliance with this article.

(Act 2021–450, § 1.)

§ 20–2A–66. State testing laboratory licensing.

(a) A state testing laboratory license authorizes the licensee to possess and test cannabis and medical cannabis products cultivated or processed at licensed facilities.

(b) The commission, by rule, shall establish protocols for product testing by a licensed state testing laboratory, which shall be conducted during cultivation, processing, and dispensing to ensure that all dispensed medical cannabis is consistently high grade and maintains a consistency with less than 0.5 percent variability among batches of the same product. The protocols for testing shall include the following, as well as a determination of corresponding tolerance limits:

(1) Cannabinoid content and potency, including, but not limited to, all of the following:

a. Total THC (THC + THCA).

b. Total CBD (CBD + CBDA).

c. THC/CBD ratio, if applicable.

d. Percent of THC relative to original plant material (w/w).

(2) Terpene profiles.

(3) Heavy metals.

(4) Chemical contamination, such as residual solvents remaining after extraction and concentration.

(5) Microbials, including pathogenic microbials.

(6) Mycotoxins.

(7) Residual insecticides, fungicides, herbicides, and growth regulators used during cultivation.

(8) Residual solvents.

(c) A state testing laboratory license authorizes the licensee to do all of the following without using a secure transporter:

(1) Take cannabis or medical cannabis from, test cannabis or medical cannabis for, and return cannabis or medical cannabis to only a respective licensed facility.

(2) Collect a random sample of cannabis or medical cannabis at the premises of a cultivator, processor, or dispensary for testing.

(d) The licensee shall be accredited and shown to meet the requirements for a testing laboratory in international standard ISO/IEC 17025, with the licensee's scope of accreditation demonstrating testing capabilities in the categories of cannabinoids, pesticides, toxins, metals, and microbiological bacteria.

(e) To be eligible for a state testing laboratory license, the applicant and each investor with any interest in the applicant must not have an interest in any licensed cultivator, secure transporter, processor, or dispensary.

(f) The licensee shall comply with all of the following:

(1) Perform tests to certify that cannabis and medical cannabis is reasonably free of heavy metals, chemical contamination, residual pesticides and growth inhibitors, and residual solvents.

(2) Use validated test methods to determine delta–9–tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid levels.

(3) Perform tests that determine whether cannabis and medical cannabis comply with the standards the commission establishes for microbial and mycotoxin contents.

(4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.

(5) Have a secured laboratory space that cannot be accessed by the general public.

(6) Retain and employ at least one staff member with a relevant advanced degree in a medical or laboratory science.

(Act 2021–450, § 1.)

§ 20–2A–67. Integrated facility licensing.

(a) An integrated facility license authorizes all of the following:

(1) The cultivation of cannabis.

(2) The processing of cannabis into medical cannabis, including proper packaging and labeling of medical cannabis products.

(3) The dispensing and sale of medical cannabis only to a registered qualified patient or registered caregiver.

(4) The transport of cannabis or medical cannabis between its facilities.

(5) The sale or transfer of medical cannabis to a dispensary.

(b) The commission may issue no more than five integrated facility licenses.

(c) An integrated facility licensee shall have the same authorizations granted to, and shall comply with all requirements for, cultivators, processors, secure transporters, and dispensaries, in addition to any other authorizations or requirements under this section or as established by rule by the commission.

(d) An applicant for an integrated facility license shall provide all of the following:

(1) A letter of commitment or other acknowledgement, as determined by commission rule, of the applicant's ability to secure a performance bond issued by a surety insurance company approved by the commission in the amount of two million dollars ($2,000,000).

(2) Proof of at least two hundred fifty thousand dollars ($250,000) in liquid assets.

(3) Proof that the applicant has the financial ability to maintain operations for not less than two years following the date of application.

(e) At the time a license is issued under this section, the commission shall ensure that the licensee has secured a performance bond as provided in subdivision (1) of subsection (d).

(f) A licensee may operate up to five dispensing sites, each of which must be located in a different county from any other dispensing site that the licensee operates; provided, however, the commission may authorize a licensee to operate a greater number of dispensing sites if, at least one year after the date when the maximum number of total dispensing sites authorized under this section and Section 20–2A–64 are operating, the commission determines that the patient pool has reached a sufficient level to justify an additional dispensing site in an underserved or unserved area of the state. Notwithstanding the foregoing, a licensee may not operate any dispensing site in the unincorporated area of a county or in a municipality that has not adopted a resolution or ordinance authorizing the operation of dispensing sites under subsection (c) of Section 20–2A–51. This subsection shall not be construed to limit wholesale distribution from integrated facility licensees to dispensary licensees.

(Act 2021–450, § 1.)

§ 20–2A–68. Licenses as revocable privileges.

A license issued under this article is a revocable privilege granted by this state and is not a property right. Granting a license does not create or vest any right, title, franchise, or other property interest. A licensee or any other person shall not lease, pledge, or borrow or loan money against a license.

(Act 2021–450, § 1.)

ARTICLE 5.

TAXATION.

§ 20–2A–80. Tax on retail sales of medical cannabis; annual medical cannabis privilege tax.

(a) Commencing January 1, 2022, there is levied, in addition to all other taxes of every kind now imposed by law, and shall be collected and remitted in accordance with Article 1, commencing with Section 40–23–1, of Chapter 23 of Title 40, a tax on the gross proceeds of the sales of medical cannabis when sold at retail in this state at the rate of nine percent of the gross proceeds of the sales.

(b)(1) Commencing January 1, 2022, there is levied an annual privilege tax on every person doing business under this chapter in Alabama. The tax shall accrue as of January 1 of every taxable year, or in the case of a taxpayer licensed under this chapter, during the year, or doing business in this state for the first time, as of the date the taxpayer is licensed to do business under this chapter. The tax shall be levied upon the taxpayer's net worth in Alabama for the taxable year. For purposes of this subdivision, a taxpayer's net worth in Alabama shall be determined by apportioning the taxpayer's net worth computed under Section 40–14A–23, in the same manner as prescribed for apportioning income during the determination period for purposes of the income tax levied by Chapter 18 of Title 40, or the manner in which the income would be apportioned if the taxpayer were subject to the income tax.

(2) The amount of tax due shall be computed in the same manner and at the same rate of tax as prescribed in Section 40–14A–22, for purposes of determining the annual privilege tax levied by Chapter 14A of Title 40.

(3) The annual return required by this subsection shall be due no later than the corresponding federal income tax return, as required to be filed under federal law. In the case of a taxpayer's initial return, the annual return shall be due no later than two and one-half months after the taxpayer is licensed to do business, or commences business, in Alabama.

(4) The Department of Revenue may grant a reasonable extension of time for filing returns under rules adopted by the Department of Revenue. No extension shall be for more than six months.

(5) The annual medical cannabis privilege tax shall be reported on forms and in the manner as prescribed by rule by the Department of Revenue. The failure to receive a form from the Department of Revenue shall not relieve a taxpayer from liability for any tax, penalty, or interest otherwise due. The tax due, as reported, shall constitute an admitted liability for that amount. The Department of Revenue may compute and assess additional tax, penalty, and interest against a taxpayer as provided in this chapter.

(c) The Department of Revenue shall adopt rules to implement this section.

(Act 2021–450, § 2.)

ARTICLE 6.

CONSORTIUM FOR MEDICAL CANNABIS RESEARCH.

§ 20–2A–100. Creation, composition; board of directors; purposes; annual report; Medical Cannabis Research Fund.

(a) As used in this section, cannabis, medical cannabis, and use of medical cannabis shall have the same meanings as defined in Section 20–2A–3.

(b) There is established the Consortium for Medical Cannabis Research for the purpose of awarding grants to entities for research relating to cannabis and medical cannabis. The initial member institutions shall consist of the HudsonAlpha Institute for Biotechnology, the Southern Research Institute, and public and private four-year colleges and universities within the state designated not later than January 1, 2022, by the Alabama Commission on Higher Education. Membership in the consortium may be increased or decreased by rules established by the board of directors of the consortium.

(c) The management of the consortium shall be vested in a board of directors, composed of the President of HudsonAlpha Institute for Biotechnology, the Chief Executive Officer of the Southern Research Institute, and the presidents of each member college and university. The board of directors shall determine the overall program and general policies of the consortium in conformance with the purposes set forth in subsection (d). The board may elect or appoint officers as it deems desirable, who may or may not be members of the board, to have responsibilities and to exercise authority as the board may prescribe.

(d) The purposes of the consortium are as follows:

(1) Award grants to public or private entities to conduct rigorous research relating to cannabis, the cannabis industry, medical cannabis, and the use of medical cannabis and its impact.

(2) Monitor research conducted pursuant to grant awards and require accountability by entities awarded grants.

(3) Encourage dialog among interested entities.

(4) Effectively disseminate research findings and outcomes.

(e) By February 15 of each year, the board of directors shall issue a report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Attorney General on research projects, research findings, community outreach initiatives, and future plans for the consortium.

(f) There is created a special account in the State Treasury to be known as the Medical Cannabis Research Fund. Expenditures from the Medical Cannabis Research Fund shall be made to fund grants awarded by the consortium in accordance with this section and to otherwise implement and administer this section. Amounts in the Medical Cannabis Research Fund shall be budgeted

and allotted in accordance with Sections 41–4–80 through 41–4–96 and Sections 41–19–1 through 41–19–12.

(Act 2021–450, § 4.)

CHAPTER 2B.

INTERCEPTION OF WIRE OR ELECTRONIC COMMUNICATIONS.

§ 20–2B–1. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Short title; definitions.

(a) This chapter shall be known and may be cited as the Agent Billy Clardy III Act.

(b) For the purposes of this chapter, the following terms have the following meanings:

(1) AGENCY. Alabama State Law Enforcement Agency.

(2) AGGRIEVED INDIVIDUAL. An individual who was a party to an intercepted wire or electronic communication or an individual against whom the interception was directed.

(3) ATTORNEY GENERAL. The Attorney General of the State of Alabama or his or her designee.

(4) COMMUNICATION COMMON CARRIER. The term as defined in 47 U.S.C. § 153(11).

(5) COMMUNICATIONS SERVICE PROVIDER. A provider of communication service as defined in Section 37–2A–2.

(6) CONTENTS. When used with respect to a wire or electronic communication, any information concerning the identity of the parties to the communication or the existence, substance, purport, or meaning of that communication.

(7) ELECTRONIC COMMUNICATION. Any transfer of an electronic or other signal, including any fax signal, computer generated signal, other similar signal, or scrambled or encrypted signal transferred via wire, radio, electromagnetic, photoelectric, or photo optical system from one party to another in which the involved parties may reasonably expect the communication to be private.

(8) ELECTRONIC, MECHANICAL, OR OTHER DEVICE. A device or apparatus primarily designed or used for the nonconsensual interception of wire or electronic communications.

(9) INTERCEPT. The aural or other acquisition of the contents of a wire or electronic communication through the use of an electronic, mechanical, or other device.

(10) INVESTIGATIVE OFFICER. A special agent of the agency, a special agent of the Attorney General's office, or any other law enforcement officer of this state designated by the secretary of the agency who meets guidelines

established by the secretary and who has successfully completed a training course approved by the Attorney General on the legal and technical aspects of the interception and use of wire or electronic communications.

(11) JUDGE OF COMPETENT JURISDICTION. A circuit court judge in the county where the intercept is expected to take place or a circuit court judge designated by the Chief Justice of the Supreme Court or by the Alabama Supreme Court to hear intercept applications or where the interception takes place.

(12) PROSECUTOR. A district attorney or his or her designee.

(13) SECRETARY. The Secretary of the Alabama State Law Enforcement Agency or his or her designee.

(14) WIRE COMMUNICATION. A communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by an individual engaged as a communication common carrier or communications service provider in providing or operating the facilities for the transmission of communications.

(Act 2022–236, §§ 1, 2.)

§ 20–2B–2. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Possession or use of electronic, mechanical, or other device for the nonconsensual interception of wire or electronic communications.

(a) No individual or other agency, other than the Alabama State Law Enforcement Agency, may own or possess an electronic, mechanical, or other device.

(b) Only investigative officers may install, operate, or monitor an electronic, mechanical, or other device.

(c) Any law enforcement officer of this state may assist in the operation and monitoring of an interception of a wire or electronic communication as long as an investigative officer is present at all times.

(d) The agency shall perform audits on the electronic, mechanical, or other devices.

(e) The secretary may approve the use of an electronic, mechanical, or other device that is being used by a federal agency, as long as the approval is made in writing and attached to the original affidavit.

(Act 2022–236, § 2.)

§ 20–2B–3. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Intercept order — Grounds.

Orders authorizing, approving, or extending the interception of wire or electronic communications may be granted, subject to this chapter, when the

intercept may provide or has provided evidence an individual is committing, has committed, or is about to commit a felony drug offense included in Article 5, commencing with Section 13A–12–201, of Chapter 12, of Title 13A.

(Act 2022–236, § 2.)

§ 20–2B–4. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Intercept order — Request; affidavit.

(a)(1) An investigative officer may submit a written request to the secretary requesting the secretary apply for an intercept order. If the secretary approves the request, the secretary may submit a written request to the Attorney General requesting the Attorney General apply for an intercept order to a judge of competent jurisdiction. The written request shall be on a form approved by the Attorney General and shall include an affidavit.

(2) The affidavit shall include all of the following:

a. The identity of the investigating officer making the application.

b. A statement of the facts and circumstances relied upon by the applicant to justify the belief that an order should be issued, including all of the following:

1. Details of the specific offense that has been committed, is being committed, or will be committed.

2. A particular description of the nature and location of the communications facilities from which, or the place where, the communication is to be intercepted.

3. A particular description of the type of communication sought to be intercepted.

4. The identity of the individual, if known, whose communications are to be intercepted.

c. A statement that other investigative procedures have been attempted and failed, reasonably appear to be unlikely to succeed if attempted, or are too dangerous to be attempted.

d. A statement of the period of time the intercept is required to be maintained, including a statement of whether the intercept will automatically terminate when the described communication is first obtained. If the authorization for the intercept does not automatically terminate when the described type of communication is obtained, facts that establish probable cause to believe additional communications of the same type will occur.

e. A statement of the facts concerning all previous applications known to the applicant, made to any judge for approval of an intercept involving the same individual, facilities, or places specified in the application and the action taken by the judge, if known.

f. If the application is for the extension of an order, a statement explaining the results obtained from the intercept or a reasonable explanation of the failure to obtain required results.

(b)(1) The Attorney General shall review the request and decide whether it is appropriate to submit an application to a judge of competent jurisdiction for an intercept order.

(2) If the Attorney General decides to submit an application, he or she shall notify the secretary or the investigative officer.

(3) If the Attorney General declines to submit an application, he or she shall send the secretary or the investigative officer a notice of declination within 10 days.

(Act 2022–236, § 2.)

§ 20–2B–5. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Intercept order — Judicial authorization; requirements.

(a) Upon receiving an application from the Attorney General for an intercept order, a judge of competent jurisdiction may enter an ex parte intercept order as requested or as modified, authorizing an intercept within the territorial jurisdiction of the court if the judge determines all of the following:

(1) There is probable cause to believe that an individual is committing, has committed, or is about to commit a felony drug offense included in Article 5, commencing with Section 13A–12–201, of Chapter 12, of Title 13A.

(2) There is probable cause to believe that specific communications concerning that offense will be obtained through the intercept.

(3) Normal investigative procedures have been attempted and have failed, reasonably appear to be unlikely to succeed if attempted, or are too dangerous to be attempted.

(4) There is probable cause to believe that the facilities from which, or the place where, the wire or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are being leased to, listed in the name of, or commonly used by the individual described in the application.

(b) Each intercept order authorizing or approving the interception of a wire or electronic communication shall specify all of the following:

(1) The identity of the individual, if known, whose communications are to be intercepted.

(2) The nature and location of the communications facilities which, or the place where, authority to intercept is granted, and the means by which the intercept may be made.

(3) A description of the type of communication sought to be intercepted and a statement of the particular offense to which it relates.

(4) The identity of the agency authorized to intercept the communications and the individual requesting the application.

(5) The period of time the intercept is authorized, including a statement of whether the intercept automatically terminates when the described communication is first obtained.

(c) The intercept order authorizing the intercept, upon request of the applicant, shall direct that a communication common carrier, communications service provider, custodian, or other individual furnish the applicant all information, facilities, and technical assistance necessary to accomplish the intercept unobtrusively and with a minimum of interference with the services that the carrier, custodian, or other individual is providing the individual whose communications are to be intercepted. Any communication common carrier, communications service provider, custodian, or other individual furnishing facilities or technical assistance shall be compensated by the applicant for reasonable expenses incurred in providing facilities or assistance at the prevailing rates.

(d)(1) An intercept order entered pursuant to this chapter may not authorize the interception of a wire or electronic communication for any period longer than is necessary to achieve the objective of the authorization, and in no event for more than 30 days. The 30–day period begins either when the investigative officer first begins to conduct an intercept under the intercept order, or 10 days after the order is entered, whichever is sooner.

(2) The issuing judge may grant extensions of an intercept order, but only upon an application for an extension made in accordance with this chapter. The period of extension may not be for any period longer than the authorizing judge deems necessary to achieve the objective for which it is granted, and in no event may the extension be for more than 30 days. To be valid, each order and extension of an order shall provide that the authorization to intercept be executed as soon as practicable, be conducted in a way that minimizes the interception of communications not otherwise subject to interception under this chapter, and terminate upon obtaining the authorized objective or within 30 days, whichever occurs sooner.

(e) Whenever an order authorizing an intercept is entered pursuant to this chapter, the order may require reports to the judge who issued the order showing what progress has been made toward achieving the authorized objective and the need for continued interception. Reports shall be made at any interval required by the judge.

(f) A judge who issues an order authorizing the interception of a wire or electronic communication may not hear a criminal prosecution in which evidence derived from the interception may be used or in which the order may be an issue.

(g) For jurisdictional purposes, the territorial jurisdiction pursuant to subsection (a) includes both the location of the device and the original listening post. A judge in either jurisdiction, or a circuit court judge designated by the

Chief Justice of the Supreme Court or by the Alabama Supreme Court to hear intercept applications, may issue an intercept order.

(Act 2022–236, § 2.)

§ 20–2B–6. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Recordings of intercepted wire or electronic communications.

(a) The contents of a wire or electronic communication intercepted by means authorized by this chapter shall be recorded on tape, wire, or other comparable device, to the extent practicable. The recording of the contents of a wire or electronic communication under this section shall be performed in a way that protects the recording from editing or other alterations.

(b) Immediately following the expiration of an intercept order, or all extensions, if any, the recordings shall be made available to the judge issuing the order and shall be sealed. Custody of the recordings shall be wherever the judge orders. The recordings may not be destroyed until at least 10 years after the date of expiration of the order and the last extension, if any. A recording may be destroyed only by order of the judge who authorized the interception, or his or her successor.

(c) Duplicate recordings may be made for use or disclosure pursuant to Section 20–2B–8 for investigative purposes. One copy shall remain in the custody of the judge and one copy shall be given to the entity that executed the intercept order.

(d) The presence of a seal as required in subsection (b), or a satisfactory explanation of its absence, shall be a prerequisite for the use or disclosure of the contents of any wire or electronic communication or any evidence derived from the communication under Section 20–2B–8.

(e) A violation of this section shall be punished as contempt of court.

(Act 2022–236, § 2.)

§ 20–2B–7. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Sealing of applications and orders.

(a) The judge of competent jurisdiction shall seal each application made, and order granted, under this chapter. Custody of the applications and orders shall be wherever the judge orders. An application or order may be disclosed only upon a showing of good cause before a judge of competent jurisdiction. An application or order may not be destroyed until at least 10 years after the date it was sealed. An application or order may be destroyed only by order of the judge who authorized the interception, or his or her successor.

(b) A violation of this section shall be punished as contempt of court.

(Act 2022–236, § 2.)

§ 20–2B–8. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Inventory provided to individuals named in order or application; disclosure of records.

(a) Within a reasonable time, but not later than 90 days after the date an application for an order is denied or after the date an order, or the last extension, if any, expires, the judge who granted or denied the application shall serve an inventory on the individuals named in the order or the application or any other parties to the intercepted communications deemed appropriate by the issuing judge, if any. The inventory shall include a notice of all of the following:

(1) The entry of the order or the application.

(2) The date of the entry and the period of authorized interception or the date of denial of the application.

(3) Whether wire or electronic communications were intercepted during the authorized period.

(b) Upon a motion, the judge may make available for inspection to any individual or individuals whose communications have been intercepted, or their counsel, any portion of an intercepted communication, application, or order the judge determines is in the interest of justice to disclose to that individual.

(c) Upon an ex parte showing of good cause to the judge, the serving of the inventory required by this section may be postponed, but evidence derived from an order under this chapter may not be disclosed in any trial until after the inventory has been served.

(Act 2022–236, § 2.)

§ 20–2B–9. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Use or suppression of contents of intercepted wire or electronic communication, or evidence derived therefrom, as evidence in trial, hearings, etc.

(a) The contents of an intercepted wire or electronic communication, or evidence derived from the communication, may not be entered in evidence or otherwise disclosed in a trial, hearing, or other proceeding in a federal or state court unless each party has been furnished a copy of the court order and application under which the intercept was authorized or approved, at least 10 days before the date of the trial, hearing, or other proceeding. The 10–day period may be waived by the judge if he or she finds it is not possible to furnish the party with the information 10 days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

(b) An aggrieved individual charged with an offense in a trial, hearing, or proceeding in or before a court, department, officer, agency, regulatory body,

or other authority of the United States or of this state or a political subdivision of this state, may move to suppress the contents of an intercepted wire or electronic communication or evidence derived from the communication on any of the following grounds:

(1) The communication was unlawfully intercepted.

(2) The order authorizing the interception is insufficient on its face.

(3) The interception was not made in conformity with the order.

(c) The motion to suppress shall be made before the trial, hearing, or proceeding, unless there was no opportunity to make the motion before the trial, hearing, or proceeding, or the individual was not aware of the grounds of the motion before the trial, hearing, or proceeding. The hearing on the motion shall be held in camera upon the written request of the aggrieved individual. If the motion is granted, the contents of the intercepted wire or electronic communication, and evidence derived from the communication, shall be treated as inadmissible evidence. The judge, on the filing of the motion by the aggrieved individual, shall make available for inspection to the aggrieved individual, or his or her counsel, any portion of the intercepted communication, or evidence derived from the communication, that the judge determines is in the interest of justice to make available.

(Act 2022–236, § 2.)

§ 20–2B–10. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Disclosure of contents of intercepted wire or electronic communication, or evidence derived therefrom.

(a) Any law enforcement officer who obtains, by any means authorized by this chapter, knowledge of the contents of a wire or electronic communication, or evidence derived from the communication, may disclose the contents, or evidence derived, to another law enforcement officer if the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) Any law enforcement officer who obtains, by any means authorized by this chapter, knowledge of the contents of a wire or electronic communication, or evidence derived from the communication, may use the contents, or evidence derived, if the use is appropriate to the proper performance of the official duties of the officer.

(c) Any individual who receives, by any means authorized by this chapter, information concerning a wire or electronic communication, or evidence derived from the communication, may disclose the contents of the communication, or evidence derived from the communication, while giving testimony in any proceeding held under the authority of the United States, this state, or a political subdivision of this state.

(d) No privileged wire or electronic communication intercepted in accordance with, or in violation of, this chapter shall lose its privileged character.

(e) When an investigative officer, while engaged in intercepting wire or electronic communications in a manner authorized by this chapter, intercepts communications relating to an offense other than those specified in the intercept order, the contents of, and evidence derived from, the communication may be disclosed or used as provided by subsection (a) and (b). The contents of, and any evidence derived from the communication may be used under subsection (c) when a judge of competent jurisdiction finds, on a subsequent application, that the contents were otherwise intercepted in accordance with this chapter. The subsequent application shall be made as soon as practicable.

(Act 2022–236, § 2.)

§ 20–2B–11. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Annual reports.

(a) On or before January 31 of each year, any judge who has issued an order, or an extension of an order, pursuant to Section 20–2B–5 that expired during the preceding year, or who has denied approval of an intercept order during the preceding year, shall report to the Administrative Office of the United States Courts all of the following:

(1) The fact that an order or extension was sought.

(2) The kind of order or extension sought.

(3) The fact that the order or extension was granted as applied for, was modified, or was denied.

(4) The period of intercepts authorized by the order and the number and duration of any extensions of the order.

(5) The offense specified in the order, application, or extension.

(6) The identity of the officer making the request and the individual authorizing the application.

(7) The nature of the facilities or the place where communications were to be intercepted.

(b) On or before March 31 of each year, the Attorney General shall report to the Administrative Office of the United States Courts the following information for the preceding calendar year:

(1) The information required by subsection (a) with respect to each application for an order or extension made.

(2) A general description of the intercepts made under each order or extension, including the approximate nature and frequency of incriminating communications intercepted, the approximate nature and frequency of other communications intercepted, the approximate number of individuals whose communications were intercepted, and the approximate nature, amount, and cost of the manpower and other resources used in the interceptions.

(3) The number of arrests resulting from interceptions made under each order or extension and the offenses for which arrests were made.

(4) The number of trials resulting from intercepts.

(5) The number of motions to suppress made with respect to intercepts and the number granted or denied.

(6) The number of convictions resulting from intercepts, the offenses for which the convictions were obtained, and a general assessment of the importance of the intercepts.

(7) The information required by subdivisions (2) through (6) with respect to orders or extensions obtained.

(c) Any judge required to file a report with the Administrative Office of the United States Courts and the Attorney General shall forward a copy of the report to the secretary by March 15 of each year.

(d) On or before April 15 of each year, the secretary shall submit to the Alabama Administrative Office of Courts a report of all intercepts conducted pursuant to this chapter and terminated during the preceding calendar year. Such report shall include all of the following:

(1) All reports received by judges and the report received by the Attorney General, as required by this section.

(2) The number of agency personnel and other designated law enforcement officers authorized to possess, install, or operate electronic, mechanical, or other devices.

(3) The number of agency personnel and other designated law enforcement officers who participated or engaged in the seizure of intercepts pursuant to this chapter during the preceding calendar year.

(4) The total cost to the agency of all activities and procedures relating to the seizure of intercepts during the preceding calendar year, including costs of equipment, manpower, and expenses incurred as compensation for use of facilities or technical assistance provided by the agency.

(e) On or before April 15 of each year, the secretary shall submit to the Legislative Council a report of all intercepts conducted pursuant to this chapter and terminated during the preceding calendar year.

(Act 2022–236, § 2.)

§ 20–2B–12. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Civil cause of action for violations of article.

(a) An individual whose wire or electronic communication is intercepted, disclosed, or used in violation of this chapter shall have a civil cause of action against any individual who intercepts, discloses, or uses, or procures another individual to intercept, disclose, or use, the communication, and is entitled to recover from the individual or entity which engaged in the violation any of the following:

(1) Actual damages.

(2) Punitive damages.

(3) Reasonable attorney's fees and other litigation costs reasonably incurred.

(b) This section does not apply to any of the following individuals if acting in a reasonable manner pursuant to this chapter:

(1) An operator of a switchboard, or an officer, employee, or agent of a communication common carrier or a communications service provider whose facilities are used in the transmission of a wire communication, who intercepts a communication, or who discloses or uses an intercepted communication in the normal course of employment while engaged in an activity that is a necessary incident to the rendition of service or to the protection of the rights or property of the carrier of the communication.

(2) An officer, employee, or agent of a communication common carrier or communications service provider who employs or uses any equipment or device that may be attached to any telephonic equipment of any subscriber which permits the interception and recording of any telephonic communications solely for the purposes of business service improvements.

(3) An officer, employee, or agent of a communication common carrier or communications service provider who provides information, facilities, or technical assistance to an investigative officer who is authorized as provided by this chapter to intercept a wire or electronic communication.

(4) An individual acting under authority of law who intercepts a wire or electronic communication if the individual is a party to the communication, or if one of the parties to the communication has given prior consent to the interception.

(5) An individual not acting under authority of law who intercepts a wire or electronic communication if the individual is a party to the communication, or if one of the parties to the communication has given prior consent to the interception, unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of this state or for the purpose of committing any other injurious act.

(c) A good faith reliance on a court order is a complete defense to any civil cause of action brought under this chapter.

(Act 2022–236, § 2.)

§ 20–2B–13. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Violations of article.

Any individual who knowingly and intentionally possesses, installs, operates, or monitors an electronic, mechanical, or other device in violation of this chapter shall be guilty of a Class C felony.

(Act 2022–236, § 2.)

§ 20–2B–14. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Exceptions.

(a) This chapter does not apply to an individual who is a subscriber to a service operated by a communication common carrier or communications service provider and who intercepts a communication on a telephone or similarly used device to which he or she subscribes.

(b) This chapter does not apply to individuals who are members of the household of the subscriber who intercepts communications on a telephone or similarly used device in the home of the subscriber.

(Act 2022–236, § 2.)

§ 20–2B–15. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Administrative subpoena to compel production of business records.

The secretary may issue an administrative subpoena to a communication common carrier or a communications service provider to compel production of business records if the records requested satisfy both of the following:

(1) Are local or long-distance toll records or subscriber information.

(2) Are material to an active investigation of a felony violation of the Alabama Uniform Controlled Substance Act, as provided in Chapter 2, being conducted by a special agent of the agency.

(Act 2022–236, § 2.)

§ 20–2B–16. (Repealed by Act 2022–236, § 2, effective February 1, 2026, unless extended by act of Legislature) Repeal and applicability of chapter.

(a) This chapter shall be repealed on February 1, 2026, unless extended by an act of the Legislature.

(b) The provisions of this chapter shall be limited to investigations initiated by law enforcement officers and law enforcement agencies, as defined in Section 36–21–40.

(Act 2022–236, § 2.)

TITLE 26.

INFANTS AND INCOMPETENTS.

CHAPTER 15.

CHILD ABUSE GENERALLY.

§ 26–15–1. Short title.

This chapter shall be known and may be cited as the Alabama Child Abuse Act.

(Acts 1977, No. 502, p. 658, § 1.)

§ 26–15–2. Definitions.

As used in this chapter, the following terms have the following meanings:

(1) CHEMICAL SUBSTANCE. A substance intended to be used as a precursor in the manufacture of a controlled substance, or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subdivision may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors, or to manufacturing equipment.

(2) CONTROLLED SUBSTANCE. Controlled substance as defined in subdivision (4) of Section 20–2–2.

(3) DRUG PARAPHERNALIA. Drug paraphernalia as defined in Section 13A–12–260.

(4) MISTREAT. Any intentional behavior that inflicts unnecessary or unjustifiable pain or suffering on a child without causing physical injury to the child.

(5) RESPONSIBLE PERSON. A child's natural parent, stepparent, adoptive parent, legal guardian, custodian, or any other person who has the permanent or temporary care or custody or responsibility for the supervision of a child.

(6) SERIOUS PHYSICAL INJURY. Serious physical injury as defined in Section 13A–1–2.

(Acts 1977, No. 502, p. 658, § 2; Act 2006–204, p. 302, § 1; Act 2023–466, § 1, eff. Sept. 1, 2023.)

§ 26–15–3. Torture, willful abuse, etc., of child under 18 years of age by responsible person.

A responsible person who shall torture, willfully abuse, willfully mistreat, cruelly beat, or otherwise willfully maltreat any child under the age of 18 years, on conviction, shall be guilty of a Class C felony.

(Acts 1977, No. 502, p. 658, § 3; Act 2006–531, p. 1224, § 1; Act 2023–466, § 1, eff. Sept. 1, 2023.)

§ 26–15–3.1. Aggravated child abuse.

(a)(1) A responsible person, as defined in Section 26–15–2, commits the crime of aggravated child abuse if he or she does any of the following:

a. He or she violates the provisions of Section 26–15–3 by acts taking place on more than one occasion.

b. He or she violates Section 26–15–3 and in so doing also violates a court order concerning the parties or injunction.

c. He or she violates the provisions of Section 26–15–3 which causes serious physical injury, as defined in Section 13A–1–2, to the child.

(2) The crime of aggravated child abuse is a Class B felony.

(b)(1) A responsible person, as defined in Section 26–15–2, commits the crime of aggravated child abuse of a child under the age of six if he or she does any of the following to a child under the age of six years:

a. He or she violates the provisions of Section 26–15–3 by acts taking place on more than two occasions.

b. He or she violates Section 26–15–3 and in so doing also violates a court order concerning the parties or injunction.

c. He or she violates the provisions of Section 26–15–3 which causes serious physical injury, as defined in Section 13A–1–2, to the child.

(2) The crime of aggravated child abuse of a child under the age of six is a Class A felony.

(Act 2001–371, p. 477, § 1; Act 2002–403, p. 1015, § 1; Act 2016–43, § 1.)

§ 26–15–3.2. Chemical endangerment of exposing a child to an environment in which controlled substances are produced or distributed.

(a) A responsible person commits the crime of chemical endangerment of exposing a child to an environment in which he or she does any of the following:

(1) Knowingly, recklessly, or intentionally causes or permits a child to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in Section 13A–12–260. A violation under this subdivision is a Class C felony.

(2) Violates subdivision (1) and a child suffers serious physical injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia. A violation under this subdivision is a Class B felony.

(3) Violates subdivision (1) and the exposure, ingestion, inhalation, or contact results in the death of the child. A violation under this subdivision is a Class A felony.

(b) The court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless

another provision of law provides for a greater penalty or a longer term of imprisonment.

(c) It is an affirmative defense to a violation of this section that the controlled substance was provided by lawful prescription for the child, and that it was administered to the child in accordance with the prescription instructions provided with the controlled substance.

(Act 2006–204, p. 302, § 2.)

§ 26–15–3.3. Mother of unborn child taking, with good faith belief, controlled substance pursuant to a lawful prescription.

(a) No one shall violate Section 26–15–3.2, and no one shall be required to report under Chapter 14 of this title, the exposing of an unborn child to any of the following:

(1) A prescription medication if the responsible person was the mother of the unborn child, and she was, or there is a good faith belief that she was, taking that medication pursuant to a lawful prescription.

(2) A non-prescription FDA approved medication or substance if the responsible person was the mother of the unborn child, and she was, or there is a good faith belief that she was, taking that medication or substance as directed or recommended by a physician or a health care provider acting within the authorized scope of his or her license.

(b) No one shall be criminally liable under any Alabama law for the assistance or conduct of exposing the unborn child to a medication or substance if his or her assistance or conduct is allowed or accepted under subsection (a).

(Act 2016–399, p. 1063, § 1.)

§ 26–15–4. Effect of chapter upon existing rights or liabilities, pending prosecutions, etc.

All proceedings pending and all rights and liabilities existing, acquired, or incurred on May 11, 1977, are hereby saved and may be consummated according to the law in force when they were commenced. This chapter shall not be construed to affect any prosecution pending or begun before May 11, 1977.

(Acts 1977, No. 502, p. 658, § 5.)

TITLE 30.

MARITAL AND DOMESTIC RELATIONS.

CHAPTER 5.

PROTECTION FROM ABUSE.

§ 30–5–1. Short title; construction; purposes.

(a) This chapter shall be known as and may be cited as the Protection From Abuse Act.

(b) This chapter shall be liberally construed and applied to promote all of the following purposes:

(1) To assure victims of domestic violence the maximum protection from abuse that the law can provide.

(2) To create a flexible and speedy remedy to discourage violence and harassment against family members or others with whom the perpetrator has continuing contact.

(3) To expand the ability of law enforcement officers to assist victims, to enforce the law effectively in cases of domestic violence, and to prevent further incidents of abuse.

(4) To facilitate equal enforcement of criminal law by deterring and punishing violence against family members and others who are personally involved with the perpetrators.

(5) To recognize that domestic violence is a crime that will not be excused or tolerated.

(6) To provide for protection orders to prevent domestic violence and provide for court jurisdiction and venue; to provide for court hearing for petitions for relief; and to provide for the contents and the issuance of protection orders.

(Acts 1981, No. 81–476, p. 826, § 1; Acts 1995, No. 95–542, p. 1126, § 1; Act 2010–538, p. 919, § 1.)

§ 30–5–2. Definitions.

In this chapter, the following words have the following meanings unless the context clearly indicates otherwise:

(1) ABUSE. An act committed against a victim, which is any of the following:

a. Arson. Arson as defined under Sections 13A–7–40 to 13A–7–43, inclusive.

b. Assault. Assault as defined under Sections 13A–6–20 to 13A–6–22, inclusive.

c. Attempt. Attempt as defined under Section 13A–4–2.

d. Child Abuse. Torture or willful abuse of a child, aggravated child abuse, or chemical endangerment of a child as provided in Chapter 15, commencing with Section 26–15–1, of Title 26, known as the Alabama Child Abuse Act.

e. Criminal Coercion. Criminal coercion as defined under Section 13A–6–25.

f. Criminal Trespass. Criminal trespass as defined under Sections 13A–7–2 to 13A–7–4.1, inclusive.

g. Harassment. Harassment as defined under Section 13A–11–8.

h. Kidnapping. Kidnapping as defined under Sections 13A–6–43 and 13A–6–44.

i. Menacing. Menacing as defined under Section 13A–6–23.

j. Other Conduct. Any other conduct directed toward a plaintiff covered by this chapter that could be punished as a criminal act under the laws of this state.

k. Reckless Endangerment. Reckless endangerment as defined under Section 13A–6–24.

l. Sexual Abuse. Any sexual offenses included in Article 4, commencing with Section 13A–6–60, of Chapter 6 of Title 13A.

m. Stalking. Stalking as defined under Sections 13A–6–90 to 13A–6–94, inclusive.

n. Theft. Theft as defined under Sections 13A–8–1 to 13A–8–5, inclusive.

o. Unlawful Imprisonment. Unlawful imprisonment as defined under Sections 13A–6–41 and 13A–6–42.

(2) COURT. A circuit court judge, a district court judge appointed as a special circuit court judge pursuant to law or a district court judge designated by a written standing order from the presiding circuit court judge to handle protection from abuse cases.

(3) DATING RELATIONSHIP. A relationship or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.

a. A dating relationship includes the period of engagement to be married.

b. A dating relationship does not include a casual or business relationship or a relationship that ended more than 12 months prior to the filing of the petition for a protection order.

(4) PLAINTIFF. An individual who has standing to file a petition under Section 30–5–5.

(5) PROTECTION ORDER. Any order of protection from abuse issued under this chapter for the purpose of preventing acts of abuse as defined in this chapter.

(6) THREAT. Any word or action, expressed or implied, made to cause the plaintiff to fear for his or her safety or for the safety of another person.

(7) VICTIM. An individual who is related in any of the following ways to the person who commits an act of abuse:

a. Has a current or former marriage, including common law marriage, with the defendant.

b. Has a child in common with the defendant regardless of whether the victim and defendant have ever been married and regardless of whether they are currently residing or have in the past resided together in the same household.

c. Has or had a dating relationship with the defendant. A dating relationship does not include a casual or business relationship or a relationship that ended more than 12 months prior to the filing of the petition for a protection order.

d. Is a current or former household member. For purposes of this chapter, a ''household member'' excludes non-romantic or non-intimate co-residents.

e. A relative of a current or former household member as defined in paragraph d. who also lived with the defendant.

f. An individual who is a parent, stepparent, child, or stepchild.

g. An individual who is a grandparent, step-grandparent, grandchild, or step-grandchild.

(Acts 1981, No. 81–476, p. 826, § 2; Acts 1995, No. 95–542, p. 1126, § 1; Act 2010–538, p. 919, § 1; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1; Act 2023–494, § 1, eff. Sept. 1, 2023.)

§ 30–5–3. Jurisdiction; request for protection order; venue; other actions; residency.

(a) The courts, as provided in this chapter, shall have jurisdiction to issue protection orders.

(b) A protection order may be requested in any pending civil or domestic relations action, as an independent civil action, or in conjunction with the preliminary, final, or post-judgment relief in a civil action.

(c) A petition for a protection order may be filed in any of the following locations:

(1) Where the plaintiff or defendant resides.

(2) Where the plaintiff is temporarily located if he or she has left his or her residence to avoid further abuse.

(3) Where the abuse occurred.

(4) Where a civil matter is pending before the court in which the plaintiff and the defendant are opposing parties.

(d) When custody, visitation, or support, or a combination of them, of a child or children has been established in a previous court order in this state, or an action containing any of the issues above is pending in a court in this state in which the plaintiff and the defendant are opposing parties, a copy of any temporary ex parte protection order issued pursuant to this chapter and the case giving rise thereto should be transferred to the court of original venue of custody, visitation, or support for further disposition as soon as practical taking into account the safety of the plaintiff and any children.

(e) A minimum period of residency of a plaintiff is not required to petition the court for an order of protection.

(Acts 1981, No. 81–476, p. 826, § 3; Acts 1995, No. 95–542, p. 1126, § 1; Act 2010–538, p. 919, § 1; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1.)

§ 30–5–4. Remedies and relief; duty to inform court of pending proceedings, litigation, etc.; previous court orders; issuance of orders.

(a) The plaintiff's right to relief under this chapter shall not be affected by his or her leaving the residence or household to avoid further abuse.

(b) At any hearing in a proceeding to obtain a protection order, each party has a continuing duty to inform the court of each pending proceeding in this state or any other state for a protection order, any pending civil litigation in this state or any other state, each pending proceeding in any family or juvenile court of this state or any other state, each pending criminal case involving the parties in this state or any other state, and any existing child custody or support order, including the case name, the file number, and the county and state of the proceeding, if that information is known to the party.

(c) The remedies and procedures provided in this chapter are in addition to and not in lieu of any other available civil or criminal remedies. Plaintiffs shall not be barred from relief under this chapter because of other proceedings or judgments involving the parties in a court of this state or any other state.

(d) If child custody, visitation, or support have been ordered previously by a court of this state or any other state prior to the filing of an action under this chapter, the terms of the previous court order concerning these matters may be incorporated into a protection order as long as the Uniform Child Custody Jurisdiction and Enforcement Act, Chapter 3B, and the Uniform Interstate Family Support Act, Chapter 3A, are followed if an order was issued in another state.

(e) Any protection order issued in this state pursuant to this chapter shall be effective throughout this state.

(f) Any protection order issued by the court of another state shall be accorded full faith and credit and enforced as if it were an order of this state.

(Acts 1981, No. 81–476, p. 826, § 4; Acts 1995, No. 95–542, p. 1126, § 1; Act 2010–538, p. 919, § 1.)

§ 30–5–5. Standing to file sworn petition for protection order; disclosure of information; costs and fees.

(a) The following persons have standing to file a sworn petition for a protection order under this chapter as a plaintiff:

(1) A person who is at least 18 years old or is otherwise emancipated and is the victim of abuse, as defined in Section 30–5–2, or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of abuse.

(2) A parent, legal guardian, next friend, court-appointed guardian ad litem, or the State Department of Human Resources may petition for relief on behalf of the following:

a. A minor child.

b. Any person prevented by physical or mental incapacity from seeking a protection order.

(b) Standardized petitions for actions pursuant to this chapter shall be made available through the circuit clerks' offices around the state. The circuit clerk shall not provide assistance to persons in completing the forms or in presenting their case to the court.

(c) A sworn petition shall allege the incidents of abuse, the specific facts and circumstances that form the basis upon which relief is sought, and that the plaintiff genuinely fears subsequent acts of abuse by the defendant.

(d) The court shall not enter mutual orders. The court shall issue separate orders that specifically and independently state the prohibited behavior and relief granted in order to protect the victim and the victim's immediate family and to clearly provide law enforcement with sufficient directives.

(e) Any plaintiff who files a petition under this chapter may do so through an attorney or may represent himself or herself throughout the legal process outlined in this chapter, including, but not limited to, the filing of pleadings, motions, and any other legal documents with any court, and the appearance in ex parte and formal court proceedings on his or her behalf.

(f)(1) The following information shall not be contained on any court document made available to the public and the defendant by the circuit clerk's office: The plaintiff's home address and, if applicable, business address; a plaintiff's home telephone number and, if applicable, business telephone number; the home or business address or telephone number of any member of the plaintiff's family or household; or an address that would reveal the confidential location of a shelter for victims of domestic violence as defined in Section 30–6–1.

(2) If disclosure of the plaintiff's address, the address of any member of the plaintiff's family or household, or an address that would reveal the confidential location of a shelter for victims of domestic violence is necessary to determine jurisdiction or to consider a venue issue, it shall be made orally and in camera.

(3) If the plaintiff has not disclosed an address or telephone number under this section, the plaintiff shall satisfy one of the following requirements:

a. Designate and provide to the court an alternative address.

b. Elect to substitute the business address and telephone number of his or her attorney of record in place of the address of the plaintiff on any court document.

(g)(1) No court costs or fees shall be assessed for the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a protection order or a petition for a protection order under this chapter.

(2) No court costs or fees shall be assessed for the issuance of a witness subpoena under this chapter.

(3) Costs and fees may be assessed against the defendant at the discretion of the court.

(Acts 1981, No. 81–476, p. 826, § 5; Acts 1995, No. 95–542, p. 1126, § 1; Act 2003–385, p. 1088, § 1; Act 2010–538, p. 919, § 1; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1; Act 2023–321, § 1, eff. Aug. 1, 2023.)

§ 30–5–6. Hearing on petition; temporary orders.

(a) The court shall hold a hearing after the filing of a petition under this chapter upon the request of the defendant or within 10 days of the perfection of service. A final hearing shall be set at which the standard of proof shall be a preponderance of the evidence. If the defendant has not been served, a final hearing may be continued to allow for service to be perfected.

(b) The court may enter such temporary ex parte protection orders as it deems necessary to protect the plaintiff or children from abuse, or the immediate and present danger of abuse to the plaintiff or children, upon good cause shown. The court shall grant or deny a petition for a temporary ex parte protection order filed under this chapter within three business days of the filing of the petition. Any granted temporary ex parte protection order shall be effective until the final hearing date.

(c) If a final hearing under subsection (a) is continued, the court may make or extend temporary ex parte protection orders under subsection (b) as it deems reasonably necessary.

(Acts 1981, No. 81–476, p. 826, § 6; Acts 1995, No. 95–542, p. 1126, § 1; Act 2010–538, p. 919, § 1.)

§ 30–5–7. Ex parte protection order or modification of protection order.

(a) If it appears from a petition for a protection order or a petition to modify a protection order that abuse has occurred or from a petition for a modification of a protection order that a modification is warranted, the court may do any of the following:

(1) Without notice or hearing, immediately issue an ex parte protection order or modify an ex parte protection order as it deems necessary.

(2) After providing notice as required by the Alabama Rules of Civil Procedure, issue a final protection order or modify a protection order after a hearing whether or not the defendant appears.

(b) A court may grant any of the following relief without notice and a hearing in an ex parte protection order or an ex parte modification of a protection order:

(1) Enjoin the defendant from threatening to commit or committing acts of abuse, as defined in this chapter, against the plaintiff or children of the plaintiff, and any other person designated by the court.

(2)a. Restrain and enjoin the defendant from harassing, stalking, annoying, threatening, or engaging in conduct that would place the plaintiff, minors, children of the plaintiff, or any other person designated by the court in reasonable fear of bodily injury or from contacting the plaintiff or children of the plaintiff.

b. For the purposes of this subdivision, contacting includes, but is not limited to, communicating with the victim verbally or in any written form, either in person, telephonically, electronically, or in any other manner, either directly or indirectly through a third person.

(3) Restrain and enjoin the defendant from having physical or violent contact with the plaintiff or the plaintiff's property, or from going within a minimum of 300 feet of the plaintiff's residence, even if the residence is shared with the defendant, school, or place of employment of the plaintiff, any children, or any other person designated by the court, or order the defendant to stay away from any specified place frequented by the plaintiff, any children, or any person designated by the court where the court determines the defendant has no legitimate reason to frequent.

(4) Award temporary custody of any children of the parties.

(5) Enjoin the defendant from interfering with the plaintiff's efforts to remove any children of the plaintiff or from removing any children from the jurisdiction of the court, and direct the appropriate law enforcement officer to accompany the plaintiff during the effort to remove any children of the plaintiff as necessary to protect the plaintiff or any children from abuse or child abuse.

(6) Enjoin the defendant from removing any children from the individual having legal custody of the children, except as subsequently authorized by a custody or visitation order issued by a court of competent jurisdiction.

(7) Remove and exclude the defendant from the residence of the plaintiff, regardless of ownership of the residence.

(8) Order possession and use of an automobile and other essential personal effects, regardless of ownership, and direct the appropriate law enforcement officer to accompany the plaintiff to the residence of the

parties or to other specified locations as necessary to protect the plaintiff or any children from abuse.

(9) Order other relief as it deems necessary to provide for the safety and welfare of the plaintiff or any children and any person designated by the court.

(10) Prohibit the defendant from transferring, concealing, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties.

(c) The court may grant any of the following relief in a final protection order or a modification of a protection order after notice and a hearing, whether or not the defendant appears:

(1) Grant the relief available in subsection (b).

(2) Specify arrangements for visitation of any children by the defendant on a basis that gives primary consideration to the safety of the plaintiff or any children, or both, and require supervision by a third party or deny visitation if necessary to protect the safety of the plaintiff or any children, or both.

(3) Order the defendant to pay attorney's fees and court costs.

(4) When the defendant has a duty to support the plaintiff or any children living in the residence or household and the defendant is the sole owner or lessee, grant to the plaintiff possession of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff, or both, or by consent agreement allowing the defendant to provide suitable alternate housing.

(5) Order the defendant to pay temporary reasonable support for the plaintiff or any children in the plaintiff's custody, or both, when the defendant has a legal obligation to support such persons. The amount of temporary support awarded shall be in accordance with Child Support Guidelines found in Rule 32 of the Alabama Rules of Judicial Administration.

(6) Order the defendant to provide temporary possession of a vehicle to the plaintiff, if the plaintiff has no other means of transportation of his or her own and the defendant either has control of more than one vehicle or has alternate means of transportation.

(d)(1) Any temporary ex parte order issued pursuant to this chapter shall remain in effect as provided in Section 30–5–6. While the final protection order is in effect, the court may amend its order at any time upon subsequent petition being filed by either party and a hearing held pursuant to this chapter.

(2) Any final protection order is of permanent duration unless otherwise specified or modified by a subsequent court order.

(e) No order or agreement under this chapter shall in any manner affect title to any real property, except final subsequent proceedings available by law.

(f) A temporary or final judgment on a protective order entered pursuant to this section shall indicate all of the following:

(1) That the injunction is valid and enforceable in all counties in the state.

(2) That law enforcement officers may use their arrest powers pursuant to Section 15–10–3 to enforce the terms of the injunction.

(3) That the court had jurisdiction over the parties and matter under the laws of the state and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's right to due process.

(Acts 1981, No. 81–476, p. 826, § 7; Acts 1995, No. 95–542, p. 1126, § 1; Act 2010–538, p. 919, § 1; Act 2015–493, p. 1679, § 2.)

§ 30–5–8. Notice of hearing or other order to be sent to parties; registration of information; automated process; additional fines.

(a)(1) A copy of any notice of hearing or any protection order under this chapter shall be sent to the plaintiff within 24 hours of issuance, provided the plaintiff provides the court with current and accurate contact information, and to the law enforcement officials with jurisdiction over the residence of the plaintiff. The clerk of the court may furnish a certified copy of the notice of final hearing or protection order, if any, electronically.

(2) A copy of the petition and ex parte protection order, if issued, under this chapter shall be served upon the defendant as soon as possible pursuant to Rule 4 of the Alabama Rules of Civil Procedure. A copy of the notice of final hearing and any other order under this chapter shall be issued to the defendant as soon as possible.

(3) Certain information in these cases shall be entered in the Protection Order Registry of the Administrative Office of Courts and shall be electronically transmitted by the Administrative Office of Courts to the Alabama State Law Enforcement Agency for entry into the Law Enforcement Tactical System and into the National Crime Information Center as approved by the Alabama Justice Information Commission. The information shall include, but is not limited to, information as to the existence and status of any protection orders for verification purposes.

(b) Ex parte and final protection orders shall be in a format as provided by the Administrative Office of Courts. If a court wishes to provide additional information in these standardized court orders, the court may attach additional pages containing this additional information.

(c) Within 24 hours after receiving proof of service of process of the petition and ex parte order, if issued, the clerk of court shall enter the service date into the Protection Order Registry of the Administrative Office of Courts and the information shall be electronically transmitted by the Administrative Office of Courts to the Alabama State Law Enforcement Agency. The

Alabama State Law Enforcement Agency shall enter the information into the Law Enforcement Tactical System and into the National Crime Information Center as approved by the Alabama Justice Information Commission.

(d) If a court vacates or modifies a protection order, the order shall be sent within 24 hours to the plaintiff, provided that the plaintiff provides the court with current and accurate contact information, to the defendant, and to the law enforcement officials where the victim resides.

(e)(1) The Alabama State Law Enforcement Agency shall develop an automated process by which a plaintiff may request notification of service of the ex parte protection order and other court actions related to the protection order as determined and approved by the Alabama Justice Information Commission. The automated notice shall be made within 12 hours after a law enforcement officer serves an ex parte protection order upon the defendant. The notification shall include, at a minimum, the date, time, and where the protection order was served. The information identifying the plaintiff referenced under subdivision (2) shall be exempt from public records requirements in Section 36–12–40.

(2) Upon implementation of the automated process, information held by the clerks and law enforcement agencies in conjunction with this process that reveals a home or employment telephone number, cellular telephone number, home or employment address, electronic mail address, or other electronic means of identification of a plaintiff requesting notification of service of a protection order or other court actions is exempt from Section 36–12–40. Notwithstanding the provisions of this subsection, any state or federal agency that is authorized to have access to such information by any provision of law shall be granted access in the furtherance of the agency's statutory duties.

(Acts 1981, No. 81–476, p. 826, § 8; Acts 1995, No. 95–542, p. 1126, § 1; Act 2010–538, p. 919, § 1; Act 2015–493, p. 1679, § 2; Act 2019–252, § 1.)

§ 30–5–9. Penalties. Repealed by Act 2010–538, p. 919, § 2, effective July 1, 2010.

§ 30–5–10. Rules of Civil Procedure to apply; rights, remedies, etc., of defendant. Repealed by Act 2010–538, p. 919, § 2, effective July 1, 2010.

§ 30–5–11. Construction of chapter.

The provisions of this chapter are supplemental and shall be construed in pari materia with other laws relating to civil and criminal procedure; provided, however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

(Acts 1981, No. 81–476, p. 826, § 12.)

CHAPTER 5A.

FAMILY VIOLENCE PROTECTION ORDER ENFORCEMENT ACT.

§ 30–5A–1. Short title; purpose. Amended and renumbered as § 13A–6–140 by Act 2011–691, § 1, effective September 1, 2011.

§ 30–5A–2. Definitions. Amended and renumbered as § 13A–6–141 by Act 2011–691, § 1, effective September 1, 2011.

§ 30–5A–3. Applicability of Rules of Civil Procedure; rights of defendant; contempt; penalties. Amended and renumbered as § 13A–6–142 by Act 2011–691, § 1, effective September 1, 2011.

§ 30–5A–4. Arrest for violation of chapter. Amended and renumbered as § 13A–6–143 by Act 2011–691, § 1, effective September 1, 2011.

§ 30–5A–5. Lack of knowledge by defendant of order.

Lack of knowledge by the defendant of the order which was violated shall be an affirmative defense to conviction for violating this chapter at trial only, but shall not affect the determination of the arresting officer in deciding to arrest. Nothing in this section shall change the burden of proof required in a criminal prosecution.

(Acts 1993, No. 93–325, p. 495, § 5.)

§ 30–5A–6. Authority to enforce orders through contempt proceedings not diminished.

Nothing in this chapter shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through civil or criminal contempt proceedings.

(Acts 1993, No. 93–325, p. 495, § 6.)

§ 30–5A–7. Chapter to be construed in pari materia with certain laws.

The provisions of this chapter shall be construed in pari materia with all laws which relate to punishment and sentences for any civil or criminal offense, including, but not limited to, contempt of court, domestic abuse, child abuse, family abuse, or juvenile abuse, and the punishment and sentences provided in Chapter 5 of Title 13A. All laws which otherwise conflict with this chapter are repealed only to the extent of the conflict.

(Acts 1993, No. 93–325, p. 495, § 8.)

TITLE 31.

MILITARY AFFAIRS AND CIVIL DEFENSE.

CHAPTER 13.

ILLEGAL IMMIGRATION.

§ 31–13–1. Short title.

This chapter shall be known and may be cited as the Beason–Hammon Alabama Taxpayer and Citizen Protection Act.

(Act 2011–535, p. 888, § 1.)

§ 31–13–2. Legislative findings.

The State of Alabama finds that illegal immigration is causing economic hardship and lawlessness in this state and that illegal immigration is encouraged when public agencies within this state provide public benefits without verifying immigration status. Because the costs incurred by school districts for the public elementary and secondary education of children who are aliens not lawfully present in the United States can adversely affect the availability of public education resources to students who are United States citizens or are aliens lawfully present in the United States, the State of Alabama determines that there is a compelling need for the State Board of Education to accurately measure and assess the population of students who are aliens not lawfully present in the United States, in order to forecast and plan for any impact that the presence such population may have on publicly funded education in this state. The State of Alabama further finds that certain practices currently allowed in this state impede and obstruct the enforcement of federal immigration law, undermine the security of our borders, and impermissibly restrict the privileges and immunities of the citizens of Alabama. Therefore, the people of the State of Alabama declare that it is a compelling public interest to discourage illegal immigration by requiring all agencies within this state to fully cooperate with federal immigration authorities in the enforcement of federal immigration laws. The State of Alabama also finds that other measures are necessary to ensure the integrity of various governmental programs and services.

(Act 2011–535, p. 888, § 2.)

§ 31–13–3. Definitions.

For the purposes of this chapter, the following words shall have the following meanings:

(1) ALIEN. Any person who is not a citizen or national of the United States, as described in 8 U.S.C. § 1101, et seq., and any amendments thereto.

(2) BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. Business entity shall include, but not be limited to, the following:

a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.

b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

(3) CONTRACTOR. A person, employer, or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for valuable consideration. This definition shall include, but not be limited to, a general contractor, subcontractor, independent contractor, contract employee, project manager, or a recruiting or staffing entity.

(4) EMPLOYEE. Any person directed, allowed, or permitted to perform labor or service of any kind by an employer. The employees of an independent contractor working for a business entity shall not be regarded as the employees of the business entity, for the purposes of this chapter. This term does not include any inmate in the legal custody of the state, a county, or a municipality.

(5) EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

(6) EMPLOYMENT. The act of employing or state of being employed, engaged, or hired to perform work or service of any kind or character within the State of Alabama, including any job, task, work, labor, personal services, or any other activity for which compensation is provided, expected, or due, including, but not limited to, all activities conducted by a business entity or employer. This term shall not include casual domestic labor performed in a household on behalf of the occupant of the household or the relationship between a contractor and the employees of a subcontractor performing work for the contractor.

(7) E–VERIFY. The electronic verification of federal employment authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104–208, Division C, Section 403(a); 8 U.S.C.

§ 1324(a), and operated by the United States Department of Homeland Security, or its successor program.

(8) FEDERAL WORK AUTHORIZATION PROGRAM. Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99–603 or the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104–208, Division C, Section 403(a); 8 U.S.C. § 1324(a).

(9) KNOWS or KNOWINGLY. A person acts knowingly or with knowledge with respect to either of the following:

a. The person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist.

b. A result of the person's conduct when the person is reasonably aware that the person's conduct is likely to cause that result.

(10) LAWFUL PRESENCE or LAWFULLY PRESENT. A person shall be regarded as an alien unlawfully present in the United States only if the person's unlawful immigration status has been verified by the federal government pursuant to 8 U.S.C. § 1373(c). No officer of this state or any political subdivision of this state shall attempt to independently make a final determination of an alien's immigration status. An alien possessing self-identification in any of the following forms is entitled to the presumption that he or she is an alien lawfully present in the United States:

a. A valid, unexpired Alabama driver's license.

b. A valid, unexpired Alabama nondriver identification card.

c. A valid tribal enrollment card or other form of tribal identification bearing a photograph or other biometric identifier.

d. Any valid United States federal or state government issued identification document bearing a photograph or other biometric identifier, including a valid Uniformed Services Privileges and Identification Card if issued by an entity that requires proof of lawful presence in the United States before issuance.

e. A foreign passport with an unexpired United States Visa and a corresponding stamp or notation by the United States Department of Homeland Security indicating the bearer's admission to the United States.

f. A foreign passport issued by a visa waiver country with the corresponding entry stamp and unexpired duration of stay annotation or an I–94W form by the United States Department of Homeland Security indicating the bearer's admission to the United States.

(11) POLICY OR PRACTICE. A guiding principle or rule that may be written or adopted through repeated actions or customs.

(12) PROTECTIVE SERVICES PROVIDER. A child protective services worker; adult protective services worker; protective services provider; or provider of services to victims of domestic violence, stalking, sexual assault, or human trafficking that receives federal grants under the Victim of Crimes Act, the Violence Against Women Act, or the Family Violence Prevention and Services Act.

(13) PUBLIC EMPLOYER. Every department, agency, or instrumentality of the state or a political subdivision of the state including counties and municipalities.

(14) STATE–FUNDED ENTITY. Any governmental entity of the state or a political subdivision thereof or any other entity that receives any monies from the state or a political subdivision thereof; provided, however, an entity that merely provides a service or a product to any governmental entity of the state or a political subdivision thereof, and receives compensation for the same, shall not be considered a state-funded entity.

(15) SUBCONTRACTOR. A person, business entity, or employer who is awarded a portion of an existing contract by a contractor, regardless of its tier.

(16) UNAUTHORIZED ALIEN. An alien who is not authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3).

(Act 2011–535, p. 888, § 3; Act 2012–491, p. 1410, § 1.)

§ 31–13–4. Memorandum of agreement with U.S. Department of Homeland Security.

(a) The Attorney General shall attempt to negotiate the terms of a memorandum of agreement between the State of Alabama and the United States Department of Homeland Security, as provided in 8 U.S.C. Section 1357(g), concerning the enforcement of federal immigration laws, detentions and removals, and related investigations in the State of Alabama by certain state law enforcement officers designated by the Attorney General.

(b) The memorandum of agreement negotiated pursuant to subsection (a) shall be signed on behalf of this state by the Attorney General and the Governor or as otherwise required by the appropriate federal agency.

(c) A report of the results of the attempt of the Attorney General to enter into a memorandum of agreement shall be submitted to the Legislature by March 1, 2012.

(Act 2011–535, p. 888, § 4.)

§ 31–13–5. Enforcement of and compliance with federal immigration laws; information relating to immigration status; violations; penalties.

(a) No official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may adopt a policy or practice that limits or restricts the enforcement of federal immigra-

tion laws by limiting communication between its officers and federal immigration officials in violation of 8 U.S.C. § 1373 or 8 U.S.C. § 1644, or that restricts its officers in the enforcement of this chapter. If, in the judgment of the Attorney General of Alabama, an official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court in this state, is in violation of this subsection, the Attorney General shall report any violation of this subsection to the Governor and the state Comptroller and that agency or political subdivision shall not be eligible to receive any funds, grants, or appropriations from the State of Alabama until such violation has ceased and the Attorney General has so certified. Any appeal of the determination of the Attorney General as considered in this section shall be first appealed to the circuit court of the respective jurisdiction in which the alleged offending agency resides.

(b) All state officials, agencies, and personnel, including, but not limited to, an officer of a court of this state, shall fully comply with and, to the full extent permitted by law, support the enforcement of federal law prohibiting the entry into, presence, or residence in the United States of aliens in violation of federal immigration law.

(c) Except as provided by federal law, officials or agencies of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may not be prohibited or in any way be restricted from sending, receiving, or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state, or local governmental entity for any of the following official purposes:

(1) Determining the eligibility for any public benefit, service, or license provided by any state, local, or other political subdivision of this state.

(2) Verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding of this state.

(3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

(d) A person who is a United States citizen or an alien who is lawfully present in the United States and is a resident of this state may file a petition with the appropriate local district attorney or the Attorney General requesting that he or she bring an action in circuit court to challenge any official or head of an agency of this state or political subdivision thereof, including, but not limited to, an officer of a court in this state, that adopts or implements a policy or practice that is in violation of 8 U.S.C. § 1373 or 8 U.S.C. § 1644. If the district attorney or the Attorney General elects to not bring an action, he or she shall publicly state in writing the justification for such a decision. A district attorney or the Attorney General must either bring an action or publicly state why no action was brought within 90 days of receiving a petition. The petition must be signed under oath and under penalty of perjury, and must allege with specificity any alleged violations. The district attorney or the Attorney General shall give the official or head of an agency,

including, but not limited to, an officer of a court of this state, 30 days' notice of his or her intent to file such an action. If there is a judicial finding that an official or head of an agency, including, but not limited to, an officer of a court in this state, has violated this section, the court shall order that the officer, official, or head of an agency pay a civil penalty of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) for each day that the policy or practice has remained in effect after the filing of an action pursuant to this section.

(e) A court shall collect the civil penalty prescribed in subsection (d) and remit one half of the civil penalty to the Alabama Department of Homeland Security and the second half shall be remitted to the Alabama State Law Enforcement Agency.

(f) Every person working for the State of Alabama or a political subdivision thereof, including, but not limited to, a law enforcement agency in the State of Alabama or a political subdivision thereof, shall have a duty to report violations of this section of which the person has knowledge. Any person who willfully fails to report any violation of this section when the person knows that this section is being violated shall be guilty of obstructing governmental operations as defined in Section 13A–10–2.

(g) For the purposes of this section, the term official or head of an agency of this state shall not include a law enforcement officer or personnel employed in a jail acting within the line and scope of his or her duty, except for a sheriff, a chief of police, or the head of any law enforcement agency.

(h) For the purposes of this section, any proceedings against an official shall be only in his or her official capacity. For the purposes of this section, the relevant statute of repose for assessing penalties shall be no more than 30 days prior to the initial allegation of the violations of this section.

(i) For the purposes of this section, the term ''officer of the court'' shall not be interpreted to interfere with the relationship between an attorney and his or her client.

(Act 2011–535, p. 888, § 5; Act 2012–491, p. 1410, § 1.)

§ 31–13–6. Enforcement of and compliance with state immigration laws; information relating to immigration status; violations; penalties.

(a) No official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may adopt a policy or practice that limits or restricts the enforcement of this chapter to less than the full extent permitted by this chapter or that in any way limits communication between its officers or officials in furtherance of the enforcement of this chapter. If, in the judgment of the Attorney General of Alabama, an official or agency of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, is in violation of this subsection, the Attorney General shall report any violation of this subsection to the Governor and the state Comptroller and that agency or

political subdivision shall not be eligible to receive any funds, grants, or appropriations from the State of Alabama until such violation has ceased and the Attorney General has so certified.

(b) All state officials, agencies, and personnel, including, but not limited to, an officer of a court of this state, shall fully comply with and, to the full extent permitted by law, support the enforcement of this chapter.

(c) Except as provided by this chapter, officials or agencies of this state or any political subdivision thereof, including, but not limited to, an officer of a court of this state, may not be prohibited or in any way be restricted from sending, receiving, or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state, or local governmental entity for any of the following official purposes:

(1) Determining the eligibility for any public benefit, service, or license provided by any state, local, or other political subdivision of this state.

(2) Verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding of this state.

(3) Pursuant to 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

(d) A person who is a United States citizen or an alien who is lawfully present in the United States and is a resident of this state may file a petition with the appropriate local district attorney or the Attorney General requesting that he or she bring an action in circuit court to challenge any official or head of an agency of this state or political subdivision thereof, including, but not limited to, an officer of a court in this state, that adopts or implements a policy or practice that limits or restricts the enforcement of this chapter to less than the full extent permitted by this chapter. If the district attorney or the Attorney General elects to not bring an action, he or she shall publicly state in writing the justification for such a decision. A district attorney or the Attorney General must either bring an action or publicly state why no action was brought within 90 days of receiving a petition. The petition must be signed under oath and under penalty of perjury and must allege with specificity any alleged violations. Such person shall have actual knowledge that any official or head of an agency of this state or political subdivision thereof, including, but not limited to, an officer of a court in this state, has adopted or implemented a policy or practice that limits or restricts the enforcement of this chapter to less than the full extent permitted by this chapter. The district attorney or the Attorney General shall give the official or head of an agency, including, but not limited to, an officer of a court in this state, 30 days' notice of his or her intent to file such an action. If there is a judicial finding that an official or head of an agency, including, but not limited to, an officer of a court in this state, has violated this section, the court shall order that the officer, official, or head of an agency pay a civil penalty of not less than one thousand dollars ($1,000) and not more than five thousand

dollars ($5,000) for each day that the policy or practice has remained in effect after the filing of an action pursuant to this section.

(e) A court shall collect the civil penalty prescribed in subsection (d) and remit one half of the civil penalty to the Alabama Department of Homeland Security and the second half shall be remitted to the Alabama State Law Enforcement Agency.

(f) Every person working for the State of Alabama or a political subdivision thereof, including, but not limited to, a law enforcement agency in the State of Alabama or a political subdivision thereof, shall have a duty to report violations of this section of which the person has knowledge. Any person who willfully fails to report any violation of this section when the person knows that this section is being violated shall be guilty of obstructing governmental operations as defined in Section 13A–10–2.

(g) For the purposes of this section, the term official or head of an agency of this state shall not include a law enforcement officer or personnel employed in a jail who is acting within the line and scope of his or her duty, except for a sheriff, a chief of police, or the head of any law enforcement agency.

(h) For the purposes of this section, the term ''officer of the court'' shall not be interpreted to interfere with the relationship between an attorney and his or her client.

(Act 2011–535, p. 888, § 6; Act 2012–491, p. 1410, § 1.)

§ 31–13–7. Receipt of state or local public benefits; verification of lawful presence in the United States; violations; annual reports.

(a) As used in this section, the following terms have the following meanings:

(1) EMERGENCY MEDICAL CONDITION. The same meaning as provided in 42 U.S.C. § 1396b(v)(3).

(2) FEDERAL PUBLIC BENEFITS. The same meaning as provided in 8 U.S.C. § 1611.

(3) STATE OR LOCAL PUBLIC BENEFITS. The same meaning as provided in 8 U.S.C. § 1621.

(b) An alien who is not lawfully present in the United States and who is not defined as an alien eligible for public benefits under 8 U.S.C. § 1621(a) or 8 U.S.C. § 1641 shall not receive any state or local public benefits.

(c) Except as otherwise provided in subsection (e) or where exempted by federal law, commencing on September 1, 2011, each agency or political subdivision of the state shall verify with the federal government the lawful presence in the United States of each alien who applies for state or local public benefits, pursuant to 8 U.S.C. §§ 1373(c), 1621, and 1625.

(d) An agency of this state or a county, city, town, or other political subdivision of this state may not consider race, color, or national origin in the enforcement of this section.

(e) Verification of lawful presence in the United States shall not be required for any of the following:

(1) For primary or secondary school education, and state or local public benefits that are listed in 8 U.S.C. § 1621(b).

(2) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure.

(3) For short term, noncash, in kind emergency disaster relief.

(4) For public health assistance for immunizations with respect to immunizable diseases, for the Special Supplemental Nutrition Program for Women, Infants, and Children, and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease.

(5) For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by federal law or regulation that satisfy all of the following:

a. Deliver in-kind services at the community level, including services through public or private nonprofit agencies.

b. Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient.

c. Are necessary for the protection of life or safety.

(6) For prenatal care.

(7) For child protective services and adult protective services and domestic violence services workers.

(f) No official of this state or political subdivision of this state shall attempt to independently make a final determination of whether an alien is lawfully present in the United States. An alien's lawful presence in the United States shall be verified by the federal government pursuant to 8 U.S.C. § 1373(c).

(g) Any United States citizen applying for state or local public benefits, except those benefits described in subsection (e), shall sign a declaration that he or she is a United States citizen.

(h) Any person who knowingly makes a false, fictitious, or fraudulent statement or representation in a declaration executed pursuant to subsection (g) shall be guilty of perjury in the second degree pursuant to Section 13A–10–102. Each time that a person receives a public benefit based upon such a statement or representation shall constitute a separate violation of Section 13A–10–102.

(i) The verification that an alien seeking state or local public benefits is an alien lawfully present in the United States shall be made through the Systematic Alien Verification for Entitlements (SAVE) program, operated by the United States Department of Homeland Security. If for any reason the verification of an alien's lawful presence through the SAVE program is

delayed or inconclusive, the alien shall be eligible for state or local public benefits in the interim period if the alien signs a declaration that he or she is an alien lawfully present in the United States. The penalties under subsection (h) shall apply to any false, fictitious, or fraudulent statement or representation made in a declaration.

(j) Each state agency or department that administers a program that provides state or local public benefits shall provide an annual report with respect to its compliance with this section to the Government Affairs Committee of the Senate and the Government Operations Committee of the House of Representatives, or any successor committees.

(k) Errors and significant delays resulting from use of the SAVE program shall be reported to the United States Department of Homeland Security and to the Alabama Department of Homeland Security to assist the federal government in ensuring that the application of the SAVE program is not wrongfully denying benefits to aliens lawfully present in the United States.

(l) For the purposes of administering the Alabama Child Health Insurance Program, verification and documentation of lawful presence through any alternative means expressly authorized by federal law shall satisfy the requirements of this section.

(Act 2011–535, p. 888, § 7.)

§ 31–13–8. Enrollment or attendance at institutions of postsecondary education.

An alien who is not lawfully present in the United States shall not be permitted to enroll in or attend any public postsecondary education institution in this state. For the purposes of this section, a public postsecondary education institution officer may seek federal verification of an alien's immigration status with the federal government pursuant to 8 U.S.C. § 1373(c). A public postsecondary education institution officer or official shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States. Except as otherwise provided by law, an alien who is not lawfully present in the United States shall not be eligible for any postsecondary education benefit, including, but not limited to, scholarships, grants, or financial aid.

(Act 2011–535, p. 888, § 8; Act 2012–491, p. 1410, § 1.)

§ 31–13–9. Verification of employment eligibility by employers seeking economic incentives.

(a) As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

(b) As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees within the State of Alabama, the business entity or employer shall provide documentation establishing that the business entity or employer is enrolled in the E–Verify program. During the performance of the contract, the business entity or employer shall participate in the E–Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations.

(c) Any subcontractor on a project paid for by contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama and shall also enroll in the E–Verify program prior to performing any work on the project. Furthermore, during the performance of the contract, the subcontractor shall participate in the E–Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. This subsection shall only apply to subcontractors performing work on a project subject to the provisions of this section and not to collateral persons or business entities hired by the subcontractor.

(d) A contractor of any tier shall not be liable under this section when such contractor contracts with its direct subcontractor who violates subsection (c) unless it is shown that the contractor knew or should have known that the direct subcontractor was in violation of subsection (c).

(e)(1) Upon a finding by a court of competent jurisdiction of a first violation of subsection (a) by any business entity or employer, including a subcontractor:

a. The business entity or employer shall be deemed in breach of contract and the state, political subdivision thereof, or state-funded entity may terminate the contract after providing notice and an opportunity to be heard.

b. The court shall do all of the following:

1. Order the business entity or employer to terminate the employment of every unauthorized alien.

2. Subject the business entity or employer to a three-year probationary period throughout the state. During the probationary period, the business entity or employer shall file quarterly reports with the Department of Labor of each new employee who is hired by the business entity or employer in the state.

3. Order the business entity or employer to file, subject to the penalty of perjury, a signed, sworn affidavit with the Department of Labor within three days after the order is issued by the court stating that the business entity or employer has terminated the employment of every unauthorized alien and the business entity or employer will not knowingly or intentionally employ an unauthorized alien in this state.

c.1. If the court determines that the business entity or employer has a policy or practice that violates this section, the court shall direct the applicable state, county, or municipal governing bodies to suspend the business licenses or permits of the business entity or employer for a period not to exceed 60 days specific to the location or locations where the unauthorized alien performed work.

2. Before a business license or permit that has been suspended under this paragraph is reinstated, a legal representative of the business entity or employer shall submit to the court a signed, sworn affidavit stating that the business entity or employer is in compliance with the provisions of this subdivision and a copy of the Memorandum of Understanding issued to the business entity or employer at the time of enrollment in E–Verify.

(2) Upon a finding by a court of competent jurisdiction of a second violation of subsection (a) by a business entity or employer, including a subcontractor, awarded a contract by the state, any political subdivision thereof, or any state-funded entity that occurs within ten years of a finding by a court of competent jurisdiction of a first violation by the business entity or employer:

a. The business entity or employer shall be deemed in breach of contract and the state, political subdivision thereof, or state-funded entity shall terminate the contract after providing notice and an opportunity to be heard.

b. The court shall do all of the following:

1. Order the business entity or employer to terminate the employment of every unauthorized alien.

2. Subject the business entity or employer to a five-year probationary period throughout the state. During the probationary period, the business entity or employer shall file quarterly reports with the Department of Labor of each new employee who is hired by the business entity or employer in the state.

3. Order the business entity or employer to file, subject to the penalty of perjury, a signed, sworn affidavit with the Department of Labor within three days after the order is issued by the court stating that the business entity or employer has terminated the employment of every unauthorized alien and the business entity or employer will not knowingly or intentionally employ an unauthorized alien in this state.

c.1. If the court determines that the business entity or employer has a policy or practice that violates this section, the court shall direct the applicable state, county, or municipal governing bodies to suspend the business licenses or permits of the business entity or employer for a period not less than 60 days and not to exceed 120 days specific to the location or locations where the unauthorized alien performed work.

2. Before a business license or permit that has been suspended under this paragraph is reinstated, a legal representative of the business entity or employer shall submit to the court a signed, sworn affidavit stating that the business entity or employer is in compliance with the provisions of this subdivision and a copy of the Memorandum of Understanding issued to the business entity or employer at the time of enrollment in E–Verify.

d. A finding by a court of competent jurisdiction of a second violation of subsection (a) that does not occur within ten years of a first violation shall still be considered a second violation of subsection (a) by the business entity or employer, even though the penalty for the second violation shall be governed by subdivision (1).

(3) Upon a finding by a court of competent jurisdiction of a third violation of subsection (a) by a business entity or employer, including a subcontractor, awarded a contract by the state, any political subdivision thereof, or any state-funded entity:

a. The business entity or employer shall be deemed in breach of contract and the state, political subdivision thereof, or state-funded entity shall terminate the contract after providing notice and an opportunity to be heard.

b. The court shall direct the applicable state, county, or municipal governing bodies to permanently revoke all business licenses or permits of the business entity or employer.

(f)(1) This section shall not be construed to deny any procedural mechanisms or legal defenses included in the E–Verify program or any other federal work authorization program.

(2) A business entity or employer that has enrolled in the E–Verify program and has used the program to verify the work authorization of an employee shall not be liable under this section for violations resulting from the hiring of that employee.

(g) The Secretary of State may adopt rules to administer this section and shall report any rules adopted to the Legislature.

(h) Compliance with this section may be verified by the contracting authority or any state or local law enforcement agency at any time to ensure a contractual agreement as provided for in this section is being met.

(i) Anything to the contrary notwithstanding, this section shall not apply to agreements by the state, any political subdivision thereof, or any state-funded entity relating to debt obligations by such entities.

(j) Any business entity or employer found in violation of this section that has had their business license or permit suspended shall not, for the duration of the suspension, be allowed, directly or indirectly, to procure or execute a license or permit similar to those that have been suspended.

(k) All contracts or agreements to which the state, a political subdivision, or state-funded entity are a party shall include the following clause: ''By signing

this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.''

(l) For purposes of this section, ''contract'' shall mean a contract awarded by the state, any political subdivision thereof, or any state-funded entity that was competitively bid or would, if entered into by the state or an agency thereof, be required to be submitted to the Contract Review Permanent Legislative Oversight Committee.

(m) All actions brought under this section shall be brought in circuit court.

(Act 2011–535, p. 888, § 9; Act 2012–491, p. 1410, § 1.)

§ 31–13–10. Willful failure to complete or carry alien registration documentation.

(a) In addition to any violation of federal law, a person is guilty of willful failure to complete or carry an alien registration document if the person is in violation of 8 U.S.C. § 1304(e) or 8 U.S.C. § 1306(a), and the person is an alien unlawfully present in the United States.

(b) In the enforcement of this section, an alien's immigration status shall be determined by verification of the alien's immigration status with the federal government pursuant to 8 U.S.C. § 1373(c). A law enforcement officer shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States.

(c) A law enforcement official or agency of this state or a county, city, or other political subdivision of this state may not consider race, color, or national origin in the enforcement of this section except to the extent permitted by the United States Constitution and the Constitution of Alabama of 1901.

(d) This section does not apply to a person who maintains authorization from the federal government to be present in the United States.

(e) Any record that relates to the immigration status of a person is admissible in any court of this state without further foundation or testimony from a custodian of records if the record is certified as authentic by the federal government agency that is responsible for maintaining the record. A verification of an alien's immigration status received from the federal government pursuant to 8 U.S.C. § 1373(c) shall constitute proof of that alien's status. A court of this state shall consider only the federal government's verification in determining whether an alien is lawfully present in the United States.

(f) An alien unlawfully present in the United States who is in violation of this section shall be guilty of a Class C misdemeanor and subject to a fine of not more than one hundred dollars ($100) and not more than 30 days in jail.

(g) A court shall collect the assessments prescribed in subsection (f) and remit 50 percent of the assessments to the general fund of the local government where the person was apprehended to be earmarked for law enforcement purposes, 25 percent of the assessments to the Alabama Department of Homeland Security, and 25 percent of the assessments to the Alabama State Law Enforcement Agency.

(Act 2011–535, p. 888, § 10.)

§ 31–13–11. Unauthorized aliens prohibited from seeking employment in state.

(a) It is unlawful for a person who is an unauthorized alien to knowingly apply for work, solicit work in a public or private place, or perform work as an employee or independent contractor in this state.

(b) In the enforcement of this section, an alien's immigration status shall be determined by verification of the alien's immigration status with the federal government pursuant to 8 U.S.C. § 1373(c). A law enforcement officer shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States.

(c) A law enforcement official or agency of this state or a county, city, or other political subdivision of this state may not consider race, color, or national origin in the enforcement of this section except to the extent permitted by the United States Constitution and the Constitution of Alabama of 1901.

(d) This section does not apply to a person who maintains authorization from the federal government to be employed in the United States.

(e) Any record that relates to the employment authorization of a person is admissible in any court of this state without further foundation or testimony from a custodian of records if the record is certified as authentic by the federal government agency that is responsible for maintaining the record. A verification of an alien's immigration status received from the federal government pursuant to 8 U.S.C. § 1373(c) shall constitute proof of that alien's status. A court of this state shall consider only the federal government's verification in determining whether a person is an unauthorized alien.

(f) It is unlawful for an occupant of a motor vehicle that is stopped on a street, roadway, or highway to attempt to hire or hire and pick up passengers for work at a different location if the motor vehicle blocks or impedes the normal movement of traffic.

(g) It is unlawful for a person to enter a motor vehicle that is stopped on a street, roadway or highway in order to be hired by an occupant of the motor vehicle and to be transported to work at a different location if the motor vehicle blocks or impedes the normal movement of traffic.

(h) A person who is in violation of this section shall be guilty of a Class C misdemeanor and subject to a fine of not more than five hundred dollars ($500).

(i) A court shall collect the assessments prescribed in subsection (h) and remit 50 percent of the assessments to the general fund of the local government where the person was apprehended to be earmarked for law enforcement purposes, 25 percent of the assessments to the Alabama Department of Homeland Security, and 25 percent of the assessments to the Alabama State Law Enforcement Agency.

(j) The terms of this section shall be interpreted consistently with 8 U.S.C. § 1324a and any applicable federal rules and regulations.

(Act 2011–535, p. 888, § 11.)

§ 31–13–12. Verification by law enforcement officers of citizenship and immigration status of persons under certain circumstances.

(a) Upon any lawful stop, detention, or arrest made by a state, county, or municipal law enforcement officer of this state in the enforcement of any state law or ordinance of any political subdivision thereof, where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the citizenship and immigration status of the person, except if the determination may hinder or obstruct an investigation. Such determination shall be made by contacting the federal government pursuant to 8 U.S.C. § 1373(c) and relying upon any verification provided by the federal government.

(b) Any alien who is arrested and booked into custody shall have his or her immigration status determined pursuant to 8 U.S.C. § 1373(c). The alien's immigration status shall be verified by contacting the federal government pursuant to 8 U.S.C. § 1373(c) within 24 hours of the time of the alien's arrest. If for any reason federal verification pursuant to 8 U.S.C. § 1373(c) is delayed beyond the time that the alien would otherwise be released from custody, the alien shall be released from custody.

(c) A law enforcement officer shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States. A law enforcement officer may not consider race, color, or national origin in implementing the requirements of this section except to the extent permitted by the United States Constitution or the Constitution of Alabama of 1901.

(d) A person is presumed to not be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer any of the following:

(1) A valid, unexpired Alabama driver's license.

(2) A valid, unexpired Alabama nondriver identification card.

(3) A valid tribal enrollment card or other form of tribal identification bearing a photograph or other biometric identifier.

(4) Any valid United States federal or state government issued identification document bearing a photograph or other biometric identifier, if issued

by an entity that requires proof of lawful presence in the United States before issuance.

(5) A foreign passport with an unexpired United States Visa and a corresponding stamp or notation by the United States Department of Homeland Security indicating the bearer's admission to the United States.

(6) A foreign passport issued by a visa waiver country with the corresponding entry stamp and unexpired duration of stay annotation or an I–94W form by the United States Department of Homeland Security indicating the bearer's admission to the United States.

(e) If an alien is determined by the federal government to be an alien who is unlawfully present in the United States pursuant to 8 U.S.C. § 1373(c), the law enforcement agency shall cooperate in the transfer of the alien to the custody of the federal government, if the federal government so requests. (Act 2011–535, p. 888, § 12.)

§ 31–13–13. Concealing, harboring, shielding, etc., unauthorized aliens.

(a) It shall be unlawful for a person to do any of the following:

(1) Conceal, harbor, or shield from detection or attempt to conceal, harbor, or shield from detection or conspire to conceal, harbor, or shield from detection an alien in any place in this state, including any building or any means of transportation, if the person knows or recklessly disregards the fact that the alien has come to, has entered, or remains in the United States in violation of federal law. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(A).

(2) Encourage or induce an alien to come to or reside in this state if the person knows or recklessly disregards the fact that such alien's coming to, entering, or residing in the United States is or will be in violation of federal law. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(A).

(3) Transport, or attempt to transport, or conspire to transport in this state an alien in furtherance of the unlawful presence of the alien in the United States, knowingly, or in reckless disregard of the fact, that the alien has come to, entered, or remained in the United States in violation of federal law. Conspiracy to be so transported shall be a violation of this subdivision. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(A).

(4) It shall not be a violation of this section for a religious denomination having a bona fide nonprofit religious organization in the United States, or the agents or officers of the denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical

assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year. This subdivision should be interpreted consistent with 8 U.S.C. § 1324(a)(1)(C).

(b) Any person violating this section is guilty of a Class A misdemeanor for each unlawfully present alien, the illegal presence of which in the United States and the State of Alabama, he or she is facilitating or is attempting to facilitate.

(c) A person violating this section is guilty of a Class C felony when the violation involves five or more aliens, the illegal presence of which in the United States and the State of Alabama, he or she is facilitating or is attempting to facilitate.

(d) Notwithstanding any other law, a law enforcement agency may securely transport an alien whom the agency has received verification from the federal government pursuant to 8 U.S.C. § 1373(c) is unlawfully present in the United States and who is in the agency's custody to a state approved facility, to a federal facility in this state, or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency. A law enforcement agency shall obtain judicial or executive authorization from the Governor before securely transporting an alien who is unlawfully present in the United States to a point of transfer that is outside this state.

(e) Notwithstanding any other law, any person acting in his or her official capacity as a first responder or protective services provider may harbor, shelter, move, or transport an alien unlawfully present in the United States pursuant to state law.

(f) Any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of this section, and the gross proceeds of such a violation, shall be subject to civil forfeiture under the procedures of Section 20–2–93.

(g) In the enforcement of this section, an alien's immigration status shall be determined by verification of the alien's immigration status with the federal government pursuant to 8 U.S.C. § 1373(c). A law enforcement officer shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States.

(h) Any record that relates to the immigration status of a person is admissible in any court of this state without further foundation or testimony from a custodian of records if the record is certified as authentic by the federal government agency that is responsible for maintaining the record. A verification of an alien's immigration status received from the federal government pursuant to 8 U.S.C. § 1373(c) shall constitute proof of that alien's status. A court of this state shall consider only the federal government's verification in determining whether an alien is lawfully present in the United States.

(Act 2011–535, p. 888, § 13; Act 2012–491, p. 1410, § 1.)

§ 31–13–14. Dealing in false identification documents; vital records identity fraud.

(a) A person commits the crime of dealing in false identification documents if he or she knowingly reproduces, manufactures, sells, or offers for sale any identification document which does both of the following:

(1) Simulates, purports to be, or is designed so as to cause others reasonably to believe it to be an identification document.

(2) Bears a fictitious name or other false information.

(b) A person commits the crime of vital records identity fraud related to birth, death, marriage, and divorce certificates if he or she does any of the following:

(1) Supplies false information intending that the information be used to obtain a certified copy of a vital record.

(2) Makes, counterfeits, alters, amends, or mutilates any certified copy of a vital record without lawful authority and with the intent to deceive.

(3) Obtains, possesses, uses, sells, or furnishes, or attempts to obtain, possess, or furnish to another a certified copy of a vital record, with the intent to deceive.

(c)(1) Dealing in false identification documents is a Class C felony.

(2) Vital records identity fraud is a Class C felony.

(d) This section shall not apply to any of the following:

(1) A person less than 21 years of age who uses the identification document of another person to acquire an alcoholic beverage.

(2) A person less than 19 years of age who uses the identification documents of another person to acquire any of the following:

a. Cigarettes or tobacco products.

b. A periodical, videotape, or other communication medium that contains or depicts nudity.

c. Admittance to a performance, live or film, that prohibits the attendance of the person based on age.

d. An item that is prohibited by law for use or consumption by such person.

(e) As used in this section, identification document means any card, certificate, or document or banking instrument, including, but not limited to, a credit or debit card, which identifies or purports to identify the bearer of such document, whether or not intended for use as identification, and includes, but is not limited to, documents purporting to be drivers' licenses, nondriver identification cards, certified copies of birth, death, marriage, and divorce certificates, Social Security cards, and employee identification cards.

(f) Any person convicted of dealing in false identification documents as defined in this section shall be fined up to one thousand dollars ($1,000) for every card or document he or she creates or possesses and be subject to any

and all other state laws that may apply. A court shall collect the fines prescribed by this subsection and shall remit 50 percent of the fines to the general fund of the local government that apprehended the person to be earmarked for law enforcement purposes, 25 percent of the fines to the Alabama Department of Homeland Security, and 25 percent of the fines to the Alabama State Law Enforcement Agency.

(Act 2011–535, p. 888, § 14.)

§ 31–13–15. Employment of unauthorized aliens prohibited.

(a) No business entity, employer, or public employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Alabama. Knowingly employ, hire for employment, or continue to employ an unauthorized alien means the actions described in 8 U.S.C. § 1324a.

(b) Effective April 1, 2012, every business entity or employer in this state shall enroll in E–Verify and thereafter, according to the federal statutes and regulations governing E–Verify, shall verify the employment eligibility of the employee through E–Verify. A business entity or employer that uses E–Verify to verify the work authorization of an employee shall not be deemed to have violated this section with respect to the employment of that employee.

(c) On a finding of a first violation by a court of competent jurisdiction that a business entity or employer knowingly violated subsection (a), the court shall do all of the following:

(1) Order the business entity or employer to terminate the employment of every unauthorized alien.

(2) Subject the business entity or employer to a three-year probationary period throughout the state. During the probationary period, the business entity or employer shall file quarterly reports with the local district attorney of each new employee who is hired by the business entity or employer in the state.

(3) Order the business entity or employer to file a signed, sworn affidavit with the local district attorney within three days after the order is issued by the court stating that the business entity or employer has terminated the employment of every unauthorized alien and the business entity or employer will not knowingly or intentionally employ an unauthorized alien in this state.

(4) Direct the applicable state, county, or municipal governing bodies to suspend the business licenses and permits, if such exist, of the business entity or employer for a period not to exceed 10 business days specific to the business location where the unauthorized alien performed work.

(d)(1) Before a business license or permit that has been suspended under subsection (c) is reinstated, a legal representative of the business entity or employer shall submit to the court a signed, sworn affidavit stating that the business entity or employer is in compliance with the provisions of this

chapter and a copy of the memorandum of understanding issued to the business entity or employer at the time of enrollment in E–Verify.

(2) The suspension of a business license or permit under subsection (c) shall terminate one business day after a legal representative of the business entity or employer submits a signed, sworn affidavit stating that the business entity or employer is in compliance with the provisions of this chapter to the court.

(e) For a second violation of subsection (a) by a business entity or employer, the court shall direct the applicable state, county, or municipal governing body to permanently revoke all business licenses and permits, if such exist, held by the business entity or employer specific to the business location where the unauthorized alien performed work. On receipt of the order, and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses and permits held by the business entity or employer.

(f) For a subsequent violation of subsection (a), the court shall direct the applicable governing bodies to forever suspend the business licenses and permits, if such exist, of the business entity or employer throughout the state.

(g) This section shall not be construed to deny any procedural mechanisms or legal defenses included in the E–Verify program or any other federal work authorization program. A person or entity that establishes that it has complied in good faith with the requirements of 8 U.S.C. § 1324a(b) establishes an affirmative defense that the business entity or employer did not knowingly hire or employ an unauthorized alien.

(h) In proceedings of the court, the determination of whether an employee is an unauthorized alien shall be made by the federal government, pursuant to 8 U.S.C. § 1373(c). The court shall consider only the federal government's determination when deciding whether an employee is an unauthorized alien. The court may take judicial notice of any verification of an individual's immigration status previously provided by the federal government and may request the federal government to provide further automated or testimonial verification.

(i) Any business entity or employer that terminates an employee to comply with this section shall not be liable for any claims made against the business entity or employer by the terminated employee, provided that such termination is made without regard to the race, ethnicity, or national origin of the employee and that such termination is consistent with the anti-discrimination laws of this state and of the United States.

(j) If any agency of the state or any political subdivision thereof fails to suspend the business licenses or permits, if such exist, as a result of a violation of this section, the agency shall be deemed to have violated subsection (a) of Section 31–13–5 and shall be subject to the penalties thereunder.

(k) In addition to the district attorneys of this state, the Attorney General shall also have authority to bring a civil complaint in any court of competent jurisdiction to enforce the requirements of this section.

(1) Any resident of this state may petition the Attorney General to bring an enforcement action against a specific business entity or employer by means of a written, signed petition. A valid petition shall include an allegation that describes the alleged violator or violators, as well as the action constituting the violation, and the date and location where the action occurred.

(2) A petition that alleges a violation on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be acted upon.

(3) The Attorney General shall respond to any petition under this subsection within 60 days of receiving the petition, either by filing a civil complaint in a court of competent jurisdiction or by informing the petitioner in writing that the Attorney General has determined that filing a civil complaint is not warranted.

(l) This section does not apply to the relationship between a party and the employees of an independent contractor performing work for the party and does not apply to casual domestic labor performed within a household.

(m) It is an affirmative defense to a violation of subsection (a) of this section that a business entity or employer was entrapped.

(1) To claim entrapment, the business entity or employer must admit by testimony or other evidence the substantial elements of the violation.

(2) A business entity or employer who asserts an entrapment defense has the burden of proving by clear and convincing evidence the following:

a. The idea of committing the violation started with law enforcement officers or their agents rather than with the business entity or employer.

b. The law enforcement officers or their agents urged and induced the business entity or employer to commit the violation.

c. The business entity or employer was not already predisposed to commit the violation before the law enforcement officers or their agents urged and induced the employer to commit the violation.

(n) In addition to actions taken by the state or political subdivisions thereof, the Attorney General or the district attorney of the relevant county may bring an action to enforce the requirements of this section in any county district court of this state wherein the business entity or employer does business.

(*o*) The terms of this section shall be interpreted consistently with 8 U.S.C. § 1324a and any applicable federal rules and regulations.

(Act 2011–535, p. 888, § 15.)

§ 31–13–16. Certain business expense deductions prohibited.

(a) No wage, compensation, whether in money or in kind or in services, or remuneration of any kind for the performance of services paid to an unauthorized alien shall be allowed as a deductible business expense for any state income or business tax purposes in this state. This subsection shall apply

whether or not an Internal Revenue Service Form 1099 is issued in conjunction with the wages or remuneration.

(b) Any business entity or employer who knowingly fails to comply with the requirements of this section shall be liable for a penalty equal to 10 times the business expense deduction claimed in violation of subsection (a). The penalty provided in this subsection shall be payable to the Alabama Department of Revenue.

(Act 2011–535, p. 888, § 16.)

§ 31–13–17. Discriminatory employment practices.

(a) It shall be a discriminatory practice for a business entity or employer to fail to hire a job applicant who is a United States citizen or an alien who is authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3) or discharge an employee working in Alabama who is a United States citizen or an alien who is authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3) while retaining or hiring an employee who the business entity or employer knows, or reasonably should have known, is an unauthorized alien.

(b) A violation of subsection (a) may be the basis of a civil action in the state courts of this state. Any recovery under this subsection shall be limited to compensatory relief and shall not include any civil or criminal sanctions against the employer.

(c) The losing party in any civil action shall pay the court costs and reasonable attorneys fees for the prevailing party; however, the losing party shall only pay the attorneys fees of the prevailing party up to the amount paid by the losing party for his or her own attorneys fees.

(d) The amount of the attorneys fees spent by each party shall be reported to the court before the verdict is rendered.

(e) In proceedings of the court, the determination of whether an employee is an unauthorized alien shall be made by the federal government, pursuant to 8 U.S.C. § 1373(c). The court shall consider only the federal government's determination when deciding whether an employee is an unauthorized alien. The court may take judicial notice of any verification of an individual's immigration status previously provided by the federal government and may request the federal government to provide further automated or testimonial verification.

(Act 2011–535, p. 888, § 17.)

§ 31–13–18. Verification of legal status of person charged with a crime for which bail is required; detention.

(a) When a person is charged with a crime for which bail is required, or is confined for any period in a state, county, or municipal jail, a reasonable effort shall be made to determine if the person is an alien unlawfully present in the

United States by verification with the federal government pursuant to 8 U.S.C. § 1373(c).

(b) A verification inquiry, pursuant to 8 U.S.C. § 1373(c), shall be made within 48 hours to the Law Enforcement Support Center of the United States Department of Homeland Security or other office or agency designated for that purpose by the federal government. If the person is determined to be an alien unlawfully present in the United States, the person shall be considered a flight risk and shall be detained until prosecution or until handed over to federal immigration authorities.

(Act 2011–535, p. 888, § 19.)

§ 31–13–19. Notification of federal and state authorities when unauthorized alien convicted of violating state or local law.

If an alien who is unlawfully present in the United States is convicted of a violation of state or local law and is within 30 days of release, the agency legally responsible for his or her custody at that time shall notify the United States Bureau of Immigration and Customs Enforcement and the Alabama Department of Homeland Security, pursuant to 8 U.S.C. § 1373. The Alabama Department of Homeland Security shall assist in the coordination of the transfer of the prisoner to the appropriate federal immigration authorities; however, the agency legally responsible for his or her custody at that time shall maintain custody during any transfer of the individual.

(Act 2011–535, p. 888, § 20; Act 2012–491, p. 1410, § 1.)

§ 31–13–20. Stay of chapter when unauthorized alien is a victim, critical witness, etc., under certain conditions.

If a person is an alien who is unlawfully present in the United States and is a victim of a criminal act, is the child of a victim of a criminal act, is a biological parent or legal guardian of a victim of a criminal act who is a minor, is a critical witness in any prosecution, is the biological parent or legal guardian of a critical witness in any prosecution who is a minor, or is the child of a critical witness in any prosecution of a state or federal crime, all provisions of this chapter shall be stayed until all of the related legal proceedings are concluded. However, the relevant state, county, or local law enforcement agency shall comply with any request by federal immigration officers to take custody of the person.

(Act 2011–535, p. 888, § 21; Act 2012–491, p. 1410, § 1.)

§ 31–13–21. Employment of state law enforcement officers by Alabama Department of Homeland Security.

(a) Notwithstanding Section 31–9A–9, the Alabama Department of Homeland Security may hire, appoint, and maintain APOST certified state law enforcement officers. Such officers shall receive the same rights and benefits

as those prescribed to officers of the Alabama State Law Enforcement Agency, except for the purposes of retirement. The officers shall have the same retirement benefits as a law enforcement officer as defined under Section 36–27–59.

(b) Unless a violation of state law occurs in their presence, officers authorized under this section shall not engage in routine law enforcement activity, except for those investigative and analytical duties necessary to carry out the enforcement of this chapter and to fulfill the mission of the Alabama Department of Homeland Security or those duties necessary to provide assistance to other law enforcement agencies.

(c) The Director of the Alabama Department of Homeland Security shall have the authority to promulgate rules for the enforcement of this chapter.

(Act 2011–535, p. 888, § 22.)

§ 31–13–22. Enforcement of chapter in coordination with federal immigration laws.

The Alabama Department of Homeland Security shall have the authority to coordinate with state and local law enforcement the practice and methods required to enforce this chapter in cooperation with federal immigration authorities and consistent with federal immigration laws.

(Act 2011–535, p. 888, § 23.)

§ 31–13–23. Enforcement report.

(a) The Alabama Department of Homeland Security shall file an annual report to the Legislature on the progress being made regarding the enforcement of this chapter and the status of the progress being made in the effort to reduce the number of illegal aliens in the State of Alabama. The report shall include, but is not limited to, the statistics and results from the enforcement of the sections of this chapter, and suggestions on what can be done including additional legislation to further assist the federal government in its efforts to apprehend illegal aliens in the State of Alabama. This report shall also be made available to the public and shall be announced through a press release from the Attorney General's office.

(b) The Alabama Department of Homeland Security shall create a mechanism for receiving tips from the general public regarding possible violations of this chapter, including the unlawful enforcement of this chapter.

(Act 2011–535, p. 888, § 24; Act 2012–491, p. 1410, § 1.)

§ 31–13–24. Solicitation, attempt, or conspiracy to violate chapter.

(a) A solicitation to violate any criminal provision of this chapter, an attempt to violate any criminal provision of this chapter, or a conspiracy to violate any criminal provision of this chapter shall have the same penalty as a violation of this chapter.

(b) For the purposes of this section, solicitation shall have the same principles of liability and defenses as criminal solicitation under subsections (b) through (e) of Section 13A–4–1 and Section 13A–4–5.

(c) For the purposes of this section, attempt shall have the same principles of liability and defenses as attempt under subsections (b) and (c) of Section 13A–4–2 and Section 13A–4–5.

(d) For the purposes of this section, conspiracy shall have the same principles of liability and defenses as criminal conspiracy under subsections (b) through (f) of Section 13A–4–3 and Sections 13A–4–4 and 13A–4–5.

(Act 2011–535, p. 888, § 25.)

§ 31–13–25. E–Verify employer agent service.

(a)(1) The Alabama Department of Homeland Security shall establish and maintain an E–Verify employer agent service for any business entity or employer in this state with 25 or fewer employees to use the E–Verify program to verify an employee's employment eligibility on behalf of the business entity or employer. The Alabama Department of Homeland Security shall establish an E–Verify employer agent account with the United States Department of Homeland Security, shall enroll a participating business entity or employer in the E–Verify program on its behalf, and shall conform to all federal statutes and regulations governing E–Verify employer agents. The Alabama Department of Homeland Security shall not charge a fee to a participating business entity or employer for this service.

(2) The Alabama Department of Homeland Security E–Verify employer agent service shall be in place by November 30, 2011. The service shall accommodate a business entity or employer who wishes to communicate with the Alabama Department of Homeland Security by Internet, by electronic mail, by facsimile machine, by telephone, or in person, provided that such communication is consistent with federal statutes and regulations governing E–Verify employer agents.

(b) On or after January 1, 2012, before receiving any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity, a business entity or employer shall provide proof to the state, political subdivision thereof, or state-funded entity that the business entity or employer is enrolled and is participating in the E–Verify program, either independently or through the Alabama Department of Homeland Security E–Verify employer agent service.

(c) Every three months, the Alabama Department of Homeland Security shall request from the United States Department of Homeland Security a list of every business entity or employer in this state that is enrolled in the E–Verify program. On receipt of the list, the Alabama Department of Homeland Security shall make the list available on its website.

(d) A business entity or employer that is enrolled in the E–Verify program and that verifies the employment eligibility of an employee in good faith pursuant to this section, and acts in conformity with all applicable federal statutes and regulations is immune from liability under Alabama law for any action by an employee for wrongful discharge or retaliation based on a notification from the E–Verify program that the employee is an unauthorized alien.

(Act 2011–535, p. 888, § 26.)

§ 31–13–26. Enforcement of certain contracts prohibited.

(a) No court of this state shall enforce the terms of, or otherwise regard as valid, any contract between a party and an alien unlawfully present in the United States, if the party had direct or constructive knowledge that the alien was unlawfully present in the United States at the time the contract was entered into, and the performance of the contract required the alien to remain unlawfully present in the United States for more than 24 hours after the time the contract was entered into or performance could not reasonably be expected to occur without such remaining.

(b) This section shall not apply to a contract for lodging for one night, a contract for the purchase of food to be consumed by the alien, a contract for medical services, or a contract for transportation of the alien that is intended to facilitate the alien's return to his or her country of origin.

(c) This section shall not apply to a contract authorized by federal law, to a contract entered into prior to May 18, 2012, or to a contract for the appointment or retention of legal counsel in legal matters.

(d) In proceedings of the court, the determination of whether an alien is unlawfully present in the United States shall be made by the federal government, pursuant to 8 U.S.C. § 1373(c). The court shall consider only the federal government's determination when deciding whether an alien is unlawfully present in the United States. The court may take judicial notice of any verification of an individual's immigration status previously provided by the federal government and may request the federal government to provide further automated or testimonial verification.

(Act 2011–535, p. 888, § 27; Act 2012–491, p. 1410, § 1.)

§ 31–13–27. Verification of citizenship and immigration status of students enrolling in public schools; annual reports; disclosure of information.

(a)(1) Every public elementary and secondary school in this state, at the time of enrollment in kindergarten or any grade in such school, shall determine whether the student enrolling in public school was born outside the jurisdiction of the United States or is the child of an alien not lawfully present in the United States and qualifies for assignment to an English as Second Language class or other remedial program.

(2) The public school, when making the determination required by subdivision (1), shall rely upon presentation of the student's original birth certificate, or a certified copy thereof.

(3) If, upon review of the student's birth certificate, it is determined that the student was born outside the jurisdiction of the United States or is the child of an alien not lawfully present in the United States, or where such certificate is not available for any reason, the parent, guardian, or legal custodian of the student shall notify the school within 30 days of the date of the student's enrollment of the actual citizenship or immigration status of the student under federal law.

(4) Notification shall consist of both of the following:

a. The presentation for inspection, to a school official designated for such purpose by the school district in which the child is enrolled, of official documentation establishing the citizenship and, in the case of an alien, the immigration status of the student, or alternatively by submission of a notarized copy of such documentation to such official.

b. Attestation by the parent, guardian, or legal custodian, under penalty of perjury, that the document states the true identity of the child. If the student or his or her parent, guardian, or legal representative possesses no such documentation but nevertheless maintains that the student is either a United States citizen or an alien lawfully present in the United States, the parent, guardian, or legal representative of the student may sign a declaration so stating, under penalty of perjury.

(5) If no such documentation or declaration is presented, the school official shall presume for the purposes of reporting under this section that the student is an alien unlawfully present in the United States.

(b) Each school district in this state shall collect and compile data as required by this section.

(c) Each school district shall submit to the State Board of Education an annual report listing all data obtained pursuant to this section.

(d)(1) The State Board of Education shall compile and submit an annual public report to the Legislature.

(2) The report shall provide data, aggregated by public school, regarding the numbers of United States citizens, of lawfully present aliens by immigration classification, and of aliens believed to be unlawfully present in the United States enrolled at all primary and secondary public schools in this state. The report shall also provide the number of students in each category participating in English as a Second Language Programs enrolled at such schools.

(3) The report shall analyze and identify the effects upon the standard or quality of education provided to students who are citizens of the United States residing in Alabama that may have occurred, or are expected to occur in the future, as a consequence of the enrollment of students who are aliens not lawfully present in the United States.

(4) The report shall analyze and itemize the fiscal costs to the state and political subdivisions thereof of providing educational instruction, computers, textbooks and other supplies, free or discounted school meals, and extracurricular activities to students who are aliens not lawfully present in the United States.

(5) The State Board of Education shall prepare and issue objective baseline criteria for identifying and assessing the other educational impacts on the quality of education provided to students who are citizens of the United States, due to the enrollment of aliens who are not lawfully present in the United States, in addition to the statistical data on citizenship and immigration status and English as a Second Language enrollment required by this chapter. The State Board of Education may contract with reputable scholars and research institutions to identify and validate such criteria. The State Board of Education shall assess such educational impacts and include such assessments in its reports to the Legislature.

(e) Public disclosure by any person of information obtained pursuant to this section which personally identifies any student shall be unlawful, except for purposes permitted pursuant to 8 U.S.C. §§ 1373 and 1644. Any person intending to make a public disclosure of information that is classified as confidential under this section, on the ground that such disclosure constitutes a use permitted by federal law, shall first apply to the Attorney General and receive a waiver of confidentiality from the requirements of this subsection.

(f) A student whose personal identity has been negligently or intentionally disclosed in violation of this section shall be deemed to have suffered an invasion of the student's right to privacy. The student shall have a civil remedy for such violation against the agency or person that has made the unauthorized disclosure.

(g) The State Board of Education shall construe all provisions of this section in conformity with federal law.

(h) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(Act 2011–535, p. 888, § 28.)

§ 31–13–28. Voter registration eligibility and requirements.

(a) Applications for voter registration shall contain voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations and enable the county board of registrars to assess the eligibility of the applicant and to administer voter registration, identify the applicant and to determine the qualifications of the applicant as an elector and the facts authorizing such person to be registered. Applications shall contain a statement that the applicant shall be required to provide qualifying identification when voting.

(b) The Secretary of State shall create a process for the county board of registrars to check to indicate whether an applicant has provided with the

application the information necessary to assess the eligibility of the applicant, including the applicant's United States citizenship. This section shall be interpreted and applied in accordance with federal law. No eligible applicant whose qualifications have been assessed shall be denied registration.

(c) The county board of registrars shall accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship. Satisfactory evidence of United States citizenship shall be provided in person at the time of filing the application for registration or by including, with a mailed registration application, a photocopy of one of the documents listed as evidence of United States citizenship in subsection (k). After a person has submitted satisfactory evidence of citizenship, the county board of registrars shall indicate this information in the person's permanent voter file.

(d) Any person who is registered in this state on September 1, 2011, is deemed to have provided satisfactory evidence of United States citizenship and shall not be required to submit evidence of citizenship.

(e) For purposes of this section, proof of voter registration from another state is not satisfactory evidence of United States citizenship.

(f) A registered voter who moves from one residence to another within the state or who modifies his or her voter registration records for any other reason shall not be required to submit evidence of United States citizenship.

(g) If evidence of United States citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted as evidence and the name or sex provided on the application for registration, such applicant may sign an affidavit containing both of the following:

(1) Stating the inconsistency or inconsistencies related to the name or sex, and the reason therefor.

(2) Swearing under oath that, despite the inconsistency, the applicant is the individual reflected in the document provided as evidence of citizenship.

(h) There shall be no inconsistency between the date of birth on the document provided as evidence of citizenship and the date of birth provided on the application for registration. If such an affidavit is submitted by the applicant, the county board of registrars shall assess the eligibility of the applicant without regard to any inconsistency stated in the affidavit.

(i) All documents submitted as evidence of United States citizenship shall be kept confidential by the county board of registrars and maintained as provided by record retention laws.

(j) Nothing in this section shall prohibit an applicant from providing, or the county board of registrars from obtaining, satisfactory evidence of United States citizenship, as described in this section, at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the county board of registrars as required by this section.

(k) Evidence of United States citizenship shall be demonstrated by one of the following documents, or a legible photocopy or a copy in a digital or other electronic format of one of the following documents:

(1) The applicant's driver's license or nondriver's identification card issued by the division of motor vehicles or the equivalent governmental agency of another state within the United States provided that the governmental agency of another state within the United States requires proof of lawful presence in the United States as a condition of issuance of the driver's license or nondriver's identification card.

(2) The applicant's birth certificate indicating birth in the United States or one of its territories.

(3) Pertinent pages of the applicant's United States valid or expired passport identifying the applicant and the applicant's passport number, or presentation to the county board of registrars of the applicant's United States passport.

(4) The applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States Bureau of Citizenship and Immigration Services by the county election officer or the Secretary of State, pursuant to 8 U.S.C. § 1373(c).

(5) Other documents or methods of proof of United States citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952, and amendments thereto.

(6) The applicant's Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.

(7) The applicant's consular report of birth abroad of a citizen of the United States of America.

(8) The applicant's certificate of citizenship issued by the United States Citizenship and Immigration Services.

(9) The applicant's certification of report of birth issued by the United States Department of State.

(10) The applicant's American Indian card, with KIC classification, issued by the United States Department of Homeland Security.

(11) The applicant's final adoption decree showing the applicant's name and United States birthplace.

(12) The applicant's official United States military record of service showing the applicant's place of birth in the United States.

(13) An extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.

(l) If an applicant is a United States citizen but does not have any of the documentation listed in this section as satisfactory evidence of United States citizenship, the applicant may submit any evidence that the applicant believes demonstrates the applicant's United States citizenship. Any applicant seeking an assessment of evidence under this section may directly contact the county board of registrars by submitting a voter registration application or the national voter registration form and any supporting evidence of United States citizenship. The county board of registrars shall give the applicant an opportunity for a hearing, upon the applicant's request in writing, and an opportunity to present any additional evidence to the county board of registrars. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing. The county board of registrars shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. If the county board of registrars finds that the evidence presented by an applicant does not constitute satisfactory evidence of United States citizenship, the applicant shall have the right to appeal such determination by a county board of registrars by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by a county board of registrars shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503, demonstrating that the applicant is a national of the United States.

(m)(1) The Department of Public Health shall not charge or accept any fee for a certified copy of a birth certificate if the certificate is requested by any person who is 17 years of age or older for purposes of meeting the voter registration requirements of this chapter. The person requesting a certified copy of a birth certificate shall swear under oath to both of the following:

a. That the person plans to register to vote in this state.

b. That the person does not possess any of the documents that constitute evidence of United States citizenship as defined in this chapter.

(2) The affidavit shall specifically list the documents that constitute evidence of United States citizenship as defined in this chapter.

(Act 2011–535, p. 888, § 29; Act 2012–491, p. 1410, § 1.)

§ 31–13–29. Limitations on public records transactions conducted by unauthorized aliens.

(a) For the purposes of this section, public records transaction means applying for or renewing a motor vehicle license plate, applying for or renewing a driver's license or nondriver identification card, applying for or renewing a business license, applying for or renewing a commercial license, or applying for or renewing a professional license. Public records transaction does not include applying for a marriage license, any transaction relating to housing under Title 24 or the ownership of real property, including the

payment of property taxes, or the payment of any other tax to the state or a political subdivision thereof, or any other transaction.

(b) An alien not lawfully present in the United States shall not enter into or attempt to enter into a public records transaction with the state or a political subdivision of the state and no person shall enter into a public records transaction or attempt to enter into a public records transaction on behalf of an alien not lawfully present in the United States.

(c)(1) Any person entering into a public records transaction or attempting to enter into a public records transaction with this state or a political subdivision of this state shall be required to demonstrate his or her United States citizenship, as provided in subsection (g), or his or her lawful presence in the United States, as provided in subdivision (10) of Section 31–13–3. An alien's lawful presence in the United States may be verified through the Systematic Alien Verification for Entitlements program operated by the Department of Homeland Security, or by other verification with the Department of Homeland Security pursuant to 8 U.S.C. § 1373(c).

(2)a. A citizen shall not be required to demonstrate citizenship for subsequent public records transactions after an initial verification of citizenship is made.

b. An alien demonstrating lawful permanent residence in the United States by the presentation of proper documentation proving that the alien is a lawfully permanent resident in the United States shall not be required to demonstrate lawful status for subsequent public records transactions after an initial verification is made.

(d) A violation of this section by an alien not lawfully present or by a person knowingly acting on behalf of an alien not lawfully present is a Class C felony.

(e) An agency of this state or a county, city, town, or other political subdivision of this state may not consider race, color, or national origin in the enforcement of this section except to the extent permitted by the United States Constitution or the Constitution of Alabama of 1901.

(f) In the enforcement of this section, an alien's immigration status shall be determined by verification of the alien's immigration status with the federal government pursuant to 8 U.S.C. § 1373(c). An official of this state or political subdivision of this state shall not attempt to independently make a final determination of whether an alien is lawfully present in the United States.

(g) A person's United States citizenship may be demonstrated or confirmed by any one of, or a legible photocopy or a copy in a digital or other electronic format of one of, the following documents:

(1) A driver's license or nondriver's identification card issued by the Alabama State Law Enforcement Agency or the equivalent governmental agency of another state within the United States, provided that the governmental agency of another state within the United States requires proof of

lawful presence in the United States as a condition of issuance of the driver's license or nondriver's identification card.

(2) A birth certificate indicating birth in the United States or one of its territories.

(3) Pertinent pages of a United States valid or expired passport identifying the person and the person's passport number, or the person's United States passport.

(4) United States naturalization documents or the number of the certificate of naturalization.

(5) Other documents or methods of proof of United States citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952, as amended.

(6) Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.

(7) A consular report of birth abroad of a citizen of the United States of America.

(8) A certificate of citizenship issued by the United States Citizenship and Immigration Services.

(9) A certification of report of birth issued by the United States Department of State.

(10) An American Indian card, with KIC classification, issued by the United States Department of Homeland Security.

(11) Final adoption decree showing the person's name and United States birthplace.

(12) An official United States military record of service showing the applicant's place of birth in the United States.

(13) An extract from a United States hospital record of birth created at the time of the person's birth indicating the place of birth in the United States.

(14) AL-verify.

(15) A valid Uniformed Services Privileges and Identification Card.

(16) Any other form of identification that the Alabama Department of Revenue authorizes, through an administrative rule promulgated pursuant to the Alabama Administrative Procedure Act, to be used to demonstrate or confirm a person's United States citizenship or lawful presence in the United States, provided that the identification requires proof of lawful presence in the United States as a condition of issuance.

(h) If the state or a political subdivision thereof is notified by the federal government that a person is an alien unlawfully present in the United States, the person's motor vehicle license plate, driver's license, nondriver identification card, business license, professional license, or commercial license shall, should they exist, be immediately revoked or rescinded by the appropriate authorities and shall not be reinstated until the state or a political subdivision

thereof is notified by the federal government that the person is an alien lawfully present in the United States.

(Act 2011–535, p. 888, § 30; Act 2012–491, p. 1410, § 1.)

§ 31–13–30. Relation to Real ID Act of 2005.

Nothing in this chapter is in any way meant to implement, authorize, or establish the Real ID Act of 2005 (P.L. 109–13, Division D; 119 Stat. 302).

(Act 2011–535, p. 888, § 31.)

§ 31–13–31. Defense of law enforcement officers in enforcement of chapter.

(a) The Legislature finds that the United States Department of Justice has unnecessarily and recklessly threatened Alabama law enforcement officers with personal law suits if the officer appears to make what the Department of Justice deems a misstep in enforcing the Beason–Hammon Alabama Taxpayer and Citizen Protection Act.

(b) Because of this finding, it is necessary for the Legislature to defend Alabama law enforcement officers against federal overreach.

(c) If the Attorney General of Alabama deems that an Alabama law enforcement officer performed his or her duties enforcing Act 2011–535 according to accepted standards of Alabama law enforcement, the state shall defend the law enforcement officer against actions brought personally against the officer by the United States Department of Justice.

(Act 2012–491, p. 1410, § 4.)

§ 31–13–32. Report to Alabama Department of Homeland Security.

(a) The Administrative Office of Courts shall submit a quarterly report, organized by county, to the Alabama Department of Homeland Security summarizing the number of cases in which an unlawfully present alien was detained by law enforcement and appeared in court for any violation of state law and shall include all of the following information in the report:

(1) The name of the unlawfully present alien.

(2) The violation or charge alleged to have been committed by the unlawfully present alien.

(3) The name of the judge presiding over the case.

(4) The final disposition of the case, including whether the unlawfully present alien was released from custody, remained in detention, or was transferred to the custody of the appropriate federal immigration authorities.

(b) The Alabama Department of Homeland Security shall publish on its public website, in a convenient and prominent location, the information provided in the quarterly report from the Administrative Office of Courts.

The display of this information on the department's public website shall be searchable by county and presiding judge.

(c) For the purposes of this section, the determination of whether a person is an unlawfully present alien shall be verified by the federal government pursuant to 8 U.S.C. § 1373(c).

(Act 2012–491, p. 1410, § 5.)

§ 31–13–33. Rental agreements with unauthorized aliens prohibited.

Notwithstanding any other provision of law to the contrary, it shall be unlawful for a person to harbor an alien unlawfully present in the United States by entering into a rental agreement, as defined by Section 35–9A–141, with an alien to provide accommodations, if the person knows or recklessly disregards the fact that the alien is unlawfully present in the United States.

(Act 2012–491, p. 1410, § 6.)

§ 31–13–34. Enforcement of chapter.

(a) Any law enforcement agency of the state or any law enforcement agency of a political subdivision of the state shall have the authority to enforce the provisions of this chapter.

(b) The Attorney General and a district attorney investigating or prosecuting any violation of this chapter shall have the power to issue subpoenas to compel the production of relevant documents and other evidence necessary to enforce the provisions of this chapter.

(Act 2012–491, p. 1410, § 7.)

§ 31–13–35. Records searches by Department of Revenue; investigations.

(a) The Department of Revenue shall conduct annual searches of its records to determine if multiple individuals have filed tax returns under the same Social Security number or the same individual tax identification number.

(b) If the department determines that multiple individuals have filed tax returns under the same Social Security number or the same individual tax identification number, the department shall further investigate the use of the Social Security numbers or individual tax identification numbers.

(c) After its investigation, if the department determines that a Social Security number or an individual tax identification number has been stolen or misused by another individual in violation of Article 10, Chapter 8, of Title 13A, the department shall report the violation to the Attorney General or the appropriate district attorney.

(Act 2012–491, p. 1410, § 8.)

TITLE 32.

MOTOR VEHICLES AND TRAFFIC.

CHAPTER 1.

GENERAL PROVISIONS.

§ 32–1–1. Definitions. Repealed by Acts 1980, No. 80–434, p. 604, effective May 19, 1980.

§ 32–1–1.1. Definitions.

The following words and phrases when used in this title have the following meanings, except when the context otherwise requires:

(1) ALLEY. A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

(2) ARTERIAL STREET. Any federal or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

(3) AUTHORIZED EMERGENCY VEHICLE. Fire department vehicles, police vehicles, and ambulances that are publicly owned, and other publicly or privately owned vehicles that are designated by the director or the chief of police of an incorporated city.

(4) BICYCLE. Every device propelled by human power upon which any individual may ride, having two tandem wheels either of which is more than 14 inches in diameter.

(5) BUS. Every motor vehicle designed for carrying more than 10 passengers and used for the transportation of individuals and every motor vehicle other than a taxicab, designed and used for the transportation of individuals for compensation.

(6) BUSINESS DISTRICT. The territory contiguous to and including a highway when within any 600 feet along the highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

(7) CANCELLATION OF DRIVER LICENSE. The annulment or termination by formal action of the director of an individual's driver license because of some error or defect in the license or because the licensee is no longer entitled to the license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.

(8) CONTROLLED–ACCESS HIGHWAY. Every highway, street, or roadway to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street, or roadway.

(9) CROSSWALK. Either of the following:

a. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

b. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(10) DEALER. Every person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business for that purpose in this state and to whom current dealer registration plates have been issued by the Department of Revenue.

(11) DEPARTMENT. The Alabama State Law Enforcement Agency acting directly or through its duly authorized officers and agents.

(12) DIRECTOR. The Secretary of the Alabama State Law Enforcement Agency.

(13) DRIVEWAY–TOWAWAY OPERATION. Any operation in which any motor vehicle, trailer, or semitrailer, singly or in combination, new or used, constitutes the commodity being transported, when one set or more of wheels of any such vehicle are on the roadway during the course of transportation, whether or not any such vehicle furnishes the motive power.

(14) DRIVER. Every individual who drives or is in actual physical control of a vehicle.

(15) DRIVER LICENSE. Any license to operate a motor vehicle issued under the laws of this state.

(16) ELECTRIC BICYCLE. A bicycle equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of less than 750 watts that meets the requirements of one of the following three classes:

a. Class 1 electric bicycle means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

b. Class 2 electric bicycle means an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

c. Class 3 electric bicycle means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that

ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

(17) ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. A self-balancing, two non-tandem wheeled device designed to transport only one individual with an electric propulsion system with an average power of 750 watts (1 h.p.), that has a maximum speed on a paved level surface, when powered solely by the propulsion system while ridden by an operator who weighs not more than 170 pounds, of less than 20 m.p.h. The term shall not include a motorized bicycle, motorized scooter, or motorized skateboard.

(18) ESSENTIAL PARTS. All integral and body parts of a vehicle of a type required to be registered under this title, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(19) ESTABLISHED PLACE OF BUSINESS. The place actually occupied either continuously or at regular periods by a dealer or manufacturer where his or her books and records are kept and a large share of his or her business is transacted.

(20) EXPLOSIVES. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(21) FARM TRACTOR. Every motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(22) FIRST RESPONDER. Any law enforcement officer, firefighter, paramedic, or emergency medical technician.

(23) FLAMMABLE LIQUID. Any liquid that has a flash point of 70 F. or less, as determined by a fagliabue or equivalent closed-cup test device.

(24) FOREIGN VEHICLE. Every vehicle of a type required to be registered hereunder brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(25) GROSS WEIGHT. The weight of a vehicle without load plus the weight of any load thereon.

(26) HIGHWAY. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(27) HOUSE TRAILER. Either of the following:

a. A trailer or semitrailer that is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, either permanently or

temporarily, and is equipped for use as a conveyance on streets and highways.

b. A trailer or semitrailer that has a chassis and exterior shell that is designed and constructed for use as a house trailer, as defined in paragraph a., but which is used instead permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(28) IMPLEMENT OF HUSBANDRY. Every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

(29) INTERSECTION. Any of the following:

a. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

b. Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

c. The junction of an alley with a street or highway shall not constitute an intersection.

(30) LANED ROADWAY. A roadway that is divided into two or more clearly marked lanes for vehicular traffic.

(31) LICENSE or LICENSE TO OPERATE A MOTOR VEHICLE. Any driver license or any other license or permit to operate a motor vehicle issued by the director under the laws of this state, including any nonresident's operating privilege as defined in this section.

(32) LOCAL AUTHORITIES. Either of the following:

a. Every county commission.

b. Every municipal and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

(33) MAIL. To deposit in the United States mail properly addressed and with postage prepaid.

(34) METAL TIRE. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(35) MOTOR VEHICLE. Every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but

not operated upon rails, except for electric personal assistive mobility devices and electric bicycles.

(36) MOTORCYCLE. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor and an electric bicycle.

(37) MOTOR–DRIVEN CYCLE. Every motorcycle, including every motor scooter, with a motor that produces not more than five brake horsepower nor exceeds 150 cubic centimeter engine displacement, and weighs less than 200 pounds fully equipped, and every bicycle with a motor attached. The term does not include electric bicycles.

(38) NONRESIDENT. Every individual who is not a resident of this state.

(39) NONRESIDENT'S OPERATING PRIVILEGE. The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by the nonresident of a motor vehicle, or the use of a vehicle owned by the nonresident, in this state.

(40) OFFICIAL TRAFFIC–CONTROL DEVICES. All signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(41) OWNER. A person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

(42) PARK or PARKING. The standing of a vehicle, whether occupied or not. The term does not include a vehicle that is stopped temporarily for the purpose of and actually engaged in loading or unloading merchandise or passengers.

(43) PASSENGER CAR. Every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying 10 passengers or less and used for the transportation of individuals.

(44) PEDESTRIAN. Any individual afoot.

(45) PERSON. Every individual, firm, copartnership, association, or corporation.

(46) PNEUMATIC TIRE. Every tire in which compressed air is designed to support the load.

(47) POLE TRAILER. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(48) POLICE OFFICER. Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(49) PRIVATE ROAD or DRIVEWAY. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(50) RAILROAD. A carrier of individuals or property upon cars other than street cars, operated upon stationary rails.

(51) RAILROAD SIGN or SIGNAL. Any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(52) RAILROAD TRAIN. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(53) RECONSTRUCTED VEHICLE. Every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(54) REGISTRATION. The registration certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles.

(55) RESIDENCE DISTRICT. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is, in the main, improved with residences or residences and buildings in use for business.

(56) REVOCATION OF DRIVER LICENSE. The termination by formal action of the director of an individual's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the director after the expiration of the applicable period of time prescribed in this title.

(57) RIGHT–OF–WAY. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(58) ROAD TRACTOR. Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(59) ROADWAY. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term refers to each roadway separately but not to all roadways collectively.

(60) SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(61) SCHOOL BUS. Every motor vehicle that complies with the color and identification requirements set forth by law or rule and is used to transport children to or from school or in connection with school activities, but not

including buses operated by common carriers in urban transportation of school children.

(62) SCOOTER. a. A device weighing less than 100 pounds that satisfies all of the following:

1. Has handlebars and an electric motor.

2. Is solely powered by the electric motor or human power.

3. Has a maximum speed of no more than 20 m.p.h. on a paved level surface when powered solely by the electric motor.

b. This term does not include an e-bike, EPAMD, Segway, motorcycle, or moped.

(63) SECURITY AGREEMENT. A written agreement that reserves or creates a security interest.

(64) SECURITY INTEREST. An interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is perfected when it is valid against third parties generally, subject only to specific statutory exceptions.

(65) SEMITRAILER. Every vehicle with or without motive power, other than a pole trailer, designed for carrying individuals or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(66) SHARED MICROMOBILITY DEVICE. A type of transportation device that includes a bicycle, electric bicycle, tricycle, scooter, hoverboard, skateboard, pedal car, or similar device, except a device used as an electrical personal assistive mobility device by an individual with disabilities, used in a shared micromobility device system.

(67) SHARED MICROMOBILITY DEVICE SYSTEM. A system that provides shared micromobility devices to users for short-term rentals, whether or not the system requires docking stations or other similar fixed infrastructure to receive or return the shared micromobility device.

(68) SIDEWALK. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

(69) SOLID TIRE. Every tire of rubber or other resilient material that does not depend upon compressed air for the support of the load.

(70) SPECIAL MOBILE EQUIPMENT. Every vehicle not designed or used primarily for the transportation of individuals or property and only incidentally operated or moved over a highway, including, but not limited to: Ditch digging apparatus, well boring apparatus, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, levelling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, self-propelled cranes,

and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of individuals or property to which machinery has been attached.

(71) SPECIALLY CONSTRUCTED VEHICLE. Every vehicle of a type required to be registered under this title not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(72) STAND or STANDING. The halting of a vehicle, whether occupied or not. The term does not include a vehicle that is halted temporarily for the purpose of and actually engaged in receiving or discharging passengers.

(73) STATE. A state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada.

(74) STOP. When required, means complete cessation from movement.

(75) STOP or STOPPING. When prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(76) STREET. The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(77) SUSPENSION OF DRIVER LICENSE. The temporary withdrawal by formal action of the director of an individual's driver license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the secretary.

(78) THROUGH HIGHWAY. Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic-control device, when the signs or devices are erected as provided in this title.

(79) TRACKLESS TROLLEY COACH. Every motor vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(80) TRAFFIC. Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using any highway for purposes of travel.

(81) TRAFFIC–CONTROL SIGNAL. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(82) TRAILER. Every vehicle with or without motive power, other than a pole trailer, designed for carrying individuals or property and for being

drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(83) TRANSPORTER. Every person engaged in the business of delivering vehicles of a type required to be registered under this title from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer.

(84) TRUCK. Every motor vehicle designed, used, or maintained primarily for the transportation of property.

(85) TRUCK PLATOON. A group of individual commercial trucks traveling in a unified manner at electronically coordinated speeds at following distances that are closer than would be reasonable and prudent without the electronic coordination.

(86) TRUCK TRACTOR. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(87) URBAN DISTRICT. The territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

(88) VEHICLE. Every device in, upon, or by which any individual or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or electric personal assistive mobility devices; provided, that for the purposes of this title, a bicycle, an electric bicycle, or a ridden animal shall be deemed a vehicle, except those provisions of this title, which by their very nature can have no application.

(Acts 1980, No. 80–434, p. 604, § 1–100; Acts 1981, No. 81–803, p. 1412, § 1; Acts 1985, 2nd Ex. Sess., No. 85–998, p. 366, § 1; Act 2003–342, p. 851, § 1; Act 2018–286, § 1; Act 2019–437, § 1; Act 2021–134, § 1; Act 2024–332, § 2, eff. Oct. 1, 2024; Act 2024–388, § 2, eff. Oct. 1, 2024.)

§ 32–1–2. Liability for injury or death of guest.

The owner, operator, or person responsible for the operation of a motor vehicle shall not be liable for loss or damage arising from injuries to or death of a guest while being transported without payment therefor in or upon said motor vehicle, resulting from the operation thereof, unless such injuries or death are caused by the willful or wanton misconduct of such operator, owner, or person responsible for the operation of the motor vehicle.

(Acts 1935, No. 442, p. 918; Code 1940, T. 36, § 95.)

§ 32–1–3. When right to use highways may be restricted.

Local authorities may by ordinance or resolution prohibit the operation of vehicles upon any highways or impose restrictions as to the weight of vehicles when operated upon any highway under the jurisdiction of and for the

maintenance of which such local authorities are responsible, whenever any said highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights reduced. Such local authorities enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution shall not be effective until or unless such signs are erected and maintained. Local authorities may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles or impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs.

The Department of Transportation in respect to state highways or roads designated as part of the state system of primary roads may prescribe loads and weights lower than the limits prescribed in Section 32–9–20 whenever in its or their judgment any road or part thereof, any bridge or culvert shall by reason of deterioration, rain, snow, or other climatic conditions be liable to be damaged or destroyed by vehicles. In such event there shall be erected and maintained proper signs designating the provisions of such additional restrictions, such signs to be placed at each end of that portion of highway affected thereby. After such signs have been erected, the operation of any vehicle contrary to its provisions shall constitute a violation of this title, and such violation shall be punishable as provided in this title.

(Acts 1927, No. 347, p. 348; Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, §§ 79, 82.)

§ 32–1–4. Appearance upon arrest for misdemeanor.

(a) Whenever any person is arrested for a violation of any provision of this title punishable as a misdemeanor, the arresting officer shall, unless otherwise provided in this section, take the name and address of such person and the license number of his or her motor vehicle, and shall issue a summons or otherwise notify him or her in writing or by an electronic traffic ticket or e-ticket to appear at a time and place to be specified in such summons, notice, or e-ticket.

An electronic traffic ticket or e-ticket, for purposes of this chapter, is defined as a ticket that is generated and printed at the site of a traffic violation after a violation has been electronically transmitted to the court. An arresting officer transfers arrest and licensing information of a violator electronically to the court. The court electronically records the arrest and issues a complaint and summons or notice to appear, which is printed at the site of the offense, and given to the violator.

The person arrested, if he or she so desires, shall have a right to an immediate hearing or a hearing within 24 hours at a convenient hour before a magistrate within the county or city where such offense was committed, or if an e-ticket is written, the person shall have a right, if he or she desires, to an

immediate hearing or a hearing within 24 hours at a convenient hour before any magistrate within this state. Except when an arresting officer cites a person with an e-ticket, the officer shall, upon the giving by such person of a sufficient written bond, approved by the arresting officer, to appear at such time and place, forthwith release the person from custody.

Except when an arresting officer cites a person with an e-ticket, a person refusing to give bond to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate. When an e-ticket is used by an arresting officer, a person shall be deemed to have given his or her written bond to appear in court on the date as specified on the e-ticket.

Any person who willfully violates his or her written bond by failing to timely appear shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested.

(b) The provisions of this section shall not apply to any person arrested and charged with an offense causing or contributing to an accident resulting in injury or death to any person nor to any person charged with driving while under the influence of intoxicating liquor or of narcotic or other drugs nor to any person whom the arresting officer shall have good cause to believe has committed any felony, and the arresting officer shall take such person forthwith before the nearest or most accessible magistrate.

(c) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 52; Acts 1949, No. 517, p. 754, § 16; Act 2006–579, p. 1522, § 1.)

§ 32–1–5. Depositing driver's license in lieu of bail in certain cases — Procedure.

(a) Whenever any person lawfully possessed of a chauffeur's or driver's license theretofore issued to him or her by the Department of Public Safety of the State of Alabama, or under the laws of any other state or territory, or the District of Columbia of the United States, shall be arrested and charged with any violation of the provisions of this title for which under the provisions of Sections 32–1–4 and 32–5–36 the arresting officer is directed to take a written bond, he or she shall have the option of depositing his or her chauffeur's or driver's license so issued to him or her with the arresting officer or the court, in lieu of any other security which may be required for his or her appearance in any court in this state in answer to such charge lodged in such court.

(b) If such person arrested elects to deposit his or her license as provided, the arresting officer or court shall issue such person a receipt for said license upon a form furnished or prescribed by the Alabama Department of Public Safety, and thereafter, said person shall be permitted to operate a motor vehicle upon the highways of this state during the pendency of the case in which the license was deposited, unless his or her license or privilege is otherwise revoked, suspended, or cancelled.

(c) The clerk or judge of the court, in which the charge is lodged, shall immediately forward to the department the license of the driver deposited in lieu of bail if the driver fails to appear in answer to the charge against him or her. The Director of Public Safety shall upon receipt of a license so forwarded by the court suspend the driver license and driving privilege of the defaulting driver until notified by the court that the charge against such driver has been finally adjudicated.

(Acts 1967, Ex. Sess., No. 220, p. 276.)

§ 32–1–6. Depositing driver's license in lieu of bail in certain cases — Violation of traffic ordinance of incorporated municipality.

(a) Whenever any person lawfully possessed of a chauffeur's or driver's license theretofore issued to him or her by the Department of Public Safety of the State of Alabama, or under the laws of any other state or territory, or the District of Columbia of the United States, shall be arrested and charged with any violation of any traffic ordinance of any incorporated municipality, for which under the provisions of such ordinance the arresting officer is directed to take a written bond, he or she shall have the option of depositing his or her chauffeur's or driver's license so issued to him or her with the arresting officer or the clerk of the district court or municipal court, in lieu of any other security which may be required for his or her appearance in the district court or municipal court in answer to such charge lodged in such court.

(b) If such person arrested elects to deposit his or her license, as herein provided, the arresting officer or clerk of the district court or municipal court shall issue such person a receipt for said license upon a form furnished or prescribed by the municipality, and thereafter said person shall be permitted to operate a motor vehicle upon the highways of this state during the pendency of the case in which the license was deposited, unless his or her license or privilege is otherwise revoked, suspended, or cancelled.

(c) The clerk of the court in which the charge is lodged shall immediately forward to the Department of Public Safety of the State of Alabama the license of the driver which was deposited in lieu of bail if the driver fails to appear in answer to the charge against him or her. The Director of Public Safety shall, upon receipt of a license so forwarded by the clerk, suspend the driver license and driving privilege of the defaulting driver until notified by the court that the charge against such driver has been finally adjudicated.

(Acts 1969, No. 736, p. 1310.)

§ 32–1–7. Operation of vehicles on beaches and sand dunes of Gulf of Mexico prohibited; exceptions, penalty, etc.

(a) It shall be unlawful to operate a motor vehicle, motorcycle, or motor driven cycle as they are defined by Section 32–1–1.1 on the beaches and sand dunes on the Gulf of Mexico along the southern boundary of the State of

Alabama off of the public roads, parking places, and private driveways. Provided, however, owners of private property, their families, and invited guests may park their motor vehicles on their private property; and provided that motor vehicles engaged in the construction, maintenance, or repair of utility facilities may be operated on such beaches and sand dunes to the extent necessary to carry out such construction, repair, or maintenance of utility facilities; and provided further that motor vehicles actively engaged in construction projects may be operated on sites for which building permits have been issued by the proper building inspector or authority.

(b) Any person violating the provisions of this section shall be guilty of a Class C misdemeanor.

(Acts 1981, No. 81–563, p. 948.)

CHAPTER 5.

REGULATION OF OPERATION OF MOTOR VEHICLES, ETC., GENERALLY.

ARTICLE 1.

GENERAL PROVISIONS.

§ 32–5–1. Powers of local authorities.

(a) Except as herein otherwise provided, local authorities shall have no power to pass, enforce, or maintain any ordinance, rule, or regulation requiring from any owner or chauffeur or other authorized driver to whom this chapter is applicable, any additional license or permit for the use of the public highways, or excluding any such owner, chauffeur, or other authorized driver from the public highway, nor to pass, enforce, or maintain any ordinance, rule, or regulation regulating motor vehicles or their speed contrary to the provisions of this chapter, nor shall any such law now in force or hereafter enacted have any effect.

(b) Local authorities shall have no power or authority to charge a license or tax upon any motor carrier hauling passengers or any truck hauling freight for hire, when such motor carriers in the usual course of operations enter or pass through any county, municipality, or town of this state; provided, that this limitation shall not restrict the right of any municipality to charge a license for the privilege of maintaining or operating a terminal station, depot, or waiting room therein.

(c) Local authorities may set aside for a given time a specified public highway for speed contests or races, to be conducted under proper restrictions for the safety of the public. Local authorities may exclude motor vehicles from any cemetery or grounds used for burial of the dead.

(d) Local authorities shall have power to provide by ordinance for the regulation of traffic by means of traffic officers or semaphores or other signaling devices on any portion of the highway where traffic is heavy or

continuous and may prohibit other than one-way traffic upon certain highways and may regulate the use of the highways by processions or assemblages.

(e) Local authorities may also regulate or prohibit the parking of vehicles within the limits of their respective municipalities, and may also regulate the speed of vehicles in public parks and shall erect at all entrances to such parks adequate signs giving notice of any such special speed regulations.

(Code 1923, § 6269; Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 32.)

§ 32–5–2. Regulation of use of real property by owner; owner to erect and maintain traffic-control devices.

Nothing in this chapter shall be so construed as to prevent the owner of real property used in public for purposes of vehicular travel by permission of the owner and not as matter of right, from prohibiting such use nor from requiring other or different or additional conditions than those specified in this chapter or otherwise regulating such use as may seem best to such owner. Provided, however, when the owner of real property allows the real property to be used by the public for the purpose of vehicular travel, and/or as a quasi-public parking lot for the use of customers, tenants, or employees of the property, the owner of the real property shall erect and maintain all traffic-control devices thereon in strict accordance with the rules and regulations in effect in the local jurisdiction and in conformance with the Alabama Manual on Uniform Traffic–Control Devices and any revisions thereof.

Nothing herein contained, however, shall be construed to compel the state or local governmental jurisdiction to maintain such quasi-public parking areas and lots or to install or maintain any traffic-control device therein and thereon.

The owner of the real property shall be required to meet the requirements of Section 32–5–31(a) with respect to local authorities in their respective jurisdictions.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 33; Acts 1979, No. 79–673, p. 1188.)

§ 32–5–3. Loading from ramps, platforms, or other devices.

It shall be unlawful and constitute a misdemeanor for any person to park or place any vehicle upon the public highway opposite or at or near a ramp or any other constructed platform, or any other loading device, and take on or be loaded therefrom.

Any person violating this section upon conviction shall be punished by a fine of not less than $25.00 nor more than $100.00, or by imprisonment in the county jail for not less than 10 days, nor more than 30 days, or by both fine and imprisonment.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 4.)

§ 32–5–4. Unloading logs, lumber, etc., on or near highways.

It shall be unlawful and constitute a misdemeanor for any person to unload from a vehicle of any kind in whole or in part any lumber, logs or any other article upon the highway, or within the limits of the right-of-way of any public highway, or place lumber or logs, or any other article at or near either limit of the road right-of-way which may endanger the safety of life, limb or property of any person passing upon the highway.

Any person violating this section upon conviction shall be punished by a fine of not less than $25.00 nor more than $100.00, or by imprisonment in the county jail for not less than 10 days nor more than 30 days, or by both fine and imprisonment.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 4.)

§ 32–5–5. Removal of ramps, platforms, and obstructions.

It shall be the duty of the Director of Transportation to immediately remove or cause to be removed any ramp or platform extending upon the right-of-way of any public highway and to remove or cause to be removed immediately upon notice any obstruction found upon the roadway likely to endanger life, limb, or property and to remove or cause to be removed any obstruction found in the ditches or drains of any public highway, and he or she shall have the authority to proceed against any person guilty of violating any provision of Sections 32–5–3 and 32–5–4 as provided by law.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 4.)

§ 32–5–6. Obstruction to driver's view or driving mechanism. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–7. Depositing glass, nails, etc., on highways; removing glass, etc., remaining from accidents. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–8. School bus specifications and operation.

The State Board of Education shall adopt minimum standards, not inconsistent with this chapter, to govern the specifications of all new school buses purchased in the future and for the overall operation of all school buses used for the transportation of school children when owned and operated by any school system or privately owned and operated under contract with any school system.

(Acts 1949, No. 516, p. 740, § 33.)

§ 32–5–9. Liability for damage to highway or structure.

(a) Any person driving any vehicle, object, or contrivance upon any highway or highway structure shall be liable for all damage which the highway or structure may sustain as a result of any illegal or careless operation, driving

or moving of such vehicle, object, or contrivance, or as a result of operating, driving, or moving any vehicle, object, or contrivance weighing in excess of the maximum weight prescribed by law but authorized by a special permit issued as provided in Section 32–9–29.

(b) Whenever such driver is not the owner of such vehicle, object, or contrivance, but is so operating, driving, or moving the same with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any such damage.

(c) Such damage may be recovered in a civil action brought by the authorities in control of such highway or highway structures.

(Acts 1949, No. 516, p. 740, § 41.)

§ 32–5–10. Persons riding animals or driving animal-drawn vehicles.

Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–11. Throwing or shooting deadly or dangerous missile into occupied vehicle.

Whoever willfully throws or shoots a rock, stone, brick or piece of iron, steel or other like metal, or any deadly or dangerous missile or fire bomb, into a motor vehicle that is occupied by one or more persons is guilty of a felony and upon conviction shall be imprisoned for not less than one year and a day and shall be fined not less than $500.00.

This section is cumulative.

(Acts 1967, No. 429, p. 1099.)

§ 32–5–12. Distress flag for handicapped or paraplegic drivers — Authorized; design.

Handicapped or paraplegic drivers of motor vehicles are authorized when getting into and out of such vehicles, or when in motor vehicle distress, to display a white flag of approximately seven and one-half inches in width and 13 inches in length, with the letter ''H'' thereon in red color with an irregular one-half inch red border. The flag shall be of reflective material so as to be readily discernible under darkened conditions and shall be issued under Section 32–5–13.

(Acts 1961, No. 710, p. 1006, § 1.)

§ 32–5–13. Distress flag for handicapped or paraplegic drivers — Fee; card authorizing use; replacement flags.

The Director of Public Safety may, upon application and payment of a fee of $1.00, issue to any handicapped person a distress flag as described in Section 32–5–12, and a card which shall be applicant's authority to use such flag. This card shall set forth applicant's name, address, date of birth, physical apparatus, if any, needed to operate a motor vehicle, and other pertinent facts

which the director deems desirable. The card and flag issued to an applicant shall bear corresponding numbers. In the event of loss or destruction of such flag a replacement may be issued upon the payment of the sum of $1.00 by the applicant. The Director of Public Safety shall maintain a list of those persons to whom distress flags and cards have been issued.

(Acts 1961, No. 710, p. 1006, § 2.)

§ 32–5–14. Distress flag for handicapped or paraplegic drivers — Penalty for illegal use.

Any person who is not a handicapped or paraplegic person who uses the distress flag as a distress signal or for any other purpose or any other person who violates any provision of Sections 32–5–12 through 32–5–14 shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law.

(Acts 1961, No. 710, p. 1006, § 3.)

§ 32–5–15. Obedience to police officers. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–16. State trooper may close highways.

When it becomes apparent to any state trooper that a road is dangerous for use of motor vehicles on account of weather conditions, high water, damaged roadways or bridges, or from any other cause, or when in the opinion of any state trooper a road may be seriously injured by allowing traffic on same, then the state trooper is authorized to close such highway immediately by placing thereon a barricade, lights, or other sign stating that the road is closed, and immediately notifying the division engineer or some other official of the Department of Transportation. Such road shall remain closed until the hazard has been corrected and the road ordered opened by the Department of Transportation.

(Acts 1949, No. 516, p. 740, § 40.)

§ 32–5–17. Nuisance of casting light from motor vehicle on real property at night; exceptions; penalty.

(a) It shall be deemed a nuisance and shall be unlawful for any person, or one or more of a group of persons together, between the hours of sunset and sunrise, to willfully throw or cast, or cause to be thrown or cast, in a continuous and repeated manner, the rays of a spotlight, headlight, or other artificial light from any motor vehicle or with the aid of any motor vehicle, while the motor vehicle is on any highway or public road and casting the light on any real property. The provisions of this section shall not apply to farmers while checking livestock and repair upon land which they own, lease, or rent, nor to employees of a utility company when such employees are acting within the scope of their employment. The Commissioner of the Department of

Conservation and Natural Resources shall be empowered to issue exceptional permits for the purpose of wildlife management, research, or education.

(b) Any violation of the provisions of this section shall be a Class B misdemeanor.

(Acts 1979, No. 79–709, p. 1262; Acts 1987, No. 87–575, p. 918.)

ARTICLE 2.

SIGNS, SIGNALS, AND MARKINGS.

§ 32–5–30. Authority to classify, designate, etc., interstate and intrastate highways; uniform system of marking. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–31. Local traffic-control devices.

(a) Local authorities in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic.

(b) Repealed by Acts 1980, No. 80–434, § 15–106.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 48; Acts 1949, No. 517, p. 754, § 14; Acts 1976, No. 355, p. 399.)

§ 32–5–32. Traffic-control signal legend. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–33. Pedestrian walk and wait signals. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–34. Flashing signals. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–35. Obedience to traffic-control devices; necessity for signs. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–36. Use of unauthorized signs, markers, etc.; use, test, approval, and sale of traffic signs, signals, and regulatory devices. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–37. Injuring signs. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

ARTICLE 3.

OPERATION OF VEHICLES GENERALLY.

§ 32–5–50. Reckless driving. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–51. Towing or hauling disabled vehicle.

No provision of this chapter shall prevent a motor vehicle from hauling or towing a disabled vehicle while on the highway to a point for the purpose of making repairs; provided, that such motor vehicle otherwise complies with the requirements of this chapter and is in charge of a responsible driver; a drawbar or other connection between any two such vehicles shall not exceed 15 feet in length, and there shall be displayed at the rear of the last vehicle a red flag or other signal or cloth not less than 12 inches in length and width and lighted as required by Section 32–5–240. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 32–5–311.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 81.)

§ 32–5–52. Warning signals at grade crossings to be obeyed. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–53. Moving heavy equipment at railroad grade crossings. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–54. Keep to the right in crossing intersections or railroads.

In crossing an intersection of highways or in the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right half is obstructed or impassable.

(Acts 1949, No. 516, p. 740, § 5.)

§ 32–5–55. Drive on right side of highways. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–56. Following too closely. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–57. Turning at intersections. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–58. Signals of starting, stopping, and turning. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–59. Driving through safety zone prohibited. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–60. Approaching school bus or vehicle. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–61. Approaching church bus. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–62. Driving on mountain highways. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–63. Coasting prohibited. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–64. Persons under 16 years of age operating motor vehicles — Prohibited; driver training programs.

Any person under the age of 16 years who shall drive or operate any motor vehicle upon the public highways of this state shall be guilty of a misdemeanor, and shall be dealt with as provided by the juvenile laws of this state. This section shall not apply to any student enrolled in a driver training program approved by the State Superintendent of Education or the Director of Public Safety while driving or operating a motor vehicle pursuant to the instructional program. However, no student in any driver training program who is under 16 years of age shall drive or operate any motor vehicle unless accompanied by a licensed driver who is 21 years of age or older.

(Code 1923, § 3329; Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 55; Acts 1949, No. 517, p. 754, § 17; Act 2010–735, p. 1850, § 1.)

§ 32–5–65. Persons under 16 years of age operating motor vehicles — Owner of motor vehicle permitting.

Any owner or person in charge of any motor vehicle who permits any child under the age of 16 years to operate such motor vehicle upon the public highways of this state, except as provided by Section 32–5–64, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by Section 32–5–311.

(Code 1923, § 3330; Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 56; Acts 1949, No. 517, p. 754, § 18.)

§ 32–5–66. One-way roadways and rotary traffic islands. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–67. Driving on roadways laned for traffic. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–68. Driving on divided highways. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–69. Driving onto or from limited-access roadway. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–70. Restrictions on use of limited-access roadway. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–71. Turning on curve or crest of grade prohibited. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–72. Limitations of backing.

(a) The driver of a vehicle shall not back the same unless it shall reasonably appear that such a movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

(Acts 1975, No. 1203, p. 2382, § 1.)

§ 32–5–73. Crossing fire hose. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–74. Vehicles transporting explosives.

Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section.

(1) The vehicle shall be marked or placarded on each side and the rear with the word ''explosives'' in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than 24 inches square marked with the word ''danger'' in white letters six inches high.

(2) Every vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle so used.

(3) The Director of Public Safety is hereby authorized and directed to promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highways as he or she shall deem advisable for the protection of the public.

(Acts 1949, No. 516, p. 740, § 44.)

§ 32–5–75. Loads which must be fastened by cables or chains.

Any person operating a motor vehicle on any highway hauling logs, lumber, pulp wood, tar wood, bale cotton or hay, or other articles that may shift or drop onto the highway is required to fasten such load with steel cables or

chains of sufficient size to prevent the load from shifting or dropping onto the highway.

(Acts 1949, No. 516, p. 740, § 45.)

§ 32–5–76. Spilling loads or litter; penalty.

(a)(1) Whoever willfully and knowingly operates, owns, or causes to be operated on any public highway, road, street, or public right-of-way a motor vehicle so loaded with gravel, rock, slag, or bricks, in any manner or in any condition that the contents of the vehicle spill out and cause it to be deposited upon the highway, road, street, or public right-of-way is guilty of a Class B misdemeanor pursuant to Section 13A–7–29, the criminal littering statute.

(2) The Alabama State Law Enforcement Agency shall adopt rules to implement this subsection.

(b) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(c)(1) Whoever willfully and knowingly operates, owns, or causes to be operated on a public highway, road, street, or public right-of-way, a motor vehicle in any manner or in any condition that litter is caused or allowed to be deposited upon the highway, road, or street or public right-of-way, is guilty of a Class B misdemeanor pursuant to Section 13A–7–29, the criminal littering statute.

(2) The Alabama State Law Enforcement Agency shall adopt rules to implement this subsection.

(d) Any agricultural product in its natural state that is unintentionally deposited upon a highway, road, street, or public right-of-way does not constitute litter for purposes of this section or Section 13A–7–29.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 39; Acts 1949, No. 517, p. 754, § 9; Acts 1971, No. 1419, p. 2423; Acts 1989, No. 89–661, p. 1314, § 1; Act 2001–469, p. 623, § 1; Act 2019–530, § 1.)

§ 32–5–77. Driving on extreme left side of highway restricted; notice to Director of Transportation to erect markers.

(a) Any law to the contrary notwithstanding, the Director of the Department of Public Safety is hereby authorized to restrict driving in the extreme left side in any portion of any interstate highway, or of any highway of sufficient width, except for overtaking and passing. He or she may issue any reasonable rules and regulations necessary to implement this section.

(b) The Director of Public Safety shall give appropriate notice to the state Director of Transportation of the locations of any portions of highways designated as restricted pursuant to the provisions of subsection (a) of this

section so that appropriate markers or other equipment may be erected by the State Department of Transportation.

(Acts 1979, No. 79–799, p. 1462.)

§ 32–5–78. Operation of dump truck on highway, road, or street with bed raised over a 20-degree angle.

(a) For the purposes of this section, the following words shall have the following meanings:

(1) DUMP TRUCK. A motor vehicle which has a bed attached to the truck which allows the front of the bed near the passenger compartment to be raised to over a 20–degree angle to allow the load to be dumped from the rear of the bed.

(2) HIGHWAY. Any public highway, road, or municipal street.

(b) A dump truck may not be driven on any highway of this state with the bed of the truck raised to more than a 20–degree angle except when the dump truck is actively engaged in dumping its load.

(c) A violation of this section is a Class C misdemeanor on the first offense. Any second or subsequent offense is a Class B misdemeanor.

(d) This section shall not be construed to repeal any other criminal law. Whenever conduct prohibited by this section is also prohibited by any other provision of law, the provision that carries the more serious penalty shall be applied.

(Act 2016–343, p. 847, § 1.)

ARTICLE 4.

SPEED LIMITS.

§ 32–5–90. Unlawful to exceed certain speeds.

Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–91. Restrictions as to speed in certain locations.

Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–92. Special speed limitations on bridges.

(a) The Department of Transportation or other proper state body upon request from any local authorities shall, or upon its own initiative may, conduct an investigation of any public bridge, causeway or viaduct, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this article, the department shall determine and declare the maximum speed of vehicles which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of 100 feet before each end of such structure. When such public bridge, causeway or

viaduct is within a municipality, such suitable signs stating such maximum speed shall be erected within such less distance of 100 feet before each end of such structure as the governing body of such municipality shall so ordain. The findings and determination of the department shall be conclusive evidence of the maximum speed which can with safety to any such structure be maintained thereon.

(b) It shall be unlawful and constitute a misdemeanor to drive any vehicle upon any public bridge, causeway or viaduct at a speed which is greater than the maximum speed which can with safety to such structure be maintained thereon, when such structure is signposted as provided in this section, and any person violating the provisions of this section upon conviction shall be punished by a fine of not more than $100.00 or by imprisonment in the county or municipal jail for not more than 10 days; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than $200.00 or by imprisonment in the county or municipal jail for not more than 20 days or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction such person shall be punished by fine of not more than $500.00 or by imprisonment at hard labor in the county or municipal jail for not more than six months or by both such fine and imprisonment.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 7.)

§ 32–5–93. Speed limit between working signs.

No driver of a motor vehicle upon any highway of the state shall drive such vehicle at a speed in excess of 15 miles per hour between the warning signs placed on the highway during construction or repairs, when signs are placed not more than 1,000 feet from the place where workmen are actually engaged in construction or repair.

(Acts 1949, No. 516, p. 740, § 46.)

§ 32–5–94. Establishment of state speed zones. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–95. Minimum speed regulation; establishment of minimum speed limit. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–96. When speed limit not applicable. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–97. Notation of conviction on driver's license.

When any person is convicted by any judge for violation of the provisions of Section 32–5–90, the judge trying the case shall note on the back of such person's driver's license in the place indicated, the date of such conviction, the amount of fine or other disposition of the case.

(Acts 1953, No. 22, p. 25, § 4.)

ARTICLE 5.

RIGHT-OF-WAY.

§ 32–5–110. Intersections generally. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–111. Vehicles entering interstate or limited-access highway to yield right-of-way; erection of signs. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–112. Exceptions to right-of-way rule. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–113. Duty of driver on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp and audible signal as is required by law, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) It shall be unlawful for the driver of any vehicle, except when traveling on official business relative to the emergency, to follow an authorized emergency vehicle answering an emergency call closer than 500 feet.

(c) Violations of this section shall be punished as provided in Section 32–5–312.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 20; Acts 1949, No. 517, p. 754; Acts 1966, Ex. Sess., No. 432, p. 578.)

§ 32–5–114. Vehicles must stop at certain through highways. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–115. Stop before emerging from alley or private driveway. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

ARTICLE 6.

OVERTAKING AND PASSING.

§§ 32–5–130 through 32–5–135. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

ARTICLE 7.

STOPPING, STANDING, AND PARKING.

§ 32–5–150. Stopping on highways. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–151. Stopping, standing, or parking prohibited in specified places. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–152. Parking in violation of municipal ordinances; presumption as to person committing violation.

No person shall park, cause to be parked, or knowingly permit an automobile or other motor vehicle which he or she owns to be parked, on any street in any municipality in this state in violation of an ordinance of such municipality. The presence of an unattended automobile or other motor vehicle parked on the streets of any municipality in violation of an ordinance of such municipality shall raise a prima facie presumption that the registered owner of the automobile or other motor vehicle committed or authorized the parking violation, and the burden of proof shall be upon the registered owner to show otherwise.

(Acts 1953, No. 844, p. 1135.)

§ 32–5–152.1. Owner not liable for violation where vehicle leased to another; notice requirement; owner's liability upon failure to maintain vehicle.

(a) The owner of any motor vehicle leased to another shall not be liable for a state, county, or municipal traffic or parking violation occurring while the leased vehicle was not in the owner's possession or control, if upon notice of the violation, the owner notifies the clerk of the court in which the case is pending of the name and address of the lessee of the vehicle on the date the violation occurred. The notice shall be notarized on a form prescribed by the Director of the Administrative Office of Courts. If the owner fails to submit the notice, the court in which the case is heard may take such action as the interests of justice require, including finding the owner of the motor vehicle liable for the violation.

(b) After providing the name and address of the lessee, the owner shall not be required to attend a hearing on the offense, unless notified that the offense occurred through a mechanical failure of the vehicle which resulted from the owner's failure to maintain the vehicle.

(c) The owner of any leased vehicle shall be liable for any violation which was caused by the owner's failure to properly maintain the vehicle. The lessee claiming the violation resulted from the owner's failure to properly maintain the vehicle shall notify the clerk of the court in which the case is pending along with the owner of the vehicle of the claim within seven days

after receiving notice of the violation or at least 10 days prior to the date the case will be heard by the court, whichever is later.

(Acts 1981, No. 81–660, p. 1076.)

§ 32–5–153. Unattended motor vehicle. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–154. Parallel and angle parking; restricting parking on highways. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

ARTICLE 8.

DRIVING UNDER INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS.

Division 1.

General Provisions.

§ 32–5–170. Prohibited. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–171. Arrest without warrant; issuance of traffic citation.

(a) A law enforcement officer, as defined in Section 36–21–40, may arrest, at the scene of a traffic accident, any driver of a vehicle involved in the accident if upon personal investigation, including information from eyewitnesses, the officer has reasonable grounds to believe that the person by violating Section 32–5A–191 contributed to the accident. He or she may arrest such a person without a warrant although he or she did not personally see the violation.

(b) A law enforcement officer, as defined in Section 36–21–40, subsequent to a traffic accident, may issue a traffic citation to a driver of a vehicle involved in the accident when, based on personal investigation, the officer has prima facie evidence demonstrating grounds to believe that the person has committed any offense under Chapter 5, 5A, 6, 7, or 7A of this title.

(Acts 1971, No. 1942, p. 3137; Acts 1983, 2nd Ex. Sess., No. 83–201, p. 379; Act 2016–292, p. 730, § 1.)

Division 2.

Chemical Tests for Intoxication.

§ 32–5–190. Short title.

This division may be cited as the Alabama Chemical Test for Intoxication Act.

(Acts 1969, No. 699, p. 1255, § 4.)

§ 32–5–191. ''Driving privilege'' or ''privilege'' defined.

Whenever and wherever the words ''driving privilege'' or ''privilege'' appear in this division, they shall mean both the driver license of those licensed in Alabama, and the driving privilege of unlicensed residents and the privilege of nonresidents, licensed or not; the purpose of this section being to make unlicensed and nonresident drivers subject to the same penalties as licensed residents.

(Acts 1969, No. 699, p. 1255, § 3.)

§ 32–5–192. Implied consent; when tests administered; suspension of license or permit to drive, etc., for refusal to submit to test.

(a)(1) Any person who operates a motor vehicle on the public highways of this state shall be deemed to have given consent, subject to this division, to a chemical test or tests of his or her blood, breath, or oral fluid for the purpose of determining the content of any impairing substance or substances within a person's system, if lawfully arrested for any offense arising out of acts alleged to have been committed while the person was driving a motor vehicle on the public highways of this state in violation of Section 32–5A–191.

(2) The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was in violation of Section 32–5A–191, while driving a motor vehicle on the public highways of this state.

(3) The law enforcement agency that employs the officer shall designate which test or tests shall be administered. The person shall be told that his or her failure to submit to a chemical test or tests will result in the suspension of his or her privilege to operate a motor vehicle for a minimum of 90 days. If the person objects to a blood test, the law enforcement agency shall designate that one of the other tests be administered.

(b) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (a) and the test or tests may be administered, subject to this division.

(c)(1) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test or tests designated by the law enforcement agency as provided in subsection (a), none shall be given, unless a court order has been obtained ordering the person to submit to a chemical test or tests.

(2) The Secretary of the Alabama State Law Enforcement Agency, upon the receipt of a sworn report of the law enforcement officer that he or she had reasonable grounds to believe the arrested person had been driving a motor vehicle upon the public highways of this state in violation of Section 32–5A–191 and that the person refused to submit to the test upon the

request of the law enforcement officer, shall suspend his or her driving privilege as defined in Section 32–5–191 as provided in Section 32–5A–304.

(3) If the person is acquitted of violating Section 32–5A–191, the secretary, in his or her discretion, may reduce the period of suspension.

(d)(1) Upon suspending the driving privilege, the secretary or his or her duly authorized agent shall immediately notify the person in writing of the suspension and upon a request filed by the person, the secretary shall provide a hearing in the same manner as provided in Section 32–5A–307; except, that the scope of the hearing for the purposes of this section shall determine all of the following:

a. Whether a law enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle upon the public highways of this state in violation of Section 32–5A–191.

b. Whether the person was placed under arrest.

c. Whether he or she refused to submit to the test upon request of the officer.

(2) Whether the person was informed that the privilege to drive would be suspended or denied if he or she refused to submit to the test shall not be an issue.

(3) The secretary shall order that the suspension or determination that there should be a denial of issuance either be rescinded or sustained.

(e) If the suspension or determination that there should be a denial of issuance is sustained by the secretary or his or her authorized agent upon the hearing, the person whose driving privilege has been suspended shall have the right to file a petition in the appropriate court to review the final order of suspension or denial by the secretary, or his or her duly authorized agent, in the same manner as provided in Section 32–5A–307.

(f) Upon a determination that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the secretary shall provide, in writing, the action taken by this state to the motor vehicle administrator of the state of the person's residence and to any state in which he or she has a license.

(Acts 1969, No. 699, p. 1255, § 1; Acts 1983, No. 83–620, p. 959, § 1; Act 2021–387, § 1; Act 2021–498, § 2.)

§ 32–5–193. Admissibility of results of test in evidence; presumptions; how and by whom tests made; immunity from liability; evidence of refusal to submit to test. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–194. Which law enforcement officers may be authorized to make tests.

The State Board of Health shall not approve the permit required in this division for making tests for any law enforcement officer other than a member

of the state highway patrol, a sheriff or his or her deputies or a city policeman.

(Acts 1969, No. 699, p. 1255, § 5.)

Division 3.

Consent to Chemical Testing for Accidents Involving Death or Serious Injury.

§ 32–5–200. Consent to tests; incapacity; refusal to submit to tests; notice of suspension, etc., of license; hearing; appeal.

(a) Any person who operates a motor vehicle on the public highways of this state who is involved in a crash that results in death or a serious physical injury to any person shall be deemed to have given consent to a chemical test or tests of his or her blood for the purpose of determining the alcoholic content of his or her blood or the presence of any other impairing substance. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person, while driving a motor vehicle on the public highways of this state, was under the influence of alcohol or any other impairing substance. The person shall be informed by the law enforcement officer who is investigating the crash that failure to submit to a test will result in the suspension of his or her privilege to operate a motor vehicle for a period of two years.

(b) For purposes of this section, the term ''serious physical injury'' means physical injury that creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(c) Any person who is dead, unconscious, or who is otherwise in a condition in which they are incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (a).

(d) If a person refuses to submit to a chemical test or tests, none shall be given, unless a court order has been obtained ordering the person to submit to a chemical test or tests. If the person is found not to have been at fault in causing the crash, the Secretary of the Alabama State Law Enforcement Agency may reduce the period of suspension.

(e)(1) Upon suspending the license or permit to drive or the privilege of driving a motor vehicle on the highways of this state that is given to a nonresident or any person, or upon determining that the issuance of a license or permit shall be denied to the person, the secretary, or his or her authorized agent, shall within three days of suspension notify the person in writing. Upon a request filed by the person within five days from the date of the notice of suspension or denial, the secretary shall schedule a hearing with notice of the hearing to be provided by certified mail to the person stating the date, time, place, and scope of the hearing. The scope of the hearing shall determine all of the following:

a. Whether a law enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle on the public highways of this state while under the influence of alcohol or any impairing substance.

b. Whether the person was at fault in causing the crash.

c. Whether the person refused to submit to the test upon request of a law enforcement officer.

(2) Whether the person was informed that his or her privilege to drive would be suspended or denied if he or she refused to submit to the test shall not be an issue.

(f) If the suspension or determination that there should be a denial or issuance is sustained by the secretary, or his or her authorized agent, the person whose license or permit to drive or a nonresident operating privilege has been suspended, or to whom a license or permit is denied, shall have the right to file a petition to review the final order, suspension, or denial within 30 days after the entry of the final order of suspension or denial by the secretary in the appropriate court to review the final order of suspension.

(g) Upon a determination that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the secretary shall provide, in writing, the action taken to the motor vehicle administrator of the state of the person's residence and to any state in which the person has a license. (Act 97–939, p. 508, § 1; Act 2021–498, § 2.)

ARTICLE 9.

EQUIPMENT.

Division 1.

General Provisions.

§ 32–5–210. Restrictions as to tire equipment.

(a) Every motor carrier, motor vehicle, truck, semitrailer, and trailer shall be equipped with pneumatic tires of sufficient traction surface in accordance with the capacity of the motor carrier or motor vehicle, except as otherwise herein provided, the same to be prescribed by the Director of Public Safety.

(1) No person shall operate any vehicle of a type required to be licensed upon the highways of this state except for those tires on the dead axle of a vehicle with a dead axle when one or more of the tires in use on such vehicle is in unsafe operating condition or has a tread depth less than 2/32 inch or .15875 centimeters measured in any two adjacent tread grooves at three equally spaced intervals around the circumference of the tire; provided, that such measurements shall not be made at the locations of any tread wear indicator. A tire shall be considered unsafe if it has any part of the ply or cord exposed, any bump, bulge, or separation, any tread or sidewall cracks, cuts, or snags in excess of one inch in length and deep enough to

expose the body cords, any tire marked ''not for highway use,'' or ''for racing purposes only,'' or ''unsafe for highway use'' or words of similar import and any tire which has been regrooved or recut below the original groove depth, excepting special tires which have extra undertread rubber for this purpose and are identified as such; provided, that the prohibitions of this section shall not apply to the tires upon the dead axle of a vehicle equipped with such a dead axle.

(2) No person, firm, corporation, or organization shall sell or offer for sale tires, or a vehicle equipped with tires, for use upon the highways of this state, which are in unsafe condition or which have a tread depth of less than $^{2}/_{32}$ inch or .15875 centimeters measured as specified in subdivision (1) of this subsection.

(b) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberances of any material other than rubber which project beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway and, except also, that it shall be permissible to use tire chains or metal studded or safety spike tires of reasonable proportions upon any vehicle when required for safety because of snow, rain, or other conditions tending to cause a vehicle to slide or skid.

(c) Every solid rubber tire on a vehicle moved on any highway shall have rubber on its entire traction surface of at least four inches and one inch thick above the edge of the flange of the entire periphery.

(d) The Department of Public Safety and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, §§ 34, 76; Acts 1966, Ex. Sess., No. 411, p. 557; Acts 1975, No. 931, p. 1861, § 1.)

§ 32–5–211. Flag or light at end of load.

Whenever the load of any vehicle shall extend more than four feet beyond the rear of the bed or body of the vehicle, there shall be displayed at the end of the load in a position which shall be clearly visible at all times from the rear of the load a red or orange flag not less than 12 inches both in length and width. Between one-half hour after sunset and one-half hour before sunrise there shall be displayed at the end of any load a red light or amber strobe light plainly visible under normal atmospheric conditions at least 200 feet from the rear of the vehicle. Any person violating this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 32–5–311.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 77; Acts 1996, No. 96–473, p. 586, § 1.)

§ 32–5–212. Brakes.

Every motor vehicle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including two separate means of applying the brakes, each of which shall be effective to apply the brakes to at least two wheels and so constructed that no part which is liable to failure shall be common to two; except, that a motorcycle need be equipped with only one brake. All such brakes shall be maintained in good working order and shall conform to regulations not inconsistent with this section to be promulgated by the Director of Public Safety. Any person violating this section shall be guilty of a misdemeanor.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 35.)

§ 32–5–213. Horns and warning devices.

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting a sound audible under normal conditions for a distance of not less than 200 feet.

It shall be unlawful for any vehicle to be equipped with or for any person to use upon a vehicle any siren or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(b) Every police and fire department and fire patrol vehicle and every ambulance used for emergency calls shall be equipped with a siren, bell, ululating multi-toned horns or other electronic siren type device approved by the Director of Public Safety.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 36; Acts 1966, Ex. Sess., No. 432, p. 578.)

§ 32–5–214. Mirrors.

Every motor vehicle, operated singly or when towing any other vehicle, shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of such motor vehicle.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 37; Acts 1959, No. 292, p. 860.)

§ 32–5–215. Windshields must be unobstructed; windshield wipers; tinting.

(a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, sidewings, or side or rear

windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

(d) No person shall operate a motor vehicle which has a windshield, sidewing, or rear window which has tinting to the extent or manufactured in such a way that occupants of the vehicle cannot be easily identified or recognized through the sidewing or rear windows from outside the motor vehicle.

(e) The provisions of this section shall not apply to the manufactured tinting of windshields of motor vehicles or to certificates of identification, decals, or other papers required by law to be displayed on such windshield or windows.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 38; Acts 1949, No. 517, p. 754, § 8; Acts 1983, No. 83–572, p. 877.)

§ 32–5–216. Mufflers; prevention of noise, smoke, etc.

(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass, a muffler without baffles, or similar device upon a motor vehicle on a highway.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 39; Acts 1949, No. 517, p. 754, § 9.)

§ 32–5–217. Safety belts.

(a) No seat safety belt or anchor shall be sold or installed for use in connection with the operation of a motor vehicle on any highway in this state unless it meets the specifications prescribed by the Department of Public Safety.

(b) The department shall adopt regulations governing approved types of seat safety belts and anchors, but the department shall accept, as approved, all seat safety belts and anchors meeting the specifications of the Society of Automotive Engineers.

(c) Any person who knowingly sells or installs a seat safety belt in violation of the provisions of this section shall be fined not less than $25.00 and not more than $50.00.

(Acts 1967, No. 734, p. 1570.)

§ 32–5–218. Safety glazing material in motor vehicles.

(a) On and after January 1, 1968, no person shall sell any new motor vehicle as specified herein, nor shall any new motor vehicle as specified herein be registered thereafter unless such vehicle is equipped with safety glazing material of a type approved by the director wherever glazing material is used in doors, windows, and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows, and windshields in the drivers' compartments of such vehicles. All replacements made of any glazing material in motor vehicles as described herein shall be made with safety glazing material as herein described.

(b) The term ''safety glazing materials'' means glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(c) The director shall compile and publish a list of types of glazing material by name approved by him or her as meeting the requirements of this section and the Commissioner of Revenue shall not register after January 1, 1968, any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and the Commissioner of Revenue shall thereafter suspend the registration of any motor vehicle so subject to this section which is not so equipped until it is made to conform to the requirements of this section.

(Acts 1949, No. 516, p. 740, § 34; Acts 1967, No. 735, p. 1571.)

§ 32–5–219. Location of television viewers.

No television viewer, screen, or other means of visually receiving a television broadcast shall be located in a motor vehicle at any point forward of the back of the driver's seat or in any manner so that the driver of the vehicle can see it while in actual control of the vehicle.

(Acts 1949, No. 516, p. 740, § 35.)

§ 32–5–220. Flares or other warning devices — Carrying required by certain vehicles; specifications.

(a) No person shall operate any truck, passenger bus, or truck tractor upon any highway outside the corporate limits of municipalities at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle the following equipment, except as provided in subsection (b) of this section:

(1) At least three flares or three red electric lanterns each of which shall be capable of being seen and distinguished at a distance of 500 feet under normal atmospheric conditions at nighttime. Each flare (liquid-burning pot

torch) shall be capable of burning for not less than 12 hours in five miles per hour wind velocity and capable of burning in any air velocity from zero to 40 miles per hour. Every such flare shall be substantially constructed so as to withstand reasonable shocks without leaking. Every such flare shall be carried in the vehicle in a metal rack or box. Every such red electric lantern shall be capable of operating continuously for not less than 12 hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

(2) At least three red-burning fusees unless red electric lanterns are carried. Every fusee shall be made in accordance with specifications of the Bureau of Explosives, New York, and so marked and shall be capable of burning at least 15 minutes.

(3) At least two red cloth flags, not less than 12 inches square, with standards to support same.

(b) No person shall operate at the time and under the conditions stated in subsection (a) of this section any motor vehicle used in the transportation of inflammable liquids in bulk, or transporting compressed inflammable gases unless there shall be carried in such vehicle three red electric lanterns meeting the requirements above stated and there shall not be carried in any vehicle any flares, fusees, or signal produced by a flame.

(c) As an alternative it shall be deemed a compliance with this section in the event a person operating any motor vehicle described in this section shall carry in such vehicle three portable reflector units on standards of a type approved by the department. No portable reflector unit shall be approved unless it is so designed and constructed as to include two reflectors one above the other each of which shall be capable of reflecting red light clearly visible from all distances within 500 feet to 50 feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps.

(Acts 1949, No. 516, p. 740, § 42.)

§ 32–5–221. Flares or other warning devices — Display.

(a) Whenever any truck, passenger bus, truck tractor, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality at any time when lighted lamps are required on vehicles the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection (b) of this section:

(1) A lighted fusee or other flare shall be immediately placed on the roadway at the traffic side of the motor vehicle unless electric lanterns are displayed.

(2) Within the burning period of the fusee or other flare and as promptly as possible three lighted flares (pot torches) or three electric lanterns shall be placed on the roadway as follows: One approximately 100 feet in

advance of the vehicle; one at a distance of approximately 100 feet to the rear of the vehicle, each in the center of the lane of traffic occupied by the disabled vehicle; and one at the traffic side of the vehicle approximately 10 feet rearward or forward thereof.

(b) Whenever any vehicle used in the transportation of inflammable liquid in bulk or transporting compressed inflammable gases is disabled upon a highway at any time or place mentioned in subsection (a) of this section, the driver of such vehicle shall display upon the roadway one red electric lantern to be immediately placed on the roadway at the traffic side of the vehicle and two other red electric lanterns to be placed to the front and rear of the vehicle in the same manner prescribed in subsection (a) above for flares. When a vehicle of a type specified in this subsection is disabled, the use of flares, fusees, or any signal produced by flame as warning signals is prohibited.

(c) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof, outside of any municipality at any time when the display of fusees, flares, or electric lanterns is not required, the driver of such vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately 100 feet in advance of the vehicle, and one at a distance of approximately 100 feet to the rear of the vehicle.

(d) In the alternative, it shall be deemed a compliance with this section in the event three portable reflector units on standards of a type approved by the department are displayed at the times and under the conditions specified in this section either during the daytime or at nighttime and such portable reflector units shall be placed on the roadway in the locations prescribed above for the placing of electric lanterns and lighted flares.

(e) The flares, fusees, lanterns, and flags to be displayed as required in this section shall conform to the requirements of Section 32–5–220.

(Acts 1949, No. 516, p. 740, § 43.)

§ 32–5–222. Requirements for child passenger restraints.

(a) Every person transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state, shall provide for the protection of the child by properly using an aftermarket or integrated child passenger restraint system meeting applicable federal motor vehicle safety standards and the requirements of subsection (b). This section shall not be interpreted to release in part or in whole the responsibility of an automobile manufacturer to insure the safety of children to a level at least equivalent to existing federal safety standards for adults. In no event shall failure to wear a child passenger restraint system be considered as contributory negligence. The term ''motor vehicle'' as used in this section shall include a passenger car, pickup truck, van (seating capacity of 10 or less), minivan, or sports utility vehicle.

(b) The size appropriate restraint system required for a child in subsection (a) must meet the requirements of Section 32–5B–4 and shall include all of the following:

(1) Infant only seats and convertible seats used in the rear facing position for infants until at least one year of age or 20 pounds.

(2) Convertible seats in the forward position or forward facing seats until the child is at least five years of age or 40 pounds.

(3) Booster seats until the child is six years of age.

(4) Seat belts until 15 years of age.

(c) No provision of this section shall be construed as creating any duty, standard of care, right, or liability between parent and child that is not recognized under the laws of the State of Alabama as they presently exist, or may, at any time in the future, be constituted by statute or decision.

(d) Any person violating the provisions of this section may be fined twenty-five dollars ($25) for each offense. The charges may be dismissed by the trial judge hearing the case and no court costs shall be assessed upon proof of acquisition of an appropriate child passenger restraint.

(e) Fifteen dollars ($15) of a fine imposed under subsection (d) shall be used to distribute vouchers for size appropriate child passenger restraint systems to families of limited income in the state. The fifteen dollars ($15) shall be deposited in the State Treasury to be distributed by the state Comptroller to the Department of Public Health, which shall administer the program free of charge.

(f) The provisions of this section notwithstanding, nothing contained herein shall be deemed a violation of any law which would otherwise nullify or change in any way the provisions or coverage of any insurance contract.

(g) For the purpose of identifying habitually negligent drivers and habitual or frequent violators, the Department of Public Safety shall assess the following points:

(1) Violation of child safety restraint requirements,
first offense. 1 point.

(2) Violation of child safety restraint requirements,
second or subsequent offense. 2 points.

(h) Every person transporting a child shall be responsible for assuring that each child is properly restrained pursuant to this section. The provisions shall not apply to taxis and all motor vehicles with a seating capacity of 11 or more passengers.

(i) Each state, county, and municipal police department shall maintain statistical information on traffic stops of minorities pursuant to this section, and shall report that information monthly to the Department of Public Safety and the Office of the Attorney General.

(Acts 1982, No. 82–421, p. 663; Acts 1989, No. 89–781, p. 1562, § 1; Act 2006–623, p. 1704, § 1; Act 2014–300, p. 1092, § 1.)

Division 2.

Lights, Lamps, and Reflective Devices.

§ 32–5–240. Required lighting equipment and illuminating devices of vehicles.

(a) When lighted headlamps required.

(1) Every vehicle upon a highway within this state, except a parked vehicle, which shall be subject to Section 32–5–244, shall display lighted lamps and illuminating devices required by this section for different classes of vehicles at the following times:

a. From a half hour after sunset to a half hour before sunrise.

b. At any time when the windshield wipers of the vehicle are in use because of rain, sleet, or snow, except when the use is intermittent because of misting rain, sleet, or snow.

c. At any time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet.

(2) Notwithstanding subdivision (1), whenever motor vehicles or other vehicles are operated in combination during a time that lamps and illuminating devices are required to be lighted, any lamp, other than a tail lamp, that, by reason of its location on a vehicle in the combination would be obscured by another vehicle of the combination, need not be lighted. This subdivision shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps or that all lamps required on the rear of the rearmost vehicle of any combination shall be lighted.

(b) Head lamps on motor vehicles.

(1) Every motor vehicle, other than a motorcycle or motor-driven cycle, shall be equipped with at least two but not more than four head lamps, with at least one but not more than two on each side of the front of the motor vehicle. The head lamps shall comply with the requirements and limitations of Section 32–5–242.

(2) Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of Section 32–5–242.

(3) Every head lamp upon every new motor vehicle sold after January 1, 1950, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 24 inches to be measured as set forth in Section 32–5–242.

(c) Tail lamps.

(1) Every motor vehicle, trailer, semitrailer, and pole trailer and any other vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail lamp mounted on the rear which, when lighted as required, emits a red light plainly visible from a distance of 500

feet to the rear. When vehicles are drawn in a train, only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

(2) Every tail lamp upon every vehicle shall be located at a height of not more than 60 inches nor less than 20 inches to be measured as set forth in Section 32–5–242.

(3) Every motor vehicle shall have a tail lamp or a separate lamp so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(d) Additional equipment required on certain vehicles. In addition to other equipment required in this article, the following vehicles shall be equipped in the following manner:

(1) On every bus or truck, whatever its size, the following shall be on the rear: Two red reflectors, one at each side, and one stop light.

(2) On every bus or truck 80 inches or more in overall width, in addition to the requirements in subdivision (1):

a. On the front, two clearance lamps, one at each side.

b. On the rear, two clearance lamps, one on each side.

c. On each side, two side marker lamps, one at or near the front and one at or near the rear.

d. On each side, two reflectors, one at or near the front and one at or near the rear.

(3) On every truck tractor:

a. On the front, two clearance lamps, one at each side.

b. On the rear, one stop light.

(4) On every trailer or semitrailer having a gross weight in excess of 3,000 pounds:

a. On the front, two clearance lamps, one at each side.

b. On each side, two side marker lamps, one at or near the front and one at or near the rear.

c. On each side, two reflectors, one at or near the front and one at or near the rear.

d. On the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and one stop light.

(5) On every pole trailer having a gross weight in excess of 3,000 pounds gross weight:

a. On each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side, and rear.

b. On the rear of the pole trailer or load, two reflectors, one at each side.

(6) On every trailer, semitrailer, or pole trailer having a gross weight of 3,000 pounds or less: On the rear, two reflectors, one on each side. If the load or dimensions of any trailer or semitrailer obscures the stop light on the towing vehicle, the towed vehicle shall also be equipped with one stop light.

(e) Lamps on other vehicles and equipment. All vehicles, including animal-drawn vehicles and those for which special permits have been issued under authority of Section 32–9–29, not otherwise specifically required to be equipped with lamps, shall at the times specified in subsection (a) of this section be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet to the front of the vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear.

(f) Stop lamps required on new motor vehicles. It is unlawful for any person to sell any new motor vehicle, including any motorcycle or motor-driven cycle, in this state or for any person to drive the vehicle on the highways unless it is equipped with a stop lamp meeting the requirements of Section 32–5–242.

(g) New motor vehicles to be equipped with reflectors.

(1) No new motor vehicle first sold on or after January 1, 1950, other than a truck tractor, motorcycle, or motor-driven cycle shall be operated on a highway unless the vehicle carries on the rear, either as a part of the tail lamps or separately, two red reflectors. Every motorcycle and every motor-driven cycle shall carry at least one reflector, meeting the requirements of this section. Vehicles specifically provided for in subsection (d) of this section shall be equipped with reflectors as required by that subsection.

(2) These reflectors shall be mounted on the vehicle at a height not less than 20 inches nor more than 60 inches measured as set forth in subsection (a) of Section 32–5–242, shall be of such size and characteristics, and shall be so mounted as to be visible at night from 300 feet.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 40; Acts 1949, No. 517, p. 754, § 10; Acts 1957, No. 414, p. 577; Acts 1993, No. 93–720, p. 1407, § 1.)

§ 32–5–241. Additional permissible lights on vehicles.

(a) *Spot lamps and auxiliary lamps.*

(1) SPOT LAMPS. Any motor vehicle may be equipped with not to exceed one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle.

(2) FOG LAMPS. Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high intensity

portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes.

(3) AUXILIARY PASSING LAMPS. Any motor vehicle may be equipped with not to exceed one auxiliary passing lamp mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands and every such auxiliary passing lamp shall meet the requirements and limitations set forth in this chapter.

(4) AUXILIARY DRIVING LAMPS. Any motor vehicle may be equipped with not to exceed one auxiliary driving lamp mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands and every auxiliary driving lamp shall meet the requirements and limitations set forth in this chapter.

(b) *Signal lamps and signal devices.*

(1) Any motor vehicle may be equipped and when required under this division shall be equipped with the following signal lamps or devices:

a. A stop lamp on the rear which shall emit a red or yellow light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp.

b. A lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or the left and which shall be visible both from the front and rear.

(2) A stop lamp shall be plainly visible and understandable from a distance of 100 feet to the rear both during normal sunlight and at nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of 100 feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

(3) All mechanical signal devices shall be self-illuminated when in use at the time mentioned in subsection (a) of Section 32–5–240.

(c) *Additional lighting equipment.*

(1) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion.

(d) *Special restriction on lamps.*

(1) Any lighted lamp or illuminated device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, or flashing front direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(2) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof. This section shall not apply to authorized emergency vehicles.

(3) Any vehicle may be equipped with flashing lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing, and when so equipped may display such warning in addition to any other warning signals required by this section. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber.

The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 1,500 feet under normal atmospheric conditions at night.

(4) Flashing lights may be used on motor vehicles as a means of indicating a right or left turn; a stop lamp may pulsate with different intensities provided that it meets at all intensities the provisions of subdivision (2) of subsection (b) of this section; and the warning lights on emergency vehicles may flash.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 41; Acts 1949, No. 517, p. 754, § 11; Acts 1961, Ex. Sess., No. 136, p. 2062, § 3; Acts 1965, No. 815, p. 1522.)

§ 32–5–242. Requirements as to head lamps and auxiliary driving lamps.

(a) *Visibility distance and mounted height of lamps.*

(1) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, the provisions shall apply during the times stated in Section 32–5–240 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(2) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or

device to the level ground upon which the vehicle stands when such vehicle is without a load.

(b) *Multiple-beam road-lighting equipment.* Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

(1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

(2) There shall be a lowermost distribution of light, or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(3) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered hereafter in this state, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(c) *Use of multiple-beam road-lighting equipment.* Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in subsection (a) of Section 32–5–240 the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(1) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam, specified in subdivision (2) of subsection (b) of this section shall be deemed to avoid glare at all times, regardless of road contour and loading.

(2) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this division other than the uppermost distribution of light specified in subdivision (1) of subsection (b) of this section.

(d) *Single-beam road-lighting equipment.* Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles manufactured and sold one year hereafter in

lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall, at a distance of 25 feet ahead, project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.

(e) *Lighting equipment on motor-driven cycles.* The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

(1) Every head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour; at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour but less than 35 miles per hour; and at a distance of 300 feet when the motor-driven cycle is operated at a speed of 35 miles or more per hour.

(2) In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in subdivision (2) of subsection (b) of this section.

(3) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, the lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes.

(f) *Alternate road-lighting equipment.* Any motor vehicle may be operated under the conditions specified in subsection (a) of Section 32–5–240 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects 75 feet ahead in lieu of lamps required in subsection (b) or subsection (d) of this section; provided, that at no time shall it be operated at a speed in excess of 20 miles per hour.

(g) *Color of clearance lamps, side marker lamps, and reflectors.*

(1) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(2) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal

device, which may be red, amber, or yellow, and except that the light illuminating the license plate or the light emitted by a back-up lamp shall be white.

(h) *Mounting reflectors, clearance lamps, and side marker lamps.*

(1) Reflectors, when required by subsection (d) of Section 32–5–240 shall be mounted at a height not less than 24 inches and not higher than 60 inches above the ground on which the vehicle stands; except, that if the highest part of the permanent structure of the vehicle is less than 24 inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

(2) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

(i) *Visibility of reflectors, clearance lamps, and marker lamps.*

(1) Every reflector upon any vehicle referred to in subsection (d) of Section 32–5–240 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 500 feet to 50 feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(2) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the front and rear, respectively, of the vehicle.

(3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the side of the vehicle on which mounted. (Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 42; Acts 1949, No. 517, p. 754, § 12; Acts 1955, No. 273, p. 621, § 1.)

§ 32–5–243. Lighting equipment and warning devices for vehicles engaged in mail service.

Any vehicle in active service transporting United States mail may display two simultaneously flashing lights to be used for the purpose of warning other vehicle operators of its presence and to exercise caution in approaching, overtaking, or in passing. Such lights may be flashed continuously or

actuated by application of the service brake (foot) while the vehicle is either in motion or parked. Such lamps shall have the following specifications and shall meet the following requirements:

(1) Lamps shall be not less than four inches in diameter and shall be powered by a bulb of not less than 21 candlepower with a reflectorization sufficient to assure visibility for at least 500 feet in front and to the rear of the vehicle under normal atmospheric conditions.

(2) Lamps shall be of double face or two way type.

(3) Lamps shall have amber lens to the front and red lens to the rear.

(4) Lamps shall be mounted on the highest part of the top of the vehicle in such a position that illumination from the lights is visible both to the front and rear for the required distance. Lamps shall be spaced laterally as far apart as body construction will permit but not closer than 30 inches. Between the lamps there shall be mounted a 22–inch by seven-inch sign with the wording ''U.S. MAIL'' in minimum of four-inch letters and of not less than three quarters of an inch in width of strobe, in black on a white background.

(5) This sign and lamps shall be so installed that the sign can be easily lowered and the lamps turned off when the vehicle is not actually engaged in the United States mail service.

(6) Any vehicle in active service transporting United States mail may, as an option to the foregoing, display a flashing red light not less than four inches in diameter with the letters ''STOP'' printed thereon and a uniform sign not less than 14 inches in diameter approved by the Department of Public Safety with the words printed thereon ''U.S. MAIL, WATCH FOR STOPS,'' which sign and light is to be attached to the rear of such vehicle.

(7) In addition to the above lighting equipment the Department of Public Safety is hereby granted the authority to prescribe rules and regulations for the use of amber colored strobe lights or any other lighting device on mail delivery vehicles. In prescribing the rules and regulations the Department of Public Safety shall seek the advice of the U.S. Postal Service.

(Acts 1961, Ex. Sess., No. 136, p. 2062, § 1; Acts 1989, No. 89–865, p. 1732, § 1.)

§ 32–5–244. Lights on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise where there is sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway no lights need to be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet

upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle and a red light visible from a distance of 500 feet to the rear. The foregoing provisions shall not apply to a motor-driven cycle.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 46; Acts 1949, No. 517, p. 754, § 13; Acts 1959, No. 354, p. 944.)

§ 32–5–245. Reflectors or similar warning devices on horse-drawn wagons and other vehicles.

It shall be unlawful for any person to operate a horse-drawn wagon, buggy, carriage, or other vehicle upon any public highway, road, or street between sunset and sunrise unless there is affixed to the rear of such vehicle at least two red reflectors or similar warning devices, one on each corner, and to the front of such vehicle one amber reflector or similar warning device on the left-hand front of said vehicle. Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be punished as prescribed by law.

All laws or parts of laws which conflict with this section are repealed, but this section does not repeal the provisions of subsection (e) of Section 32–5–240.

(Acts 1951, No. 131, p. 357.)

§ 32–5–246. Reflective devices for slow-moving vehicles — Required; design.

When operated, propelled, driven, towed, pushed, or otherwise moving over, along, or across any highway in this state, every vehicle which has a maximum potential speed of 25 miles an hour, implement of husbandry, farm tractor, or special mobile equipment shall be identified with a reflective device as follows:

(1) An equilateral triangle in shape at least 16 inches wide at the base and at least 14 inches in height, with a bright red border, at least one and three-quarter inches wide of highly reflective beaded material;

(2) A center triangle, at least 12 ¼ inches on each side of yellow-orange fluorescent material.

(Acts 1971, No. 1186, p. 2048, § 1.)

§ 32–5–247. Reflective devices for slow-moving vehicles — Mounting.

The device shall be mounted on the rear of the vehicle, implement, or mobile equipment broad base down, not less than three feet nor more than five feet above the ground, measuring to the lowest portion of the device and

as near the center of the vehicle, implement, or mobile equipment as practicable.

(Acts 1971, No. 1186, p. 2048, § 2.)

§ 32–5–248. Reflective devices for slow-moving vehicles — Restrictions on use.

The use of such device is restricted to use on slow-moving vehicles specified in Sections 32–5–246 through 32–5–251 and the use of such reflective device on any other type vehicle or stationary object is prohibited.

(Acts 1971, No. 1186, p. 2048, § 3.)

§ 32–5–249. Reflective devices for slow-moving vehicles — Bicycles or ridden animals.

The provisions of Sections 32–5–246 through 32–5–251 shall not apply to bicycles or to ridden animals.

(Acts 1971, No. 1186, p. 2048, § 4.)

§ 32–5–250. Reflective devices for slow-moving vehicles — Other provisions not repealed, etc.

Nothing in Sections 32–5–246 through 32–5–251 shall repeal or amend any other provision of the laws of Alabama governing lights or reflectors required to be mounted on vehicles.

(Acts 1971, No. 1186, p. 2048, § 5.)

§ 32–5–251. Reflective devices for slow-moving vehicles — Violations.

Any person violating any provisions of Sections 32–5–246 through 32–5–251 shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than $5.00 nor more than $100.00 or by imprisonment in the county jail for not more than 30 days or by both such fine and imprisonment.

(Acts 1971, No. 1186, p. 2048, § 6.)

§ 32–5–252. Approval of lighting devices; prohibited lamps and devices; regulations; lists of approved devices to be published.

(a) No person shall have for sale, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary or fog lamp, rear lamp, signal lamp or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the director and approved by him or her.

The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.

(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this section which has been approved by the director unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless the lamps are mounted, adjusted, and aimed in accordance with instructions of the director.

(d) The director is hereby authorized to approve or disapprove lighting devices and to issue and enforce regulations establishing standards and specifications for the approval of such lighting devices, their installation, adjustment, and aiming and adjustment when in use on motor vehicles. Such regulations shall correlate with and, so far as practicable, conform to the then current standards and specifications of the Society of Automotive Engineers applicable to such equipment.

(e) The director is hereby required to approve or disapprove any lighting device, of a type on which approval is specifically required in this chapter, within a reasonable time after such device has been submitted.

(f) The director is further authorized to set up the procedure which shall be followed when any device is submitted for approval.

(g) The director, upon approving any such lamp or device, shall issue to the applicant a certificate of approval together with any instructions determined by him or her.

(h) The director shall publish lists of all lamps and devices by name and type which have been approved by him or her.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 44; Acts 1955, No. 273, p. 621, § 2.)

§ 32–5–253. Enforcement of provisions.

When the director has reason to believe that an approved lighting device being sold commercially does not comply with the requirements of this division, he or she may, after giving 30 days' previous notice to the person holding the certificate of approval for such device in this state, conduct a hearing upon the question of compliance of the approved device. After such hearing, the director shall determine whether the approved lighting device meets the requirements of this division. If the device does not meet the requirements of this division he or she shall give notice to the person holding the certificate of approval for such device in this state.

If at the expiration of 90 days after such notice the person holding the certificate of approval for such device has failed to satisfy the director that the approved device as thereafter to be sold meets the requirements of this division, the director shall suspend or revoke the approval issued therefor

until or unless such device is resubmitted to and retested by an authorized testing agency and is found to meet the requirements of this division, and may require that all such devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this division. The director may at the time of the retest purchase in the open market and submit to the testing agency one or more sets of such approved devices, and if such device upon such retest fails to meet the requirements of this division, the director may refuse to renew the certificate of approval of such device.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 45; Acts 1955, No. 273, p. 621, § 3.)

ARTICLE 10.

PEDESTRIANS.

§§ 32–5–270 through 32–5–276. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

ARTICLE 11.

BICYCLES.

§§ 32–5–290 through 32–5–296. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

ARTICLE 12.

VIOLATIONS; PENALTIES.

§ 32–5–310. Enforcement of chapter; arrest procedure; bail bond.

Any peace officer, including state troopers, sheriffs and their deputies, constables and their deputies, police officers and marshals of cities or incorporated towns, county police or patrols, state or county license inspectors and their deputies, and special officers appointed by any agency of the State of Alabama for the enforcement of its laws relating to motor vehicles, now existing or hereafter enacted, shall be authorized, and it is hereby made the duty of each of them to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, without warrant if the offense be committed in his or her presence, and with warrant if he or she does not observe the commission of the offense. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him or her. If the accused elects not to be so taken, then it shall be the duty of the officer to require of the accused a bail bond in a sum not to exceed $300.00, conditioned that the accused binds himself or herself to appear in the

nearest court having jurisdiction at the time fixed in the bond. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within 18 hours after taking such bond.

(Acts 1949, No. 516, p. 740, § 49.)

§ 32–5–311. Penalties for misdemeanors generally. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–312. Penalties for violations of certain sections.

Any person who violates Sections 32–5–55 through 32–5–59, 32–5–62, 32–5–63, 32–5–112 through 32–5–114, 32–5–130 through 32–5–133 and 32–5–150 through 32–5–153, or any part or parts thereof shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in the county or municipal jail for not more than 10 days or by a fine of not more than $100.00; for a second such conviction within one year thereafter such person shall be punished by a fine of not less than $100.00 nor more than $200.00 or by imprisonment in the county or municipal jail for not more than 20 days or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction such person shall be punished by a fine of not less than $250.00 nor more than $500.00 or by imprisonment in the county or municipal jail for not more than six months or by both such fine and imprisonment. The court shall revoke the driver's license of such person upon the third conviction.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 30.)

§ 32–5–313. Disposition of funds.

All moneys collected pursuant to Section 12–14–14 and Section 12–19–1, et seq., for disbursement to the State Drivers' Fund shall be forwarded by the officer of the court who collects the same to the State Treasurer, no less than once a month and not later than the 15th day of each month. All amounts so received shall be credited to special funds to be designated the ''Driver Education and Training Fund,'' ''Alabama College System Truck Driver Training Consortium Fund,'' the ''Catastrophic Trust Fund for Special Education,'' and the ''Alabama Traffic Safety Center Fund,'' and of the amounts so received, an amount equal to 21 percent thereof is hereby appropriated to the State Department of Education for the sole purpose of instituting and conducting a program of prelicensing driver education and training; an amount equal to 36 percent thereof is hereby appropriated to the state Department of Postsecondary Education to be distributed equally to the entities comprising the Alabama College System Truck Driver Training Consortium on July 29, 1991, for the sole purpose of instituting and conducting programs of truck driver education and training as outlined by the U.S. Department of Transportation with support and recommendations from the

transportation industry within such Alabama College System Truck Driver Training Consortium; provided, however, that these funds shall be expended only by institutions under the control of the State Board of Education; an amount equal to 10 percent thereof is hereby appropriated to the Alabama Traffic Safety Center Fund for the sole purpose of conducting programs in traffic safety, motorcycle safety, and boating safety by the center; an amount equal to 3 percent is hereby appropriated to the State Safety Coordinating Committee for payment of administrative expenses incurred in its programs; and the remaining 30 percent is hereby appropriated to the Catastrophic Trust Fund for Special Education to be administered by the State Department of Education except that before the above distribution occurs, the amount equivalent to an amount generated by one dollar fifty cents ($1.50) of the above increase shall be transferred to the Highway Traffic Safety Fund for the Department of Public Safety and is hereby appropriated to the Department of Public Safety for law enforcement purposes.

(Acts 1964, 1st Ex. Sess., No. 244, p. 335; Acts 1983, No. 83–724, p. 1179; Acts 1987, No. 87–638, p. 1142; Acts 1988, No. 88–658, p. 1055; Acts 1991, No. 91–433, p. 769, § 1; Acts 1991, 1st Ex. Sess., No. 91–824, p. 224, § 5; Act 2000–800, p. 1901, § 1.)

§ 32–5–314. Disposition of fines and forfeitures — Generally. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–315. Disposition of fines and forfeitures — Where arrests made by county or municipal officers. Repealed by Acts 1980, No. 80–434, p. 604, § 15–106, effective May 19, 1980.

§ 32–5–316. Courts may prohibit operation of motor vehicles by persons convicted of violation of automobile laws.

Whenever a defendant is convicted by any court of competent jurisdiction of operating a motor vehicle in violation of any criminal statute or ordinance, the court trying the case, in its discretion, may, in addition to the other punishment fixed by law, enter an order forbidding such person to drive a motor vehicle upon any street or highway in the State of Alabama for a period to be specified by the court, or perpetually, as the court may determine. Any person driving a motor vehicle in violation of such an order of court shall be guilty of a misdemeanor. Any defendant against whom such an order has been entered shall have the same right of appeal and supersedeas as is now granted him or her with reference to the sentence of the court imposing punishment fixed by law, and the appellate court shall have the right to modify or annul the order forbidding the operation by the defendant of motor vehicles, as in the opinion of the appellate court the facts may justify or require.

(Code 1923, § 3340; Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 54.)

CHAPTER 5A.

RULES OF THE ROAD.

ARTICLE 1.

GENERAL PROVISIONS.

§ 32–5A–1. Short title.

This chapter may be cited as the Alabama Rules of the Road Act.

(Acts 1980, No. 80–434, p. 604, § 15–103.)

§ 32–5A–2. Provisions of chapter refer to vehicles upon highways; exceptions.

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section.

(2) The provisions of Sections 32–7–37, 32–7–5, 32–7–12, 32–10–1 through 32–10–12, as they now exist or may hereafter be amended, and any other statutes of this state relating to accidents and accident reports, and also Sections 32–5A–190 through 32–5A–195 shall apply upon highways and elsewhere throughout the state.

(Acts 1980, No. 80–434, p. 604, § 1–101.)

§ 32–5A–2.1. ''Pedestrian'' defined.

(a) For purposes of this chapter only, ''pedestrian'' means any individual afoot, except as provided in subsection (b).

(b) For purposes of this chapter, ''pedestrian'' does not include a first responder performing a public safety function that the first responder is authorized to perform and that is in the line and scope of his or her employment or volunteer service, including, but not limited to, any of the following:

(1) Directing, controlling, or regulating the flow of traffic.

(2) Responding to a fire, a collision site, an emergency call, or a fire alarm.

(3) Rendering first aid or emergency medical care.

(4) Responding to an imminent threat of bodily injury to self or others.

(5) Pursuing or apprehending an actual or suspected violator of the law.

(6) Moving a vehicle located on a street or highway.

(7) Entering or remaining on a street or highway for any other law enforcement purpose.

(Act 2024–332, § 1, eff. Oct. 1, 2024; Act 2024–388, § 1, eff. Oct. 1, 2024.)

§ 32–5A–3. Required obedience to traffic laws.

It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

(Acts 1980, No. 80–434, p. 604, § 1–102.)

§ 32–5A–4. Obedience to police officers and firemen.

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or fireman invested by law with authority to direct, control or regulate traffic.

(Acts 1980, No. 80–434, p. 604, § 1–103.)

§ 32–5A–5. Persons riding animals or driving animal-drawn vehicles.

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter, which by their very nature can have no application.

(Acts 1980, No. 80–434, p. 604, § 1–104.)

§ 32–5A–6. Persons working on highways; exceptions.

Unless specifically made applicable, the provisions of this chapter except Sections 32–5A–190, 32–5A–191 and 32–5A–194 shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work.

(Acts 1980, No. 80–434, p. 604, § 1–105.)

§ 32–5A–7. Authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this chapter;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of Section 32–5–213 and visual requirements of any laws of this state requiring visual signals on emergency vehicles.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(Acts 1980, No. 80–434, p. 604, § 1–106.)

§ 32–5A–8. Violations as misdemeanor; penalties.

(a) It is a misdemeanor for any person to violate any of the provisions of this chapter or of Title 32, unless such violation is by this chapter or other law of this state declared to be a felony.

(b) Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided, shall for a first conviction thereof be punished by a fine of not more than $100.00 or by imprisonment for not more than 10 days; for conviction of a second offense committed within one year after the date of the first offense, such person shall be punished by a fine of not more than $200.00 or by imprisonment for not more than 30 days or by both such fine and imprisonment; for conviction of a third or subsequent offense committed within one year after the date of the first offense, such person shall be punished by a fine of not more than $500.00 or by imprisonment for not more than three months or by both such fine and imprisonment.

(Acts 1980, No. 80–434, p. 604, § 14–101.)

§ 32–5A–9. Penalty for felony.

Any person who is convicted of a violation of any of the provisions of this chapter herein or by the laws of this state declared to constitute a felony shall be punished by imprisonment for not less than one year nor more than 10 years, or by a fine of not more than $5,000.00, or by both such fine and imprisonment.

(Acts 1980, No. 80–434, p. 604, § 14–102.)

§ 32–5A–10. Disposition of fines and forfeitures.

(a) All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of any of the provisions of this chapter constituting a misdemeanor shall be, within 30 days after such fine or forfeiture is collected, distributed as provided in Chapter 19, Title 12.

(b) Failure, refusal, or neglect on the part of any judicial or other officer or employee receiving or having custody of any such fine or forfeiture to comply

with the foregoing provisions of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

(Acts 1980, No. 80–434, p. 604, § 14–103.)

§ 32–5A–11. Uniformity of interpretation.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of various jurisdictions.

(Acts 1980, No. 80–434, p. 604, § 15–101.)

§ 32–5A–12. Chapter not retroactive.

This chapter shall not have a retroactive effect and shall not apply to any traffic accident, to any cause of action arising out of a traffic accident or judgment arising therefrom, or to any violation of the motor vehicle laws of this state, occurring prior to August 17, 1980.

(Acts 1980, No. 80–434, p. 604, § 15–104.)

§ 32–5A–13. Provisions cumulative; laws not repealed.

The provisions of this chapter are cumulative and shall not be construed to repeal or supersede any laws not inconsistent herewith.

Without limitation of the generality of the preceding sentence of this section, this chapter shall not repeal or supersede Sections 32–5–8, 32–5–9, 32–5–11 through 32–5–14, 32–5–16, 32–5–31, 32–5–51, 32–5–54, 32–5–64, 32–5–65, 32–5–72, 32–5–74 through 32–5–76, 32–5–93, 32–5–97, 32–5–113, 32–5–152, 32–5–171, 32–5–190 through 32–5–192, 32–5–194, 32–5–210 through 32–5–253, 32–5–310, 32–5–312, 32–5–313, and 32–5–316, but nothing contained in this sentence shall be construed as implying that any law not specifically listed herein is or is not repealed or superseded by this chapter.

(Acts 1980, No. 80–434, p. 604, § 15–107.)

Article 2.

Traffic Signs, Signals, and Markings.

§ 32–5A–30. Uniform marking of highways and erection of traffic-control devices.

(a) The Department of Transportation is authorized to classify, designate, and mark both interstate and intrastate highways lying within the boundaries of this state.

(b) The Department of Transportation shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter and other state laws for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system set forth in the most recent edition of the Manual on

Uniform Traffic–Control Devices for Streets and Highways and other standards issued or endorsed by the federal highway administrator.

(c) No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the Department of Transportation except by the latter's permission.

(Acts 1980, No. 80–434, p. 604, § 2–100.)

§ 32–5A–31. Obedience to traffic-control devices; devices presumed to comply with requirements.

(a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with law, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(b) No provision of this chapter for which official traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this chapter or other law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to the provisions of this chapter or other law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter or other such law, unless the contrary shall be established by competent evidence.

(Acts 1980, No. 80–434, p. 604, § 2–101.)

§ 32–5A–32. Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word or symbol legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully

within the intersection or an adjacent crosswalk at the time such signal is exhibited.

b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian-control signal, as provided in Section 32–5A–33, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication:

a. Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

b. Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in Section 32–5A–33, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication:

a. Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in subdivision (3)b.

b. Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, after stopping as required by subdivision (3)a. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian-control signal as provided in Section 32–5A–33, pedestrians facing a steady circular red signal alone shall not enter the roadway.

(4) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the

pavement indicating where the stop shall be made, but in the absence of any such signal or marking the stop shall be made at the signal.

(Acts 1980, No. 80–434, p. 604, § 2–102.)

§ 32–5A–33. Pedestrian-control signals.

Whenever special pedestrian-control signals exhibiting the words or symbols ''walk'' or ''don't walk'' are in place such signals shall indicate as follows:

(1) ''WALK''. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) ''DON'T WALK''. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety island while the ''don't walk'' signal is showing.

(3) ''DON'T WALK'' (flashing). No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety island while the ''don't walk'' signal is flashing.

(Acts 1980, No. 80–434, p. 604, § 2–103.)

§ 32–5A–34. Flashing signals.

(a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Section 32–5A–150.

(Acts 1980, No. 80–434, p. 604, § 2–104.)

§ 32–5A–35. Lane-direction-control signals.

When lane-direction-control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green

signal is shown, but shall not enter or travel in any lane over which a red signal is shown.

(Acts 1980, No. 80–434, p. 604, § 2–105.)

§ 32–5A–36. Display of unauthorized signs, signals, or markings as public nuisance; signs, markings, etc., to be approved; procedure for approval.

(a) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(d) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

(e) No person shall use on any designated federal-aid or state system street or highway in this state any traffic regulator sign, signal, marking, or any other device, unless of a type which has been submitted to the Director of Transportation for test and examination, and for which a certification of approval has been issued by the Director of Transportation, which certification is then in effect as provided by this section.

(f) Any person desiring approval of any traffic sign, signal, or any other traffic regulatory device, shall, when required submit to the Director of Transportation, one or more sets of each type of device upon which approval is desired, together with the fee as determined by the Director of Transportation. The Director of Transportation shall, upon notice to the applicant, submit such device to the proper testing agency, for a report as to the compliance of such device with the rules and uniform standard specifications adopted by the State of Alabama Department of Transportation. Such devices will also be subject to any road test or other tests as the Director of Transportation may deem necessary to determine that each type of device and its component parts conform to the requirements as adopted by the director. The Director of Transportation is authorized to refuse approval of any device certified as complying with the specifications and requirements, which he or she determines will be, in actual use, unsafe or impracticable or would fail to comply with the provisions of this chapter, or such requirements as may be adopted by him or her.

(g) The Director of Transportation shall request the testing agency to submit a report of each type of device to him or her in duplicate. For those which are found to comply with the specifications and requirements, the report shall include any special adjustments required. Reports of all tests shall be accessible to the public and a copy thereof shall be furnished by the Director of Transportation to the applicant for the test.

(h) No manufacturer, jobber, retailer, his or her agent, or other person shall sell, lease, or offer for sale or hire, any sign, signal, or any other traffic regulatory device that does not conform to the provisions of this chapter.

(Acts 1980, No. 80–434, p. 604, § 2–106.)

§ 32–5A–37. Interference with official traffic-control devices or railroad signs or signals.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

(Acts 1980, No. 80–434, p. 604, § 2–107.)

Article 3.

Operation and Use of Vehicles Generally.

§ 32–5A–50. Unattended motor vehicle.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

(Acts 1980, No. 80–434, p. 604, § 11–101.)

§ 32–5A–51. Limitations on backing.

(a) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

(Acts 1980, No. 80–434, p. 604, § 11–102.)

§ 32–5A–52. Driving upon sidewalk.

No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

(Acts 1980, No. 80–434, p. 604, § 11–103.)

§ 32–5A–53. Obstruction to driver's view or driving mechanism.

(a) No person shall drive a vehicle when it is loaded, or when there are in the front seat such a number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle.

(Acts 1980, No. 80–434, p. 604, § 11–104.)

§ 32–5A–54. Opening and closing vehicle doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(Acts 1980, No. 80–434, p. 604, § 11–105.)

§ 32–5A–55. Riding in house trailers.

No person or persons shall occupy a house trailer while it is being moved upon a public highway.

(Acts 1980, No. 80–434, p. 604, § 11–106.)

§ 32–5A–56. Driving on mountain highways.

The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand edge of the roadway as reasonably possible and, except when driving entirely to the right of the center of the roadway, shall give audible warning with the horn of such motor vehicle upon approaching any curve where the view is obstructed within a distance of 200 feet along the highway.

(Acts 1980, No. 80–434, p. 604, § 11–107.)

§ 32–5A–57. Coasting prohibited.

(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears or transmission of such vehicle in neutral or the clutch disengaged.

(b) The driver of a truck or bus when traveling upon a down grade shall not coast with the clutch disengaged.

(Acts 1980, No. 80–434, p. 604, § 11–108.)

§ 32–5A–58. Following emergency vehicle prohibited.

The driver of any vehicle other than one on official business shall not follow any authorized emergency vehicle traveling in response to an emergency call closer than 500 feet or stop such vehicle within 500 feet of any authorized emergency vehicle stopped in answer to an emergency call.

(Acts 1980, No. 80–434, p. 604, § 11–109.)

§ 32–5A–58.1. Yielding right-of-way to stationary authorized emergency vehicle. Repealed by Act 2009–577, p. 1695, § 4, effective August 1, 2009.

§ 32–5A–58.2. Moving over or reducing speed when approaching law enforcement vehicles, emergency vehicles, etc.

(a) This section shall be known as the ''John Hubbard Move Over Act.''

(b) When an authorized law enforcement vehicle or emergency vehicle making use of any visual signals is parked, when a wrecker displaying amber rotating or flashing lights is performing a recovery or loading on the roadside or otherwise performing tasks associated with the provision of wrecker services, when a utility service vehicle operated by or on behalf of an entity providing utility services displaying any rotating lights, flashing lights, or other visual signals is parked on the roadside while performing tasks associated with the provision of utility services, when a vehicle displaying flashing lights is parked or engaged in the performance of official duties, including maintenance or activities related to construction or surveying, on or along a road, or when a garbage, trash, refuse, or recycling collection vehicle is actively collecting garbage, trash, refuse, or recycling materials on the roadside, the driver of every other vehicle, as soon as it is safe, shall do the following:

(1) When driving on an interstate highway or other highway with two or more lanes traveling in the direction of the law enforcement vehicle, emergency vehicle, wrecker, utility service vehicle, maintenance, construction, or survey vehicle displaying flashing lights, or garbage, trash, refuse, or recycling collection vehicle, the driver shall vacate the lane closest to the law enforcement vehicle, emergency vehicle, wrecker, utility service vehicle, maintenance, construction, or survey vehicle displaying flashing lights, or garbage, trash, refuse, or recycling collection vehicle, unless otherwise directed by a law enforcement officer. If it is not safe to move over, the driver shall slow to a speed that is at least 15 miles per hour less than the posted speed limit unless otherwise directed by a law enforcement officer.

(2) When driving on a two-lane road, the driver shall move as far away from the law enforcement vehicle, emergency vehicle, wrecker, utility service vehicle, maintenance, construction, or survey vehicle displaying flashing lights, or garbage, trash, refuse, or recycling collection vehicle as possible within his or her lane and slow to a speed that is 15 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater or travel at 10 miles per hour when the posted speed limit is

20 miles per hour or less, unless otherwise directed by a law enforcement officer.

(c)(1) A violation of this section is a misdemeanor punishable by a fine of two hundred dollars ($200). Upon a second violation of this section, the fine shall be two hundred fifty dollars ($250). Upon a third or subsequent violation, the fine shall be three hundred dollars ($300) and, in addition, the court shall submit a copy of the violation to the Secretary of the Alabama State Law Enforcement Agency and order the secretary to suspend the driving privileges of the driver for a period of not less than 90 days.

(2) If a driver violates this section while also in violation any of the following sections, the driver shall receive, at a minimum, a fine or sentence double the minimum penalty otherwise provided by law:

a. Section 32–5A–191, relating to driving under the influence.

b. Section 32–5A–190, relating to reckless driving.

c. Section 32–5A–176.1, relating to construction zone moving violations.

d. Section 32–5A–350.1, relating to wireless telecommunications device violations.

e. Section 32–5A–178, relating to racing on public highways.

(d) If a violation of this section is the proximate cause of a collision with an authorized emergency vehicle, wrecker, or other vehicle performing duties as described under subsection (b), the driver shall be punished as follows:

(1) If the collision results in physical injury to any individual, the driver shall be guilty of a Class A misdemeanor.

(2) If the collision results in serious physical injury to any individual, the driver shall be guilty of a Class C felony.

(3) If the collision results in the death of any individual, the driver shall be guilty of a Class B felony.

(e) Article 4A of Chapter 18 of Title 15, relating to restitution for victims of crimes, shall apply to any collision described under subsection (d).

(f) The Alabama State Law Enforcement Agency shall provide an educational awareness campaign informing the motoring public about this section, including information to assist the drivers of motor vehicles to determine the best option of whether to move over or slow down as required under subsection (a). The agency shall provide information about this section in all newly printed driver license educational materials after January 1, 2025.

(g) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Act 2009–577, p. 1695, §§ 1–3; Act 2012–409, p. 1114, § 1; Act 2013–400, p. 1536, § 1; Act 2018–459, § 1; Act 2019–520, § 1; Act 2024–295, § 1, eff. Oct. 1, 2024.)

§ 32–5A–58.3. Yielding right-of-way to vehicles and pedestrian workers engaged in collection of garbage, trash, refuse, or recycling materials.

(a) The driver of a motor vehicle shall yield the right-of-way to a pedestrian worker engaged in the collection of garbage, trash, refuse, or recycling materials along a roadway whenever the driver is reasonably notified of the presence of the worker by the presence of a garbage, trash, refuse, or recycling collection vehicle or by a warning sign or device.

(b) The driver of a motor vehicle on a public highway shall yield the right-of-way to a garbage, trash, refuse, or recycling collection vehicle that is stopped along a roadside or traveling in the same direction and which is engaged in the collection of garbage, trash, refuse, or recycling materials along a roadway or which has signaled and is reentering the traffic flow.

(c) This section does not relieve the driver of a garbage, trash, refuse, or recycling collection vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(d) A person who violates this section shall be guilty of a traffic violation, punishable by a fine up to fifty dollars ($50).

(Act 2013–400, p. 1536, § 2.)

§ 32–5A–59. Crossing fire hose.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private road, or driveway to be used at any fire or alarm of fire, without the consent of the fire department official or police officer in command.

(Acts 1980, No. 80–434, p. 604, § 11–110.)

§ 32–5A–60. Throwing, dropping, etc., destructive or injurious materials onto highway, road, etc., prohibited; removal; penalty.

(a) No person shall throw or deposit upon or alongside any highway, road, street, or public right-of-way any bottle, glass, nails, tacks, wire, cans, cigarettes, cigars, containers of urine, or any other substance likely to injure any person, animal, or vehicle upon or alongside the highway, road, street, or public right-of-way.

(b) Any person who throws, drops, or permits to be thrown or dropped, upon any highway any destructive or injurious material shall immediately remove the material or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

(d) No person shall throw or drop litter from a motor vehicle upon or alongside any highway, road or street, or public right-of-way.

(e) The uniform traffic citation may be used for any violation of this section.

(f) ''Litter'' as used in this section is the same as defined in Section 13A–7–29.

(g)(1) Notwithstanding the provisions of Section 32–5A–266, any person violating this section shall be guilty of a Class B misdemeanor pursuant to Section 13A–7–29, the criminal littering statute.

(2) The Alabama State Law Enforcement Agency shall adopt rules to implement this subsection.

(Acts 1980, No. 80–434, p. 604, § 11–111; Acts 1989, No. 89–661, p. 1314, § 1; Act 2019–530, § 1.)

§ 32–5A–61. Driver not to proceed where traffic obstructed.

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

(Acts 1980, No. 80–434, p. 604, § 11–112.)

§ 32–5A–62. Snowmobile operation limited.

(a) No person shall operate a snowmobile on any controlled-access highway.

(b) No person shall operate a snowmobile on any other highway except when crossing the highway at a right angle, when use of the highway by other motor vehicles is impossible because of snow, or when such operation is authorized by the authority having jurisdiction over the highway.

(Acts 1980, No. 80–434, p. 604, § 11–113.)

Article 4.

Driving on and Use of Roadways Generally; Overtaking and Passing.

§ 32–5A–80. Driving on right side of roadway; exceptions.

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except under any of the following conditions:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person doing so shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard.

(3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon.

(4) Upon a roadway restricted to one-way traffic.

(b) Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subdivision (a)(2). However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, or driveway.

(d)(1) Upon any interstate highway, except as provided in subdivision (2), a vehicle may not remain in the leftmost lane for more than 1.5 miles without completely passing another vehicle.

(2) A vehicle may travel in the leftmost lane under any of the following conditions:

a. When traffic conditions or congestion make it necessary to operate a vehicle in the leftmost lane.

b. When inclement weather, obstructions, or hazards make it necessary to operate a vehicle in the leftmost lane.

c. When compliance with a law, rule, ordinance, or traffic control device makes it necessary to operate a vehicle in the leftmost lane.

d. When exiting a roadway to the left.

e. When paying a toll or user fee at a toll collection facility.

f. If the vehicle is an authorized emergency vehicle operated in the course of duty.

g. If the vehicle is operated or used in the course of highway maintenance or construction or is traveling through a construction zone.

(3) The Department of Transportation shall cause to be installed appropriate signs giving notice of this subsection. The department shall place the signs within the first two miles of the beginning of any interstate highway in the state and, where practical, every 50 miles thereafter, and at any intersection of interstate highways. At its discretion, the department may adjust placement of a sign to a location beyond an on-ramp if it falls within close proximity to a specified 50–mile increment and may adjust

placement to avoid conflicts with existing signage already in place along the interstate corridor.

(Acts 1980, No. 80–434, p. 604, § 3–101; Act 2019–515, §§ 2, 3; Act 2021–520, § 1.)

§ 32–5A–81. Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

(Acts 1980, No. 80–434, p. 604, § 3–102.)

§ 32–5A–82. Overtaking vehicle on left.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(3) For purposes of a vehicle overtaking and passing a bicycle, a safe distance shall mean not less than three feet on any of the following:

a. A roadway that has a marked bicycle lane.

b. A roadway without a marked bicycle lane if the roadway has a marked speed limit of 45 miles per hour or less and the roadway does not have a double yellow line separating cars from oncoming traffic indicating a no passing zone.

(4) Subdivision (3) shall only apply when a cyclist is riding within two feet of the right shoulder of the roadway.

(Acts 1980, No. 80–434, p. 604, § 3–103; Act 2015–473, p. 1634, § 1.)

§ 32–5A–83. When passing on right permitted.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway.

(Acts 1980, No. 80–434, p. 604, § 3–104.)

§ 32–5A–84. Limitations on overtaking on left.

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.

(Acts 1980, No. 80–434, p. 604, § 3–105.)

§ 32–5A–85. Further limitations on driving on left of center of roadway.

(a) No vehicle shall be driven on the left side of the roadway under the following conditions:

(1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing;

(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in Section 32–5A–80(a)(2), nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

(Acts 1980, No. 80–434, p. 604, § 3–106.)

§ 32–5A–86. No-passing zones.

(a) The Department of Transportation and local authorities are hereby authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

(b) Where signs or markings are in place to define a no-passing zone as set forth in subsection (a) no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(c) This section does not apply under the conditions described in Section 32–5A–80(a)(2), nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.

(Acts 1980, No. 80–434, p. 604, § 3–107.)

§ 32–5A–87. One-way roadways and rotary traffic islands.

(a) The Department of Transportation and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic-control devices.

(b) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic-control devices.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

(Acts 1980, No. 80–434, p. 604, § 3–108.)

§ 32–5A–88. Driving on roadways laned for traffic.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(3) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the direction of every such device.

(4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(Acts 1980, No. 80–434, p. 604, § 3–109.)

§ 32–5A–89. Following too closely.

(a) The driver of a motor vehicle shall not follow another more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway. Except when overtaking and passing another vehicle, the driver of a vehicle shall leave a distance of at least 20 feet for each 10 miles per hour of speed between the vehicle that he or she is driving and the vehicle that he or she is following.

(b) The driver of any truck or motor vehicle drawing another vehicle of 25 or more feet in length when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle of 25 or more feet in length shall, whenever conditions permit, leave sufficient space, at least 300 feet, so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle of 25 or more feet in length from overtaking and passing any vehicle or combination of vehicles.

(c) Motor vehicles being driven upon any roadway whether a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions or to any parade or procession authorized by official permit of the governing body of the city or county having jurisdiction over the highway.

(d)(1) The trailing trucks in a truck platoon are exempt from this section if the truck platoon is engaged in electronic brake coordination and any other requirement imposed by the Department of Transportation by rule.

(2) The intent of this subsection is to allow both commercial platooning deployment and activities to provide research for truck platooning technology and to exempt the trailing trucks from receiving a citation for following too closely as defined in this section.

(e) The Department of Transportation may adopt rules to implement and administer this section.

(Acts 1980, No. 80–434, p. 604, § 3–110; Acts 1981, No. 81–803, p. 1412, § 1; Act 2018–286, §§ 1, 2.)

§ 32–5A–90. Driving on divided highways.

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated

dividing section so construed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection as established, unless specifically prohibited by public authority.

(Acts 1980, No. 80–434, p. 604, § 3–111.)

§ 32–5A–91. Access onto controlled roadways restricted.

No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by public authority.

(Acts 1980, No. 80–434, p. 604, § 3–112.)

§ 32–5A–92. Restrictions on use of controlled-access roadway.

(a) The Department of Transportation by resolution or order entered in its minutes, and local authorities by ordinance, may regulate or prohibit the use of any controlled-access roadway (or highway) within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(b) The Department of Transportation or the local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access highway on which such prohibitions are applicable and when in place no person shall disobey the restrictions stated on such devices.

(Acts 1980, No. 80–434, p. 604, § 3–113.)

§ 32–5A–93. Law enforcement officers authorized to operate motorized bicycles, mopeds, etc., on streets, highways, and sidewalks.

(a) Notwithstanding any other provision of this title, or any other provision of law, a sworn officer of any law enforcement agency may operate a motorized bicycle or moped or any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power or any other device capable of a maximum speed of 45 miles per hour upon the streets and highways of this state and upon sidewalks.

(b) Any vehicles or other devices marked as law enforcement vehicles or devices and operated by sworn law enforcement officers are exempt from all licensing, equipment, and other requirements provided by law in this state for the operation of vehicles upon the streets and highways of this state.

(Act 2009–719, p. 2138, § 1.)

ARTICLE 5.

RIGHT-OF-WAY.

§ 32–5A–110. Vehicle approaching or entering intersection.

(a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The right-of-way rule declared in subsection (a) is modified at through highways and otherwise as stated in this chapter.

(Acts 1980, No. 80–434, p. 604, § 4–101.)

§ 32–5A–111. Vehicle turning left.

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(Acts 1980, No. 80–434, p. 604, § 4–102.)

§ 32–5A–112. Vehicle entering stop or yield intersection; collision as prima facie evidence of failure to yield.

(a) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in Section 32–5A–113.

(b) Except when directed to proceed by a police officer every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Provided, however, that if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such

collision shall be deemed prima facie evidence of his or her failure to yield right-of-way.

(Acts 1980, No. 80–434, p. 604, § 4–103.)

§ 32–5A–113. Authority to designate through highways and stop and yield intersections.

The Department of Transportation with reference to state highways and local authorities with reference to highways under their jurisdictions may erect and maintain stop signs, yield signs, or other official traffic-control devices to designate through highways, or to designate intersections or other roadway junctions at which vehicular traffic on one or more of the roadways should yield or stop and yield before entering the intersection or junction.

(Acts 1980, No. 80–434, p. 604, § 4–104.)

§ 32–5A–114. Vehicles entering highway from private road or roadway.

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

(Acts 1980, No. 80–434, p. 604, § 4–105.)

§ 32–5A–115. Operation of vehicles on approach of authorized emergency vehicles; signals on emergency vehicles; duty of emergency vehicle driver.

(a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp and audible signal as is required by law, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with regard for the safety of all persons using the highways.

(c) Authorized emergency vehicles shall be equipped with at least one lighted lamp exhibiting a colored light as hereinafter provided visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle and a siren, exhaust whistle, or bell capable of giving an audible signal. The color of the lighted lamp exhibited by police vehicles may be red or blue and the color of the lighted lamp exhibited by the fire department and other authorized emergency vehicles, including ambulances, shall be red. No vehicle other than a police vehicle will use a blue light. An amber or yellow light may be installed on any vehicle or class of vehicles designated by the Director of Public Safety, but such light shall serve as a warning or caution

light only, and shall not cause other vehicles to yield the right-of-way. This provision shall not operate to relieve the driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor shall it protect the driver of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.

(Acts 1980, No. 80–434, p. 604, § 4–106; Acts 1981, No. 81–803, p. 1412, § 1.)

§ 32–5A–116. Highway construction and maintenance.

(a) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.

(b) The driver of a vehicle shall yield the right-of-way to any authorized vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays such flashing lights as may be required or permitted by law or by regulation of the department.

(Acts 1980, No. 80–434, p. 604, § 4–107.)

ARTICLE 6.

TURNING, STARTING, AND STOPPING GENERALLY.

§ 32–5A–130. Required position and method of turning at intersections.

The driver of a vehicle intending to turn shall do so as follows:

(1) RIGHT TURNS. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) LEFT TURNS. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(3) The Department of Transportation and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles and when such devices are so placed no driver shall turn a vehicle other than as directed and required by such devices.

(Acts 1980, No. 80–434, p. 604, § 6–101.)

§ 32–5A–131. Turning on curve or crest of grade prohibited.

(a) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

(b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.

(Acts 1980, No. 80–434, p. 604, § 6–102.)

§ 32–5A–132. Starting parked vehicle.

No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

(Acts 1980, No. 80–434, p. 604, § 6–103.)

§ 32–5A–133. Turning movements and required signals.

(a) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) The signals provided for in Section 32–5A–134(b) shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or ''do pass'' signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

(Acts 1980, No. 80–434, p. 604, § 6–104.)

§ 32–5A–134. Signals by hand and arm or signal lamps.

(a) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection (b).

(b) Any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load

thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

(Acts 1980, No. 80–434, p. 604, § 6–105.)

§ 32–5A–135. Method of giving hand and arm signals.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

(1) LEFT TURN. Hand and arm extended horizontally.

(2) RIGHT TURN. Hand and arm extended upward.

(3) STOP or DECREASE SPEED. Hand and arm extended downward.

(Acts 1980, No. 80–434, p. 604, § 6–106.)

§ 32–5A–136. Stopping, standing, or parking outside of business or residence districts.

(a) Outside a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practicable to stop, park, or so leave such vehicle off the roadway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway.

(b) This section, Sections 32–5A–137 and 32–5A–138 shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. And the provisions of this section, Sections 32–5A–137 and 32–5A–138 shall not apply to any vehicle nor to the driver of any vehicle engaged in the business of carrying passengers for hire and operating over a fixed route and between regular termini operating under the authority of the Interstate Commerce Commission of the United States or under authority of the Alabama Public Service Commission or any federal, state, or municipal authority while stopped on the right-hand side of the highway to pick up or discharge passengers nor to any vehicle nor to the driver thereof engaged in the official delivery of the United States mail when stopped on the right-hand side of the highway for the purpose of picking up or delivering mail, if a clear view of the vehicle may be obtained from a distance of 300 feet in each direction upon such highway. Nothing herein shall be construed to exempt any vehicle from the provisions of Section 32–5–244 and those provisions shall remain applicable to vehicles transporting the United States mail, anything in the section to the contrary notwithstanding.

(Acts 1980, No. 80–434, p. 604, § 10–101.)

§ 32–5A–137. Stopping, standing, or parking prohibited in specified places.

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(1) Stop, stand, or park a vehicle:

a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

b. On a sidewalk;

c. Within an intersection;

d. On a crosswalk;

e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

f. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

g. Upon any bridge or other elevated structure, upon a highway, or within a highway tunnel;

h. On any railroad tracks;

i. At any place where official signs prohibit stopping.

(2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

a. In front of a public or private driveway;

b. Within 15 feet of a fire hydrant;

c. Within 20 feet of a crosswalk at an intersection;

d. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

e. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly signposted);

f. At any place where official signs prohibit standing.

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

a. Within 50 feet of the nearest rail or a railroad crossing;

b. At any place where official signs prohibit parking.

(b) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.

(Acts 1980, No. 80–434, p. 604, § 10–103.)

§ 32–5A–138. Additional parking regulations.

(a) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 18 inches of the right-hand curb or edge of the roadway.

(b) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 18 inches of the right-hand curb or edge of the roadway, or its left-hand wheels within 18 inches of the left-hand curb or edge of the roadway.

(c) Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the Department of Transportation has determined by regulation that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(d) The Department of Transportation with respect to highways under its jurisdiction may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any highway where in its opinion, as evidenced by regulation, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs.

(Acts 1980, No. 80–434, p. 604, § 10–104.)

§ 32–5A–139. Officers authorized to remove vehicles.

(a) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of Section 32–5A–136 such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

(b) Any police officer is hereby authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway, or in any tunnel, in such position or under such circumstances as to obstruct the normal movement of traffic.

(c) Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(1) Report has been made that such vehicle has been stolen or taken without the consent of its owner;

(2) The person or persons in charge of such vehicle are unable to provide for its custody or removal;

(3) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay; or

(4) When a vehicle has been left unattended for 24 hours or more on or adjacent to any public highway and it is determined by the police officer that the vehicle constitutes a hazard to traffic upon the highway.

(Acts 1980, No. 80–434, p. 604, § 10–102.)

ARTICLE 7.

SPECIAL STOPS REQUIRED.

§ 32–5A–150. Obedience to signal indicating approach of train.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he or she can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(Acts 1980, No. 80–434, p. 604, § 7–101.)

§ 32–5A–151. Certain vehicles must stop at all railroad grade crossings; exceptions.

(a) Except as provided in subsection (b), the driver of any vehicle described in regulations issued pursuant to subsection (c), before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and shall not proceed until he or she can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually

changing gears while traversing such crossing and the driver shall not manually shift gears while crossing the track or tracks. Nothing contained in this section is intended to abrogate or modify the present Alabama doctrine of ''stop, look, and listen'' obtaining in the courts of Alabama.

(b) This section shall not apply at:

(1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;

(2) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;

(3) Any railroad grade crossing protected by crossing gates or any alternately flashing light signal intended to give warning of the approach of a railroad train;

(4) Any railroad grade crossing at which an official traffic control device gives notice that the stopping requirement imposed by this section does not apply.

(c) The Director of Transportation shall adopt such regulations as may be necessary describing the vehicles which must comply with the stopping requirements of this section. In formulating such regulations the Director of Transportation shall give consideration to the number of passengers carried by the vehicle and the hazardous nature of any substance carried by the vehicle in determining whether such vehicle shall be required to stop. Such regulations shall correlate with and so far as possible conform to the most recent regulation of the United States Department of Transportation.

(Acts 1980, No. 80–434, p. 604, § 7–102.)

§ 32–5A–152. Moving heavy equipment at railroad grade crossings.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(c) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his or her direction.

(Acts 1980, No. 80–434, p. 604, § 7–103.)

§ 32–5A–153. Emerging from alley, driveway, or building.

The driver of a vehicle emerging from an alley, building, private road, or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road, or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

(Acts 1980, No. 80–434, p. 604, § 7–105.)

§ 32–5A–154. Overtaking and passing school bus or church bus; penalties and fines.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children on a highway, on a roadway, on school property, or upon a private road or any church bus which has stopped for the purpose of receiving or discharging passengers shall bring the vehicle to a complete stop before reaching the school or church bus when there is in operation on the school or church bus a visual signal as specified in Section 32–5A–155. The driver shall not proceed until the school or church bus resumes motion or is signaled by the school or church bus driver to proceed or the visual signals are no longer actuated.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof plainly visible signs containing the words ''school bus'' in letters not less than eight inches in height, and in addition shall be equipped with visual signals meeting the requirements of Section 32–5A–155, which shall be actuated by the driver of the school bus only when the vehicle is stopped for the purpose of receiving or discharging school children. The visual signals shall not be actuated at any other time.

(c)(1) Every bus used for the transportation of passengers to or from church shall bear upon the front and rear thereof plainly visible signs containing the words ''church bus'' in letters not less than eight inches in height. Visual signals meeting the requirements of Section 32–5A–155, on a church bus, if any, may be actuated by the driver of the church bus only when the vehicle is stopped for the purpose of receiving or discharging passengers.

(2) A bus operated by the Association for Retarded Citizens of Alabama, or an affiliate thereof, transporting its clients shall be considered a bus to which this section is applicable.

(d) The driver of a vehicle upon a divided highway having four or more lanes which permits at least two lanes of traffic to travel in opposite directions need not stop the vehicle upon meeting a school or church bus which is stopped in the opposing roadway or if the school or church bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(e) If the driver of any vehicle is witnessed by a peace officer or the driver of a school bus to have violated this section and the identity of the driver of the vehicle is not otherwise apparent, it shall be an inference that the person in whose name such vehicle is registered committed the violation. In the event that charges are filed against multiple owners of a motor vehicle, only one of the owners may be convicted and court costs may be assessed against only one of the owners. If the vehicle which is involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time of the violation, the rental or leasing company may rebut the inference by providing the peace officer or prosecuting authority with a copy of the rental or lease agreement in effect at the time of the violation.

(f)(1) Upon first conviction, a person violating subsection (a) shall be punished by a fine of not less than one hundred fifty dollars ($150) nor more than three hundred dollars ($300).

(2) On a second conviction, a person convicted of violating subsection (a) shall be punished by a fine of not less than three hundred dollars ($300) nor more than five hundred dollars ($500) and shall complete at least 100 hours of community service. In addition, the Director of the Department of Public Safety shall suspend the driving privileges or driver's license of the person convicted for a period of 30 days.

(3) On a third conviction, a person convicted of violating subsection (a) shall be punished by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall complete at least 200 hours of community service. In addition, the Director of the Department of Public Safety shall suspend the driving privileges or driver's license of the person convicted for a period of 90 days.

(4) On a fourth or subsequent conviction, a person convicted of violating subsection (a) shall be guilty of a Class C felony and punished by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000). In addition to the other penalties authorized, the Director of the Department of Public Safety shall revoke the driving privileges or driver's license of the person convicted for a period of one year.

(g) Any law to the contrary notwithstanding, the Alabama habitual felony offender law shall not apply to a conviction of a felony pursuant to subsection (f), and a conviction of a felony pursuant to subsection (f) shall not be a felony conviction for purposes of the enhancement of punishment pursuant to Alabama's habitual felony offender law.

(h) All fines and penalties imposed pursuant to this section shall be forwarded immediately upon collection by the officer of the court who collects the proceeds to the general fund of the respective agency that enforced this section.

(i) Neither reckless driving nor any other traffic infraction is a lesser included offense under a charge of overtaking and passing a school bus or church bus.

(Acts 1980, No. 80–434, p. 604, § 7–106; Act 2006–311, p. 660, § 1.)

§ 32–5A–155. Visual signals on school and church buses.

(a) Every school bus shall, and every church bus may, in addition to any other equipment and distinctive markings required by this chapter, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at 500 feet in normal sunlight.

(b) The alternately flashing lighting described in subsection (a) of this section shall not be used on any vehicle other than a school bus, a church bus, or an authorized emergency vehicle.

(Acts 1980, No. 80–434, p. 604, § 7–107.)

Article 8.

Speed Restrictions.

§ 32–5A–170. Reasonable and prudent speed.

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(Acts 1980, No. 80–434, p. 604, § 8–101.)

§ 32–5A–171. Maximum limits.

Except when a special hazard exists that requires lower speed for compliance with Section 32–5A–170, the limits hereinafter specified or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits.

(1) No person shall operate a vehicle in excess of 30 miles per hour in any urban district.

(2)a. No person shall operate a motor vehicle in excess of 35 miles per hour on any unpaved road. For purposes of this chapter the term unpaved road shall mean any highway under the jurisdiction of any county, the surface of which consists of natural earth, mixed soil, stabilized soil, aggregate, crushed sea shells, or similar materials without the use of asphalt, cement, or similar binders.

b. No person shall operate a motor vehicle on any county-maintained paved road in an unincorporated area of the state at a speed in excess of 45 miles per hour unless a different maximum speed is established under

authority granted in subdivision (6) or as provided in subdivision (7) subject to the maximum rate of speed provided in subdivision (3).

(3) No person shall operate a motor vehicle on the highways in this state, other than interstate highways or highways having four or more traffic lanes, at a speed in excess of 55 miles per hour at any time unless a different maximum rate of speed is authorized by the Governor under authority granted in subdivision (6) or as provided in subdivision (7).

(4) No person shall operate a motor vehicle, on an interstate highway within the State of Alabama, at a speed in excess of 70 miles per hour or on any other highway having four or more traffic lanes at a speed in excess of 65 miles per hour, unless a different maximum rate of speed is authorized by the Governor under authority granted in subdivision (6) or as provided in subdivision (7). Notwithstanding the provisions of this subdivision, any portion of Corridor X/I–22 which is open between the Alabama/Mississippi state line and the Jefferson County line shall be considered an interstate highway for the purpose of the maximum speed limit on the highway.

(5) Notwithstanding any provisions of this section to the contrary, no person shall operate a passenger vehicle, motor truck, or passenger bus which carries or transports explosives or flammable liquids, as defined in Section 32–1–1.1, or hazardous wastes, as defined in Section 22–30–3(5), in this state unless the vehicle, truck, or bus prominently displays a current decal, plate, or placard which is required by the rules or regulations of the DOT or the PSC which indicates or warns that the vehicle, truck, or bus is carrying or transporting the substances. No person shall operate the vehicle, truck, or bus at a rate of speed greater than 55 miles per hour at any time unless a different maximum rate of speed is authorized by the Governor under authority granted in subdivision (6) or as provided in subdivision (7).

(6) The Governor may prescribe the maximum rate of speed whenever a different rate of speed is required by federal law in order for Alabama to receive federal funds for highway maintenance and construction.

(7) The maximum speed limits set forth in this section may be altered as authorized in Sections 32–5A–172 and 32–5A–173.

(8) A law enforcement officer or a peace officer of any incorporated municipality or town which has less than 19,000 inhabitants according to the most recent federal decennial census shall not enforce this section on any interstate highway.

(9) Any speed limit set pursuant to this section shall be enforced by any municipality or any law enforcement officer of a municipality only within the corporate limits of the municipality and not within the police jurisdiction of the municipality.

(Acts 1980, No. 80–434, p. 604, § 8–102; Acts 1987, No. 87–408, p. 593; Acts 1994, No. 94–617, p. 1147, § 1; Acts 1996, No. 96–577, p. 913, § 1; Act 2010–564, p. 1143, § 1.)

§ 32–5A–172. Establishment of state speed zones.

Whenever the Director of Public Safety and the Director of Transportation, with the approval of the Governor, shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway system, the directors may determine and declare a reasonable and safe maximum limit thereat, which shall be effective when appropriate signs giving notice thereof are erected. Such a maximum speed limit may be declared to be effective at all times or at such times as are indicated upon the signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(Acts 1980, No. 80–434, p. 604, § 8–103.)

§ 32–5A–173. When local authorities may and shall alter maximum limits.

(a) Except as provided in subsection (f), whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this article is unreasonable under the conditions found to exist upon a highway or part of a highway, the local authority may set a reasonable maximum limit that does any of the following:

(1) Decreases the limit at intersections.

(2) Increases the limit within an urban district consistent with Section 32–5A–171.

(3) Decreases the limit on any street, unpaved road, or highway under the jurisdiction and control of any county commission.

(4) Increases the limit on any street, unpaved road, or highway under the jurisdiction and control of any county commission consistent with Section 32–5A–171.

(b) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable maximum limit thereon.

(c) Any altered limit established according to this section may be effective at all times, or during hours of darkness, or at other times as may be determined when appropriate signs giving notice thereof are erected upon the street or highway.

(d) Any alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities shall not be effective until the alteration has been approved by the Department of Transportation.

(e)(1) Not more than six alterations authorized pursuant to this section shall be made per mile along a street or highway, except in the case of reduced limits at intersections.

(2) The difference between adjacent limits shall not be more than 10 miles per hour.

(f) A municipality may not fix the speed at which motor vehicles may be operated on a county-maintained street, as defined in Section 11–49–80, located within the corporate limits of the municipality unless the municipality conducts an engineering and traffic investigation and receives written approval from the county engineer to fix the speed based on the results of that investigation.

(Acts 1980, No. 80–434, p. 604, § 8–104; Acts 1985, 2nd Ex. Sess., No. 85–998, p. 366, § 2; Acts 1994, No. 94–617, p. 1147, § 2; Act 2023–130, § 1, eff. Aug. 1, 2023.)

§ 32–5A–174. Minimum speed regulation.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the Director of Public Safety and the Director of Transportation, with the approval of the Governor, or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway consistently impede the normal and reasonable movement of traffic, the directors or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.

(Acts 1980, No. 80–434, p. 604, § 8–105.)

§ 32–5A–175. Special speed limitation on motor-driven cycles.

No person shall operate any motor-driven cycle at any time from a half hour after sunset to a half hour before sunrise nor at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead at a speed greater than 35 miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead.

(Acts 1980, No. 80–434, p. 604, § 8–106.)

§ 32–5A–176. Special speed limitation over bridge or elevated structure; conclusive evidence of speed.

(a) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed that is greater than the

maximum speed that can be safely maintained on the bridge or structure, when the bridge or structure is signposted as provided in this section.

(b) Except as provided in subsection (d), the Department of Transportation and local authorities on highways under their respective jurisdictions may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if the department or local authority finds that the bridge or structure cannot safely withstand vehicles traveling at the speed otherwise permissible under this chapter, the department or local authority shall set a maximum vehicle speed that the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(c) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed by the Department of Transportation and the existence of the signs shall constitute conclusive evidence of the maximum speed that can be safely maintained on the bridge or structure.

(d) A municipality may not fix the speed at which motor vehicles may be operated on a county-maintained street, as defined in Section 11–49–80, located within the corporate limits of the municipality unless the municipality conducts an engineering and traffic investigation and receives written approval from the county engineer to fix the speed based on the results of that investigation.

(Acts 1980, No. 80–434, p. 604, § 8–107; Act 2023–130, § 1, eff. Aug. 1, 2023.)

§ 32–5A–176.1. Construction zone moving violations.

(a) A person commits a construction zone moving violation if, while operating a motor vehicle, he or she commits any violation of Chapter 5 or this chapter under all of the following conditions:

(1) The person is in a construction zone designated by the Department of Transportation or a political subdivision of the state.

(2) Construction or maintenance workers are present and performing construction or maintenance work.

(3) There are work zone traffic control devices, traffic controls, or warning signs present to notify motorists and pedestrians of construction or maintenance workers in the area.

(b) The Department of Transportation may set the speed limits in urban and rural construction zones along state and interstate highways and the county commission of a county may set the speed limits in urban and rural construction zones along county roads or highways. The construction zone speed limits shall be posted on the department's standard size speed limit signs at least one hundred feet in advance of the entrance to a construction zone. Law enforcement authorities shall enforce construction zone speed limits.

(c) Upon conviction of a construction zone moving violation, the operator of the motor vehicle shall be assessed a fine of the greater of two hundred fifty dollars ($250) or double the amount prescribed by law outside a construction zone.

(d) Warning signs shall be placed at the entrance of the construction zone and shall warn of additional fines for committing a moving violation within a construction zone. The signs shall also state that the additional fines are applicable only when construction personnel are present.

(e) The Department of Transportation may adopt and implement administrative rules and procedures to enforce this section and to ensure the safety of private and public construction and maintenance personnel working in designated construction zones on state and interstate highways. A county commission may promulgate and implement administrative rules and procedures as it deems necessary to enforce this section on county roads and highways, provided the rules and procedures are not in conflict with those set by the Department of Transportation.

(f) A person subject to a penalty pursuant to this section may not be assessed additional court costs on conviction.

(g) Fines assessed under this section shall be collected and distributed as other fines for moving violations are collected and distributed, as provided by law.

(Acts 1988, 1st Sp. Sess., No. 88–917, p. 511, §§ 1, 2; Act 2001–464, p. 618, §§ 1, 2; Act 2003–344, p. 869, § 1; Act 2021–482, § 1.)

§ 32–5A–177. Charging violations; burden of proof in civil actions; arrest for violation of speed laws communicated from officer operating measuring device to another officer; testimony derived from use of speed measuring device.

(a) In every charge of violation of any speed regulation in this article the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location.

(b) The provision of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

(c) Any state trooper, upon receiving information relayed to him or her from a fellow officer stationed on the ground or in the air operating a speed measuring device that a driver of a vehicle has violated the speed laws of this state, may arrest the driver for violation of the laws where reasonable and proper identification of the vehicle and the speed of same has been communicated to the arresting officer.

(d) A witness otherwise qualified to testify shall be competent to give testimony against an accused violator of the motor vehicle laws of this state when such testimony is derived from the use of such speed measuring device used in the calculation of speed, upon showing that the speed measuring device which was used had been tested. However, the operator of any visual average speed computer device shall first be certified as a competent operator of such device by the department.

(e) Any person accused pursuant to the provisions of this section shall be entitled to have the officer actually operating the device appear in court and testify upon oral or written motion.

(Acts 1980, No. 80–434, p. 604, § 8–108; Acts 1989, No. 89–828, p. 1659, § 1.)

§ 32–5A–178. Racing on public highways; penalties.

(a) It is a violation of this section for any person to drive any vehicle on any public highway in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record.

(b) ''Drag race'' is defined as the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

(c) ''Racing'' is defined as the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

(d) Every person violating subsection (a), if convicted, shall be punished as follows:

(1) For a first conviction by a fine in the amount of five hundred dollars ($500) and imprisonment for a period of not less than five days nor more than 90 days, provided that the sentence of imprisonment shall be suspended and, in lieu thereof, the person shall serve 30 days probation.

(2) For a second conviction, by a fine in the amount of three thousand dollars ($3,000) and imprisonment for not less than 10 days nor more than six months, provided that the sentence of imprisonment shall be suspended, and in lieu thereof, the person shall serve six months probation.

(3) For a third or subsequent conviction, by a fine in the amount of six thousand dollars ($6,000) and imprisonment for not more than one year, provided that the sentence of imprisonment shall be suspended and, in lieu thereof, the person shall serve one year probation.

(e) In addition to the fines and penalties set out in subsection (d), on a first conviction, the court shall prohibit any person convicted of driving a vehicle in violation of this section from driving a motor vehicle on the public highways

of this state for a period not exceeding six months, and the license of the person shall be suspended for such period by the Secretary of the Alabama Law Enforcement Agency pursuant to Section 32–5A–195. On a second or subsequent conviction, the court shall prohibit any person convicted of driving a vehicle in violation of this section from driving a motor vehicle on the public highways of this state for a period not exceeding one year, and the license of the person shall be suspended for that period by the Secretary of the Alabama Law Enforcement Agency pursuant to Section 32–5A–195.

(f)(1) Notwithstanding any other provision of law, any person arrested for driving a vehicle in violation of subsection (a) shall be immediately removed from the vehicle. The vehicle, regardless of ownership or possessory interest of the operator or person present in the vehicle, shall be impounded by any duly sworn law enforcement officer. If there is an emergency or medical necessity jeopardizing life or limb, the law enforcement officer may elect not to impound the vehicle. The law enforcement officer making the impoundment shall direct an approved towing service to tow the vehicle to the garage of the towing service, storage lot, or other place of safety and maintain custody and control of the vehicle until the registered owner or authorized agent of the registered owner claims the vehicle by paying all reasonable and customary towing and storage fees for the services of the towing company. The vehicle shall then be released to the registered owner or an agent of the owner.

(2) Any towing service or towing company removing the vehicle at the direction of the law enforcement officer in accordance with this section shall have a lien on the motor vehicle for all reasonable and customary fees relating to the towing and storage of the motor vehicle. This lien shall be subject and subordinate to all prior security interests and other liens affecting the vehicle whether evidenced on the certificate of title or otherwise. Notice of any sale or other proceedings relative to this lien shall be given to the holders of all prior security interests or other liens by official service of process at least 15 days prior to any sale or other proceedings.

(g) It is also a violation of this section for any person to participate in any race, competition, contest, test, or exhibition prohibited in subsection (a) as an organizer or spectator. For the purposes of this subsection, an organizer is any person who promotes participation in, coordinates, facilitates, or collects monies at any location for any race or drag race, or purposefully causes the movement of traffic to slow or stop for any such race or drag race. For the purposes of this section, a spectator is any person who has purchased a ticket for admission to the race or drag race or who is otherwise knowingly present at and views the race or drag race as the result of an affirmative choice to attend or remain at the location of the race or drag race. A person who is merely in the vicinity of the race or drag race, but is not an organizer or spectator as defined herein, shall not be held in violation of this subsection. Any person in violation of this subsection shall be punished as provided in

Section 32–5A–8, except no imprisonment shall be ordered for a violation of this subsection.

(Acts 1980, No. 80–434, p. 604, § 8–109; Act 2015–318, p. 960, § 1.)

ARTICLE 8A.

COUNTY AND MUNICIPAL REDUCED SPEED SCHOOL ZONE ACT.

§ 32–5A–180. Short title.

This article shall be known as the County and Municipal Reduced Speed School Zone Act.

(Act 2010–692, p. 1679, § 1.)

§ 32–5A–181. Definitions.

For the purposes of this article, the following words have the following meanings:

(1) REDUCED SPEED SCHOOL ZONE. A designated length of a road or highway extending between school zone speed limit signs with or without warning lights.

(2) ROAD or HIGHWAY. Any road or highway except an interstate highway.

(3) SCHOOL ZONE. All public or private school property, including school grounds and any road or highway abutting the school grounds and extending 300 feet along the road or highway from the school grounds.

(Act 2010–692, p. 1679, § 2(a); Act 2021–305, § 1.)

§ 32–5A–182. Reduced speed school zones established.

A reduced speed school zone is established for every public or private school in the state, including schools along state-maintained roads or highways.

(1) At an appropriate distance before reaching a reduced speed school zone, an appropriate sign or signs shall be erected warning of the approaching reduced speed school zone.

(2) A sign or signs at the end of the school zone shall designate where the motor vehicle may resume the regular speed limits.

(3) All signs and signing locations shall be in accordance with the rules contained in the current Manual of Uniform Traffic Control Devices.

(Act 2010–692, p. 1679, § 2(b); Act 2021–305, § 1.)

§ 32–5A–183. Maintenance of signs.

(a) Signs on a reduced speed school zone located on a county-maintained road shall be placed and maintained by the county commission.

(b) Signs on a reduced speed school zone located on a municipality-maintained road shall be placed and maintained by the municipality.

(c) Signs on a reduced speed school zone located on a state-maintained road or highway within a county shall be placed and maintained by the State Department of Transportation.

(Act 2010–692, p. 1679, § 3; Act 2021–305, § 1.)

§ 32–5A–184. Speed limits; enforcement.

School zone speed limits shall be posted on the State Department of Transportation's standard size speed limit signs and the times when the reduced speed limits are in effect. Law enforcement authorities shall enforce school zone speed limits.

(Act 2010–692, p. 1679, § 5.)

§ 32–5A–185. Violations.

Upon conviction of a school zone speed violation, the operator of the motor vehicle shall be assessed a fine of double the amount prescribed by law outside a school zone. The signs, placed at the entrance of the school zone, shall warn of the doubled fines for speeding within a school zone. The signs shall also state that the doubled fines are applicable only during the times posted on the signs.

(Act 2010–692, p. 1679, § 6.)

§ 32–5A–186. Fines.

The proceeds from any fines collected pursuant to this article payable to a county or municipality pursuant to state law shall be paid into the public road and bridge fund of the county or the treasury of the municipality in which the offense occurred.

(Act 2010–692, p. 1679, § 7.)

Article 9.

Serious Traffic Offenses.

§ 32–5A–190. Reckless driving.

(a) Any person who drives any vehicle carelessly and heedlessly in willful or wanton disregard for the rights or safety of persons or property, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving.

(b) Every person convicted of reckless driving shall be punished upon a first conviction by imprisonment for a period of not less than five days nor more than 90 days, or by fine of not less than $25.00 nor more than $500.00, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than 10 days nor more than

six months, or by a fine of not less than $50.00 nor more than $500.00, or by both such fine and imprisonment, and the court may prohibit the person so convicted from driving a motor vehicle on the public highways of this state for a period not exceeding six months, and the license of the person shall be suspended for such period by the Director of Public Safety pursuant to Section 32–5A–195.

(c) Neither reckless driving nor any other moving violation under this chapter is a lesser included offense under a charge of driving while under the influence of alcohol or drugs.

(Acts 1980, No. 80–434, p. 604, § 9–101.)

§ 32–5A–190.1. Homicide by vehicle.

(a) A person who causes the death of another person while knowingly engaged in the violation of Title 32, Chapter 5A, excluding Section 32–5A–191, applying to the operation or use of a vehicle, as defined in Section 32–1–1.1, may be guilty of homicide by vehicle when the violation is the proximate cause of the death.

(b) A person convicted of homicide by vehicle under subsection (a) is guilty of a Class C felony.

(c) By the tenth day of the 2022 Legislative Regular Session, the Administrative Office of Courts and the Office of Prosecution Services will report to the Legislature the statistical information from court records relating to this charge.

(Act 2017–336, § 2; Act 2018–406, § 1(b)(7); Act 2023–178, § 1(b)(2), eff. Aug. 1, 2023.)

§ 32–5A–191. Driving while under influence of alcohol, controlled substances, etc.

(a) A person shall not drive or be in actual physical control of any vehicle while:

(1) There is 0.08 percent or more by weight of alcohol in his or her blood;

(2) Under the influence of alcohol;

(3) Under the influence of a controlled substance to a degree which renders him or her incapable of safely driving;

(4) Under the combined influence of alcohol and a controlled substance to a degree which renders him or her incapable of safely driving; or

(5) Under the influence of any substance which impairs the mental or physical faculties of such person to a degree which renders him or her incapable of safely driving.

(b) A person who is under the age of 21 years shall not drive or be in actual physical control of any vehicle if there is 0.02 percent or more by weight of alcohol in his or her blood. The Alabama State Law Enforcement Agency shall suspend or revoke the driver's license of any person, including, but not

limited to, a juvenile, child, or youthful offender, convicted or adjudicated of, or subjected to a finding of, delinquency based on this subsection. Notwithstanding the foregoing, upon the first violation of this subsection by a person whose blood alcohol level is between 0.02 and 0.08, the person's driver's license or driving privilege shall be suspended for a period of 30 days in lieu of any penalties provided in subsection (e) of this section, and there shall be no disclosure, other than to courts, law enforcement agencies, the person's attorney of record, and the person's employer, by any entity or person of any information, documents, or records relating to the person's arrest, conviction, or adjudication of or finding of delinquency based on this subsection.

All persons, except as otherwise provided in this subsection for a first offense, including, but not limited to, a juvenile, child, or youthful offender, convicted or adjudicated of or subjected to a finding of delinquency based on this subsection shall be fined pursuant to this section, notwithstanding any other law to the contrary, and the person shall also be required to attend and complete a DUI or substance abuse court referral program in accordance with subsection (k).

(c)(1) A school bus or day care driver shall not drive or be in actual physical control of any vehicle while in performance of his or her duties if there is greater than 0.02 percent by weight of alcohol in his or her blood. A person convicted pursuant to this subsection shall be subject to the penalties provided by this section, except that on the first conviction the Secretary of the Alabama State Law Enforcement Agency shall suspend the driving privilege or driver's license for a period of one year.

(2) A person shall not drive or be in actual physical control of a commercial motor vehicle, as defined in 49 CFR Part 383.5 of the Federal Motor Carrier Safety Regulations as adopted pursuant to Section 32–9A–2, if there is 0.04 percent or greater by weight of alcohol in his or her blood. Notwithstanding the other provisions of this section, the commercial driver's license or commercial driving privilege of a person convicted of violating this subdivision shall be disqualified for the period provided in accordance with 49 CFR Part 383.51, as applicable, and the person's regular driver's license or privilege to drive a regular motor vehicle shall be governed by the remainder of this section if the person is guilty of a violation of another provision of this section.

(3) Any commutation of suspension or revocation time as it relates to a court order, approval, and installation of an ignition interlock device shall not apply to commercial driving privileges or disqualifications.

(d) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a controlled substance shall not constitute a defense against any charge of violating this section.

(e) Upon first conviction, a person violating this section shall be punished by imprisonment in the county or municipal jail for not more than one year, or by fine of not less than six hundred dollars ($600) nor more than two thousand one hundred dollars ($2,100), or by both a fine and imprisonment.

In addition, on a first conviction, the Secretary of the Alabama State Law Enforcement Agency shall suspend the driving privilege or driver's license of the person convicted for a period of 90 days. The 90–day suspension shall be stayed if the offender elects to have an approved ignition interlock device installed and operating on the designated motor vehicle driven by the offender for 90 days. The offender shall present proof of installation of the approved ignition interlock device to the Alabama State Law Enforcement Agency and obtain an ignition interlock restricted driver license. The remainder of the suspension shall be commuted upon the successful completion of the elected use, mandated use, or both, of the ignition interlock device. If, on a first conviction, any person refusing to provide a blood alcohol concentration or if a child under the age of 14 years was a passenger in the vehicle at the time of the offense or if someone else besides the offender was injured at the time of the offense, or if the offender is found to have had at least 0.15 percent or more by weight of alcohol in his or her blood while operating or being in actual control of a vehicle, the Secretary of the Alabama State Law Enforcement Agency shall suspend the driving privilege or driver's license of the person convicted for a period of 90 days and the person shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of one year from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of 45 days of the license revocation or suspension pursuant to Section 32–5A–304 or this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation of an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of one year provided in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

(f) On a second conviction, a person convicted of violating this section shall be punished by a fine of not less than one thousand one hundred dollars ($1,100) nor more than five thousand one hundred dollars ($5,100) and by imprisonment, which may include hard labor in the county or municipal jail for not more than one year. The sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than five days or community service for not less than 30 days. In addition, the Secretary of the Alabama State Law Enforcement Agency shall revoke the driving privileges or driver's license of the person convicted for a period of one year and the offender shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of two years from

the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of 45 days of the license revocation or suspension pursuant to Section 32–5A–304, this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation of an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of two years approved in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

(g) On a third conviction, a person convicted of violating this section shall be punished by a fine of not less than two thousand one hundred dollars ($2,100) nor more than ten thousand one hundred dollars ($10,100) and by imprisonment, which may include hard labor, in the county or municipal jail for not less than 60 days nor more than one year, to include a minimum of 60 days which shall be served in the county or municipal jail and cannot be probated or suspended. In addition, the Secretary of the Alabama State Law Enforcement Agency shall revoke the driving privilege or driver's license of the person convicted for a period of three years and the offender shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of three years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of 60 days of the license revocation or suspension pursuant to Section 32–5A–304, this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation of an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of three years provided in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

(h) On a fourth or subsequent conviction, or if the person has a previous felony DUI conviction, a person convicted of violating this section shall be guilty of a Class C felony and punished by a fine of not less than four thousand one hundred dollars ($4,100) nor more than ten thousand one hundred dollars ($10,100) and by imprisonment of not less than one year and one day nor more than 10 years. Any term of imprisonment may include hard labor for the county or state, and where imprisonment does not exceed

three years, confinement may be in the county jail. Where imprisonment does not exceed one year and one day, confinement shall be in the county jail. The minimum sentence shall include a term of imprisonment for at least one year and one day; provided, however, that there shall be a minimum mandatory sentence of 10 days which shall be served in the county jail. The remainder of the sentence may be suspended or probated, but only if, as a condition of probation, the defendant enrolls and successfully completes a state certified chemical dependency program recommended by the court referral officer and approved by the sentencing court. Where probation is granted, the sentencing court may, in its discretion, and where monitoring equipment is available, place the defendant on house arrest under electronic surveillance during the probationary term. In addition to the other penalties authorized, the Secretary of the Alabama State Law Enforcement Agency shall revoke the driving privilege or driver's license of the person convicted for a period of five years and the offender shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a period of four years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. After a minimum of one year of the license revocation or suspension pursuant to Section 32–5A–304, this section, or both, is completed, upon receipt of a court order from the convicting court, upon issuance of an ignition interlock restricted driver license, and upon proof of installation of an operational approved ignition interlock device on the designated vehicle of the person convicted, the mandated ignition interlock period of four years provided in this subsection shall start and the suspension period, revocation period, or both, as required under this subsection shall be stayed. The remainder of the driver license revocation period, suspension period, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

The Alabama habitual felony offender law shall not apply to a conviction of a felony pursuant to this subsection, and a conviction of a felony pursuant to this subsection shall not be a felony conviction for purposes of the enhancement of punishment pursuant to Alabama's habitual felony offender law. However, prior misdemeanor or felony convictions for driving under the influence may be considered as part of the sentencing calculations or determinations under the Alabama Sentencing Guidelines or rules promulgated by the Alabama Sentencing Commission.

(i) When any person convicted of violating this section is found to have had at least 0.15 percent or more by weight of alcohol in his or her blood while operating or being in actual physical control of a vehicle, he or she shall be sentenced to at least double the minimum punishment that the person would have received if he or she had had less than 0.15 percent by weight of alcohol in his or her blood. This subsection does not apply to the duration of time an ignition interlock device is required by this section. If the adjudicated offense is a misdemeanor, the minimum punishment shall be imprisonment for one

year, all of which may be suspended except as otherwise provided for in subsections (f) and (g).

(j) When any person over the age of 21 years is convicted of violating this section and it is found that a child under the age of 14 years was a passenger in the vehicle at the time of the offense, the person shall be sentenced to at least double the minimum punishment that the person would have received if the child had not been a passenger in the motor vehicle. This subsection does not apply to the duration of time an ignition interlock device is required by this section.

(k)(1) In addition to the penalties provided herein, any person convicted of violating this section shall be referred to the court referral officer for evaluation and referral to appropriate community resources. The defendant shall, at a minimum, be required to complete a DUI or substance abuse court referral program approved by the Administrative Office of Courts and operated in accordance with provisions of the Mandatory Treatment Act of 1990, Sections 12–23–1 to 12–23–19, inclusive. The Alabama State Law Enforcement Agency shall not reissue a driver's license to a person convicted under this section without receiving proof that the defendant has successfully completed the required program.

(2) Upon conviction, the court shall notify the Alabama State Law Enforcement Agency if the person convicted is required to install and maintain an approved ignition interlock device. The agency shall suspend or revoke a person's driving privileges until completion of the mandatory suspension or revocation period required by this section, and clearance of all other suspensions, revocations, cancellations, or denials, and proof of installation of an approved ignition interlock device is presented to the agency. The agency shall not reissue a driver's license to a person who has been ordered by a court or is required by law to have the ignition interlock device installed until proof is presented that the person is eligible for reinstatement of driving privileges. Upon presentation of proof and compliance with all ignition interlock requirements, the agency shall issue a driver's license with a restriction indicating that the licensee may operate a motor vehicle only with the certified ignition interlock device installed and properly operating. If the licensee fails to maintain the approved ignition interlock device as required or is otherwise not in compliance with any order of the court, the court shall notify the agency of the noncompliance and the agency shall suspend the person's driving privileges until the agency receives notification from the court that the licensee is in compliance. The requirement that the licensee use the ignition interlock device may be removed only when the court of conviction confirms to the agency that the licensee is no longer subject to the ignition interlock device requirement.

(l) Neither reckless driving nor any other traffic infraction is a lesser included offense under a charge of driving under the influence of alcohol or of a controlled substance.

(m)(1) Except for fines collected for violations of this section charged pursuant to a municipal ordinance, fines collected for violations of this section shall be deposited to the State General Fund; however, beginning October 1, 1995, of any amount collected over two hundred fifty dollars ($250) for a first conviction, over five hundred dollars ($500) for a second conviction within 10 years, over one thousand dollars ($1,000) for a third conviction within 10 years, and over two thousand dollars ($2,000) for a fourth or subsequent conviction within 10 years, the first one hundred dollars ($100) of that additional amount shall be deposited to the Alabama Chemical Testing Training and Equipment Trust Fund, after three percent of the one hundred dollars ($100) is deducted for administrative costs, and beginning October 1, 1997, and thereafter, the second one hundred dollars ($100) of that additional amount shall be deposited in the Alabama Head and Spinal Cord Injury Trust Fund after deducting five percent of the one hundred dollars ($100) for administrative costs and the remainder of the funds shall be deposited to the State General Fund.

(2) Fines collected for violations of this section charged pursuant to a municipal ordinance where the total fine is paid at one time shall be deposited as follows: The first three hundred fifty dollars ($350) collected for a first conviction, the first six hundred dollars ($600) collected for a second conviction within 10 years, the first one thousand one hundred dollars ($1,100) collected for a third conviction, and the first two thousand one hundred dollars ($2,100) collected for a fourth or subsequent conviction shall be deposited to the State Treasury with the first one hundred dollars ($100) collected for each conviction credited to the Alabama Chemical Testing Training and Equipment Trust Fund and the second one hundred dollars ($100) to the Alabama Head and Spinal Cord Injury Trust Fund after deducting five percent of the one hundred dollars ($100) for administrative costs and depositing this amount in the general fund of the municipality, and the balance credited to the State General Fund. Any amounts collected over these amounts shall be deposited as otherwise provided by law.

(3) Fines collected for violations of this section charged pursuant to a municipal ordinance, where the fine is paid on a partial or installment basis, shall be deposited as follows: The first two hundred dollars ($200) of the fine collected for any conviction shall be deposited to the State Treasury with the first one hundred dollars ($100) collected for any conviction credited to the Alabama Chemical Testing Training and Equipment Trust Fund and the second one hundred dollars ($100) for any conviction credited to the Alabama Head and Spinal Cord Injury Trust Fund after deducting five percent of the one hundred dollars ($100) for administrative costs and depositing this amount in the general fund of the municipality. The second three hundred dollars ($300) of the fine collected for a first conviction, the second eight hundred dollars ($800) collected for a second conviction, the second one thousand eight hundred dollars ($1,800) collected for a third conviction, and the second three thousand eight hundred dollars ($3,800)

collected for a fourth conviction shall be divided with 50 percent of the funds collected to be deposited to the State Treasury to be credited to the State General Fund and 50 percent deposited as otherwise provided by law for municipal ordinance violations. Any amounts collected over these amounts shall be deposited as otherwise provided by law for municipal ordinance violations.

(4) Notwithstanding any provision of law to the contrary, 90 percent of any fine assessed and collected for any DUI offense charged by municipal ordinance violation in district or circuit court shall be computed only on the amount assessed over the minimum fine authorized, and upon collection shall be distributed to the municipal general fund with the remaining 10 percent distributed to the State General Fund.

(5) In addition to fines imposed pursuant to this subsection, a mandatory fee of one hundred dollars ($100) shall be collected from any individual who successfully completes any pretrial diversion or deferral program in any municipal, district, or circuit court where the individual was charged with a violation of this section or a corresponding municipal ordinance. The one hundred dollars ($100) shall be deposited into the Alabama Chemical Testing Training and Equipment Fund.

(6) In addition to the fines and fees imposed pursuant to this subsection, a mandatory fee of one hundred dollars ($100) shall be collected from any individual who successfully completes any pretrial diversion or deferral program in any municipal, district, or circuit court where the individual was charged with a violation of this section or a corresponding municipal ordinance. The one hundred dollars ($100) shall be deposited into the Alabama Head and Spinal Cord Injury Trust Fund.

(n)(1) A person who has been arrested for violating this section shall not be released from jail under bond or otherwise, until there is less than the same percent by weight of alcohol in his or her blood as specified in subsection(a)(1) or, in the case of a person who is under the age of 21 years, subsection (b) hereof.

(2) A judge may require an offender to install and use a certified ignition interlock device as a condition of bond. In that instance, the Secretary of the Alabama State Law Enforcement Agency shall issue the offender a restricted driver's license indicating the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. Any driver's license suspension or revocation period pursuant to Section 32–5A–304 shall be stayed during the period the offender is under the bond condition. The period of time the offender has the ignition interlock device installed as a condition of bond shall not be credited to any requirement to have an ignition interlock device upon conviction.

(*o*) Upon verification that a defendant arrested pursuant to this section is currently on probation from another court of this state as a result of a conviction for any criminal offense, the prosecutor shall provide written or

oral notification of the defendant's subsequent arrest and pending prosecution to the court in which the prior conviction occurred.

(p)(1) Except as provided in subdivision (2), a prior conviction for driving under the influence from this state, a municipality within this state, or another state or territory or a municipality of another state or territory shall be considered by a court for imposing a sentence pursuant to this section if the prior conviction occurred within 10 years of the date of the current offense.

(2) If the person has a previous felony DUI conviction, then all of the person's subsequent DUI convictions shall be treated as felonies regardless of the date of the previous felony DUI conviction.

(q) Any person convicted of driving under the influence of alcohol, or a controlled substance, or both, or any substance which impairs the mental or physical faculties in violation of this section, a municipal ordinance adopting this section, or a similar law from another state or territory or a municipality of another state or territory more than once in a 10–year period shall have his or her motor vehicle registration for all vehicles owned by the repeat offender suspended by the Alabama Department of Revenue for the duration of the offender's driver's license suspension period, unless such action would impose an undue hardship to any individual, not including the repeat offender, who is completely dependent on the motor vehicle for the necessities of life, including any family member of the repeat offender and any co-owner of the vehicle or, in the case of a repeat offender, if the repeat offender has a functioning ignition interlock device installed on the designated vehicle for the duration of the offender's driver's license suspension period.

(r)(1) Any person ordered by the court to have an ignition interlock device installed on a designated vehicle, and any person who elects to have the ignition interlock device installed on a designated vehicle for the purpose of reducing a period of suspension or revocation of his or her driver's license, shall pay to the court, following his or her conviction, two hundred dollars ($200), which may be paid in installments and which shall be divided as follows:

a. Seventeen percent to the Alabama Interlock Indigent Fund.

b. For cases in the district or circuit court, 30 percent to the State Judicial Administration Fund administered by the Administrative Office of Courts and for cases in the municipal court, 30 percent to the municipal judicial administration fund of the municipality where the municipal court is located to be used for the operation of the municipal court.

c. Thirty percent to the Highway Traffic Safety Fund administered by the Alabama State Law Enforcement Agency.

d. Twenty-three percent to the District Attorney's Solicitor Fund.

(2) In addition to paying the court clerk the fee required above following the conviction or the voluntary installation of the ignition interlock device, the defendant shall pay all costs associated with the installation, purchase,

maintenance, or lease of the ignition interlock devices to an approved ignition interlock provider pursuant to the rules of the Department of Forensic Sciences, unless the defendant is subject to Section 32–5A–191.4(i)(4).

(s) The defendant shall designate the vehicle to be used by identifying the vehicle by the vehicle identification number to the court. The defendant, at his or her own expense, may designate additional motor vehicles on which an ignition interlock device may be installed for the use of the defendant.

(t)(1) Any person who is required to comply with the ignition interlock provisions of this section as a condition of restoration or reinstatement of his or her driver's license, shall only operate the designated vehicle equipped with a functioning ignition interlock device for the period of time consistent with the offense for which he or she was convicted as provided for in this section.

(2) The duration of the time an ignition interlock device is required by this section shall be one year if the offender refused the prescribed chemical test for intoxication.

(u)(1) The Alabama State Law Enforcement Agency may set a fee of not more than one hundred fifty dollars ($150) for the issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle. Fifteen percent of the fee shall be distributed to the general fund of the county where the person was convicted to be utilized for law enforcement purposes. Eighty-five percent shall be distributed to the State General Fund. In addition, at the end of the time the person's driving privileges are subject to the above conditions, the agency shall set a fee of not more than seventy-five dollars ($75) to reissue a regular driver's license. The fee shall be deposited as provided in Sections 32–6–5, 32–6–6, and 32–6–6.1.

(2) The defendant shall provide proof of installation of an approved ignition interlock device to the Alabama State Law Enforcement Agency as a condition of the issuance of a restricted driver's license.

(3) Any ignition interlock driving violation committed by the offender during the mandated ignition interlock period shall extend the duration of ignition interlock use for six months. Ignition interlock driving violations include any of the following:

a. A breath sample at or above a minimum blood alcohol concentration level of 0.02 recorded four or more times during the monthly reporting period unless a subsequent test performed within 10 minutes registers a breath alcohol concentration lower than 0.02.

b. Any tampering, circumvention, or bypassing of the ignition interlock device, or attempt thereof.

c. Failure to comply with the servicing or calibration requirements of the ignition interlock device every 30 days.

(v) Nothing in this section and Section 32–5A–191.4 shall require an employer to install an ignition interlock device in a vehicle owned or operated by the employer for use by an employee required to use the device as a condition of driving pursuant to this section and Section 32–5A–191.4.

(w) The provisions in this section and Section 32–5A–191.4 relating to ignition interlock devices shall not apply to persons who commit violations of this section while under 19 years of age and who are adjudicated in juvenile court, unless specifically ordered otherwise by the court.

(x)(1) The amendatory language in Act 2014–222 to this section, authorizing the Alabama State Law Enforcement Agency to stay a driver's license suspension or revocation upon compliance with the ignition interlock requirement shall apply retroactively if any of the following occurs:

a. The offender files an appeal with the court of jurisdiction requesting all prior suspensions or revocation, or both, be stayed upon compliance with the ignition interlock requirement.

b. The offender wins appeal with the court of jurisdiction relating to this section.

c. The court of jurisdiction notifies the Alabama State Law Enforcement Agency that the offender is eligible to have the driver's license stayed.

d. The Alabama State Law Enforcement Agency issues an ignition interlock restricted driver's license.

e. The offender remains in compliance of ignition interlock requirements.

(2) The remainder of the driver license revocation, suspension, or both, shall be commuted upon the successful completion of the period of time in which the ignition interlock device is mandated to be installed and operational.

(y) Pursuant to Section 15–22–54, the maximum probation period for persons convicted under this section shall be extended until all ignition interlock requirements have been completed by the offender.

(z) Notwithstanding the ignition interlock requirements of this section, no person may be required to install an ignition interlock device if there is not a certified ignition interlock provider available within a 50 mile radius of his or her place of residence or place of business or employment.

(Acts 1980, No. 80–434, p. 604, § 9–102; Acts 1981, No. 81–803, p. 1412, § 1; Acts 1983, No. 83–620, p. 959, § 1; Acts 1984, No. 84–259, p. 431, § 1; Acts 1994, No. 94–590, p. 1089, § 1; Acts 1995, No. 95–784, p. 1862, § 2; Acts 1996, No. 96–341, p. 416, § 1; Acts 1996, No. 96–705, p. 1174, § 1; Acts 1997, No. 97–556, p. 985, § 1; Act 99–432, p. 787, § 1; Act 2000–677, p. 1376, § 1; Act 2002–502, p. 1299, § 1; Act 2005–326, 1st Sp. Sess., p. 795, § 1; Act 2006–654, p. 1787, § 1; Act 2011–621, p. 1429, § 1; Act 2011–613, p. 1363, § 1; Act 2012–363, p. 904, § 1(b)(4); Act 2014–222, p. 712, §§ 1, 2; Act 2016–259, p. 628, § 1; Act 2018–517, § 1; Act 2018–518, § 1; Act 2018–546, § 1; Act 2018–517, § 2.)

§ 32–5A–191.1. Additional fines on persons convicted of offenses involving driving under the influence. Repealed by Acts 1997, No. 97–556, p. 985, § 2, effective October 1, 1997.

§ 32–5A–191.2. Administration and disposition of funds in Alabama Head and Spinal Cord Injury Trust Fund.

(a) Beginning October 1, 1994, moneys in the Alabama Head and Spinal Cord Injury Trust Fund shall be distributed to the Division of Rehabilitation Services in the State Department of Education for the following purposes:

(1) As a payer of last resort for the costs of care provided in this state for citizens of this state who have survived neuro-trauma with head or spinal cord injuries. Expenditures for spinal cord injury and head injury care shall be made by the Division of Rehabilitation Services according to criteria established by the Alabama Head and Spinal Cord Injury Trust Fund Advisory Board. Expenditures may include but need not be limited to, post acute medical care, rehabilitation therapies, medication, attendant care, home accessibility modification, and equipment necessary for activities of daily living.

(2) Public information, prevention education, and research coordinated by the Alabama Head Injury Foundation.

(b) The Division of Rehabilitation Services shall issue a report to the Legislature on the first day of the regular session of each year, summarizing the activities supported by the moneys from the additional fines levied in this section and Section 32–5A–191.1.

(Acts 1993, No. 93–323, p. 492, § 2; Act 2016–259, p. 628, § 1.)

§ 32–5A–191.3. Operation of vessel and other marine devices while under influence of alcohol or controlled substances.

(a) A person shall not operate or be in actual physical control of any vessel, or manipulate any water skis, aquaplane, or any other marine transportation device on the waters of this state, as the waters are defined in Section 33–5–3, under any condition in which a person would be guilty of driving under the influence of alcohol or drugs pursuant to Section 32–5A–191 if the person was driving or controlling a motor vehicle.

(b) In the case of a vessel or other marine device described in subsection (a), where a law enforcement officer has probable cause to believe that the operator of the vessel or other marine device is operating in violation of this section, the law enforcement officer is authorized to administer and may test the operator, at the scene, by using a field breathalyzer or other approved device, as a screening device, to determine if the operator may be operating a vessel or device in violation of subsection (a). Refusal to submit to a field breathalyzer test or other approved testing device shall result in the same

punishment as provided in subsection (c) of Section 32–5–192 for operators of motor vehicles on the state highways.

(c) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a controlled substance shall not constitute a defense against any charge of violating this section.

(d) Upon a first or subsequent conviction, a person violating this section shall be punished in the same manner and under the same conditions as a person convicted of driving under the influence of alcohol or drugs pursuant to Section 32–5A–191, or any successor section or sections providing for the offense of driving under the influence of alcohol or drugs, except that in any case where reference is made to the Director of Public Safety and the driving privilege or driver's license of the person, the reference shall be deemed to refer to the Commissioner of Conservation and Natural Resources and the vessel operating privilege or boater safety certification of the person convicted under this section.

(e) Neither reckless or careless operation of a vessel, nor any other boating or water safety infraction, is a lesser included offense under a charge of operating a vessel while under the influence of alcohol or controlled substances.

(f) All fines collected for violation of this section as to vessels or other marine devices on the waters of this state shall be paid into the State Water Safety Fund.

(g) A person who has been arrested for violating this section shall not be released from jail under bond or otherwise, until there is less than the same percent by weight of alcohol in the person's blood as specified in subdivision (1) of subsection (a).

(h) Upon verification that a defendant arrested pursuant to this section is currently on probation from another court of this state as a result of a conviction for any criminal offense, the prosecutor shall provide written or oral notification of the defendant's subsequent arrest and pending prosecution to the court in which the prior conviction occurred.

(i) When any person over the age of 21 years is convicted pursuant to this section and a child under the age of 14 years was present on the vessel or other marine device described in subsection (a) at the time of the offense, the defendant shall be sentenced to double the minimum punishment that the person would have received if the child had not been present.

(j) ''Vessel,'' for the purposes of this section, shall mean any vessel as defined in Section 33–5–3, operated on the waters of this state, as defined in Section 33–5–3.

(k) No provision of this section shall be construed to assess points for DUI convictions under motor vehicle convictions for driving under the influence.

(Acts 1994, No. 94–652, p. 1243, § 2; Act 2001–695, p. 1477, § 2.)

§ 32–5A–191.4. Ignition interlock devices.

(a) As used in Section 32–5A–191, the term, ''ignition interlock device'' means a constant monitoring device that prevents a motor vehicle from being started at any time without first determining the equivalent blood alcohol level of the operator through the taking of a breath sample for testing. The system shall be calibrated so that the motor vehicle may not be started if the blood alcohol level of the operator, as measured by the test, reaches a blood alcohol concentration level of 0.02.

(b) The ignition interlock device shall be installed, calibrated, and monitored directly by trained technicians who shall train the offender for whom the device is being installed in the proper use of the device. The use of a mail in or remote calibration system where the technician is not in the immediate proximity of the vehicle being calibrated is prohibited. The Department of Forensic Sciences shall promulgate rules for punishment and appeal for ignition interlock providers relating to violation of this subsection.

(c) The department shall formulate and promulgate rules for the proper approval, installation, and use of ignition interlock devices. Additionally, the department shall maintain and make public the list of approved ignition interlock devices.

(d) The department may adopt in whole or relevant part the guidelines, rules, regulations, studies, or independent laboratory tests performed or relied upon by other states, their agencies, or commissions.

(e) The department shall promulgate rules regulating approved ignition interlock providers related to areas of consumer coverage. The rules shall address areas of consumer coverage and shall provide for a two-year period from July 1, 2014, to allow provider compliance.

(f) The department shall charge an application fee of two thousand dollars ($2,000) to any ignition interlock provider to evaluate the instrument. Any ignition interlock provider whose ignition interlock device is approved by the department shall be permitted to install and calibrate its approved device in Alabama. Each year during the month of April, the department may receive applications and instruments to review for approval.

(g) The Alabama State Law Enforcement Agency shall be responsible for enforcing the rules promulgated by the department related to ignition interlock devices and providers. The agency shall promulgate rules regulating the inspection and enforcement of approved ignition interlock providers and any associate service locations.

(h) In the absence of negligence, wantonness, or willful misconduct, no person or employer or agent of a person who installs an ignition interlock device pursuant to Section 32–5A–191 shall be liable for any occurrence related to the device, including, but not limited to, occurrences resulting from or related to a malfunction of the device or use of, misuse of, or failure to use the device or the vehicle in which the device was installed.

(i)(1) When the court imposes the use of an ignition interlock device as required by Section 32–5A–191, the court shall require that the person provide proof of installation of a device to the court or a probation officer within 30 days of the date the defendant becomes eligible to receive an ignition interlock-restricted license from the agency. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered into the court record, the court may revoke the person's probation where applicable after a petition to revoke probation has been filed and the defendant has been given notice and an opportunity to be heard on the petition. The court in which the defendant is convicted shall notify the agency that the defendant is restricted to the operation of a motor vehicle only when an approved ignition interlock device is installed and properly operating. Nothing in this subsection shall permit a person who does not own a vehicle or otherwise have an ignition interlock device installed on a motor vehicle to operate a motor vehicle without an approved ignition interlock device installed and properly operating.

(2) Proof of installation for the purpose of this subsection may be furnished by either a certificate of installation or a copy of the lease agreement in the name of the offender for the designated vehicle with an approved ignition interlock device company.

(3) A defendant who is determined by the court to be indigent for the purpose of ignition interlock may have an ignition interlock device installed by an ignition interlock provider as provided in this subsection. Criteria for determining indigency for the purpose of ignition interlock shall be the same criteria as set forth in Section 15–12–5(b) and (c) after the report is complete. The defendant shall execute an affidavit of substantial hardship on a form approved by the Supreme Court. The completed affidavit of substantial hardship and the subsequent order of the court either denying or granting indigency status for the purpose of ignition interlock to the offender shall become a part of the official court record in the case and shall be submitted by the offender to the interlock provider.

(4) Any offender granted indigency status for the purpose of ignition interlock shall not be required to pay the costs associated with installing and maintaining an interlock device nor required to pay any interlock fees charged to a defendant who does not own a vehicle or otherwise have an ignition interlock device installed on a vehicle pursuant to subdivision (6) for the period of any sentence for ignition interlock. The defendant shall pay any fees for any violation of ignition interlock requirements and for any optional services elected by the defendant and for any missing or damaged equipment. This section shall not affect any fees associated with the driver's license of the defendant.

(5)a. The agency shall require each approved manufacturer to provide a minimum number of indigent defendants with ignition interlock services, including installation, lease, calibration, and removal, at no cost to the indigent defendant. The minimum number of indigent defendants pro-

vided services shall be equal to five percent of the total installations provided by the manufacturer during the prior calendar year.

b. The agency shall oversee the administration of indigent services on an annual basis by doing all of the following:

1. Verifying the total number of installations provided by the manufacturer each year.

2. Verifying the number of installations for indigent defendants provided each year by each manufacturer.

3. Conducting random audits of payments based on the list of indigent defendants serviced by each manufacturer.

c. Each manufacturer who fails to meet the five percent threshold for indigent defendants shall be subject to a civil penalty of five hundred dollars ($500) for each indigent defendant the manufacturer failed to provide services below the five percent threshold. All fines shall be collected by the agency and deposited in the Alabama Ignition Interlock Indigent Fund.

d. The Alabama Ignition Interlock Indigent Fund is created in the State Treasury. The fund shall be administered by the agency. Except as provided in paragraph e., all of the money in the fund shall be used to reimburse ignition interlock device providers who have installed devices in vehicles of indigent persons pursuant to court orders issued under this section. No provider shall be reimbursed for an interlock device installed without the completed affidavit of substantial hardship and the subsequent order of the court granting indigency status. Payments to interlock device providers pursuant to this subdivision shall be made every three months. If the amount of money in the fund at the time payments are made is not sufficient to pay all requests for reimbursement submitted during that three-month period, the Comptroller shall make payments on a pro rata basis and those payments shall be considered payment in full for the requests submitted. At the end of each fiscal year, all monies above five hundred thousand dollars ($500,000) remaining in the Alabama Ignition Interlock Indigent Fund shall be divided as follows:

1. Thirty percent to the Highway Traffic Safety Fund administered by the Alabama State Law Enforcement Agency.

2. Twenty percent to the Alabama Chemical Testing Training and Equipment Trust Fund administered by the Department of Forensic Sciences.

3. Thirty percent to the District Attorney's Solicitor's Fund.

4. Twenty percent to the Office of Prosecution Services.

e. Notwithstanding the provisions of paragraph d., 10 percent of the first five hundred thousand dollars ($500,000) collected in the fund each year may be used by the Alabama State Law Enforcement Agency for any of the following additional purposes on an annual basis:

1. Annual reporting and assessment of manufacturer compliance with indigent service requirements.

2. Notice and collection of any fines for noncompliance.

3. Annual inspection of interlock service centers by the agency.

(6) Any defendant who does not own a vehicle or otherwise have an ignition interlock device installed on a vehicle shall be required to pay seventy-five dollars ($75) per month for the entire period the defendant is required or elects to have an ignition interlock device unless the defendant is determined by the court to be indigent as provided for in subdivision (3). The defendant shall still serve all license suspension or revocation, or both, during this period. Any monies paid pursuant to this subdivision shall be paid to the court clerk and shall be deposited in the Alabama Impaired Driving Prevention and Enforcement Fund in the State Treasury to be used by the Alabama State Law Enforcement Agency for impaired driving education and enforcement.

(j) No person who is prohibited from operating a motor vehicle unless it is equipped with an ignition interlock device as provided in Section 32–5A–191 shall knowingly:

(1) Operate, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.

(2) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(k)(1) Any person who operates a motor vehicle in violation of subsection (j) shall be immediately removed from the vehicle and taken into custody. The vehicle, regardless of ownership or possessory interest of the operator or person present in the vehicle, except when the owner of the vehicle or another family member of the owner is present in the vehicle and presents a valid driver's license, shall be impounded by any duly sworn law enforcement officer pursuant to Section 32–6–19(c). If there is an emergency or medical necessity jeopardizing life or limb, the law enforcement officer may elect not to impound the vehicle.

(2) A violation of subsection (j) on the first offense is a Class A misdemeanor. In addition, the time the defendant is required to use an ignition interlock device shall be extended by six months. Upon second conviction of a violation of subsection (j), the sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than 48 hours and the time the defendant is required to use an ignition interlock device shall be extended by six months. Upon a third or subsequent conviction of a violation of subsection (j), the sentence shall include a mandatory sentence, which is not subject to suspension or probation, of imprisonment in the county or municipal jail for not less than five days and the time the defendant shall be required to use an ignition interlock device shall be extended by one year.

(l) No person shall blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person who is prohibited from operating a motor vehicle without an ignition interlock device.

(m) No person shall intentionally attempt to tamper with, defeat, or circumvent the operation of an ignition interlock device.

(n) Any person convicted of a violation of this section other than subsection (j) shall be punished by imprisonment for not more than six months or a fine of not more than five hundred dollars ($500), or both.

(Act 2011–613, p. 1363, § 2; Act 2014–222, p. 712, § 1; Act 2018–517, § 1.)

§ 32–5A–192. Homicide by vehicle or vessel. Repealed by Act 2014–427, p. 1574, § 2, effective July 1, 2014.

§ 32–5A–193. Fleeing or attempting to elude police officer. Repealed by Act 2009–616, p. 1779, § 6, effective August 1, 2009.

§ 32–5A–194. Admissibility of chemical tests as evidence; procedures; presumptions; refusal to submit; liability.

(a) Upon the trial of any civil, criminal, or quasi-criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence, evidence of the amount of alcohol, controlled substance, or other impairing substance in a person's blood at the alleged time, as determined by a chemical analysis of the person's blood, breath, oral fluid, or other bodily substance, or any combination thereof, shall be admissible. Where a chemical test or tests are made, the following provisions shall apply:

(1) Chemical analyses of the person's blood, breath, oral fluid, or other bodily substance to be considered valid shall have been performed according to methods approved by the Department of Forensic Sciences and by an individual possessing a valid permit issued by the Department of Forensic Sciences. The court trying the case may take judicial notice of the methods approved by the Department of Forensic Sciences. The Department of Forensic Sciences may approve satisfactory techniques or methods to ascertain the qualifications and competence of individuals to conduct the analyses and to issue permits which shall be subject to termination or revocation at the discretion of the Department of Forensic Sciences. The Department of Forensic Sciences shall approve permits required in this section only for employees of state, county, municipal, and federal law enforcement agencies, and for laboratory personnel employed by the Department of Forensic Sciences.

(2) When a person shall submit to a blood test at the direction of a law enforcement officer pursuant to Section 32–5–192, only a physician, a registered nurse, a paramedic, a phlebotomist, or other qualified person may withdraw blood for the purpose of determining the alcoholic content or

the presence of other impairing substances. This limitation shall not apply to the taking of breath or oral fluid.

(3) The person tested may at his or her own expense have a physician, qualified technician, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any administered at the discretion of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(4) Upon the written request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

(5) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 cubic centimeters of blood or grams of alcohol per 210 liters of breath.

(b) Upon the trial of any civil, criminal, or quasi-criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of alcohol, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood or breath shall give rise to all of the following presumptions:

(1) If there were at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcohol unless the person was operating a motor vehicle in performance of his or her duties as a school bus driver or day care driver at that time or was under the age of 21 years at that time.

(2) If there were at the time in excess of 0.05 percent but less than 0.08 percent by weight of alcohol in the person's blood, this fact shall not give rise to any presumption that the person was or was not under the influence of alcohol, but this fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol unless the person was operating a motor vehicle in performance of his or her duties as a school bus driver or day care driver at that time or was under the age of 21 years at that time.

(3) If there were at that time 0.08 percent or more by weight of alcohol in the person's blood, or greater than .02 percent if the person was operating a motor vehicle in performance of his or her duties as a school bus driver or day care driver at that time or was under the age of 21 years at that time, it shall be presumed that the person was under the influence of alcohol.

(4) Nothing in this section shall be construed as limiting the introduction of any other competent evidence relating to the question of whether the person was under the influence of alcohol.

(c) If a person under arrest refuses to submit to a chemical test or tests pursuant to Section 32–5–192, evidence of refusal shall be admissible in any civil, criminal, or quasi-criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence.

(d) No physician, registered nurse, phlebotomist, paramedic, duly licensed chemical laboratory technologist or clinical laboratory technician, fire department, rescue squad, private ambulance company, or medical facility shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a law enforcement officer to administer such a test.

(Acts 1980, No. 80–434, p. 604, § 9–103; Acts 1988, No. 88–660, p. 1058, § 1; Acts 1995, No. 95–784, p. 1862, § 2; Acts 1996, No. 96–341, p. 416, § 2; Acts 1996, No. 96–705, p. 1174, § 2; Act 2021–498, § 2.)

§ 32–5A–194.1. Effect of certification permits issued by State Board of Health; effect of rules and regulations enacted by State Board of Health.

All certification permits issued by the State Board of Health shall remain in effect until their termination date or reissued by the Department of Forensic Sciences. All rules and regulations enacted under the authority of this chapter by the State Board of Health shall remain in force until rescinded, modified, or adopted by the Department of Forensic Sciences.

(Acts 1988, No. 88–660, p. 1058, § 2.)

§ 32–5A–195. Cancellation, suspension, or revocation of driver's license; grounds, procedure, etc.

(a) The Secretary of the Alabama State Law Enforcement Agency is authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof or that the licensee failed to give the correct or required information in his or her application. Upon cancellation, the licensee must surrender the license so cancelled. If the licensee refuses to surrender the license, he or she shall be guilty of a misdemeanor.

(b) The privilege of driving a motor vehicle on the highways of this state given to a nonresident shall be subject to suspension or revocation by the secretary in like manner and for like cause as a driver's license issued may be suspended or revoked.

(c) The secretary, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense, may forward a certified copy of the record to the motor vehicle administrator in the state where the person so convicted is a resident.

(d) When a nonresident's operating privilege is suspended or revoked, the secretary shall forward a certified copy of the record of the action to the motor vehicle administrator in the state where the person resides.

(e) The secretary may suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of the person in another state of any offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of a driver.

(f) The secretary may give effect to conduct of a resident in another state as is provided by the laws of this state had the conduct occurred in this state.

(g) Whenever any person is convicted of any offense for which this chapter makes mandatory the revocation of the license of the person by the agency, the court in which the conviction is had shall require the surrender to it of any driver's license then held by the person convicted and the court shall forward the same together with a record of the conviction to the secretary.

(h) Every court having jurisdiction over offenses committed under this article or any other law of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, shall forward to the secretary within five days a record of the conviction of any person in the court for a violation of any laws other than regulations governing standing or parking, and may recommend the suspension of the driver's license of the person convicted.

(i) For the purposes of this article, the term conviction shall mean a final conviction. Also, for the purposes of this article, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by the court, the payment of a fine, a plea of guilty, or a finding of guilt of a traffic violation charge shall be equivalent to a conviction regardless of whether the penalty is rebated, suspended, or probated.

(j) The secretary shall revoke the license of any driver upon receiving a record of the driver's conviction of any of the following offenses:

(1) Manslaughter or homicide by vehicle resulting from the operation of a motor vehicle, including a person who is adjudicated as a youthful offender based on an underlying charge of manslaughter or homicide by vehicle, but there shall be no disclosure, other than to courts and law enforcement agencies by any entity or person of any information, documents, or records relating to the youthful offender's arrest, conviction, or adjudication of or finding of delinquency related to the manslaughter or homicide by vehicle.

(2) Upon a first conviction of driving or being in actual physical control of any vehicle while under the influence of alcohol or under the influence of a controlled substance to a degree which renders him or her incapable of safely driving or under the combined influence of alcohol and a controlled substance to a degree which renders him or her incapable of safely driving. The revocation shall take place only when ordered by the court rendering the conviction.

(3) Upon a second or subsequent conviction within a 10–year period, of driving or being in actual physical control of any vehicle while under the influence of alcohol or under the influence of a controlled substance to a

degree which renders him or her incapable of safely driving or under the combined influence of alcohol and a controlled substance to a degree which renders him or her incapable of safely driving.

(4) Any felony in the commission of which a motor vehicle is used.

(5) Failure to stop, render aid, or identify himself or herself as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another.

(6) Perjury or the making of a false affidavit or statement under oath to the secretary under this article or under any other law relating to the ownership or operation of motor vehicles.

(7) Conviction upon three charges of reckless driving committed within a period of 12 months.

(8) Unauthorized use of a motor vehicle belonging to another which act does not amount to a felony.

(k) The secretary may suspend the license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of license is required upon conviction;

(2) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(3) Is a habitually reckless or negligent driver of a motor vehicle, such fact being established by a record of accidents or by other evidence;

(4) Is incompetent to drive a motor vehicle;

(5) Has permitted an unlawful or fraudulent use of such license;

(6) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation;

(7) Has been convicted of fleeing or attempting to elude a police officer; or

(8) Has been convicted of racing on the highways.

(l) Upon suspending the license of any person as provided in this section, the secretary shall immediately notify the licensee in writing and upon his or her request shall afford him or her an opportunity for a hearing as early as practicable, not to exceed 30 days after receipt of the request in the county where the licensee resides unless the secretary and the licensee agree that the hearing may be held in some other county. The hearing shall be before the secretary, or his or her duly authorized agent. Upon the hearing, the secretary, or his or her duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses in the production of relevant books and papers and may require a reexamination of the licensee. Upon the hearing, the secretary, or his or her duly authorized agent, shall either rescind

its order of suspension or, upon a showing of good cause, may continue, modify, or extend the suspension of the licensee or revoke the license. If the license has been suspended as a result of the licensee's driving while under the influence of alcohol, the secretary, or his or her agent conducting the hearing, shall take into account, among other relevant factors, the licensee's successful completion of any duly established ''highway intoxication seminar,'' ''DWI counterattack course,'' or similar educational program designed for problem drinking drivers. If the hearing is conducted by a duly authorized agent instead of by the secretary, the action of the agent shall be approved by the secretary.

(m) At the end of the period of suspension a license surrendered to the secretary pursuant to subsection (n), the license shall be returned to the licensee.

(n) The secretary, upon cancelling, suspending, or revoking a license, shall require that the license be surrendered to and be retained by the secretary. Any person whose license has been cancelled, suspended, or revoked shall immediately return his or her license to the secretary. If the licensee refuses to surrender the license, he or she shall be guilty of a misdemeanor.

(*o*) Any resident or nonresident whose driver's license or privilege to operate a motor vehicle in this state has been suspended or revoked as provided in this section shall not operate a motor vehicle in this state under a license or permit issued by any other jurisdiction or otherwise during the suspension or after the revocation until a new license is obtained when and as permitted under this article.

(p) Any person denied a license or whose license has been cancelled, suspended, or revoked by the secretary except where the cancellation or revocation is mandatory under this article shall have the right to file a petition within 30 days thereafter for a hearing in the matter in the circuit court in the county where the person resides. In the case of cancellation, suspension, or revocation of a nonresident's operating privilege, in the county where the main office of the secretary is located, the court is vested with jurisdiction and it shall be its duty to set the matter for hearing upon 30 days' written notice to the secretary and to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation, or revocation of license under this section.

(Acts 1980, No. 80–434, p. 604, § 9–106; Acts 1981, No. 81–803, p. 1412, § 1; Acts 1993, No. 93–622, p. 1040, § 1; Act 2010–599, p. 1346, § 1; Act 2016–152, p. 383, § 1; Act 2021–387, § 1.)

§ 32–5A–196. Law enforcement witness testimony regarding impairment based on results of horizontal gaze nystagmus test.

Notwithstanding any other provision of law and for purposes of prosecutions under Section 32–5A–191, a law enforcement witness may give testimo-

ny solely on the issue of impairment, and not on the issue of specific alcohol or drug concentration levels, based on the results of a horizontal gaze nystagmus test when the test is administered in accordance with the individual's training and administered by an individual who has successfully completed training in the horizontal gaze nystagmus test.

(Act 2021–498, § 3.)

ARTICLE 9A.

SAFE STREETS ACT.

§§ 32–5A–200 through 32–5A–205. Repealed by Act 98–470, p. 909, § 2, effective May 1, 1998.

ARTICLE 10.

PEDESTRIANS' RIGHTS AND DUTIES.

§ 32–5A–210. Pedestrian obedience to traffic-control devices and traffic regulations.

(a) A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to him or her, unless otherwise directed by a police officer.

(b) Pedestrians shall be subject to traffic and pedestrian control signals as provided in Sections 32–5A–32 and 32–5A–33.

(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(Acts 1980, No. 80–434, p. 604, § 5–101.)

§ 32–5A–211. Pedestrians' right-of-way in crosswalks.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) shall not apply under the conditions stated in Section 32–5A–212(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the

roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(Acts 1980, No. 80–434, p. 604, § 5–102.)

§ 32–5A–212. Crossing at other than crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(Acts 1980, No. 80–434, p. 604, § 5–103.)

§ 32–5A–213. Drivers to exercise care.

Notwithstanding any provision of law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or first responder and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated, or intoxicated person.

(Acts 1980, No. 80–434, p. 604, § 5–104; Act 2024–332, § 2, eff. Oct. 1, 2024; Act 2024–388, § 2, eff. Oct. 1, 2024.)

§ 32–5A–214. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(Acts 1980, No. 80–434, p. 604, § 5–105.)

§ 32–5A–215. Pedestrians on roadways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available any pedestrian walking along and upon a highway shall walk as near as practicable to an

outside edge of the roadway, and if on a two-way roadway, shall walk only on the left side of the roadway.

(d) Except as otherwise provided in this chapter, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

(Acts 1980, No. 80–434, p. 604, § 5–106.)

§ 32–5A–216. Pedestrian soliciting rides or business or fishing.

(a) No person shall stand in a roadway for the purpose of soliciting a ride.

(b) No person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle, nor for the purpose of distributing any article, unless otherwise authorized by official permit of the governing body of the city or county having jurisdiction over the highway.

(c) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(d) No person shall fish from a bridge, viaduct, or trestle, or the approaches thereto, within the State of Alabama, unless otherwise authorized by the governing body of the city or county having jurisdiction over the highway or from the State of Alabama in the case of state highways. The authorizing authority shall erect and maintain appropriate signs giving notice that fishing is allowed.

(Acts 1980, No. 80–434, p. 604, § 5–107; Acts 1981, No. 81–803, p. 1412, § 1; Act 2023–245, § 1, eff. Aug. 1, 2023.)

§ 32–5A–217. Driving through safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

(Acts 1980, No. 80–434, p. 604, § 5–108.)

§ 32–5A–218. Pedestrians' right–of–way on sidewalks.

The driver of a vehicle shall yield the right-of-way to any pedestrian or first responder on a sidewalk.

(Acts 1980, No. 80–434, p. 604, § 5–109; Act 2024–332, § 2, eff. Oct. 1, 2024; Act 2024–388, § 2, eff. Oct. 1, 2024.)

§ 32–5A–219. Pedestrians to yield to authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of Section 32–5–213 and visual signals meeting the requirements of law, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.

(b) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

(Acts 1980, No. 80–434, p. 604, § 5–110.)

§ 32–5A–220. Right-of-way to blind persons, guide dogs in training.

The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog, or any person employed by an accredited school for training guide dogs who provides notice through a sign or other method that he or she is training the dog accompanying him or her as a guide dog for the blind.

(Acts 1980, No. 80–434, p. 604, § 5–111; Act 99–698, 2nd Sp. Sess., p. 207, § 1.)

§ 32–5A–221. Pedestrians under influence of alcohol or drugs.

A pedestrian who is under the influence of alcohol or any drug to a degree which renders himself or herself a hazard shall not walk or be upon a highway.

(Acts 1980, No. 80–434, p. 604, § 5–112.)

§ 32–5A–222. Bridge and railroad signals.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(Acts 1980, No. 80–434, p. 604, § 5–113.)

ARTICLE 11.

MOTORCYCLES.

§ 32–5A–240. License requirements of persons operating motorcycles.

(a) Subject to subsection (b), each person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.

(b)(1) Each person operating a motorcycle on any public road, street, or highway in this state shall have successfully passed a motorcycle test

designated by the Alabama Law Enforcement Agency and shall have a motorcycle Class M displayed on his or her driver's license along with the regular class of the license or have been issued a Class M motorcycle license.

(2) A person may also obtain the Class M license by successfully completing a written motorcycle test designated by the Alabama Law Enforcement Agency or by completing an Alabama Traffic Safety Center/Alabama Motorcycle Safety Program, Motorcycle Safety Foundation, Basic Riders Course or Basic Rider Course II.

(3) A person 17 years of age or younger operating a motorcycle shall be subject to the operating hours, exceptions, and suspensions provided in Section 32–6–7.2.

(Acts 1980, No. 80–434, p. 604, § 13–101; Act 2015–223, p. 656, § 1.)

§ 32–5A–241. Riding on motorcycles.

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.

(c) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents him or her from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

(Acts 1980, No. 80–434, p. 604, § 13–102.)

§ 32–5A–242. Operating motorcycles on roadways laned for traffic.

(a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) Motorcycles shall not be operated more than two abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

(Acts 1980, No. 80–434, p. 604, § 13–103.)

§ 32–5A–243. Clinging to other vehicles.

No person riding upon a motorcycle shall attach himself or herself or the motorcycle to any other vehicle on a roadway.

(Acts 1980, No. 80–434, p. 604, § 13–104.)

§ 32–5A–244. Footrests and handlebars.

(a) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

(b) No person shall operate any motorcycle with handlebars more than 15 inches in height above that portion of the seat occupied by the operator.

(Acts 1980, No. 80–434, p. 604, § 13–105.)

§ 32–5A–245. Headgear and shoes required for motorcycle or motor-driven cycle riders; approval of headgear; juvenile riders; sale of helmets.

(a) No person shall operate or ride upon a motorcycle or motor-driven cycle unless he or she is wearing protective headgear that complies with standards established by Section 32–12–41.

(b) No person shall operate or ride upon a motorcycle or motor-driven cycle unless he or she is wearing shoes.

(c)(1) This section shall not apply to persons riding within an enclosed cab.

(2) This section does not apply to the operator of an autocycle, as defined under Section 32–6A–1.

(d) The Secretary of the Alabama State Law Enforcement Agency may approve or disapprove protective headgear and may adopt and enforce rules establishing standards and specifications for the approval thereof. The secretary shall publish lists of all protective headgear which have been approved by him or her.

(e) No person shall knowingly permit or allow any juvenile for whom he or she is a parent or guardian to operate or ride upon a motorcycle or motor-driven cycle while not wearing a protective helmet of the kind authorized by Section 32–12–41.

(f) No person shall knowingly permit or allow any juvenile for whom he or she is a parent or guardian to operate or ride upon a motorcycle or motor-driven cycle while not wearing shoes.

(g) No manufacturer, retailer, or other person shall sell or offer for sale motorcycle helmets that fail to comply with the standards established by the

Secretary of the Alabama State Law Enforcement Agency pursuant to this section.

(Acts 1980, No. 80–434, p. 604, § 13–106; Act 2022–433, § 1.)

ARTICLE 12.

BICYCLES AND PLAY VEHICLES.

§ 32–5A–260. Traffic laws apply to persons riding bicycles.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.

(Acts 1980, No. 80–434, p. 604, § 12–102.)

§ 32–5A–261. Riding on bicycles.

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Acts 1980, No. 80–434, p. 604, § 12–103.)

§ 32–5A–262. Clinging to vehicles.

No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

(Acts 1980, No. 80–434, p. 604, § 12–104.)

§ 32–5A–263. Riding on roadways and bicycle paths; right side signalling.

(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(d) A person riding a bicycle may give a hand signal for a right turn by extending his or her right arm and hand horizontally on the right side of the

bicycle. A child under the age of sixteen shall not be required to comply with the right side signalling.

(Acts 1980, No. 80–434, p. 604, § 12–105; Act 2012–220, p. 398, § 1.)

§ 32–5A–264. Carrying articles.

No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebars.

(Acts 1980, No. 80–434, p. 604, § 12–106.)

§ 32–5A–265. Lamps and other equipment on bicycles.

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the department which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(Acts 1980, No. 80–434, p. 604, § 12–107.)

§ 32–5A–266. Violations of article as misdemeanor; responsibility of parent or guardian; applicability of article.

(a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this article.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(Acts 1980, No. 80–434, p. 604, § 12–101.)

§ 32–5A–267. Operation and regulation of electric bicycles.

(a) Except as otherwise provided in this title, an electric bicycle or an operator of an electric bicycle shall be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle. An electric bicycle shall be deemed a vehicle to the same extent as a bicycle.

(b) An electric bicycle or individual operating an electric bicycle is not subject to the requirements of this title relating to driver's licenses, registration, certificates of title, off-road vehicles, all-terrain vehicles, motor vehicle

dealers, license tags or plates, financial responsibility, or motor vehicle insurance.

(c) On and after January 1, 2022, manufacturers and distributors of electric bicycles shall apply a label that is permanently affixed in a prominent location to each electric bicycle. The label shall contain the classification number, top assisted speed, and motor wattage of the electric bicycle. The label shall be printed in a typeface and font legible to the operator.

(d) A person may not tamper with or modify an electric bicycle so as to change the motor-powered speed capability or engagement of an electric bicycle unless the label indicating the classification required under subsection (c) is replaced after modification.

(e) An electric bicycle shall comply with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission under 16 C.F.R. Part 1512.

(f) An electric bicycle shall be manufactured so that the electric motor is disengaged or otherwise ceases to propel the electric bicycle when the rider stops pedaling or when the brakes are applied.

(g) An electric bicycle may be ridden in places where bicycles are allowed, including, but not limited to, streets, roadways, highways, shoulders, bicycle lanes, and bicycle or multi-use paths.

(h)(1) Following notice and a public hearing, a county, municipality, or other political subdivision of the state that has jurisdiction over a bicycle or multi-use path may do both of the following:

a. Prohibit the operation of Class 1 or Class 2 electric bicycles on bicycle or multi-use paths if the entity finds that the prohibition is needed for safety reasons or compliance with other laws or legal obligations.

b. Prohibit the operation of Class 3 electric bicycles on bicycle or multi-use paths.

(2) This subsection does not apply to a trail that is specifically designated as non-motorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surface materials.

(i) An individual under the age of 16 years may not operate a Class 3 electric bicycle. An individual under the age of 16 years may ride as a passenger on a Class 3 electric bicycle if the bicycle is designed to accommodate passengers.

(j) All operators and passengers of Class 3 electric bicycles shall wear a properly fitted and fastened protective bicycle helmet that meets the standards provided by either the United States Consumer Product Safety Commission or the American Society for Testing and Materials, or standards subsequently established by those entities. A violation of this subsection is not admissible as evidence of negligence or negligence per se in any action.

(k) All Class 3 electric bicycles shall be equipped with a speedometer that displays the speed the bicycle is traveling in miles per hour.

(Act 2021–134, § 2.)

ARTICLE 13.

BICYCLE SAFETY.

§ 32–5A–280. Short title.

This article shall be known and may be cited as the ''Brad Hudson–Alabama Bicycle Safety Act of 1995.''

(Acts 1995, No. 95–198, p. 306, § 1.)

§ 32–5A–281. Definitions.

As used in this article, the following words shall have the following meanings:

(1) BICYCLE. A human-powered vehicle with two wheels in tandem design to transport by the act of pedaling one or more persons seated on one or more saddle seats on its frame. ''Bicycle'' includes, but is not limited to, a human-powered vehicle designed to transport by the act of pedaling which has more than two wheels when the vehicle is used on a public roadway, public bicycle path, or other public road or right-of-way, but does not include a tricycle.

(2) OPERATOR. A person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.

(3) OTHER PUBLIC RIGHT-OF-WAY. Any right-of-way other than a public roadway or public bicycle path that is under the jurisdiction and control of the state or a local political subdivision thereof.

(4) PASSENGER. Any person who travels on a bicycle in any manner except as an operator.

(5) PROTECTIVE BICYCLE HELMET. A piece of headgear which meets or exceeds the impact standard for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation, or which is otherwise approved by the Alabama Department of Public Safety.

(6) PUBLIC BICYCLE PATH. A right-of-way under the jurisdiction and control of the state, or a local political subdivision thereof, for use primarily by bicyclists and pedestrians.

(7) PUBLIC ROADWAY. A right-of-way under the jurisdiction and control of the state or a local political subdivision thereof for use primarily by motor vehicular traffic.

(8) RESTRAINING SEAT. A seat separate from the saddle seat of the operator of the bicycle or a bicycle trailer or similar product that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in the seat and protect the passenger from the moving parts of the bicycle.

(9) TRICYCLE. A three-wheeled human-powered vehicle designed for use by a child under the age of six.

(Acts 1995, No. 95–198, p. 306, § 2.)

§ 32–5A–282. Purpose.

The purpose of this article is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that, while riding on a bicycle on public roadways, public bicycle paths, or other public rights-of-way, all operators and passengers who are under 16 years of age to wear approved protective bicycle helmets, and by requiring that all bicycle passengers who weigh less than 40 pounds or are less than 40 inches in height be seated in separate restraining seats.

(Acts 1995, No. 95–198, p. 306, § 3.)

§ 32–5A–283. Unlawful for person to use bicycle under certain conditions.

It is unlawful for any person to use a bicycle on a public roadway, public bicycle path, other public rights-of-way, state, city, or county public park under any one of the following conditions:

(1) For any person under the age of 16 years to operate or be a passenger on a bicycle unless at all times the person wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

(2) For any person to operate a bicycle with a passenger who weighs less than 40 pounds or is less than 40 inches in height unless the passenger is properly seated in and adequately secured in a restraining seat.

(3) For any parent or legal guardian of a person under the age of 16 years to knowingly permit the person to operate or be a passenger on a bicycle in violation of subdivision (1) or (2).

(Acts 1995, No. 95–198, p. 306, § 4.)

§ 32–5A–284. Duties of person regularly engaged in business of renting bicycles.

(a) A person regularly engaged in the business of renting bicycles shall require each person seeking to rent a bicycle to provide his or her signature either on the rental form or on a separate form indicating both of the following:

(1) Receipt of a written explanation of the provisions of this article and the penalties for violations.

(2) A statement concerning whether a person under the age of 16 years will operate the bicycle in an area where the use of a helmet is required.

(b) A person regularly engaged in the business of renting bicycles shall provide a helmet to any person who will operate the bicycle in an area

requiring a helmet, if the person does not already have a helmet in his or her possession. A reasonable fee may be charged for the helmet rental.

(c) A person regularly engaged in the business of selling or renting bicycles who complies with this article shall not be liable in a civil action for damages for any physical injuries sustained by a bicycle operator or passenger as a result of the operator's or passenger's failure to wear a helmet or to wear a properly fitted or fastened helmet in violation of this article.

(Acts 1995, No. 95–198, p. 306, § 5.)

§ 32–5A–285. Statewide bicycle safety education program; manner violations handled.

It is the legislative intent to implement an effective statewide bicycle safety education program to reduce disability and death resulting from improper or unsafe bicycle operation. Violations of Section 32–5A–283 shall be handled in the following manner:

(1) On the first offense, the police officer shall counsel and provide written information to the child relative to bicycle helmet safety. The officer shall instruct the child to deliver the written information to the parent.

(2) On the second offense, the police officer shall counsel the child and provide written information on bicycle helmet safety. A warning citation shall be issued to the child to give to the parent. The citation shall instruct the parent or guardian to contact the police department for further information about the law and where to obtain a bicycle helmet.

(3) Beginning on July 1, 1996, upon a third offense, the police officer shall counsel the child, confiscate the bicycle, and take the child to his or her residence. The officer shall then return the bicycle and give a warning ticket to the parent or guardian. If the parent or guardian is unavailable, the ticket shall be left at the residence with instructions to the parent or guardian to pick up the bicycle at the police department.

(4) Beginning on July 1, 1996, upon a fourth offense, the police officer shall confiscate the bicycle, take the child to his or her residence, whereupon a citation for fifty dollars ($50) will be issued to the parent or guardian of the child. No court costs nor fees may be added to the fine or penalty. The fine or penalty shall be waived or suspended if the operator or passenger presents by the court date, proof of purchase or evidence of having provided a protective bicycle helmet or restraining seat and intends to use or causes to be used or intends to cause to be used the helmet as provided by law.

(5) Any fine or penalty monies shall be earmarked and used separately by the local school system for the purpose of safety education or the local municipality for the purchase of helmets for the financially disadvantaged.

(6) The Traffic Safety Center of the University of Montevallo, in conjunction with the Child Safety Institute at Children's Hospital of Alabama, shall

furnish all materials, handouts, brochures, and other information related to bicycle safety used by police departments.

(Acts 1995, No. 95–198, p. 306, § 6.)

§ 32–5A–286. Establishment of more comprehensive bicycle safety program by ordinance.

A municipality may establish a more comprehensive bicycle safety program than that imposed by this article by local ordinance.

(Acts 1995, No. 95–198, p. 306, § 7.)

Article 14.

Suspension of Driving Privileges for Alcohol Related Offenses.

§ 32–5A–300. Determinations requiring suspension of driving privileges; basis for and finality of determination.

(a) The Secretary of the Alabama State Law Enforcement Agency, or his or her agent, shall suspend the driving privilege of any person upon a determination that the person drove or was in actual physical control of a motor vehicle while the amount of alcohol in the blood of the person was above the legal limit.

(b) The secretary, or his or her agent, shall suspend the driving privilege of any person upon a determination that the person refused a test to determine the drug or alcohol content in the blood of the person as provided in Section 32–5–192.

(c) The secretary, or his or her agent, shall make a determination pursuant to subsections (a) and (b) based on the report of a law enforcement officer required in Section 32–5A–301, and this determination shall be final unless an administrative review is requested under Section 32–5A–306 or a hearing is held under Section 32–5A–307.

(d) The determination of these facts by the secretary, or his or her agent, is independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence.

(Acts 1996, No. 96–322, p. 388, § 1; Act 2021–498, § 2.)

§ 32–5A–301. Report of arresting officer.

(a) A law enforcement officer who arrests any person for a violation of Section 32–5A–191 shall within five days after the day of arrest, excluding weekends and state holidays, hand deliver, mail, or submit electronically to the agency a sworn report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated Section 32–5A–191, the results of any chemical test which was conducted, a statement

if the person refused to submit to a test, and a copy of the citation or complaint filed with the court.

(b) The report required by this section shall be made on forms supplied by the agency or in a manner specified by rules of the agency.

(c) The agency shall not take action on any report not sworn to and not mailed and postmarked or received by the agency within five days after the day of arrest, excluding weekends and state holidays.

(Acts 1996, No. 96–322, p. 388, § 2; Act 99–598, p. 1383, § 1; Act 2014–222, p. 712, § 1; Act 2021–498, § 2.)

§ 32–5A–302. Determination by secretary; notice.

(a) Upon receipt of the report of the law enforcement officer, the Secretary of the Alabama State Law Enforcement Agency, or his or her agent, shall make the determination described in Section 32–5A–300. If the secretary, or his or her agent, determines that the person is subject to driving privilege suspension, the secretary, or the agent, shall issue a notice of the suspension.

(b) The notice of suspension shall be mailed to the person at the last known address shown on the agency's record. The notice is deemed received three days after mailing.

(c) The notice of suspension shall clearly specify the reason and statutory grounds for suspension, the effective date of the suspension, the right of the person to request an administrative review and a hearing, the procedure for requesting an administrative review and a hearing, and the date by which a request for an administrative review is required to be made in order to receive a determination prior to the effective date of the suspension.

(d) If the secretary, or his or her agent, determines that the person is not subject to driving privilege suspension, the secretary, or his or her agent, shall notify the person of the determination.

(Acts 1996, No. 96–322, p. 388, § 3; Act 99–598, p. 1383, § 1; Act 2021–498, § 2.)

§ 32–5A–303. Notice of intended suspension.

(a) If the chemical test results for a person charged with a violation of Section 32–5A–191 show 0.08 percent or more by weight of alcohol in the blood of the person, or the person refuses a test, the officer, acting on behalf of the Secretary of the Alabama State Law Enforcement Agency, shall serve a notice of intended suspension personally on the arrested person.

(b) When serving a notice of intended suspension, the law enforcement officer shall take possession of any driver's license issued by this state which is held by the person. When taking possession of a valid driver's license issued by this state, the officer, acting on behalf of the secretary, shall issue a temporary driving permit which is valid for 30 days after the date of issuance.

(c) A copy of the completed notice of intended suspension form, a copy of any completed temporary driving permit form, and any driver's license taken into possession under this section shall be forwarded within five days to the secretary by the officer.

(d) The agency shall provide forms for notice of intended suspension and for temporary driving permits to law enforcement agencies.

(Acts 1996, No. 96–322, p. 388, § 4; Act 99–598, p. 1383, § 1; Act 2021–498, § 2.)

§ 32–5A–304. Period of suspension; relation to Section 32–5A–191.

(a) A driving privilege suspension shall become effective 45 days after the person has received a notice of intended suspension as provided in Section 32–5A–303, or is deemed to have received a notice of suspension by mail as provided in Section 32–5A–302 if no notice of intended suspension was served.

(b) The period of driving privilege suspension under this section shall be as follows:

(1) Ninety days if the driving record of a person shows no prior alcohol or drug-related enforcement contacts during the immediately preceding 10 years.

(2) One year if the driving record of a person shows one prior alcohol or drug-related enforcement contact during the immediately preceding 10 years.

(3) Three years if the driving record of a person shows two prior alcohol or drug-related enforcement contacts during the immediately preceding 10 years.

(4) Five years if the driving record of a person shows three or more prior alcohol or drug-related enforcement contacts during the immediately preceding 10 years.

(5) For purposes of this section, ''alcohol or drug-related enforcement contacts'' shall include all suspensions under this article, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving a motor vehicle while having an unlawful percent of alcohol in the blood, or while under the influence of alcohol or drugs, or alcohol and drugs except that no more than one alcohol or drug-related contact on any one DUI arrest may be considered by the agency in determining the period of suspension.

(c) If a license is suspended under this section for having 0.08 or more by weight of alcohol in the blood of the person and the person is also convicted on criminal charges arising out of the same occurrence for a violation of Section 32–5A–191, the suspension under this section shall be imposed, giving credit for suspension time served toward the duration of suspension or revocation required under Section 32–5A–191. If a license is suspended under this section for having 0.08 or more by weight of alcohol in the blood of the

person and the criminal charge against the person for violation of Section 32–5A–191 is dismissed, nolle prossed, or the person is acquitted of the charge, the secretary shall rescind the suspension order and remove the administrative suspension from the person's driving record, except for those persons holding a commercial driver's license, a commercial learner's license, or a person operating a commercial motor vehicle.

(Acts 1996, No. 96–322, p. 388, § 5; Act 99–598, p. 1383, § 1; Act 2014–222, p. 712, § 1; Act 2016–152, p. 383, § 1; Act 2021–387, § 1; Act 2021–498, § 2.)

§ 32–5A–305. Minimum periods of suspension; reinstatement.

(a) The periods of suspension specified by Section 32–5A–304 are intended to be minimum periods of suspension for the described conduct. No driving privilege shall be restored under any circumstances and no license of any classification shall be issued during the suspension period, except as provided pursuant to subsection (c) of Section 32–5A–304.

(b) No driving privilege may be restored until all applicable reinstatement fees have been paid.

(Acts 1996, No. 96–322, p. 388, § 6; Act 99–598, p. 1383, § 1.)

§ 32–5A–306. Administrative review.

(a) Any person who has received a notice of suspension or a notice of intended suspension under this article may request an administrative review. The request may be accompanied by a sworn statement or statements and any other relevant evidence which the person wants the Secretary of the Alabama State Law Enforcement Agency, or his or her agent, to consider in reviewing the determination made pursuant to Sections 32–5A–300 and 32–5A–302.

(b) When a request for an administrative review is made, the secretary, or his or her agent, shall review the determination made pursuant to Sections 32–5A–300 and 32–5A–302. In the review, the secretary, or his or her agent, shall give consideration to any relevant sworn statement or other evidence accompanying the request for the review, and to the sworn statement of the law enforcement officer required by Section 32–5A–301. If the secretary, or his or her agent, determines, by a preponderance of the evidence, that the person drove or was in actual physical control of a motor vehicle with 0.08 percent or more by weight of alcohol in the blood, or the person refused the test, the secretary, or his or her agent, shall sustain the order of suspension or suspend the driver's license or driving privilege of the person if no order of suspension has been issued. If the evidence does not support such a determination, the secretary, or his or her agent, shall rescind the order of suspension or take no suspension action if an order of suspension has not been issued. The determination by the secretary, or his or her agent, upon administrative review is final unless a hearing is requested under Section 32–5A–307.

(c) The secretary, or his or her agent, shall make a determination upon administrative review prior to the effective date of the suspension order if the request for review is received by the agency within 10 days following service of the notice of intended suspension. Where the request for administrative review is received by the agency more than 10 days following service of the notice of intended suspension, the secretary, or his or her agent, shall make the determination within 30 days following the receipt of the request for review.

(d) A request for administrative review shall not stay the driving privilege suspension or revocation. If the secretary, or his or her agent, is unable to make a determination within the time limits specified in subsection (c), the secretary or agent shall stay the suspension pending the determination.

(e) The request for administrative review shall be in writing and may be made by mail or in person to the Alabama State Law Enforcement Agency, Driver License Division, Montgomery, Alabama. A person may request an administrative review at any time within 90 days of the notice of suspension under Section 32–5A–302 or the notice of intended suspension under Section 32–5A–303.

(f) A person may request and be granted a hearing under Section 32–5A–307 without first requesting administrative review under this section. An administrative review is not available after a hearing is held.

(Acts 1996, No. 96–322, p. 388, § 7; Act 99–598, p. 1383, § 1; Act 2021–498, § 2.)

§ 32–5A–307. Administrative hearing.

(a) Any person who has received a notice of intended suspension pursuant to Section 32–5A–303 or a notice of suspension pursuant to Section 32–5A–302 where no notice of intended suspension was served may request an administrative hearing. A request for an administrative hearing shall be in writing and shall be hand delivered or mailed to the Alabama State Law Enforcement Agency, Driver License Division, in Montgomery, Alabama. The request shall be received by the agency or be mailed and postmarked within 10 days of the notice of intended suspension issued pursuant to Section 32–5A–303 or the notice of suspension issued pursuant to Section 32–5A–302 where no notice of intended suspension was served. Failure to request an administrative hearing within 10 days shall constitute a waiver of the person's right to an administrative hearing and judicial review under this article. If the driver's license of the person has not been previously surrendered, it shall be surrendered at the hearing. A request for a hearing shall not stay the driving privilege suspension.

(b) The hearing shall be scheduled to be held as quickly as practicable and not more than 30 days after the filing of the request for a hearing. The hearing shall be held at a location designated by the Secretary of the Alabama State Law Enforcement Agency unless the parties agree to a different location. The agency shall provide a written notice of the time and place of the

hearing to the party requesting the hearing at least five days prior to the scheduled hearing, unless the parties agree to waive this requirement.

(c) The hearing shall be before the secretary or his or her duly authorized agent. Upon the hearing, the secretary, or his or her duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon the hearing, the secretary, or his or her duly authorized agent, shall make a final determination which either rescinds the order of suspension or, for good cause appearing, continues, modifies, or extends the suspension of the licensee. If the hearing is conducted by a duly authorized agent instead of by the secretary, the determination of the agency shall not be final until approved by the secretary.

(d) The sole issues at the hearing shall be whether by a preponderance of the evidence the person drove or was in actual physical control of a motor vehicle with 0.08 percent or more by weight of alcohol in the blood, or whether the person refused a test as provided in Section 32–5–192.

(e) The decision of the secretary shall be rendered in writing, and shall be mailed to the person who requested the hearing at their last known address on file with the agency.

(f) If the person who requested the hearing fails to appear without just cause, the right to a hearing shall be waived.

(g) The procedures set forth in this article shall be the sole and exclusive manner to determine the administration of this article. The Alabama Administrative Procedure Act in Sections 41–22–1 to 41–22–27, inclusive, shall not apply.

(Acts 1996, No. 96–322, p. 388, § 8; Act 99–598, p. 1383, § 1; Act 2021–498, § 2.)

§ 32–5A–308. Judicial review.

Within 30 days of the issuance of the final determination of the agency following a hearing under Section 32–5A–307, a person aggrieved by the determination shall have the right to file a petition in the circuit court of the county where the arrest was made for judicial review. The appeal shall be taken by serving written notice of the appeal upon the Secretary of the Alabama State Law Enforcement Agency, which service shall be made by delivering a copy of the notice to the secretary in Montgomery, Alabama, and filing the original with the clerk of the court to which the appeal is taken. The court shall set the matter for hearing upon 30 days' written notice to the secretary. At the hearing, the court may take testimony and examine the facts of the case. After the hearing, the court may either reverse or sustain the final determination of the agency. The filing of a petition for judicial review shall not stay the suspension order.

(Acts 1996, No. 96–322, p. 388, § 9; Act 99–598, p. 1383, § 1; Act 2021–498, § 2.)

§ 32–5A–309. Applicability of article.

This article applies to conduct occurring after its effective date. Conduct occurring before the effective date of this article shall be governed by pre-existing law.

(Acts 1996, No. 96–322, p. 388, § 10.)

ARTICLE 15.

SMOKING OR VAPING IN MOTOR VEHICLE WHEN CHILD PRESENT; POSSESSION OF OPEN CONTAINER OF ALCOHOLIC BEVERAGE IN MOTOR VEHICLE.

§ 32–5A–330. Definitions; applicability; violations.

(a) As used in this section, the following terms are defined:

(1) OPEN CONTAINER. A container which is other than in the manufacturer's sealed condition.

(2) PUBLIC HIGHWAY or RIGHT-OF-WAY OF A PUBLIC HIGHWAY. The entire width between and immediately adjacent to the boundary lines of any public road, street, highway, interstate, or other publicly maintained way when any part is open to the use of the public for purposes of motor vehicle travel.

(b) It is unlawful for a person to have in his or her possession alcoholic beverages in an open container in the passenger area of a motor vehicle of any kind on a public highway or right-of-way of a public highway of this state.

(c) This section shall not apply to:

(1) A passenger of a motor vehicle designed, maintained, or primarily used for the transportation of persons for compensation and the driver holds a valid commercial driver's license.

(2) A passenger of a bus for which the driver holds a valid commercial driver's license.

(3) A passenger of a motorized or non-motorized self-contained camper, motor home, house coach, or house trailer.

(4) A motor vehicle trunk, storage, or luggage compartment or a truck bed, storage, or cargo compartment.

(5) A locked case placed in an area that is not readily accessible behind the front seat of a pickup truck which has no trunk or separate enclosed area other than the cab of the truck.

(6) A driver who does not have knowledge of and cannot access alcoholic beverages in an open container in the passenger area of the vehicle.

(7) A motor vehicle which is parked or idle and does not have the engine running. This does not apply to the right-of-way of a public highway.

(d) This section shall not be construed to prohibit the transporting of alcoholic beverages in closed containers.

(e) A person who violates the provisions of this section is guilty of a Class C misdemeanor and, upon conviction, shall be fined not more than twenty-five dollars ($25), and court costs shall not be assessed.

(f) The penalties provided for violation of this section shall not constitute a moving violation and shall not have any effect on the driver's license points.

(Act 2000–670, p. 1336, § 1.)

§ 32–5A–331. Smoking or vaping in a motor vehicle when a child is present.

(a) For the purposes of this section, the following terms have the following meanings:

(1) SMOKE. The same meaning as smoking in Section 22–15A–3.

(2) TOBACCO PRODUCT. The same meaning as in Section 28–11–2.

(3) VAPE. To use an electronic nicotine delivery system as defined in Section 28–11–2.

(b)(1) It is unlawful for a person to smoke a tobacco product or vape in an enclosed motor vehicle when a child 14 years of age or younger is present in the enclosed motor vehicle.

(2) This section applies to all motor vehicles and whether the motor vehicle is in motion or at rest, or whether the windows of the motor vehicle are open or closed.

(c) A violation of this section is punishable by a fine not exceeding one hundred dollars ($100) for each violation.

(d) A violation of this section may be investigated and charged only as a secondary violation following the lawful stop of a motor vehicle based on probable cause of a separate violation of law, and the issuance of a citation or warrant of arrest for that violation.

(Act 2023–93, § 1, eff. Aug. 1, 2023.)

ARTICLE 16.

TEXT MESSAGING WHILE OPERATING A MOTOR VEHICLE PROHIBITED.

§ 32–5A–350. Definitions; prohibited activities; fines; exceptions.

Repealed by Act 2023–478, § 4, effective June 14, 2023.

§ 32–5A–350.1. Operating a motor vehicle in a distracted manner; violations; exceptions.

(a) As used in this section, the following terms have the following meanings:

(1) STAND–ALONE ELECTRONIC DEVICE. A device other than a wireless telecommunications device which stores audio or video data files to be retrieved on demand by a user.

(2) UTILITY SERVICES. Includes electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission

structures, pipes, wires, fibers, cables, easements, rights of way, or associated infrastructure.

(3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular telephone, portable telephone, text-messaging device, personal digital assistant, stand-alone computer, global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. The term shall not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, safety, or remote diagnostics system.

(b) An individual shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions prohibited by law which shall distract the individual from the safe operation of the vehicle.

(c) An individual operates a vehicle in a distracted manner in violation of this section if the individual is observed crossing in and out of a traffic lane without using a turn signal, swerving, or otherwise operating the vehicle in an impaired manner while doing any of the following:

(1) Physically holding a wireless telecommunications device.

(2) Physically holding or supporting, with any part of his or her body, a stand-alone electronic device.

(3) Writing, sending, or reading any text-based communication, including but not limited to a text message, instant message, e-mail, or Internet data on a wireless telecommunications device or stand-alone electronic device; provided, however, that such prohibition shall not apply to either of the following:

a. A voice-based communication that is automatically converted by the device to be sent as a message in a written form.

b. The use of the device for navigation of the vehicle or for global positioning system purposes.

(4) Watching a video or movie on a wireless telecommunications device or stand-alone electronic device other than watching data related to the navigation of the vehicle.

(5) Recording or broadcasting a video on a wireless telecommunications device or stand-alone electronic device; provided that the prohibition shall not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(6) Using more than a single button or swipe of a finger on a wireless telecommunications device to initiate or terminate a voice-communication.

(7) Reaching for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to no longer be in a seated driving position properly restrained by a safety belt.

(d) Each violation of this section shall constitute a separate offense.

(e)(1) Except as provided for in subdivision (2), any person convicted of violating this section shall be guilty of a Class C misdemeanor which shall be punished as follows:

a. For a first conviction to a charge of violating this section within the previous 24–month period of time, as measured from the dates any previous convictions were obtained to the date the current conviction is obtained, a fine of not more than fifty dollars ($50).

b. For a second conviction within the previous 24–month period of time, as measured from the dates of any previous convictions were obtained to the date of the current conviction is obtained, a fine of not more than one hundred dollars ($100).

c. For a third or subsequent conviction within the previous 24–month period of time, as measured from the dates of any previous convictions were obtained to the date of the current conviction is obtained, a fine of not more than one hundred fifty dollars ($150).

(2) Any individual appearing before a court for a first charge of violating subdivision (c)(1) who produces in court a device or proof of purchase of a device that would allow the individual to comply with the subdivision in the future shall not be guilty of the offense. The court shall require the individual to affirm that they have not previously utilized the privilege under this subdivision.

(3) No court costs may be assessed for a violation of this section.

(f) An individual may not be placed under custodial arrest solely for a violation of this section.

(g) This section does not apply when the prohibited conduct occurred under any of the following conditions:

(1) Using a wireless telecommunications device to obtain emergency services, including, but not limited to, an emergency call to a law enforcement agency, healthcare provider, fire department, or other emergency services agency or entity.

(2) Using a wireless telecommunications device while the motor vehicle is parked on the shoulder of the highway, road, or street.

(3) Using a wireless telecommunications device as a global positioning or navigation system to receive driving directions; provided, however, the manual input of navigation coordinates while operating a motor vehicle is a violation of this article.

(4) Using an earpiece, a headphone device, steering wheel controls, speaker phone or any voice-activated technology, or other device worn on the person or mounted onto the dashboard, center console, windshield, or other part of the vehicle to conduct substantially hands-free voice-based wireless communications.

(5) Using a continuous recording device that operates within or outside the vehicle, including, but not limited to, a dash camera or backup camera.

(6) Using a wireless telecommunications device by an employee or contractor of a utility services provider within the scope of his or her employ-

ment while responding to a utility emergency or performing other critical utility services.

(7) Using a wireless telecommunications device by a law enforcement officer, emergency medical services personnel, ambulance operator, firefighter, volunteer firefighter, or other similarly employed public safety first responder during the performance of his or her official duties.

(8) Using an ignition interlock device, as defined in Section 32–5A–191.4.

(9) For an individual 18 years of age or older, using a wireless telecommunications device in a manner that requires the physical use of the individual's hand while operating a motor vehicle if both of the following occur:

a. The device is mounted to the vehicle, including the windshield, dashboard, or center console of the vehicle, and the device does not create an unsafe obstruction of the individual's view of the road.

b. The individual's hand is used to activate or deactivate a feature or function of the device with the motion of one swipe or tap of the individual's finger, and the swipe or tap does not activate the camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than functions or features related to the transportation of individuals or property for compensation or payment of a fee.

(10) Using a wireless telecommunications device by a licensed physician while responding to an emergency medical situation.

(h) Beginning on June 14, 2023, and continuing for 12 months thereafter, for any violation of this section, a law enforcement officer may only issue a written warning. No points shall be entered on the driving record of any individual who receives a warning under this subsection.

(Act 2023–478, § 2, eff. June 14, 2023.)

§ 32–5A–351. Convictions entered on driving record.

(a) A first conviction of this article shall be entered on the driving record of any individual charged under this article as a one-point violation.

(b) A second conviction of this article shall be entered on the driving record of any individual charged under this article as a two-point violation.

(c) A third or subsequent conviction of this article shall be entered on the driving record of any individual charged under this article as a three-point violation.

(Act 2012–291, p. 585, § 2; Act 2023–478, § 3, eff. June 14, 2023.)

§ 32–5A–352. Disposition of funds; reporting.

(a) In any case brought by a law enforcement officer employed by the Department of Public Safety all fines shall be allocated to the State General Fund.

(b) Each state, county, and municipal law enforcement agency shall maintain statistical information on traffic stops made pursuant to this article on minority groups and report that information monthly to the Department of Public Safety.

(Act 2012–291, p. 585, § 3.)

CHAPTER 9.

TRUCKS, TRAILERS, AND SEMITRAILERS.

ARTICLE 1.

GENERAL PROVISIONS.

§ 32–9–1. Trailers.

Trailers, when used in a truck tractor-semitrailer-trailer combination may be operated on the national system of interstate and defense highways and other highways upon designation by the Director of Transportation and final approval by the Governor. The Director of Transportation shall, at a minimum, designate those highways necessary to cause the State of Alabama to be in compliance with the Federal Surface Transportation Assistance Act of 1982.

Except as provided above, no person shall operate any trailer, as defined in this title, on any highway unless such trailer is operated for the purpose of constructing highways or other facilities of the state or a political subdivision thereof. The Department of Transportation is authorized to regulate the movement of such trailers from one job to another by special permits issued in the same manner as permits are issued under Section 32–9–29. No trailer or semitrailer of any kind shall be used for the hauling of passengers for hire except as provided by Article 2 of this chapter.

The provisions of this article relating to trailers shall not apply to the movement over the highways of trailers manufactured, reconditioned, or repaired in this state when reasonably necessary for the delivery of such trailers to the owners or purchasers thereof outside the state; provided, that such movement shall be subject to special permit to be issued by the Director of the Department of Transportation. Such permits may be issued and may be renewed upon such terms and conditions, in the interest of public safety and the preservation of the highways, as the Director of the Department of Transportation may in his or her discretion require, and he or she may designate the route over which such trailers may be moved and the hours of movement thereof.

(Acts 1927, No. 347, p. 348; Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, § 80; Acts 1947, No. 690, p. 526; Acts 1965, 2nd Ex. Sess., No. 138, p. 190; Acts 1985, 2nd Ex. Sess., No. 85–912, p. 188, § 1.)

§ 32–9–2. Towing cotton wagons and module-movers.

The provisions of any other law or the provisions of any administrative rule, regulation, or order to the contrary notwithstanding, it shall be lawful to tow cotton wagons and module-movers on the highways of the state when the wagons or module-movers are being used to haul cotton from the field to the gin and to return them to the farm from the gin, but it shall not be lawful to tow the cotton wagons on any interstate or limited-access highway in the state; provided, that no more than two wagons shall be attached to one truck, the width of each wagon or module-mover shall not exceed 10 feet, and the overall length of the wagons or module-mover and truck shall not exceed 85 feet.

(Acts 1971, No. 2236, p. 3593; Acts 1987, No. 87–562, p. 875, § 1; Act 2000–457, p. 856, § 1.)

§ 32–9–3. Enforcement of chapter.

Any peace officer, including sheriffs and their deputies, constables and their deputies, police officers and marshals of cities or incorporated towns, county police or patrols, state or county license inspectors and their deputies, state troopers and special officers appointed by any agency of the State of Alabama for the enforcement of its laws relating to motor vehicles, now existing or hereafter enacted, shall be authorized, and it is hereby made the duty of each of them to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, without warrant, if the offense is committed in his or her presence, and with warrant if he or she does not observe the commission of the offense. If the arrest is made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him or her. If the accused elects not to be so taken, then it shall be the duty of the officer to require of the accused a bail bond in a sum not to exceed $300.00, conditioned that the accused binds himself or herself to appear in the nearest court having jurisdiction at the time fixed in the bond. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within 18 hours after taking such bond.

(Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, § 86.)

§ 32–9–4. Courts having jurisdiction.

All courts having jurisdiction of misdemeanors punishable by a fine of $500.00 or less and by imprisonment or hard labor, as above provided, shall have concurrent jurisdiction of the trial of all offenses under this chapter committed within their respective territorial jurisdictions.

(Acts 1932, Ex. Sess., No. 58, p. 68; Acts 1939, No. 484, p. 687; Code 1940, T. 36, § 84.)

§ 32–9–5. Penalties.

The operation of any truck, semitrailer truck, or trailer in violation of any section of this chapter or of the terms of any permit issued under this chapter, shall constitute a misdemeanor, and the owner thereof, if such violation was with his or her knowledge or consent, and the operator thereof shall, on conviction, be fined not less than $100.00 nor more than $500.00 and may also be imprisoned or sentenced to hard labor for the county for not less than 30 days nor more than 60 days.

(Acts 1932, Ex. Sess., No. 58, p. 68; Acts 1939, No. 484, p. 687; Code 1940, T. 36, § 83.)

§ 32–9–6. Disposition of fines and forfeitures.

All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of any of the provisions of this chapter constituting a misdemeanor, shall be, within 30 days after such fine or forfeiture is collected, forwarded to the State Treasurer. All amounts received from such fines or forfeitures shall be credited to the State General Fund. Failure, refusal, or neglect to comply with the provisions of this section shall constitute misconduct in office and shall be ground for removal therefrom. All fines and forfeitures collected by district courts or municipal courts for violation of ordinances, whether for acts constituting violations of the provisions of this chapter or not, shall be paid into the treasury of such municipality in which the same were collected.

(Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, § 88; Acts 1943, No. 459, p. 421; Acts 1949, No. 518, p. 773, § 4; Acts 1951, No. 363, p. 658.)

Article 2.

Size and Weight.

§ 32–9–20. Schedule of restrictions.

(a) It shall be unlawful for any individual to drive or move on any highway in this state any vehicle or vehicles of a size or weight except in accordance with the following:

(1) Height. No vehicle, semitrailer, or trailer shall exceed in height 13 ½ feet, including load.

(2) Length. No vehicle shall exceed in length 40 feet; except, that the length of a truck-semitrailer combination, semitrailers, including load, used in a truck tractor-semitrailer combination, shall not exceed 57 feet; semitrailers and trailers, including load, used in a truck tractor-semitrailer-trailer combination, shall not exceed 28 ½ feet each; and motor vehicles designed, used, or maintained primarily as a mobile dwelling, office, or commercial space, commonly called motor homes, shall not exceed 45 feet. Semitrailers exceeding 53 ½ feet shall only be operated on highways designated pursuant to Section 32–9–1 and shall only be operated when the

distance between the kingpin of a semitrailer and the rearmost axle or a point midway between the two rear axles, if the two rear axles are tandem axles, does not exceed 41 feet and if the semitrailer is equipped with a rear underride guard of a substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than 22 inches from the surface as measured with the semitrailer empty and on a level surface. For purposes of enforcement of this subdivision, lengths of semitrailers and trailers refer to the cargo carrying portion of the unit. Truck tractor units used exclusively in combinations transporting motor vehicles may directly carry a portion of the cargo, provided that the combinations are restricted to truck tractor-semitrailer combinations only and provided further that the overall length of these particular combinations shall not exceed 65 feet; except that the overall length of stinger-steered type units shall not exceed 80 feet. No truck tractor-semitrailer combination used exclusively for transporting motor vehicles shall carry any load extending more than four feet beyond the front or six feet beyond the rear of the combination. No other vehicle operated on a highway shall carry any load extending more than a total of five feet beyond both the front and rear, inclusive, of the vehicle.

(3) WEIGHT.

a.1. Axle Weight. The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 20,000 pounds, or other weight, if any, as may be permitted by federal law to keep the state from losing federal funds; provided, that inadequate bridges shall be posted to define load limits.

2. For the purpose of this subdivision, an ''axle load'' shall be defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

3. Vehicles and combinations of vehicles shall not operate on the Interstate Highway System of Alabama that have a weight greater than 20,000 pounds carried on any one axle, including the allowable load tolerance, or with a tandem axle weight in excess of 34,000 pounds, including the allowable load tolerance, or overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500\ (LN/(N-1)\ +\ 12N\ +\ 36)$$

where W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L = distance in feet between the extreme of any group of two or more consecutive axles, and N = number of axles in the group under consideration; except, that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each, provided the overall distance between the first and last

axles of the consecutive sets of tandem axles is 36 feet or more and the overall gross weight may not exceed 80,000 pounds, including the allowable load tolerance.

b. Gross Weight. Subject to the limit upon the weight imposed upon the highway through any one axle as set forth herein, the total weight with load imposed upon the highway by all the axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distances between the first and last axle of the vehicle or combination of vehicles, measured longitudinally to the nearest foot as set forth in the following table:

COMPUTED GROSS WEIGHT TABLE

For various spacings of axle groupings

Distance in feet between first and last axles of vehicle or combination of vehicles	*Maximum load in pounds on all the axles*				
	2 axles	*3 axles*	*4 axles*	*5 axles*	*6 axles*
8 or less	36,000	42,000	42,000		
9	38,000	42,500	42,500		
10	40,000	43,500	43,500		
11		44,000	44,000		
12		45,000	50,000	50,000	
13		45,500	50,500	50,500	
14		46,500	51,500	51,500	
15		47,000	52,000	52,000	
16		48,000	52,500	58,000	58,000
17		48,500	53,500	58,500	58,500
18		49,500	54,000	59,000	59,000
19		50,000	54,500	60,000	60,000
20		51,000	55,500	60,500	66,000
21		51,500	56,000	61,000	66,500
22		52,500	56,500	61,500	67,000
23		53,000	57,500	62,500	68,000
24		54,000	58,000	63,000	68,500
25		54,500	58,500	63,500	69,000
26		56,000	59,500	64,000	69,500
27		57,000	60,000	65,000	70,000
28		59,000	60,500	65,500	71,000
29		60,000	61,500	66,000	71,500
30			62,000	66,500	72,000
31			63,500	67,000	72,500
32			64,500	68,000	73,500
33			65,000	69,000	74,000
34			65,500	70,000	74,500
35			66,500	71,000	75,000
36			67,000	72,000	76,000
37			68,000	73,000	77,000
38			69,000	74,000	78,000
39			70,000	75,000	79,000
40			71,000	76,000	80,000
41			72,000	77,000	81,000

42	73,000	78,000	82,000
43	74,000	79,000	83,000
44 and over	75,000	80,000	84,000

c. Special Permits. Except as provided by special permits, no vehicle or combination of vehicles exceeding the gross weights specified in paragraph a. or b. shall be permitted to travel on the public highways within the State of Alabama.

d.1. Allowable Load Tolerance. For purposes of enforcing this subdivision, all weights less than or equal to the sum of the weight otherwise prescribed by this subdivision, plus the allowable load tolerance, shall be deemed to be in compliance with the requirements of this section and shall not constitute violations thereof. No evidence shall be admitted into evidence or considered by the trier of fact in any civil action unless the evidence proffered would tend to prove that the weight of the vehicle exceeded the amount provided in this subsection. Nothing in this paragraph shall restrict or affect the right of any defendant to place in evidence such evidence tending to prove the defendant was in compliance with this section.

2. For the purposes of this subdivision, the allowable load tolerance is calculated by multiplying the weight prescribed by this subdivision by one-tenth (.10).

e. Special Trucks. Dump trucks, dump trailers, concrete mixing trucks, fuel oil, gasoline trucks, and trucks designated and constructed for special type work or use shall not be made to conform to the axle spacing requirements of paragraph b.; provided, that the vehicle shall be limited to a weight of 20,000 pounds per axle plus the allowable load tolerance; and, provided further, that the maximum gross weight of the vehicles shall not exceed the maximum weight allowed by this section for the appropriate number of axles, irrespective of the distance between axles, plus the allowable load tolerance. All axles shall be brake equipped. Trucks delivering asphalt plant mix which do not exceed the maximum allowable gross weight and operate within 50 miles of their home base shall not be required to conform to the requirements of paragraph a. Concrete mixing trucks that operate within 50 miles of their home base and do not exceed the maximum allowable gross weight shall not be required to conform to the requirements of paragraph a. It shall be a violation if the vehicles named under this subdivision travel upon bridges designated and posted by the Transportation Director as incapable of carrying the load.

f. Driver Compliance. If the driver of any vehicle can comply with the weight requirements of this section by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, the driver shall not be held to be operating in violation of this section.

g. Portable Scales. When portable scales are used in enforcing this section, the axles of any vehicle described or commonly referred to as tandem or triaxle rigs or units, that is, vehicles having two or more axles in addition to a steering axle, the group of tandem or triaxles shall be weighed simultaneously, and the total weight so derived shall be divided by the number of axles weighed in the group to arrive at the per axle weight, except that if any one axle in the group exceeds 20,000 pounds in weight, it shall not exceed the weight of any other axle in the group by more than 50 percent. When portable scales are used to determine the axle weight or the gross weight of a vehicle pursuant to this section, the operator of the vehicle will be permitted to move the vehicle to the nearest platform scales certified by the Department of Agriculture and Industries and operated by a bonded operator within a distance of 10 highway miles, accompanied by an enforcement officer to verify the accuracy of the portable scales used in determining the axle weight or gross weight of the vehicle. If the weight of the vehicle is shown by the platform scales to be within the legal limits of this section, including the allowable load tolerance, the operator of the vehicle shall not be held to be in violation of this section.

h. County Highways. The governing body of a county, by appropriate resolution, may authorize limitations less than those prescribed in this section for vehicles operated upon the county highways of the county.

i. Posted Roads and Bridges. The Department of Transportation may post or limit any road or bridge to weights less than those prescribed by this section. It is the legislative intent and purpose that this section be rigidly enforced by the Department of Transportation, the Alabama State Law Enforcement Agency,any other authorized law enforcement officers of this state, and any county,city, and incorporated town.

j. Agricultural Commodities. Two and three axle vehicles being used exclusively for the purpose of transporting agricultural commodities or products to and from a farm and for agricultural purposes relating to the operation and maintenance of a farm by any farmer, custom harvester, or husbandman may not be made to conform to the axle requirements of paragraph a. or the gross weight requirements of paragraph b.

(4) WIDTH. Vehicles and combinations of vehicles operating on highways shall not exceed a total outside width, including any load thereon, of 102 inches, exclusive of mirrors or other safety devices approved by the Department of Transportation. No passenger vehicle shall carry any load extending beyond the line of the fenders. No vehicle hauling forest products or culvert pipe on any highwayshall have a load exceeding 102 inches in width.

(b)(1) Any vehicle utilizing an auxiliary power or idle reduction technology unit in order to promote reduction of fuel use and emissions because of engine idling shall be allowed an additional 400 pounds total to the gross, axle, tandem, or bridge formula weight limits defined in this section.

(2) To be eligible for the exception provided in this subsection, the operator of the vehicle must provide written proof or certification of the weight of the auxiliary power unit (APU) and demonstrate or certify the idle reduction technology is fully functional at all times.

(3) Written proof or certification of the weight of the APU must be available to law enforcement officers if the vehicle is found in violation of applicable weight laws. The weight allowed may not exceed 400 pounds or the actual weight proven or certified, whichever is less.

(4) It is the intent of this subsection to apply at the state highway level the weight limit increase for vehicles using a functioning auxiliary power or idle reduction technology as provided in the Federal Energy Policy Act of 2005.

(c)(1) Any motor vehicle, if operated by an engine fueled primarily by natural gas, may exceed any vehicle weight limit, up to a maximum gross vehicle weight of 82,000 pounds, under this section by an amount that is equal to the difference between:

a. The weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and

b. The weight of a comparable diesel tank and fueling system.

(2) This subsection applies on federal interstate highways to the weight limit increases for vehicles using an EPA certified natural gas engine or an EPA approved conversion unit installed on the vehicle that allows the vehicle to operate primarily on compressed natural gas or liquefied natural gas.

(d) Nothing in this section shall be construed as effectuating either of the following:

(1) Permitting size or weight limits on the National System of Interstate and Defense Highways in this state in excess of those permitted under 23 U.S.C. § 127. If the federal government prescribes or adopts vehicle size or weight limits greater than or less than those now prescribed by 23 U.S.C. § 127 for the National System of Interstate and Defense Highways, the increased or decreased limits shall become effective on the National System of Interstate and Defense Highways in this state.

(2) Denying the operation of any vehicle or combination of vehicles that could be lawfully operated upon the highways and roads of this state on January 4, 1975.

(Acts 1927, No. 347, p. 348; Acts 1932, Ex. Sess., No. 58, p. 68; Acts 1939, No. 484, p. 687; Code 1940, T. 36, § 89; Acts 1943, No. 179, p. 159; Acts 1947, No. 210, p. 72; Acts 1955, No. 245, p. 560, § 1; Acts 1959, No. 413, p. 1052, § 1; Acts 1961, No. 686, p. 980; Acts 1963, No. 295, p. 762, § 1; Acts 1965, No. 879, p. 1645; Acts 1966, Ex. Sess., No. 334, p. 476; Acts 1975, No. 922, p. 1829, § 1; Acts 1979, No. 79–792, p. 1445, § 1; Acts 1979, No. 79–795, p. 1453; Acts 1985, 2nd Ex. Sess., No. 85–912, p. 188, § 2; Acts 1989, No. 89–631, p. 1236, § 1; Acts 1993, No. 93–308, p. 459, § 1; Acts 1994, No. 94–305, p. 539, § 1; Acts 1995, No. 95–758, p. 1774, § 1; Act 2000–764, p.

1746, § 1; Act 2010–543, § 1; Act 2015–325, p. 991, § 1; Act 2016–190, p. 440, § 1; Act 2017–442, § 1(b)(3); Act 2018–176, § 1; Act 2022–181, § 1; Act 2024–248, § 1, eff. Oct. 1, 2024.)

§ 32–9–20.1. Appurtenance exceeding maximum prescribed width.

Notwithstanding the provisions of Section 32–9–20, an appurtenance attached to a motor home, travel trailer, self-propelled camper or house car, truck camper, or recreational vehicle commonly known as an R.V. may exceed the maximum prescribed width provided in Section 32–9–20 if the appurtenance does not extend six inches beyond the sidewall of the vehicle. For the purpose of this section, an appurtenance is a part which is an integral part of the vehicle including, but not limited to, awnings, grab handles, lighting equipment, cameras, and vents. An appurtenance may not be used as a load-carrying device.

(Act 2005–323, 1st Sp. Sess. p. 787, § 1.)

§ 32–9–21. Maximum permissible length and width of motor bus.

(a) The term motor bus, wherever used in this section, means any motor-propelled vehicle used on the highways of this state for the transportation of passengers for hire.

(b) Except as provided in subsection (d), it shall be lawful to drive or operate upon any highway in this state any motor bus which does not exceed 45 feet in length, and eight and one-half feet in width, exclusive of detachable wind deflection devices which have been approved by the State Department of Transportation and safety equipment.

(c) The term articulated motor bus, wherever used in this section, means any motor bus, divided into joined sections, that actuates in a manner ensuring a turning radius which is less than a motor bus of the same length without such joined actuation.

(d) It shall be lawful to drive or operate on any highway in this state an articulated motor bus which does not exceed 60 feet in length, and eight and one-half feet in width, exclusive of detachable wind deflection devices which have been approved by the State Department of Transportation and safety equipment.

(e) Nothing contained in this section shall be construed to change in any way any law affecting the regulation of any motor bus except with respect to the maximum permissible length and width thereof.

(Acts 1951, No. 801, p. 1400; Acts 1979, No. 79–792, p. 1445, § 1; Acts 1981, No. 81–402, p. 631; Act 2010–694, p. 1683, § 1.)

§ 32–9–22. Exemptions — Generally.

(a) There shall be exempt from the provisions of this article trucks, semi-trailer trucks, or trailers owned by the United States, or any agency thereof, the State of Alabama, or any county or city, or incorporated town; nor shall

the provisions of this article apply to implements of husbandry temporarily propelled or moved upon the highways; nor shall the provisions of this article apply to trucks, semitrailer trucks, or trailers used exclusively for carrying 50 bales or less of cotton.

(b) If any truck, semitrailer truck, or trailer shall be licensed by any city or incorporated town and the registration plate or plates issued as evidence of the license shall be conspicuously exhibited on the truck, semitrailer truck, or trailer, in the manner required by law, the provisions of this article shall not apply to the operation of such vehicles within the limits of the municipality or within the police jurisdiction thereof; provided, that municipalities may provide by ordinance maximum limits with respect to the weight, height, width, and length of trucks, semitrailer trucks, and trailers within their police jurisdiction; provided, that the maximum limits prescribed shall not be less than those fixed in Section 32–9–20 and may impose license taxes on such vehicles and require all such vehicles to have affixed thereto, in some conspicuous place, a registration plate or plates.

(Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, § 90; Acts 1947, No. 100, p. 26; Acts 1949, No. 255, p. 377, § 1; Acts 1963, No. 295, p. 762, § 2.)

§ 32–9–23. Exemptions — Milk transporters.

There shall be exempt from the provisions of this article as to weight any truck or semitrailer truck transporting milk for human consumption, for which refrigeration and transit is reasonably necessary in the interest of public health, when moving under refrigeration to or from market from the territory in which such commodity is collected or concentrated.

(Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, § 92; Acts 1951, No. 876, p. 1514.)

§ 32–9–24. Exemptions — Farm tractors.

Farm tractors shall be exempt from the restrictions of this article as to width, but, however, shall not exceed nine feet in width.

(Acts 1927, No. 347, p. 348; Code 1940, T. 36, § 93.)

§ 32–9–25. Exemptions — Length.

There shall be exempt from this article as to length, detachable wind deflection devices which have been approved by the State Department of Transportation, loads of poles, logs, lumber, laminated wood building materials, structural steel, piping, and timber, and vehicles transporting same. Trucks, trailers, and semitrailers which are constructed and used exclusively for the hauling of livestock, shall also be exempt from the restrictions of this article as to length, but shall not exceed 65 feet in length.

(Acts 1939, No. 484, p. 687; Code 1940, T. 36, § 94; Acts 1949, No. 607, p. 939; Acts 1979, No. 79–430, p. 677; Acts 1979, No. 79–792, p. 1445, § 1; Acts 1993, No. 93–630, p. 1076, § 1.)

§ 32–9–26. Exemptions — Two to eight wheel, one to four-axle trailer — Transporting agricultural commodities, etc.

Any provision of any other law or the provision of any administrative rule, regulation, or order to the contrary notwithstanding, it shall be lawful for any farmer, custom picker, or husbandman to operate a two to eight-wheel, one to four-axle trailer on the highways of this state if the trailer is being used exclusively for the purpose of transporting to and from a farm agricultural commodities or products and for agricultural purposes relating to the operation and maintenance of a farm; provided, that the combined weight of the trailer and its load is not in excess of 36,000 pounds, nor more than 10,000 pounds per axle, whichever is less.

(Acts 1953, No. 688, p. 940, § 1; Acts 1964, 1st Ex. Sess., No. 140, p. 204; Acts 1987, No. 87–585, p. 955, § 1.)

§ 32–9–27. Exemptions — Two to eight wheel, one to four-axle trailer — Size and equipment of such trailers.

All such trailers as described in Section 32–9–26 shall be equipped with red reflectors to adequately illuminate the rear of such trailer by placing at least two on the rear and one at each side. No such trailer shall be in excess of 10 feet in width, except that such trailer shall not exceed 102 inches in width when operated or moved on the Interstate Highway System, and no such trailer, drawbar, or other connection, including the vehicle towing such trailer, shall be in excess of overall length of 76 feet. Overhang of round bales of hay on such trailer shall not exceed one foot per side except that the width of the trailer including overhang shall not exceed 102 inches when operated or moved on the Interstate Highway System. At no time shall there be more than one loaded trailer towed by any vehicle; provided, that two empty farm wagons or trailers with two or more wheels may be towed in tandem when the overall length of the towing vehicle and its tow does not exceed 76 feet altogether.

(Acts 1953, No. 688, p. 940, § 2; Acts 1965, No. 866, p. 1641; Acts 1987, No. 87–585, p. 955, § 2.)

§ 32–9–28. Exemptions — Two to eight wheel, one to four-axle trailer — Violations.

Any person violating the provisions of Sections 32–9–26 and 32–9–27 shall be guilty of a misdemeanor and punished as provided by law.

(Acts 1953, No. 688, p. 940, § 3.)

§ 32–9–29. Permits for movement of oversized vehicles or loads.

(a) *Authorized; application; issuance; seasonal, etc., limitations; refusal, revocation, or cancellation.*

(1) The Director of the Department of Transportation or the official of the department designated by the director, upon application and for good

cause being shown therefor, may issue a permit in writing authorizing the applicant to operate or move upon the state's public roads a vehicle or combination of no more than two vehicles and loads whose weight, width, length, or height, or combination thereof, exceeds the maximum limit specified by law; provided, that the load transported by such vehicle or vehicles is of such nature that it is a unit which cannot be readily dismantled or separated; provided, however, that bulldozers and similar construction equipment shall not be deemed readily separable for purposes of this chapter; and further provided, that no permit shall be issued to any vehicle whose operation upon the public roads of this state threatens to unduly damage a road or any appurtenances thereto.

(2) Permits may be issued on application to the department to persons, firms, or corporations. The director shall adopt reasonable rules which are necessary or desirable governing the issuance of the permits; provided, that the rules shall not conflict with this title and other provisions of law.

(3) The original copy of every permit shall be carried in the vehicle itself and shall be open to inspection by any law enforcement officer or authorized agent of the department.

(4) The application for any permit shall specifically describe the type of permit applied for, as described in subsection (b), and the application for a single trip permit, in addition, shall describe the points of departure and destination.

(5) The director or the official of the department designated by the director may withhold such permit or, if such permit is issued, may establish seasonal or other time limitations within which the vehicles described may be operated on the public road indicated, or may otherwise limit or prescribe conditions of operation of such vehicle, when necessary to assure against undue damage to the road foundation, surfaces, or bridge structures, and require such undertaking or other security as may be deemed necessary to compensate the state for any injury to any roadway or bridge structure.

(6) For just cause, including, but not limited to, repeated and consistent past violations, the director or an official of the department designated by the director may refuse to issue, or may cancel, suspend, or revoke, the permit of an applicant or permittee.

(b) *Duration and limits of permits; bond or insurance requirements.*

(1)a. ANNUAL. The director or the official of the department designated by the director, pursuant to this section, may issue an annual permit which shall permit the vehicle or combination vehicle and load to be operated on the state highway system of this state for 12 months from the date the permit is issued, even though the vehicle or its load exceeds the maximum limits specified in this article; provided, that an annual permit shall not authorize the operation of a vehicle including all enforcement tolerances:

1. Whose total gross weight exceeds 150,000 pounds; provided, that gross weights over 100,000 pounds shall require advance routing by the department;

2. Whose single axle weight exceeds 22,000 pounds;

3. Whose total length exceeds 75 feet; with the exception of mobile homes, whose length limitations, including towing vehicle, shall be 85 feet;

4. Whose total width exceeds 120 inches or whose load width exceeds 144 inches; with the exception of mobile homes, whose width limitation shall be 168 inches; provided, that mobile homes whose width exceeds 144 inches shall require advance route approval by the department; or

5. Whose height exceeds 14 feet.

A permit to operate a vehicle which exceeds the statutory limits of height, weight, width, or length shall be issued only on condition of payment of an indemnity bond or proof of insurance protection for three hundred thousand dollars ($300,000.00), the bond or insurance protection conditioned for payment to the department to be held in trust for the benefit of the owners of bridges and appurtenances thereof, traffic signals, signs, or other highway structures damaged by a vehicle operating under authority of the overheight permit. The liability under the bond or insurance certificate shall be contingent upon proof of negligence or fault on the part of the permittee, his or her agents, or operators.

b. Notwithstanding paragraph a., the director, pursuant to this section, may issue an annual permit to operate a vehicle which exceeds the maximum limits otherwise provided in this article for rubber-tired equipment used solely in the scope and operation of mining refractory grade bauxite. The equipment may not exceed the limits of paragraph a., except that the permit may not authorize the operation of a vehicle, including enforcement tolerances, which exceeds 16 feet in width, exceeds 18 feet in height, or exceeds a single axle weight of 27,000 pounds. In addition, the permit may not authorize the operation of the vehicle on any bridge, over or under any overpass, or on an interstate highway. The fee for the annual permit shall be one hundred dollars ($100).

(2) SINGLE TRIP. The director may issue a single trip permit, pursuant to this section, to any vehicle.

(c) *Fees.* The director may adopt rules concerning the issuance of permits and charge a fee for the issuance as follows:

(1) ANNUAL. Charges for the issuance of annual permits shall be as follows:

a. For modular homes, sectional houses, portable buildings, boats, and any vehicle or combination of vehicles, one hundred dollars ($100.00); except, that a vehicle or combination of vehicles having trailer or combination of trailers with sidewalls or roof which has transported modular

homes, sectional houses, and portable buildings, after depositing any load, may return unloaded to its point of origin, even though the unloaded vehicles exceed the 55–foot limitation provided for in this article, up to and including 12 feet wide and 75 feet long.

b. For heavy commodities or equipment, overweight, overlength, overheight, and overwidth, one hundred dollars ($100.00). A tractor and trailer (low boy type), after depositing a load referred to in this subparagraph, may return to its point of origin, even though the unloaded tractor and trailer (low boy type) may exceed the 55–foot limitation provided for in this article up to and including 12 feet wide and 75 feet long.

c. For mobile homes up to and including 14 feet wide and 85 feet long, including towing vehicle, one hundred dollars ($100.00).

(2) SINGLE TRIP. Charges for the issuance of single trip permits shall be as follows:

a. Mobile homes, modular homes, sectional houses, portable buildings, and boats:

1. Up to and including 12 feet wide and 75 feet long, ten dollars ($10.00).

2. Boats in excess of 12 feet wide, twenty dollars ($20.00).

3. Mobile homes, modular homes, sectional houses, and portable buildings in excess of 12 feet wide and/or 75 feet long, twenty dollars ($20.00).

b. Heavy commodities or equipment:

1. Over on any limitations as to length, height, or width, ten dollars ($10.00).

2. Over on weight, as follows:

WEIGHT PERMITTED	PERMIT FEE
From 80,001 pounds up to 100,000 pounds	$ 10.00
From 100,001 pounds up to 125,000 pounds	30.00
From 125,001 pounds up to 150,000 pounds	60.00
From 150,001 pounds and over	100.00

c. Miscellaneous:

1. Houses, twenty dollars ($20.00).

2. Off-the-road equipment, ten dollars ($10.00).

3. Other oversized vehicles, loads, and equipment not herein specified, twenty dollars ($20.00).

4. Other overheight loads not herein specified, ten dollars ($10.00).

(d) *Certain vehicles on interstate highways.* Under this section, 14 feet-wide vehicles and combination vehicles and load may be issued a permit to travel the interstate highways.

(e) The Director of the Department of Transportation, by rule, may establish limits for combinations of commercial wreckers and towed disabled or

abandoned vehicles that exceed the maximum height, weight, or length limitations established by law. The director may establish a permitting method for commercial wreckers and may establish a fee for any permits that are issued. The director may authorize exceptions to any permit required under this subsection or may waive any permit required under this subsection under emergency, exigent, or other extraordinary conditions. Permits may not be issued to a person or entity that is currently prohibited from operating by a federal or state agency responsible for vehicle safety. The permit authorized by this subsection shall be in addition to any registration requirements as provided for in Chapter 6 of of this title and Chapter 12 of Title 40.

(f) *Violations of federal law, etc.* No permit shall be issued under this section if the issuance of the permit would violate United States law or would cause the State of Alabama to lose federal-aid funds. Notwithstanding any provisions of any statute to the contrary, all permit fees collected in accordance with this section shall be paid to the Public Road and Bridge Fund in addition to any sums appropriated therefor to the department.

(g) *Farm and agricultural commodities and equipment exempt.* The term heavy commodities or equipment, as used in this section, is not intended to include farm and agricultural commodities or equipment, and such farm or agricultural commodities and equipment are exempt from the requirement of obtaining permits for movement on the state highway system of Alabama.

(Acts 1932, Ex. Sess., No. 58, p. 68; Acts 1939, No. 484, p. 687; Code 1940, T. 36, § 91; Acts 1977, No. 775, p. 1332, §§ 1 through 3; Acts 1977, 1st Ex. Sess., No. 78, p. 1506; Acts 1978, No. 837, p. 1241; Act 98–321, p. 562, § 1; Act 2019–473, § 1.)

§ 32–9–29.1. Special permits for movement of certain site-built buildings.

(a) The Director of the State Department of Transportation or the official of the State Department of Transportation designated by the director may, at his or her discretion, upon application and for good cause being shown therefor, issue special permits to the applicant, for movement on or over the public highways, for motor vehicles when used in the transportation of site-built residential buildings or otherwise, which had at one time been affixed to a permanent foundation; provided, however, that this section shall not extend to those motor vehicles used in the transportation of what is commonly referred to as mobile homes, house trailers, prefabricated housing, or other factory-built buildings.

The applicants for the permits issued under this section shall state if the route of the movement will cross one or more railroads at grade.

If such a crossing is to be made, the Director of the State Department of Transportation or the official of the State Department of Transportation designated will notify the railroad or railroads involved, stating the time and route of the anticipated move.

(b) The fee for the issuance of such permits shall be the same as set forth in Section 32–9–29(c).

(Acts 1983, No. 83–646, p. 1008.)

§ 32–9–30. Special permits for movement of certain site-built buildings — Certain vehicles; house trailers or portable storage houses. Repealed by Acts 1977, No. 775, p. 1332, § 4, effective June 22, 1977.

§ 32–9–31. Measuring and weighing vehicles.

Any officer enumerated in Section 32–9–3 having reason to believe that the height, length, width, or weight of any truck, semitrailer truck, or trailer is in excess of the maximum limits prescribed by Section 32–9–20 or permitted by any permit issued under authority of Section 32–9–29 is authorized to measure or weigh the same, either by means of portable or stationary scales, and may require such vehicle to be driven to the nearest stationary scales, in the event such scales are within a distance of five miles. All scales used for the weighing of vehicles as provided in this section shall be approved by the weights and measures division of the Department of Agriculture and Industries. The officer shall require the operator of the truck, semitrailer truck, or trailer to unload such portion of load as may be necessary to decrease the gross weight of such vehicle to the maximum gross weight permitted by this title or by the terms of any permit in the possession of such operator and issued under the provisions of Section 32–9–29 (which excess load, when unloaded, shall be at the sole risk of the owner) or, at the election of the operator, the officer shall permit the operator to move such vehicle and its load to the nearest incorporated town or the nearest court having jurisdiction, at which place the excess load shall be unloaded. The refusal of any such operator to permit his or her truck, semitrailer truck, or trailer to be measured or weighed, or to proceed to a stationary scales or to unload the excess load shall constitute a violation of this chapter.

(Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, § 85; Acts 1949, No. 518, p. 773, § 2.)

§ 32–9–32. Scales.

The Director of the Department of Transportation is authorized to designate, furnish instructions to, prescribe rules and regulations for the conduct of, and to supervise official stations for determining the weight of motor vehicles at such points as it may be deemed necessary. Such designated weighing devices shall be checked by the weights and measures division of the Department of Agriculture and Industries and certified to be correct within the tolerances prescribed under the rules and regulations established by the state Department of Agriculture and Industries, and checks shall be made at such points as is deemed necessary by the weights and measures division of the Department of Agriculture and Industries. All stations shall comply with the requirements of the director and shall be available for the use of all

officers in the enforcement of this chapter. The expense of weighing such motor vehicles shall be paid out of any funds made available for the use of the state highway patrol. If it is found that any motor vehicle is being operated in violation of this chapter, the expenses of such weighing shall be taxed as part of the costs for the prosecution of such violation. A certificate issued by the chief of the division of weights and measures of the Department of Agriculture and Industries, signed by such official, under oath, and countersigned by the Commissioner of Agriculture and Industries, in which the chief of the division of weights and measures certifies that scales, or weighing devices, have been checked and approved as required under the provisions of this section and Section 32–9–31 and found to be correct, within prescribed tolerances, shall be received in any court as prima facie evidence of the fact that the scales or weighing devices designated and identified in such certificate have been checked and approved for accuracy in accordance with the requirements of this section and Section 32–9–31; provided, that such certificate must show that the scales or weighing devices were checked for accuracy within a period of four months (120 days) prior to the date on which the motor vehicle was weighed to determine whether such vehicle was being operated in violation of this chapter.

(Acts 1932, Ex. Sess., No. 58, p. 68; Code 1940, T. 36, § 87; Acts 1949, No. 518, p. 773, § 3; Acts 1953, No. 827, p. 1114.)

CHAPTER 9A.

COMMERCIAL MOTOR VEHICLE SAFETY REQUIREMENTS.

§ 32–9A–1. Definitions.

Whenever used in this chapter, unless a different meaning clearly appears in the context, the following terms shall be given the following respective meanings:

(1) COMMERCE.

a. Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States.

b. For the purpose of this chapter, commerce also includes any trade, traffic, or transportation beginning and ending within the boundaries of this state.

(2) COMMERCIAL MOTOR VEHICLE. Any self-propelled or towed vehicle used on the highways in commerce to transport passengers or property if the vehicle meets any of the following:

a. It has a gross weight rating or gross combination weight of more than 10,000 pounds, whether operated interstate or intrastate.

b. It is designed to transport more than 15 passengers, including the driver, regardless of weight.

c. It is used to transport hazardous materials in a quantity requiring placards under regulation of the U.S. Department of Transportation.

(3) DEPARTMENT. The Alabama Department of Public Safety.

(4) DIRECTOR. The Director of the Alabama Department of Public Safety.

(Act 98–493, p. 952, § 1; Act 99–203, p. 261, § 1.)

§ 32–9A–2. Compliance with Federal Motor Carrier Safety Regulations; in–service training by law enforcement officers.

(a)(1) Except as otherwise provided in subsection (b), no person may operate a commercial motor vehicle in this state, or fail to maintain required records or reports, in violation of the federal motor carrier safety regulations as prescribed by the U.S. Department of Transportation, 49 C.F.R. Part 107, Parts 171–180, Part 380, Parts 382–387, and Parts 390–399 and as they may be amended in the future. Except as otherwise provided herein, this chapter shall not be construed to repeal or supersede other laws relating to the operation of motor vehicles.

(2)a. No person may operate a commercial motor vehicle in this state in violation of 49 C.F.R. § 393.120, as amended, relating to load securement for certain metal coils.

b. No one owning, leasing, or allowing a commercial vehicle to be operated in this state shall knowingly or negligently be in violation of 49 C.F.R. § 393.120, as amended, relating to load securement for metal coils.

(3) No person may knowingly or negligently own or lease or cause to be operated on any public highway, road, street, or other public right-of-way a commercial motor vehicle loaded with a metal coil in a manner that fails to comply with 49 C.F.R. § 393.120 and thereby allows a metal coil to drop, fall, spill, shift, or otherwise escape from the commercial vehicle onto any public highway, road, street, or any other public right-of-way.

(4) Except as it relates to subdivision (3), no law enforcement officer may make an arrest or issue a citation under this chapter unless he or she has satisfactorily completed, as a part of his or her training, the basic course of instruction developed by the Commercial Vehicle Safety Alliance. Those law enforcement officers authorized to enforce this chapter shall annually receive in service training related to commercial motor vehicle operations, including, but not limited to, training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria. The annual training requirements shall be designated and specified by the director. An officer qualified under this section to make an arrest or issue a citation pursuant to subdivision (3) may arrest or issue a citation to the driver of a commercial motor vehicle without a warrant and without witnessing the violation personally if, upon personal investigation, the officer has reasonable cause to believe that a violation has occurred.

(b) Notwithstanding subsection (a) or any other provision of law to the contrary:

(1) Amendments to the hours of service regulations promulgated by the U.S. Department of Transportation at 68 Federal Register 22456, April 28, 2003 and effective June 27, 2003, shall not apply to utility service vehicles as defined at 49 C.F.R. § 395.2, not including television cable or community antenna service vehicles, which are owned or operated by utilities regulated by the Public Service Commission or electric cooperatives and which are engaged solely in intrastate commerce in this state until June 27, 2006, provided the amendments are valid and remain in effect as of that date. Hours of service regulations that are applicable in this state immediately prior to June 27, 2003, shall remain applicable to utility service vehicles engaged solely in intrastate commerce in this state until June 27, 2006. If the U.S. Department of Transportation issues an official finding that this provision may result in the loss of federal Motor Carrier Safety Assistance Program funding, the Alabama State Law Enforcement Agency may adopt rules providing for earlier implementation of the amendments to the federal hours of service regulations. If federal law or regulations are amended at any time to exempt utility service vehicles from the hours of service requirements, any exemption shall be effective in this state immediately for the duration of the federal exemption.

(2) The Alabama State Law Enforcement Agency may adopt rules suspending the effective date for up to three years after adoption of any motor carrier safety regulation by the U.S. Department of Transportation as applied to vehicles engaged solely in intrastate commerce in this state, provided that the suspension does not result in the loss of federal Motor Carrier Safety Assistance Program funding.

(3) The Alabama State Law Enforcement Agency may enter into agreements with state and local emergency management agencies and private parties establishing procedures for complying with 49 U.S.C. § 31502(e) and federal regulations promulgated thereto at 49 C.F.R. § 390.23 which provide an exemption from the hours of service regulations during certain emergencies.

(4) The Alabama State Law Enforcement Agency may adopt rules granting any waiver, variance, or exemption permitted under 49 U.S.C. § 31102(e) and federal regulations promulgated thereto at 49 C.F.R. §§ 350.305 through 350.309, provided that the waiver, variance, or exemption does not result in the loss of federal Motor Carrier Safety Assistance Program funding and does not take effect unless approved by the U.S. Department of Transportation if that approval is required.

(5) A commercial motor vehicle operated in intrastate commerce which does not equal or exceed 26,001 pounds, except a motor vehicle, regardless of weight, which is designed or used to transport 16 or more passengers, including the driver, or which is used in the transportation of hazardous materials and required to be placarded pursuant to 49 C.F.R. Part 172, Subpart F, shall be exempt from the federal motor carrier regulations otherwise made applicable in this state pursuant to subsection (a). For

purposes of this subdivision, ''commercial motor vehicle'' means a commercial motor vehicle as defined in 49 C.F.R. § 390.5.

(6) For purposes of those provisions of 49 C.F.R. Part 395 providing for exemptions from the hours of service requirements of that part respecting the operation of motor vehicles for the transportation of agricultural commodities as contemplated in that part, the planting and harvesting season for this state is defined by the Legislature as the period from April 1 of each calendar year to March 31 of the next succeeding calendar year.

(c) Nothing in this section shall be interpreted to exempt any person from the obligations to operate a motor vehicle in a safe and proper manner or to observe the rules of the road, nor shall any provision of this section be interpreted to immunize any person from civil liability for actionable conduct.

(Act 98–493, p. 952, § 2; Act 2003–478, p. 1479, § 1; Act 2007–298, p. 536, §§ 1–3; Act 2008–336, p. 616, § 1; Act 2009–143, p. 263, § 2; Act 2011–638, p. 1565, § 1; Act 2013–207, p. 443, § 1; Act 2021–386, § 1; Act 2024–245, § 1, eff. Oct. 1, 2024.)

§ 32–9A–2.5. Inspection of commercial vehicles.

The Department of Public Safety shall use their commercial vehicle inspection authority, including portable scales, in those areas of the state that are prone to accidents involving the transportation of metal coils to aggressively inspect and weigh vehicles transporting metal coils to insure the loads are being transported safely and in compliance with state and federal regulations.

(Act 2009–143, p. 263, § 3.)

§ 32–9A–3. Inspection of records, etc.; rules and regulations.

Any records required to be maintained by operators of commercial motor vehicles pursuant to state or federal laws or regulations shall be open to inspection during the normal business hours of a carrier by members designated by the director. The inspection may be made without a warrant. Members of the department designated by the director may also go on the property of an operator of a commercial motor vehicle to conduct inspections of facilities and records to ensure compliance with applicable state and federal laws and regulations governing commercial motor vehicle operations.

The director may promulgate reasonable rules and regulations relating to this chapter subject to the Alabama Administrative Procedure Act.

(Act 98–493, p. 952, § 3.)

§ 32–9A–4. Penalties.

(a) Any person violating Section 32–9A–2(a)(1) shall be guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars ($25) nor more than two thousand dollars ($2,000) for each offense. In addition, the court may impose a sentence of imprisonment in the county jail, not to exceed 30 days, for each offense.

(b) Any person violating Section 32–9A–2(a)(2)a. or a motor carrier violating Section 32–9A–2(a)(2)b. shall be guilty of a misdemeanor and punished by a fine of not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense.

(c) Any operator of a commercial motor vehicle violating Section 32–9A–2(a)(2)a. in which a metal coil drops, falls, spills, shifts, or otherwise escapes from the vehicle shall be guilty of a misdemeanor and punished by a fine of not less than two thousand five hundred dollars ($2,500) nor more than five thousand dollars ($5,000).

(d) Any person violating Section 32–9A–2(a)(3) shall be guilty of a misdemeanor and punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(e) In addition to the other penalties for a violation of subdivisions (2) or (3) of Section 32–9A–2(a), the court may impose a sentence of imprisonment in the county jail, not to exceed one year, for each conviction under subdivisions (2) or (3) of Section 32–9A–2(a).

(f) In addition to other punishment fixed by law, the court may enter an order prohibiting the person from operating any commercial motor vehicle for a period to be specified by the court, or perpetually, as the court may determine.

(Act 98–493, p. 952, § 4; Act 2009–143, p. 263, § 2; Act 2024–245, § 1, eff. Oct. 1, 2024.)

§ 32–9A–5. Construction.

This chapter is remedial and should be liberally construed to promote the public health, public safety, and general welfare. To the extent this chapter directly conflicts with other state laws governing the operation of motor vehicles, this chapter prevails. Where this chapter is silent and not in direct conflict with other laws, the general laws governing the operation of motor vehicles shall continue in force and effect.

(Act 98–493, p. 952, § 5.)

§ 32–9A–6. Interstate hours of service limitation.

(a) The intrastate hours of service limitation applied to the drivers of commercial motor vehicles operating in intrastate transportation within a 150 air-mile radius of their normal work reporting location, following 10 consecutive hours off duty except when prohibited by federal rule or law, shall be the following:

(1) A 12–hour driving limit, provided driving shall be prohibited for any driver of a commercial motor vehicle who has been on duty for more than 15 hours.

(2) Driving shall be prohibited for any driver who has been on duty 70 hours in seven consecutive days.

(b) An intrastate driver is defined by his or her previous seven days in operation.

(c) All motor carriers operating under the variance provided by this section shall have a satisfactory safety rating with the Federal Motor Carrier Safety Administration (FMCSA) or be unrated. Subsection (a) shall not apply to a motor carrier with a conditional or unsatisfactory FMCSA safety rating.

(d) All motor carriers operating under the variance provided by this section shall require its drivers to comply with the record of duty provisions under 49 C.F.R. § 395.8. The driver shall retain a copy of each record of duty status for the previous seven consecutive days, which shall be in his or her possession and available for inspection while on duty.

(Act 2015–294, p. 916, § 1; Act 2024–210, § 1, eff. Oct. 1, 2024.)

CHAPTER 9B.

AUTOMATED COMMERCIAL MOTOR VEHICLES AND TELEOPERATION.

§ 32–9B–1. Definitions.

For the purposes of this chapter, the following words shall have the following meanings:

(1) AUTOMATED COMMERCIAL MOTOR VEHICLE. A commercial motor vehicle equipped with an automated driving system.

(2) AUTOMATED DRIVING SYSTEM. The hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain.

(3) COMMERCIAL MOTOR VEHICLE. A commercial motor vehicle as defined in Section 32–9A–1.

(4) CONVENTIONAL DRIVER. A driver who manually exercises in-vehicle braking, accelerating, steering, and transmission gear selection input devices in order to operate a vehicle.

(5) DYNAMIC DRIVING TASK. All of the real-time operational and tactical functions required to operate a vehicle in on-road traffic excluding strategic functions such as trip scheduling and selection of destinations and waypoints.

(6) MINIMAL RISK CONDITION. A condition to which a user or an automated driving system may bring a vehicle in order to reduce the risk of a crash upon experiencing a failure of the vehicle's automated driving system that renders the vehicle unable to perform the entire dynamic driving task.

(7) OPERATIONAL DESIGN DOMAIN. A description of the specific operating domain in which an automated commercial motor vehicle is designed to properly operate, including, but not limited to, roadway types, speed, environmental conditions, and other domain constraints.

(8) REMOTE DRIVER. A natural person who is not seated in a commercial motor vehicle, but is able to perform the entire dynamic driving task.

(9) TELEOPERATION SYSTEM. Hardware and software installed on a commercial motor vehicle that allow a remote driver to operate the motor vehicle.

(Act 2019–496, § 1.)

§ 32–9B–2. Applicability; jurisdiction.

(a) Unless otherwise provided by this chapter, an automated commercial motor vehicle and a teleoperation system, including any commercial use or operation of either, are governed exclusively by this chapter.

(b) Notwithstanding any other provision of law, the Department of Transportation is the sole and exclusive state agency with jurisdiction over automated commercial motor vehicles and teleoperation systems that may implement this chapter.

(c) A political subdivision of this state or a state agency may not impose requirements, including taxes or performance standards, related specifically to the operation of a teleoperation system or automated commercial motor vehicle in addition to the requirements of this chapter.

(Act 2019–496, § 2.)

§ 32–9B–3. Automated commercial vehicles — Operation without presence of conventional driver.

Notwithstanding any other provision of law, an automated commercial motor vehicle may operate in this state without a conventional driver physically present in the vehicle if the vehicle meets all of the following criteria:

(1) The automated commercial vehicle is capable of operating in compliance with applicable federal law and the traffic and motor vehicle laws of this state, including without limitation, applicable laws concerning the capability to safely navigate and negotiate railroad crossings.

(2) The automated commercial vehicle is registered and titled in accordance with the laws of this state.

(3) The automated commercial vehicle is certified in accordance with 49 C.F.R. Part 567 as being in compliance with federal motor vehicle safety standards and bears the required certification label or labels, including reference to any exemption granted under applicable federal law.

(4) The automated commercial vehicle can achieve a minimal risk condition if a failure occurs rendering the vehicle unable to perform the dynamic driving task relevant to its intended operational design domain or if the vehicle exits its operational design domain.

(5) The automated commercial vehicle is covered by motor vehicle liability coverage in an amount not less than two million dollars ($2,000,000).

(6) The registration of an automated commercial motor vehicle shall not be interpreted to abrogate or amend any statutory or regulatory provisions or any aspects of common law pertaining to liability for any harm or injury caused.

(Act 2019–496, § 3.)

§ 32–9B–4. Automated commercial vehicles — Owner of vehicle considered its operator; license to operate.

(a) The owner of an automated commercial vehicle, or the lessee if the vehicle is leased or rented, is considered the operator of the vehicle for the purpose of assessing compliance with applicable traffic or motor vehicle laws, including the rules of the road.

(b) The automated driving system is considered to be licensed to operate the vehicle.

(Act 2019–496, § 4.)

§ 32–9B–5. Automated commercial vehicles — Accidents.

When an accident occurs involving an automated commercial motor vehicle, the requirements of Chapter 10 shall be deemed satisfied if the vehicle remains on the scene of the accident and the vehicle, owner, a person on behalf of the owner, or operator promptly contacts appropriate law enforcement entities and communicates the information required by Chapter 10.

(Act 2019–496, § 5.)

§ 32–9B–6. Teleoperation systems — Remote driver of vehicle considered its operator; license to operate; accidents.

(a) Notwithstanding any other provision of this chapter, a commercial motor vehicle equipped with a teleoperation system may operate without a conventional driver physically present in the vehicle if a remote driver is operating the vehicle.

(b) When a remote driver is operating a commercial motor vehicle, the remote driver is considered to be the operator of the vehicle for the purpose of assessing compliance with applicable traffic or motor vehicle laws, including the rules of the road, and for the purpose of any charge for a violation of Title 13A or this title. Extradition of a person charged pursuant to this section shall be governed by Chapter 9 of Title 15.

(c) The remote driver shall hold the proper class of license required for a conventional driver to operate the vehicle.

(d) When an accident occurs involving a commercial motor vehicle equipped with a teleoperation system, the requirements of Chapter 10 of this title shall be deemed satisfied if the vehicle remains on the scene of the accident and the owner or remote driver promptly contacts appropriate law enforcement entities and communicates the information required by Chapter 10 of this title.

(e) In the event of an accident involving a commercial motor vehicle equipped with a teleoperation system, the remote driver who is operating the vehicle shall be subject to Section 32–6–49.13, regardless of the jurisdiction in which the remote driver is physically present. A remote driver is deemed to have given consent, subject to provisions of Section 32–5–192, to take a test or tests of the remote driver's blood, breath, or urine for the purpose of determining that person's alcohol concentration, or the presence of other drugs. Subdivision (1) of subsection (b) of Section 32–6–49.13 shall be deemed satisfied if the test or tests are administered in cooperation with local law enforcement officials in the jurisdiction where a remote driver is present. The results of any test shall be provided to Alabama law enforcement agencies.

(Act 2019–496, § 6.)

§ 32–9B–7. Teleoperation systems — Requirements.

A commercial motor vehicle equipped with a teleoperation system registered in this state shall meet all of the following requirements:

(1) Is in compliance with applicable federal law.

(2) Is certified in accordance with federal regulations in 49 C.F.R. Part 567 as being in compliance with applicable federal motor vehicle safety standards and shall bear the required certification label or labels, including reference to any exemption granted under applicable federal law.

(3) Is capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state, regardless of whether the vehicle is operated by a remote driver, including, without limitation, applicable laws concerning the capability to safely navigate and negotiate railroad crossings.

(4) Is covered by motor vehicle liability coverage in an amount of not less than two million dollars ($2,000,000).

(5) Is able to achieve a reasonably safe state, such as bringing the vehicle to a stop, if a failure of the teleoperation system occurs that renders the remote driver unable to perform the entire dynamic driving task for the vehicle.

(Act 2019–496, § 7.)

§ 32–9B–8. Construction of chapter.

This chapter shall not be construed to repeal, modify, or preempt any liability that may be incurred under existing common or statutory law applicable to a vehicle owner, operator, manufacturer, component part supplier, or retailer.

(Act 2019–496, § 8.)

CHAPTER 9C.

AUTOMATED DRIVING SYSTEMS.

§ 32–9C–1. Definitions.

For purposes of this chapter, the following terms have the following meanings:

(1) ADS–EQUIPPED VEHICLE. A vehicle equipped with an automated driving system.

(2) AUTOMATED DRIVING SYSTEM or ADS. The hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis regardless of whether it is limited to a specific operational design domain.

(3) CONVENTIONAL HUMAN DRIVER. An individual, licensed or otherwise permitted by law to operate a vehicle, who manually exercises in-vehicle braking, accelerating, steering, and transmission gear selection input devices in order to operate a vehicle.

(4) DYNAMIC DRIVING TASK or DDT. All of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints, including, but not limited to:

a. Lateral vehicle motion control via steering.

b. Longitudinal vehicle motion control via acceleration and deceleration.

c. Monitoring the driving environment via object and event detection, recognition, classification, and response preparation.

d. Object and event response execution.

e. Maneuver planning.

f. Enhancing conspicuity via lighting, signaling, and gesturing.

(5) FULLY AUTONOMOUS VEHICLE. A motor vehicle equipped with an automated driving system designed to function without a human driver as a Level 4 or Level 5 automation system under the Society of Automotive Engineers (SAE) Standard J3016.

(6) MINIMAL RISK CONDITION. A stable, stopped condition to which a user or an automated driving system may bring a vehicle after performing the DDT fallback in order to reduce the risk of a crash when a given trip cannot or should not be continued.

(7) ON–DEMAND AUTONOMOUS VEHICLE NETWORK. A transportation service or network that uses a software application or other digital means to dispatch or otherwise enable the prearrangement of transportation with ADS-equipped vehicles for purposes of transporting passengers or goods, including for-hire transportation and transportation of passengers or goods for compensation.

(8) OPERATIONAL DESIGN DOMAIN or ODD. Operating conditions under which a given ADS or feature thereof is specifically designed to function, including, but not limited to, environmental, geographical, and time-of-day restrictions, and the requisite presence or absence of certain traffic or roadway characteristics.

(Act 2024–453, § 1, eff. Oct. 1, 2024.)

§ 32–9C–2. Operation of an ADS–equipped vehicle.

(a) A person may operate an ADS-equipped vehicle with the ADS engaged on the public roads of this state only under all of the following conditions:

(1) The ADS-equipped vehicle is capable of complying with the following:

a. All applicable traffic and motor vehicle safety laws and rules of this state which govern the performance of the dynamic driving task, unless an exemption has been granted pursuant to subsection (b).

b. All applicable Federal Motor Vehicle Safety Standards, except to the extent an exemption has been granted under applicable federal law.

c. All applicable traffic control devices, including, but not limited to, speed limit signs, other regulatory signs, advisory signs, warning signs, barriers, and construction or work zone signs.

(2) The ADS-equipped vehicle shall be registered and titled in accordance with the laws of this state.

(b) An ADS-equipped vehicle may be operated on the public roads of this state without a conventional human driver physically present in the vehicle if the vehicle is capable of achieving a minimal risk condition.

(Act 2024–453, § 2, eff. Oct. 1, 2024.)

§ 32–9C–3. Liability coverage for operation of a fully autonomous vehicle.

A fully autonomous vehicle may operate on public roads in this state only if a person submits proof to the Department of Revenue of financial responsibility that the fully autonomous vehicle has single limits liability coverage, by contract of insurance or by qualifying as a self-insurer, of not less than one hundred thousand dollars ($100,000).

(Act 2024–453, § 3, eff. Oct. 1, 2024.)

§ 32–9C–4. Traffic accidents.

If a traffic accident occurs that involves an ADS-equipped vehicle that is being operated without a conventional human driver, the requirements of Chapter 10 of Title 32 do not apply to the ADS-equipped vehicle, provided all of the following occur:

(1) The owner of the ADS-equipped vehicle, or a person acting on behalf of the owner, promptly contacts the applicable law enforcement agency to report the accident.

(2) If the ADS-equipped vehicle has the capability of promptly alerting a law enforcement agency or emergency services, the vehicle alerts a law enforcement agency or emergency services to the traffic accident.

(3) The ADS-equipped vehicle remains at the scene or in the immediate vicinity of the accident until law enforcement arrives.

(4) In accordance with Chapter 7A of Title 32, the ADS-equipped vehicle's registration and insurance information is provided to the parties affected by the traffic accident.

(5) In the event an ADS-equipped vehicle is not an automated commercial motor vehicle under Section 32–9B–1 but is being operated by a commercial entity without a conventional human driver, the owner of the ADS-equipped vehicle shall be deemed the operator of the vehicle and shall maintain the ability to respond to damages for liability on account of any accidents arising from the use of the ADS-equipped vehicle or automated driving system in the minimum amount of one million dollars ($1,000,000) per accident for death, bodily injury, and property damage to a third party.

(Act 2024–453, § 4, eff. Oct. 1, 2024.)

§ 32–9C–5. License to operate.

A conventional human driver of an ADS-equipped vehicle is required to have a valid driver license for the class of vehicle being operated.

(Act 2024–453, § 5, eff. Oct. 1, 2024.)

§ 32–9C–6. Relation to other laws or requirements.

(a) Except as otherwise provided in this chapter or in Chapter 9B and notwithstanding any other provision of law, the operation of ADS-equipped vehicles and automated driving systems is governed exclusively by this chapter.

(b) No state or local entity may impose requirements, including performance standards, specific to the operation of ADS-equipped vehicles, automated driving systems, or automated commercial motor vehicles as defined in Section 32–9B–1, except as specifically authorized by this chapter. Nothing in this section shall be construed to repeal or in any way modify Section 32–9–29.

(c) No municipality or other local or state entity may impose a tax on, or impose requirements on ADS-equipped vehicles or automated driving systems, where the tax or other requirement relates specifically to the operation of ADS-equipped vehicles.

(Act 2024–453, § 6, eff. Oct. 1, 2024.)

§ 32–9C–7. Operator of an ADS–equipped vehicle.

For purposes of this chapter and for assessing compliance with applicable traffic or motor vehicle laws, including rules of the road, unless the context

otherwise requires, the automated driving system shall be deemed to be the operator of an ADS-equipped vehicle when all of the following apply:

(1) The automated driving system is engaged and solely responsible for the driving task.

(2) The automated driving system is being operated and maintained as intended by the manufacturer of the ADS-equipped vehicle.

(3) A request to intervene has not been issued by the ADS-equipped vehicle.

(Act 2024–453, § 7, eff. Oct. 1, 2024.)

§ 32–9C–8. Liability for a traffic accident involving an ADS–equipped vehicle.

(a) Liability for a traffic accident involving an ADS-equipped vehicle shall be determined in accordance with applicable state law, federal law, or common law.

(b) The original manufacturer of a vehicle converted by a third party into an ADS-equipped vehicle may not be held liable in, and shall have a defense to and be dismissed from, any legal action brought against the original manufacturer by any individual injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured.

(Act 2024–453, § 8, eff. Oct. 1, 2024.)

§ 32–9C–9. Applicability of certain motor vehicle equipment laws or rules.

(a) An ADS-equipped vehicle that is designed to be operated exclusively by an automated driving system for all trips shall not be subject to motor vehicle equipment laws or rules of this state that relate to or support motor vehicle operation by a conventional human driver but are not relevant to an automated driving system.

(b) Any ADS-equipped vehicle, or automated commercial motor vehicle as defined in Section 32–9B–1, may be equipped with ADS marker lamps in accordance with the SAE Recommended Practice and Standard guidelines, including SAE J3134. For purposes of this section, an ''ADS marker lamp'' means a device that emits light to indicate when an ADS is engaged in the operation of the vehicle.

(Act 2024–453, § 9, eff. Oct. 1, 2024.)

§ 32–9C–10. Operation of an on–demand autonomous vehicle network.

An on-demand autonomous vehicle network shall be permitted to operate pursuant to state laws governing the operation of transportation network companies with the exception that any provision of this state's laws, including

Chapter 7C, which reasonably applies only to a conventional human driver would not apply to the operation of ADS-equipped vehicles with the ADS engaged on an on-demand autonomous vehicle network. A fully autonomous vehicle with the automated driving system engaged while logged on to an on-demand autonomous vehicle network must meet the insurance requirements in Section 32–9C–4.

(Act 2024–453, § 10, eff. Oct. 1, 2024.)

§ 32–9C–11. Traffic control devices on county roads.

Nothing in this chapter is intended, or shall be construed, to require a county to construct, upgrade, maintain, or place traffic control devices on county roads in a manner that is above and beyond the manner in which roads are constructed, upgraded, maintained, or designed for all other vehicular traffic.

(Act 2024–453, § 11, eff. Oct. 1, 2024.)

TITLE 38.

PUBLIC WELFARE.

CHAPTER 9.

PROTECTION OF AGED ADULTS AND ADULTS WITH A DISABILITY.

§ 38–9–1. Short title.

This chapter shall be known and may be cited as the Adult Protective Services Act of 1976.

(Acts 1977, No. 780, p. 1340, § 1.)

§ 38–9–2. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(1) ABUSE. The infliction of physical pain, injury, or the willful deprivation by a caregiver or other person of services necessary to maintain mental and physical health.

(2) ADULT IN NEED OF PROTECTIVE SERVICES. A person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others, or who, because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances.

(3) CAREGIVER. An individual who has the responsibility for the care of a protected person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, by contract, or as a result of the ties of friendship.

(4) COURT. The circuit court or probate court.

(5) DEPARTMENT. The Department of Human Resources of the State of Alabama.

(6) EMOTIONAL ABUSE. The willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication, or isolation as punishment or as a substitute for treatment or care of any protected person.

(7) EMPLOYEE OF A NURSING HOME. A person permitted to perform work in a nursing home by the nursing home administrator or by a person or an entity with an ownership interest in the facility, or by both. A person shall

be considered an employee whether or not he or she receives compensation for the work performed.

(8) EXPLOITATION. The expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent of that person or his or her legally authorized representative or the admission of or provision of care to a protected person who needs to be in the care of a licensed hospital by an unlicensed hospital after a court order obtained by the State Board of Health has directed closure of the unlicensed hospital. For the purpose of this section and Sections 38–9–6 and 38–9–7, the term ''unlicensed hospital'' shall have the meaning ascribed to it in Section 22–21–33, and the term ''licensed hospital'' shall have the meaning ascribed to it in Section 22–21–20.

(9) INTENTIONALLY. A person acts intentionally with respect to a result or to conduct described by a statute defining an offense, when his or her purpose is to cause that result or to engage in that conduct.

(10) INTERESTED PERSON. Any adult relative, friend, or guardian of a protected person, or any official or representative of a public or private agency, corporation, or association concerned with the welfare of the protected person.

(11) MISAPPROPRIATION OF PROPERTY OF A NURSING HOME RESIDENT. The deliberate misplacement or wrongful, temporary, or permanent use or withholding of belongings or money of a resident of a nursing home without the consent of the resident.

(12) NEGLECT. The failure of a caregiver to provide food, shelter, clothing, medical services, or health care for the person unable to care for himself or herself; or the failure of the person to provide these basic needs for himself or herself when the failure is the result of the person's mental or physical inability.

(13) NEURODEGENERATIVE. Relating to or being a progressive loss of neurologic function.

(14) NURSING FACILITY. A facility that is licensed as a nursing home by the Alabama Department of Public Health pursuant to Article 2, Chapter 21, Title 22.

(15) OTHER LIKE INCAPACITIES. Those conditions incurred as the result of accident or mental or physical illness, producing a condition that substantially impairs an individual from adequately providing for his or her own care or protecting his or her own interests or protecting himself or herself from physical or mental injury or abuse.

(16) PERSON. Any natural human being.

(17) PHYSICAL INJURY. Impairment of physical condition or substantial pain.

(18) PROTECTED PERSON. Any person 18 years of age or older subject to protection under this chapter and not otherwise subject to the jurisdiction of the juvenile court or any person, including, but not limited to, persons

with a neurodegenerative disease, persons with intellectual disabilities and developmental disabilities, or any person 18 years of age or older who is not otherwise subject to the jurisdiction of the juvenile court and who is mentally or physically incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others.

(19) PROTECTIVE SERVICES. Those services whose objective is to protect an incapacitated person from himself or herself and from others.

(20) RECKLESSLY. A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he or she is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk shall be of such nature and degree that its disregard constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation. A person who creates a risk but is unaware of that risk solely by reason of voluntary intoxication, as defined in subdivision (e)(2) of Section 13A–3–2, acts recklessly with respect thereto.

(21) SERIOUS PHYSICAL INJURY. Physical injury that creates a risk of death, or that causes serious and protracted disfigurement, protracted impairment of health, protracted loss of the function of any bodily organ, or the impairment of the function of any bodily organ.

(22) SEXUAL ABUSE. Any conduct that constitutes a crime under Article 4 of Chapter 6 of Title 13A.

(Acts 1977, No. 780, p. 1340, § 2; Acts 1989, No. 89–825, p. 1652, § 1; Acts 1994, No. 94–615, p. 1134, § 1; Act 2000–455, p. 837, § 1; Act 2008–390, p. 735, § 1; Act 2018–564, § 1; Act 2022–123, § 1.)

§ 38–9–3. Legislative findings and intent.

The legislature recognizes that there are many adult citizens of the state who, because of the infirmities of age, disabilities or like incapacities, are in need of protective services. Such services should, to the maximum degree of feasibility, allow the individual the same rights as other citizens, and at the same time protect the individual from exploitation, neglect, abuse and degrading treatment. This chapter is designed to establish those services and assure their availability to all persons when in need of them, and to place the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process and protection from abuse, exploitation and neglect.

(Acts 1977, No. 780, p. 1340, § 1.)

§ 38–9–3.1. Concurrent original and general jurisdiction of probate court and circuit court.

The probate court and circuit court shall have concurrent original and general jurisdiction as to all matters mentioned in this chapter.

(Act 2022–123, § 2.)

§ 38–9–4. Arrangements for protective services; liability of department for protective services; services to conform to wishes of person to be served; duty of department to ascertain persons in need of care and protection.

(a) Protective services may be arranged when an adult person is in need of care and protection because of danger to his health or safety; provided, that nothing in this chapter shall be construed to mean that the department is chargeable for the cost of such care except where such care is specifically provided for by law or departmental regulations and funding exists for such purpose. All protective services shall be in conformity with the wishes of the person to be served unless the person is unable or unwilling to accept such services, and if the person is unable or unwilling to accept such services, the court may order such services. The department may be required to provide or arrange for services only for persons it is equipped to serve and agrees to serve.

(b) The department shall seek out, through investigation, complaints from citizens or otherwise, the adults in the state who are in need of care and protection because of danger to their health or safety, and shall, as far as may be possible, through existing agencies, public or private, or through such other resources as are available, aid such adults to a fair opportunity in life.

(Acts 1977, No. 780, p. 1340, § 3.)

§ 38–9–5. Emergency protective services.

When there is brought to the attention of a county department of human resources a person who is unable, because of physical or mental disabilities, to provide for his basic needs for shelter, food, clothing or health care, and whose health or safety is in immediate danger, the department may arrange for protective services with the consent of the person. If the person is incapable of giving consent or does not consent, the department shall petition the court for an order authorizing the department to arrange for care for such person immediately. Upon a determination by the court that such care is urgently and immediately necessary to protect the health or safety of the person, an appropriate order of the court shall be issued authorizing the department to arrange for the placement of such person in an approved foster home, licensed nursing home or other similar facility immediately. At the proceeding to obtain the necessary order, any relative or other interested person may appear to oppose or join in the petition of the department. In the event of such involuntary protective placement the court shall thereafter, within 10 days, cause notice to be given, as appropriate, to the person, his spouse and other interested persons of the action of the court, the present whereabouts of the person and setting a time for a hearing on the matter of the person's need for protective placement, the appropriateness of the present placement and arrangements for future care.

(Acts 1977, No. 780, p. 1340, § 9.)

§ 38–9–6. Protective placement or other protective services.

(a) An interested person may petition the court to order protective placement or other protective services for an adult in need of protective services. No protective placement or other protective services may be ordered unless there is a determination by the court that the person is unable to provide for his or her own protection from abuse, neglect, exploitation, sexual abuse, or emotional abuse. Upon a petition, setting forth the facts and name, age, sex, and residence of the person, the court of the circuit in which the person resides shall appoint a day, not more than 30 days from the filing of the petition, for the hearing on the petition. If, on the hearing of a petition, the person is not represented by counsel, the court shall appoint a guardian ad litem to represent him or her. A jury of six persons shall be impanelled for the hearing to serve as the trier of facts.

(b) Costs of court proceedings under this chapter shall be paid as other civil court costs are paid, as provided for by law.

(c) The court shall give preference in making a determination to the least drastic alternative considered to be proper under the circumstances, including a preference for noninstitutional care wherever possible. Before ordering the protective placement of any person, the court shall direct a comprehensive evaluation of the adult in need of services, if such an evaluation has not already been made and if it is necessary. The court may utilize available resources in the community in determining the need for placement. The department shall cooperate with the court in securing available resources for the person to be served. A copy of the comprehensive evaluation shall be provided to the guardian or to the guardian ad litem or attorney of the person if a guardian has not been appointed. The court obtaining the evaluation shall request appropriate information which shall include at least the following:

(1) The address of the place where the person is residing and the person or agency who is providing services at present, if any.

(2) A resume of any professional services provided to the person by the department or other agency in connection with the problems creating a need for placement.

(3) A medical, psychological, social, vocational, and educational evaluation and review, where necessary.

(d) The department which arranges for a protective placement shall make an evaluation and submit a written report to the court at least once every six months covering the physical, mental, and social condition of each person for whom it is acting and shall recommend an alternative arrangement where appropriate.

(e) Any record of the department or other agency pertaining to such a person shall not be open for public inspection. Information in a record shall not be disclosed publicly in such a manner as to identify individuals, but may be made available on application for cause to persons approved by the commissioner of the department or by the court.

(f) Placement may be made in an appropriate alternative living arrangement such as a licensed nursing home, licensed personal care facility, or approved foster care home. No person shall be committed to a mental health facility under this chapter. A court may enter orders granting the department additional time to locate an appropriate licensed facility in which to place a person living in an unlicensed facility.

(g) If the person is eligible for the adult services program of the department, usual department policies shall be followed in regard to fees or payments, or both. If the person's income or resources, or both, make him or her ineligible for department services other than protective services, payment for services in relation to his or her evaluation, and to his or her care in a protective setting is to be made from his or her income or resources, or both. A guardian, a conservator, or both, may be appointed by the court. The department shall not be appointed as guardian or conservator and shall not be appointed custodian other than for the limited purpose, where appropriate, of transporting an adult for protective placement as ordered by the court. If it is agreeable with the person to be served, the court may appoint a guardian, or conservator, or both, having the same powers, duties, and obligations, including having a bond, as a guardian of an incapacitated person or a conservator under the Alabama Uniform Guardianship and Protective Proceedings Act and it shall not be necessary to have a hearing on that issue; otherwise, the court may appoint a guardian, a conservator, or both, following the procedures provided by the Alabama Uniform Guardianship and Protective Proceedings Act. If a jury is requested or required, the jury impanelled in this court according to subsection (a) of this section shall serve that function.

(h) When any adult in need of protective services is unable to manage his or her estate and because of the inability is in danger of being reduced to poverty and want, an interested person may petition the court to preserve the estate of the person, to direct use of the estate for the needs of the person, and for the general relief of the person.

(i) No civil rights are relinquished as a result of any protective placement under this chapter. Nothing in this chapter shall be construed to authorize or require medical care or treatment for a person in contravention of his or her stated or implied objection upon the grounds that the medical care and treatment conflict with his or her religious beliefs and practices.

(j) As far as is compatible with the mental and physical condition of the adult in need of services or claimed to be in need of services under this chapter, every reasonable effort shall be made to assure that no action is taken without the full and informed consent of the person.

(k) To promote coordination, placement, and service delivery for persons living in unlicensed facilities and needing placement in a licensed facility, the department shall establish a coordinating council composed of representatives of interested state and local agencies including the state Department of Public Health and the state Department of Mental Health. The council shall also

include representatives from the Alabama Nursing Home Association, Alabama Assisted Living Association, Alabama Hospital Association, and other interested persons, agencies, or groups as determined by commissioner. The council shall meet at times designated by the commissioner for coordination purposes identified by the commissioner including identifying resources and placements, increasing needed supportive services, and assuring maximum community coordination of effort in placing in a licensed facility persons living in an unlicensed facility.

(Acts 1977, No. 780, p. 1340, § 4; Acts 1989, No. 89–825, p. 1652, § 2; Acts 1994, No. 94–615, p. 1134, § 1; Act 2008–390, p. 735, § 1.)

§ 38–9–6.1. Removal of action from probate court to circuit court.

(a) Nothing in this section applies to actions pending in a probate court where the judge of probate is a member in good standing with the Alabama State Bar.

(b) At any time after the filing of a petition, but before a hearing contemplated in Section 38–9–6, any protected person, interested person, or party to an action under this chapter may remove the action from the probate court to the circuit court for the county in which the probate court is located by doing all of the following, which shall effect the removal:

(1) Filing in the circuit court a notice of removal together with a copy of all processes, pleadings, and orders filed in the probate court.

(2) Serving all parties to the action with a copy of the removal notice.

(3) Filing a copy of the removal notice with the clerk of the probate court.

(c) Upon completion of all of the requirements of subsection (b), jurisdiction shall immediately vest in the circuit court, and the probate court shall proceed no further.

(Act 2022–123, § 3.)

§ 38–9–7. Violations; penalties.

(a) It shall be unlawful for any person to abuse, neglect, exploit, or emotionally abuse any protected person. For purposes of this section, residence in a nursing home, mental institution, developmental center for people with an intellectual disability, or other convalescent care facility shall be prima facie evidence that a person is a protected person. Charges of abuse, neglect, exploitation, or emotional abuse may be initiated upon complaints of private individuals, as a result of investigations by social service agencies, or on the direct initiative of law enforcement officials.

(b) Any person who intentionally abuses or neglects a person in violation of this chapter shall be guilty of a Class B felony if the intentional abuse or neglect causes serious physical injury.

(c) Any person who recklessly abuses or neglects a person in violation of this chapter shall be guilty of a Class C felony if the reckless abuse or neglect causes serious physical injury.

(d) Any person who intentionally abuses or neglects a person in violation of this chapter, shall be guilty of a Class C felony if the intentional abuse or neglect causes physical injury.

(e) Any person who recklessly abuses or neglects a person in violation of this chapter, shall be guilty of a Class A misdemeanor if the reckless abuse or neglect causes physical injury.

(f) Any person who emotionally abuses a person in violation of this chapter shall be guilty of a Class A misdemeanor.

(g) Any person who exploits a person in violation of this chapter shall be guilty of a Class C felony, where the value of the property, assets, or resources or illegal services provided to a protected person by an unlicensed hospital exceeds one hundred dollars ($100).

(h) Any person who exploits a person in violation of this chapter shall be guilty of a Class A misdemeanor, if the value of the property, assets, or resources or illegal services provided to a protected person by an unlicensed hospital does not exceed one hundred dollars ($100).

(i) If a violation of this section is also a violation of any other Alabama criminal statute, then a conviction or acquittal under either statute bars prosecution under the remaining statute.

(Acts 1977, No. 780, p. 1340, §§ 5, 11; Acts 1989, No. 89–825, p. 1652, § 3; Acts 1994, No. 94–615, p. 1134, § 1; Act 2000–455, p. 837, § 1; Act 2008–390, p. 735, § 1.)

§ 38–9–8. Reports by physicians, etc., of physical, sexual, or emotional abuse, neglect, or exploitation — Required; contents; investigation.

(a) All physicians and other practitioners of the healing arts or any caregiver having reasonable cause to believe that any protected person has been subjected to physical abuse, neglect, exploitation, sexual abuse, or emotional abuse shall report or cause a report to be made as follows:

(1) An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, to the county department of human resources or to the chief of police of the city or city and county, or to the sheriff of the county if the observation is made in an unincorporated territory, except that reports of a nursing home employee who abuses, neglects, or misappropriates the property of a nursing home resident shall be made to the Department of Public Health. The requirements to report suspicion of suspected abuse, neglect, or misappropriation of property of a nursing home resident by an employee of a nursing home shall be deemed satisfied if the report is made in accordance with the rules of the State Board of Health.

(2) Within seven days following an oral report, an investigation of any alleged abuse, neglect, exploitation, sexual abuse, or emotional abuse shall be made by the county department of human resources or the law enforcement official, whichever receives the report, and a written report prepared which includes the following:

a. Name, age, and address of the person.

b. Nature and extent of injury suffered by the person.

c. Any other facts or circumstances known to the reporter which may aid in the determination of appropriate action.

(b) All reports prepared by a law enforcement official shall be forwarded to the county department of human resources within 24 hours.

(c) The county department of human resources shall not be required to investigate any report of abuse, neglect, exploitation, sexual abuse, or emotional abuse that occurs in any facility owned and operated by the Alabama Department of Corrections or the Alabama Department of Mental Health.

(d) Notwithstanding the foregoing, the Department of Public Health shall investigate all reports that a nursing home employee has abused or neglected a nursing home resident, or misappropriated the property of a nursing home resident, in accordance with the rules of the State Board of Health and the federal regulations and guidelines of the Medicaid and Medicare programs. The Department of Public Health shall investigate the complaints in accordance with the procedures and time frames established by the agency. A county department of human resources shall not be required to investigate the complaints.

(e) An individual required to make a report pursuant to subsection (a) who knowingly fails to make a report shall be guilty of a Class C misdemeanor.

(Acts 1977, No. 780, p. 1340, § 6; Acts 1994, No. 94–615, p. 1134, § 1; Act 2000–455, p. 837, § 1; Act 2022–161, § 2.)

§ 38–9–9. Reports by physicians, etc., of physical abuse, neglect or exploitation — Immunity of reporter from civil and criminal liability.

Any person, firm or corporation making or participating in the making of a report pursuant to this chapter or participating in a judicial proceeding resulting therefrom shall in so doing be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

(Acts 1977, No. 780, p. 1340, § 7.)

§ 38–9–10. Reports by physicians, etc., of physical abuse, neglect or exploitation — Penalty for failure to make report.

Any physician or other practitioner of the healing arts who shall knowingly fail to make the report required by this chapter shall be guilty of a misde-

meanor and shall, upon conviction, be punished by imprisonment for not more than six months or a fine of not more than $500.00.

(Acts 1977, No. 780, p. 1340, § 8.)

§ 38–9–11. Exemption of officers, agents and employees of department from civil liability.

Any officer, agent or employee of the department, in the good faith exercise of his duties under this chapter, shall not be liable for any civil damages as a result of his acts or omissions in rendering assistance or care to any person.

(Acts 1977, No. 780, p. 1340, § 10.)

ALABAMA RULES OF CRIMINAL PROCEDURE

Rule 1.

Scope; Purpose, Objectives, and Construction; Computation and Enlargement of Time; Definitions; Effective Date.

Rule 1.1. Scope.

These rules shall govern the practice and procedure in all criminal proceedings in all courts of the State of Alabama, and political subdivisions thereof, except as otherwise provided by court rule.

Rule 1.2. Purpose, objectives, and construction.

These rules are intended to provide for the just and speedy determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration, and the elimination of unnecessary delay and expense, and to protect the rights of the individual while preserving the public welfare.

Rule 1.3. Computation and enlargement of time.

(a) COMPUTATION. In computing any period of time of more than twenty-four (24) hours prescribed by these rules, by order of court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday, legal holiday, a day the county courthouse is closed, or a day on which the appropriate clerk's office is closed pursuant to Rule 5(B) or (C), Alabama Rules of Judicial Administration (Ala.R.Jud.Admin.), in which case the period shall run until the end of the next day which is not a Saturday, Sunday, a legal holiday, a day the county courthouse is closed, or a day on which the clerk's office is closed pursuant to Rule 5(B) or (C), Ala.R.Jud.Admin. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, legal holidays, days the county courthouse is closed, or days on which the clerk's office is closed pursuant to Rule 5(B) or (C), Ala.R.Jud.Admin., shall be excluded from the computation. As used in this rule, ''legal holiday'' includes New Year's Day, Birthday of Martin Luther King, Jr., Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or as prescribed in Ala. Code 1975, § 1–3–8. Whenever a party has the right or is required to take some action within a prescribed period

after service of a notice or other paper and such service is allowed and made by mail, three (3) days shall be added to the prescribed period.

(b) ENLARGEMENT. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect, but it may not, except as provided elsewhere in these rules, extend the time for making a motion for new trial, for taking an appeal, or for making a motion for a judgment of acquittal pursuant to Rule 20.

(c) In computing time for purposes of Rule 4, the provisions of this rule shall not apply.

(Subsection (c) adopted 9–19–1991, eff. 10–1–1991; rule amended 10–30–2009.)

Rule 1.4. Definitions.

Unless otherwise defined in a particular rule, whenever they appear in these rules, the terms below shall have the following meanings:

(a) ''Appearance Bond.'' See Rule 7.1(b).

(b) ''Charge'' means a complaint, indictment, or information.

(c) ''Civil Contempt.'' See Rule 33.1(d).

(d) ''Complaint.'' See Rule 2.3.

(e) ''Constructive Contempt.'' See Rule 33.1(b).

(f) ''Criminal Contempt.'' See Rule 33.1(c).

(g) ''Criminal Court'' means any court of the State of Alabama or any political subdivision thereof with trial jurisdiction over an offense, as defined in Rule 1.4(s).

(h) ''Criminal Proceeding'' means the prosecution of any offense as defined in Rule 1.4(s), and may be commenced only by complaint or indictment.

(i) ''Determination of Guilt.'' See Rule 26.1(a)(3).

(j) ''Direct Contempt.'' See Rule 33.1(a).

(k) ''District Attorney'' means, unless otherwise defined in a particular rule, the duly qualified and acting district attorney, subordinates acting under the district attorney's specific authority, or such other person appointed or charged by law with responsibility for prosecuting an offense. The term includes the Attorney General, Deputy Attorney General, assistant attorneys general, and others acting under the Attorney General's specific authority or pursuant to his supervision and direction.

(l) ''Indictment.'' See Rule 13.1(a).

(m) ''Indigent.'' See Rule 6.3(a).

(n) ''Information.'' See Rule 13.1(b).

(*o*) ''Judgment.'' See Rule 26.1(a)(1).

(p) ''Law Enforcement Officer'' means an officer, employee or agent of the State of Alabama or any political subdivision thereof who is required by law to:

(i) Maintain public order;

(ii) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(iii) Investigate the commission or suspected commission of offenses.

(q) ''Magistrate'' means only district and municipal magistrates under Rule 18, A.R.J.A. and Ala. Code 1975, § 12–17–250 et seq.

(r) ''Minor Misdemeanor'' means a misdemeanor or municipal ordinance violation for which the defendant will not be punished by a sentence of imprisonment.

(s) ''Offense'' means conduct for which a sentence to a term of imprisonment, or the death penalty, or for which a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state.

(t) ''Person'' means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(u) ''Personal Recognizance.'' See Rule 7.1(a).

(v) ''Presentment.'' See Rule 13.1(a).

(w) ''Presiding Judge'' means (i) for circuit courts, the presiding judge selected according to Ala. Code 1975, § 12–17–23, and Rule 6(A), A.R.J.A., (ii) for district courts, the judge selected according to Rule 6(B), A.R.J.A., and (iii) for municipal courts not electing to come within the district courts, the judge selected according to law or local practice.

(x) ''Professional Bondsman.'' See Rule 7.1(f).

(y) ''Prosecutor'' means any municipal attorney, district attorney, attorney general, and others acting under his or her specific direction and authority, appointed or charged by law with the responsibility for prosecuting an offense.

(z) ''Secured Appearance Bond.'' See Rule 7.1(c).

(aa) ''Security.'' See Rule 7.1(d).

(bb) ''Sentence.'' See Rule 26.1(a)(2).

(cc) ''Surety.'' See Rule 7.1(e).

(dd) ''Venire'' means all jurors drawn for jury service as provided in Rule 12.1(a) and Ala. Code 1975, § 12–16–70.

(ee) ''Warrant of Arrest.'' See Rule 3.2. The terms ''warrant'' and ''writ,'' as used throughout these rules to refer to a written order of arrest, shall be synonymous and interchangeable.

(Amended 7–23–1991; Amended 9–19–1991, eff. 10–1–1991; Amended eff. 12–1–1997.)

Rule 1.5. Applicability of rules.

These rules shall govern all criminal proceedings, without regard to when the proceeding was commenced.

(Amended eff. 4–21–1992.)

Rule 2.

Commencement and Prosecution of Criminal Proceedings.

Rule 2.1. Commencement of criminal proceedings.

All criminal proceedings shall be commenced either by indictment or by complaint.

Rule 2.2. Prosecution of criminal proceedings.

(a) FELONIES. All felony charges and misdemeanor or ordinance violations which are lesser included offenses within a felony charge or which arise from the same incident as a felony charge shall be prosecuted in circuit court, except that the district court shall have concurrent jurisdiction to receive guilty pleas and to impose sentences in felony cases not punishable by sentence of death, including related and lesser included misdemeanor charges, and may hold preliminary hearings with respect to felony charges.

(b) MISDEMEANORS AND ORDINANCE VIOLATIONS. All misdemeanor offenses (including an indictment charging a traffic infraction) shall be prosecuted originally in district court or, where adopted as municipal ordinance violations, municipal court, except:

(1) Misdemeanors for which an indictment has been returned by a grand jury.

(2) Misdemeanors that are lesser included offenses within a felony charge as to which concurrent jurisdiction as described in Rule 2.2(a) has not been exercised.

(c) TRANSFER OF CASES. Cases filed in a court that does not have original trial jurisdiction of the offense charged shall be transferred to the appropriate court as provided in Ala. Code 1975, § 12–11–9.

(d) TRIAL DE NOVO. Criminal proceedings prosecuted in the district or the municipal court, from conviction of which the defendant has appealed for trial

de novo in the circuit court, shall be prosecuted in the circuit court on the original charging instrument, which shall include the Uniform Traffic Ticket and Complaint (UTTC) in traffic cases.

(e) PROCEEDING ON INFORMATION.

At arraignment on an information following receipt of a defendant's written notice of his or her desire to plead guilty as charged or as a youthful offender upon the granting of youthful-offender status, the court shall proceed as provided in Rule 14.4. If the court does not accept the defendant's guilty plea or denies the defendant's application for youthful- offender status, the court shall proceed as provided by law.

(Amended eff. 8–1–1997; Amended eff. 8–1–2002.)

Rule 2.3. Contents of a complaint.

A complaint is a statement made upon oath before a judge, magistrate, or official authorized by law to issue warrants of arrest, setting forth essential facts constituting an offense and alleging that the defendant committed the offense. The complaint may be written, typed, electronic, or computer-generated.

(Amended 10–27–2020, eff. 2–1–2021.)

Rule 2.4. Duty of judge or magistrate upon making of a complaint.

The judge or magistrate before whom a complaint is made may subpoena for examination any necessary witnesses. A judge or magistrate may use audio-video communication equipment to examine any necessary witnesses and to acknowledge under oath facts alleged in the complaint. The audio-video communication equipment shall operate in a manner that will allow the judge or magistrate and the witness simultaneously to view and orally communicate with each other. In the event a duly summoned witness fails to appear, the judge or magistrate is authorized to issue a writ of attachment for the defaulting witness, commanding that said witness be brought before the issuing judge or magistrate at once for the purpose of examination. If the judge or magistrate is reasonably satisfied from the complaint and the evidence, if any, submitted that the offense complained of has been committed and that there is probable cause to believe that the defendant committed it, the judge or magistrate shall proceed under Rule 3.1.

(Amended eff. 6–10–2019.)

Rule 3.

Arrest Warrant or Summons Upon Commencement of Criminal Proceedings; Search Warrant.

Rule 3.1. Issuance of arrest warrant or summons.

(a) ISSUANCE. Upon return of an indictment, or upon a finding of probable cause made pursuant to Rule 2.4, the judge or magistrate shall immediately cause to be issued an arrest warrant or a summons, as provided in Rule 3.2.

(b) SUMMONS. If the defendant is not in custody, if the offense charged is bailable as a matter of right, and if there is no reason to believe that the defendant will not respond to the summons, a summons may be issued, at the sole discretion of the issuing judge or magistrate.

(c) SUBSEQUENT ISSUANCE OF WRIT OF ARREST. If a defendant who has been duly summoned fails to appear, or if after issuance of a summons there is reasonable cause to believe that the defendant will fail to appear, or if for any reason the summons cannot be served or delivered, a writ of arrest shall issue. More than one writ of arrest or summons may issue on the same complaint or indictment.

(d) DOCKETING CASE. A case shall be docketed upon service of a summons or upon the defendant's arrest.

Rule 3.2. Contents of arrest warrant or summons.

(a) ARREST WARRANT. An arrest warrant issued upon a complaint shall be signed by the issuing judge or magistrate. An arrest warrant issued upon an indictment shall be signed by the circuit judge presiding, by the circuit clerk, or by a judge or other magistrate designated to do so by the presiding judge of the circuit court by order entered on the minutes of the court. The arrest warrant shall contain the name of the defendant, or if the name is unknown, a name or description by which the defendant can be identified with reasonable certainty; it shall state the offense with which the defendant is charged; and it shall command that the defendant be arrested and brought before the issuing judge or magistrate, or, if the issuing judge or magistrate is unavailable, before the nearest or most accessible district or circuit judge or magistrate in the same county. If the defendant is bailable as a matter of right, the arrest warrant may state the conditions of the defendant's release on his or her own recognizance under Rule 7.2 or an amount of an appearance bond or a secured appearance bond predetermined by the court.

(b) SUMMONS. The summons shall be in the same form as the arrest warrant, except that it shall summon the defendant to appear at a stated time and place within a reasonable time from the date of issuance. At the discretion of the issuing judge or magistrate, the summons may command the defendant to report to a designated place to be photographed and fingerprinted prior to appearance in response to the summons. Failure to so report for

photographing or fingerprinting shall result in issuance of a warrant for the defendant's arrest unless good cause for such failure is shown. If, upon the defendant's appearance, the defendant has not been photographed and fingerprinted, the issuing judge or magistrate shall direct that the defendant be taken promptly for such photographing and fingerprinting.

(Amended eff. 8–1–1997.)

Rule 3.3. Execution and return of arrest warrant.

(a) BY WHOM. The arrest warrant shall be directed to and may be executed by any law enforcement officer within the State of Alabama.

(b) MANNER OF EXECUTION. An arrest warrant shall be executed by arrest of the defendant.

(c) RETURN. The law enforcement officer executing an arrest warrant shall endorse thereon the manner and date of execution, shall subscribe his name, and shall return the arrest warrant to the clerk of the court specified in the arrest warrant.

Rule 3.4. Service of summons.

The summons may be served by any law enforcement officer in the same manner as a summons in a civil action, except that service may not be by publication or by commercial carrier. At the law enforcement officer's discretion and expense, a summons may be served by certified mail, requiring a signed receipt or some equivalent thereof. In the event the summons is served by certified mail, return of the receipt signed by the defendant shall be prima facie evidence of service. The law enforcement officer serving the summons shall make return of the summons in the same manner as provided in Rule 3.3(c) for making return of an arrest warrant.

(Amended eff. 3–28–2024.)

Rule 3.5. Defective arrest warrant.

An arrest warrant shall not be invalidated nor shall any person in custody thereon be discharged because of a defect in form. The arrest warrant may be amended to remedy such defect.

Rule 3.6. Definition of search warrant.

A search warrant is a written order, in the name of the state or municipality, signed by a judge or magistrate authorized by law to issue search warrants, directed to any law enforcement officer as defined by Rule 1.4(p), commanding him to search for personal property and, if found, to bring it before the issuing judge or magistrate.

Rule 3.7. Authority to issue search warrants.

Upon request of a law enforcement officer or district attorney, a search warrant authorized by this rule may be issued by:

(i) A magistrate who is authorized to practice law in the State of Alabama, or who is authorized by law to issue search warrants, within the magistrate's territorial jurisdiction; or

(ii) A municipal judge, if the search is to be conducted within the police jurisdiction of the municipality; or

(iii) A district judge within the county; or

(iv) A circuit judge within the judge's circuit.

(Amended eff. 12–1–1997.)

Rule 3.8. Grounds for issuance of search warrant.

A search warrant authorized by these rules may be issued if there is probable cause to believe that the property sought:

(1) Was, or is expected to be, unlawfully obtained;

(2) Was, or is expected to be, used as the means of committing or attempting to commit any offense under the laws of the State of Alabama or any political subdivision thereof;

(3) Is, or is expected to be, in the possession of any person with the intent to use it as a means of committing a criminal offense or is, or is expected to be, in the possession of another to whom that person may have delivered it for the purpose of concealing it or preventing its discovery; or

(4) Constitutes, or is expected to constitute, evidence of a criminal offense under the laws of the State of Alabama or any political subdivision thereof.

(Amended eff. 12–1–1997; Amended eff. 11–1–1998; Amended 12–12–2023, eff. 2–1–2024.)

Rule 3.9. Issuance of search warrant.

(a) REQUEST MADE BY APPLICANT IN THE PRESENCE OF THE ISSUING JUDGE OR MAGISTRATE. A warrant shall issue on affidavit sworn to before the issuing judge or magistrate authorized by law to issue search warrants, establishing grounds for issuing the warrant. If the judge or magistrate is satisfied that probable cause to believe that grounds for issuing the warrant exists, the judge or magistrate shall issue a warrant naming or describing the person and particularly describing the property and place to be searched. Before ruling on a request for a warrant, the judge or magistrate may further examine, under oath, the affiant and any witnesses the affiant may produce. Such additional sworn examination shall be recorded verbatim by the court reporter, by recording equipment, or by other means and shall be considered part of the affidavit for purposes of those proceedings; provided, however, that in

reproducing any additional sworn testimony, the confidentiality of confidential informants shall be preserved.

(b) REQUEST MADE BY APPLICANT OUTSIDE THE PRESENCE OF THE ISSUING JUDGE OR MAGISTRATE. A judge or magistrate who is authorized to issue search warrants may issue a warrant based upon oral testimony, affidavit testimony, or a combination thereof, communicated by telephone or other reliable electronic means by an applicant who is not in the presence of the judge or magistrate.

(1) *Procedures.* If the judge or magistrate decides to proceed under this subdivision, the following procedures apply:

(A) Taking Testimony Under Oath. The judge or magistrate must place under oath —and may examine — the applicant and any person on whose testimony the application is based.

(B) Creating a Record of the Testimony. If the applicant does no more than attest to the contents of a written affidavit submitted by reliable electronic means, the judge or magistrate must acknowledge the attestation in writing on the affidavit. If the judge or magistrate considers only oral testimony, or oral testimony in addition to affidavit testimony, the judge or magistrate shall either record the testimony by a voice recording device or make a stenographic or longhand verbatim record of the testimony. If a voice recording device is used or a stenographic record is made, the judge or magistrate shall have the record transcribed, shall certify the accuracy of the transcription, and shall file a copy of the original record and transcription with the court. If a longhand verbatim record is made, the judge or magistrate shall file a signed copy with the court.

(C) Preparing a Duplicate Original Warrant. The applicant must prepare a duplicate original warrant and must read its contents verbatim, or transmit by reliable electronic means a copy of the duplicate original warrant, to the judge or magistrate.

(D) Preparing an Original Warrant. If the applicant reads the contents of the duplicate original warrant to the judge or magistrate, the judge or magistrate shall enter what is so read into a document to be known as the original warrant. If the applicant transmits by reliable electronic means a copy of the duplicate original warrant to the judge or magistrate, the copy of the duplicate original warrant received by the judge or magistrate may serve as the original warrant.

(E) Modifying the Warrant. The judge or magistrate may modify the warrant. If the judge or magistrate modifies the warrant, he or she must either (i) transmit by reliable electronic means a copy of the modified warrant to the applicant or (ii) file with the court the modified original warrant and direct the applicant to modify the duplicate original warrant accordingly.

(F) Issuing the Warrant. To issue the warrant under this subdivision, the judge or magistrate must (i) sign the original warrant, (ii) enter the date and time of issuance on the original warrant, and (iii) transmit by

reliable electronic means a copy of the original warrant to the applicant or direct the applicant to sign the judge's or magistrate's name and enter the date and time on the duplicate original warrant.

(G) Executing the Warrant. The person who executes the warrant issued under this subdivision shall enter the exact time of execution on the face of the copy of the original warrant that has been transmitted by reliable electronic means or on the face of the duplicate original warrant, whichever is applicable.

(2) *Limitation on Motions to Suppress.* Absent a finding of bad faith, evidence obtained pursuant to a warrant issued pursuant to this subdivision is not subject to a motion to suppress on the ground that issuing the warrant in the manner permitted by this subdivision was unreasonable under the circumstances.

(c) HEARSAY. The finding that grounds for issuing the warrant exist or that there is probable cause to believe that they exist may be based, in whole or in part, upon hearsay evidence, provided that there is substantial basis for believing the evidence under the totality of the circumstances, given all the circumstances before the judge or magistrate, including the credibility of the informer and the basis of his or her knowledge.

(Amended eff. 11–1–1998; Amended 12–12–2023, eff. 2–1–2024.)

Rule 3.10. Contents of search warrants; time of execution.

The search warrant shall be directed to and served by a law enforcement officer, as defined by Rule 1.4(p). It shall command such officer to search, within a specified time not to exceed ten (10) days, the person or place named for the property specified and to bring an inventory of said property before the court issuing the warrant. The warrant shall designate the judge or magistrate to whom an inventory of the property specified shall be returned. The judge or magistrate shall endorse the warrant, showing the hour, date, and the name of the law enforcement officer to whom the warrant was delivered for execution, and a copy of such warrant and the endorsement thereon shall be admissible in evidence in the courts.

In cases in which the property to be seized does not include a controlled substance, an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a weapon of mass destruction, a search warrant must be executed in the daytime unless the affidavits state positively that the property is on the person or in the place to be searched, in which case the search warrant may be executed at any time of the day or night. Except in cases in which the property to be seized includes a controlled substance, an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a weapon of mass destruction, the issuing judge or magistrate must state in the warrant, according to the character of the affidavits, whether it is to be executed by day or at any time of the day or

night. In cases in which the property to be seized includes a controlled substance, or an explosive device or material used or to be used in creating an explosive device, or chemical, biological, or nuclear materials used or to be used in creating an explosive device or a weapon of mass destruction, a warrant may be executed at any time of the day or night and the warrant need not state whether it is to be executed by day or at any time of the day or night.

(Amended eff. 8–1–2002.)

Rule 3.11. Execution and return with inventory.

(a) RECEIPT. The law enforcement officer taking property under the search warrant shall give to the person from whom or from whose premises the property was taken or shall leave at the place from which the property was taken a copy of the search warrant endorsed with a copy of an inventory of the property taken.

(b) RETURN AND INVENTORY. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person from whose possession or premises the property was taken, if that person is present, and shall be verified by the law enforcement officer executing the search warrant. The judge or magistrate shall, upon request, deliver a copy of the inventory to the person from whom or from whose premises the property was taken. The executing law enforcement officer may discharge his obligation to give receipt of property by leaving a copy of the inventory at the place from which the property is taken if no one is present.

Rule 3.12. Authority to break and enter.

To execute the warrant, the law enforcement officer may break open any door or window of a house, dwelling, vehicle, or structure, or any part thereof, or anything therein, if, after notice of his authority and purpose, he is not granted admittance.

Rule 3.13. Unlawfully seized property.

(a) MOTION FOR RETURN OF PROPERTY. A person aggrieved by an unlawful search and seizure may move the court for the return of the property seized on the ground that he or she is entitled to lawful possession of the property which was illegally seized. The judge shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted, the property shall be restored. If a motion of return of property is made or comes on for hearing after an indictment or information is filed, it shall be treated also as a motion to suppress evidence.

(b) MOTION TO SUPPRESS. A motion to suppress may be made at any time after indictment.

Rule 3.14. Return of papers to court.

The law enforcement officer executing the search warrant shall return the search warrant, along with any inventory of property seized, to the issuing judge or magistrate specified in the search warrant, who shall forward the documents to the appropriate clerk for retention. Unexecuted search warrants shall be returned in the same manner.

(Amended eff. 3–1–1994.)

Rule 4.

Arrest and Initial Appearance.

Rule 4.1. Arrest without a warrant.

(a) ARREST BY A LAW ENFORCEMENT OFFICER.

(1) A law enforcement officer may arrest a person without a warrant if:

(i) The law enforcement officer has probable cause to believe that a felony has been committed, or is being committed, and that the person to be arrested committed it, or

(ii) Any offense has been committed in the law enforcement officer's presence or view, or

(iii) The arrest is otherwise authorized by statute, such as Ala. Code 1975, §§ 32–5–171, 32–5A–191, 15–10–3.

(2) The law enforcement officer shall inform the person arrested of the officer's authority and the cause of the arrest, except when the person is arrested in the actual commission of the offense or during pursuit immediately thereafter.

(b) ARREST BY A PRIVATE PERSON.

(1) A private person may arrest another without a warrant if:

(i) A felony has in fact been committed, and the arresting person has probable cause to believe that the person to be arrested committed it, or

(ii) The person to be arrested committed an offense, other than a felony, in the presence of the arresting person.

(2) A private person making an arrest shall inform the person arrested of the cause of the arrest, except when such person is arrested in the actual commission of the offense or during pursuit immediately thereafter. A private person making an arrest shall deliver the person arrested without unnecessary delay to a judge, magistrate, or law enforcement officer. If the person arrested is taken to a law enforcement officer, the officer shall proceed as provided in Rule 4.3(a).

(c) ARREST ON ORDER OF JUDGE OR MAGISTRATE. When a public offense is committed in the presence of a judge or magistrate, he may, by oral or written

order, command any person to arrest the offender and, when the offender has been arrested, may thereupon proceed as if such offender had been brought before him on an arrest warrant.

Rule 4.2. Telephone call after arrest.

Any person under arrest shall be afforded an opportunity to make a telephone call to any person that he or she may choose, without undue delay.

Rule 4.3. Procedure upon arrest.

(a) On Arrest Without a Warrant.

(1) A person arrested without a warrant:

(i) May be cited by a law-enforcement officer to appear either at a specified time and place or at such time and place as he or she shall be subsequently notified of and may be released; or

(ii) May be released by a law-enforcement officer upon execution of an appearance bond or a secured appearance bond in an amount set according to the schedule contained in Rule 7.2(b), or on his or her personal recognizance pursuant to Rule 7.2(a), or on a signature bond, and directed to appear either at a specified time and place or at such time and place as he or she shall be subsequently notified of; or

(iii) Shall be afforded an opportunity to make bail in accordance with Rules 4.3(b)(3) and 4.4. A judge or magistrate in the county of arrest shall determine whether probable cause exists to believe that the defendant committed the charged offense, by examining any necessary witnesses in accordance with the procedures for making a probable-cause determination provided in Rule 2.4. If the judge or magistrate finds there is probable cause for the arrest of the person, a complaint shall promptly be prepared, filed, and served on the defendant, and the judge shall proceed as provided in Rule 4.4 for initial appearance. If a probable-cause determination is not made by a judge or magistrate without undue delay, and in no event later that forty-eight (48) hours after arrest, then, unless the offense for which the person was arrested is not a bailable offense, the person shall be released upon execution of an appearance bond in the amount of the minimum bond set in Rule 7.2(b), or on his or her personal recognizance pursuant to Rule 7.2(a), or on a signature bond, and shall be directed to appear either at a specified time and place or at such time and place as he or she shall be subsequently notified of; or

(iv) In the event the defendant is released on the minimum bond amount provided in the bail schedule, or on personal recognizance or on a signature bond by the judge or magistrate, the prosecutor may file a motion with the court to reconsider the bond amount and the conditions of release, and the procedures thereafter shall be in accordance with Rule 7.5.

(2) If a person arrested without a warrant has been released and cited or directed to appear without having been taken before a judge or magistrate for a probable-cause determination, the officer or private person who made the arrest shall without undue delay make a complaint before a judge or magistrate as provided in Rules 2.3 and 2.4. If the judge or magistrate finds probable cause, the complaint shall be served on the defendant in the manner provided in Rule 3.4 for service of summons, or shall be delivered to the defendant at the time of the defendant's appearance. If the judge or magistrate does not find probable cause, the person arrested shall promptly be notified and advised that an appearance will not be required. Notification shall be made by the magistrate or clerk of the court by mail directed to the defendant at the defendant's last known address.

(b) ON ARREST WITH A WARRANT.

(1) If provision therefor has been made by the judge or magistrate issuing the arrest warrant, a person arrested with a warrant shall be released on an appearance bond in the amount set in accordance with the schedule contained in Rule 7.2(b), or on his or her personal recognizance pursuant to Rule 7.2(a), or on a signature bond, and directed to appear either at a specified time and place or at such time and place as he or she shall be subsequently notified of.

(2) If the person arrested cannot meet the conditions of release provided on the warrant, or if no such conditions are prescribed or provided for,

(i) If such person was arrested pursuant to a warrant issued upon a complaint, he or she shall be taken without undue delay, except in no event later than seventy-two (72) hours after arrest, before a judge, who shall proceed as provided in Rule 4.4, or

(ii) If such person was arrested pursuant to a warrant issued upon an indictment, he or she shall be taken without undue delay, except in no event later than seventy-two (72) hours after arrest, before a circuit judge, who shall proceed as provided in Rule 4.4.

(3) If the person arrested cannot meet the conditions of release and has not been taken before a judge in the case of a warrant issued on a complaint, or has not been taken before the circuit judge in the case of a warrant issued on an indictment, without undue delay, except in either case in no event later than seventy-two (72) hours after arrest, unless the charge upon which the person was arrested is not a bailable offense, such person shall be released upon execution of an appearance bond in the minimum amount required by the schedule set forth in Rule 7.2(b), or on his or her personal recognizance pursuant to Rule 7.2(a), or on a signature bond, and directed to appear for arraignment either at a specified time and place or at such time and place as he or she shall be subsequently notified of.

(4) Upon request, the defendant shall be given a copy of the charges against him or her.

(c) ASSURANCE OF AVAILABILITY OF CIRCUIT JUDGE OR DISTRICT JUDGE. The presiding circuit judge shall take such steps as are necessary to assure that a

circuit judge or a district judge with appropriate authority is available in the county to hold initial appearances as required by Rules 4.3(a)(1)(iii) and 4.3(b)(2)(i).

(d) ASSURANCE OF AVAILABILITY OF JUDGE OR MAGISTRATE IN MUNICIPAL COURT. The presiding municipal judge and the municipal court clerk shall take such steps as are necessary to assure that a judge or magistrate with appropriate authority is available in the city to hold probable-cause hearings as required by Rule 4.3(a)(1)(iii), and the presiding municipal judge shall assure that a municipal judge with appropriate authority is available in the city to hold initial appearances as required by Rules 4.3(a)(1)(iii) and 4.3(b)(2)(i).

(Amended eff. 3–3–1992; Amended eff. 8–1–1997; Amended 10–27–2020, eff. 2–1–2021.)

Rule 4.4. Initial appearance.

(a) IN GENERAL. At a defendant's initial appearance the judge shall:

(1) Ascertain the defendant's true name and address and, if necessary, amend the formal charges to reflect the defendant's true name, instructing the defendant to notify the court promptly of any change of address;

(2) Inform the defendant of the charges against him or her;

(3) Inform the defendant of the right to be represented by counsel, advise the defendant that he or she will be afforded time and opportunity to retain counsel, advise the defendant that, if he or she is indigent and unable to obtain counsel, counsel will be appointed to represent him or her, and inform the defendant of the right to remain silent; and

(4) Determine conditions of release in accordance with Rule 7.3.

(b) FELONIES CHARGED BY COMPLAINT. When a defendant is charged by complaint with commission of a felony, the judge, in addition to the procedures required by section (a), shall

(1) Inform the defendant of the right to demand a preliminary hearing and the procedure by which that right may be exercised; and

(2) If so demanded, set the time for a preliminary hearing in accordance with Rule 5.1(a).

(c) WHEN INITIAL APPEARANCE NOT REQUIRED. It shall not be necessary to hold an initial appearance in any case in which the defendant has been released from custody.

(Amended 10–27–2020, eff. 2–1–2021.)

The **Alabama Law Enforcement Agency** (ALEA) was established in 2013 and consolidated 12 state law enforcement agencies/functions into one entity. ALEA is responsible for the functions and missions of the Alabama Department of Homeland Security, Department of Public Safety, Alabama Bureau of Investigation, Fusion Center, Alabama Criminal Justice Information Center, Marine Police, Alcoholic Beverage Control Board Enforcement Division, Department of Revenue Enforcement, Forestry Commission Investigations, Agriculture and Industry Investigations, Public Service Commission Enforcement, and Office of Prosecution Services Computer Forensic Laboratories.

The mission of the Alabama Law Enforcement Agency is to efficiently provide quality service, protection, and safety for the State of Alabama through the utilization of consolidated law enforcement, investigative, and support services.

ALEA CJIS Division

Through consolidation, all state criminal justice information services (CJIS) were combined into the ALEA CJIS Division of the new State Bureau of Investigations (SBI) with the primary mission of collecting, storing, retrieving, analyzing, and disseminating vital information relating to crimes, criminals, and criminal activity for Alabama's law enforcement, criminal justice and public safety communities.

The division hosts the State Automated Biometric Information System (ABIS) that maintains the official biometric information on all offenders and the State Criminal History Record Repository that maintains all arrest and court disposition information on Alabama criminals. Other key criminal information managed within the division includes the state sex offender registry, the state Incident Offense Repository, and state "hot files" such as wanted persons, missing person, stolen property lists, violent person files, known terrorists, and gang information.

ALEA SBI CJIS connects local, state, and federal law enforcement agencies to the FBI National Crime Information Center (NCIC), other FBI-CJIS information systems and provides information to law enforcement in all 50 states and internationally via the International Justice and Public Safety Network (Nlets). Approximately 1,200 agencies and over 22,000 users in Alabama have direct

access to the criminal justice information within CJIS. The division processes over 20 million queries per month.

The CJIS Compliance team performs audits, training, certifications and general customer service to all agencies across the state. Within the office, CJIS staff manage expungements, background checks, criminal history processing, firearms eligibility, fingerprint processing and state crime statistics.

Another key function of the CJIS Division is the gathering and processing of state crime reports from all law enforcement agencies. Through rules created by the **Alabama Justice Information Commission**, any law enforcement officer that responds to a public safety incident or criminal offense must complete a uniform report called an Incident Offense Report, or IO Report for short. This report not only catalogs the efforts of officers, but also forms the foundation for investigations and provides statewide crime statistics.

ALEA CJIS provides the following information systems to the criminal justice and public safety communities:

- **ABIS**, the Next Generation Identification Automated Biometric Identification System.
- **Advance**, a law enforcement activity dashboard for traffic citations, crash reports and IO reports.
- **AFAS**, the Alabama Forfeiture Accountability System, that records all seizures from criminal investigations and the forfeiture actions that follow.
- **Alacop.gov**, Alabama's secure law enforcement portal.
- **LETS**, the state's online crime information search engine.
- **MOVE**, the Mobile Officers Virtual Environment, that provides in-car capabilities to write uniform traffic citations (**eCitation**), uniform crash reports (**eCrash**), and uniform IO Reports (**eCrime**).

You may reach ALEA by calling 334-676-6000 Monday – Friday, or through its 24/7/365 Command Center at 1-800-392-8025, or by visiting www.alea.gov.

The following Alabama Law Enforcement Officers' Handbook provides officers details on law enforcement radio communication codes, inquiries and off-line searches, and instructions on how to accurately complete the Alabama Incident/Offense report, and arrest supplements.

LAW ENFORCEMENT OFFICERS' HANDBOOK

Alabama Law Enforcement Agency
201 South Union Street (Suite 300)
Montgomery, AL 36130

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Hal Taylor
Secretary of Law Enforcement

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Deputy Secretary of Law Enforcement

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LAW ENFORCEMENT OFFICERS' HANDBOOK

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Radio Communication Codes

The following numeric codes may be used by law enforcement officers, dispatchers and other emergency personnel when communicating by radio with other units or dispatchers. The Alabama Justice Information Commission adopted these radio codes as the standard for law enforcement communication within the State in 2006. In some cases, a local agency may have changed some of the codes for their own jurisdictional purposes. Please check with the local agency prior to using these codes.

Code	Interpretation
00	Given as "double zero." Officer needs all possible assistance.
10-0	Use caution. Details not known.
10-1	Unable to copy – change location.
10-2	Signal good.
10-3	Stop transmitting.
10-4	Acknowledgement (OK).
10-5	Relay. (J1-Personnel, J2-Property, J3-Prisoner, J4-Papers)
10-6	Busy unless urgent.
10-7	Out of service. Not subject to call.
10-8	In service.
10-9	Repeat.
10-10	Out of service. Subject to call.
10-11	Remain in service.
10-12	Stand by (stop). Remain alert for further details.
10-13	Weather and road condition.
10-14	Correct time.
10-15	Have in possession. (J1-Personnel, J2-Property, J3-Prisoner, J4-Papers)
10-16	Pick up. (J1-Personnel, J2-Property, J3-Prisoner, J4-Papers)
10-17	Urgent. Rush present detail.
10-18	Any traffic for this unit to station?
10-19	No traffic for this unit to station.
10-20	Location?
10-21	Call _____ by telephone.
10-22	Report in person to _____ .
10-23	Arrived at scene.
10-24	Assignment completed.
10-25	Disregard last information or assignment.
10-26	Detaining person or vehicle. Expedite.
10-27	Driver's license information.
10-28	Vehicle registration information.
10-29	Check for wanted.

10-30 Illegal use of radio.
10-31 Hit and run. (J1-Person, J2-Property)
10-32 Person with gun.
10-33 EMERGENCY. Maximum priority. All units and stations not involved – maintain radio silence.
10-34 Tower lights.
10-35 Major crime alert.
10-36 Urgent. Use lights and siren.
10-37 Urgent. Silent run.
10-38 Investigate suspicious vehicle. (J1-Occupied, J2-Unoccupied)
10-39 Stopping suspicious vehicle. Give all information before stopping.
10-40 Stolen vehicle.
10-41 Beginning tour of duty.
10-42 Ending tour of duty.
10-43 Complete present assignment quickly.
10-44 Permission to leave assigned patrol area.
10-45 Off day.
10-46 Assist motorist.
10-47 Emergency road repairs needed.
10-48 Need assistance. (Not 00 or 10-33.)
10-49 Traffic light out at _____ .
10-50 Accident. (F-Fatal, PI-Personal Injury, PD-Property Damage, S-State Vehicle)
10-51 Wrecker needed.
10-52 Ambulance needed.
10-53 Road blocked.
10-54 Livestock on highway. (J1-Livestock, J2-Carcass)
10-55 Intoxicated driver.
10-56 Intoxicated pedestrian.
10-57 Crime in progress.
10-58 Direct traffic.
10-59 Convoy to escort.
10-60 Attempt to contact.
10-61 Return to _____ .
10-62 Reply to message.
10-63 Prepare to make written copy.
10-64 Message for local delivery.
10-65 Radio log number.
10-66 Message, dispatch or assignment cancellation.
10-67 Prowler report.
10-68 Dispatch information.
10-69 Car-to-car clearance.

10-70 Fire alarm. (F-Forest, H-House, V-Vehicle)
10-71 Report progress on fire.
10-72 Meet complainant.
10-73 Supervisor needed.
10-74 Intoximeter operator needed.
10-75 Photographer needed.
10-76 Investigator needed.
10-77 Narcotics agent needed.
10-78 Notify coroner.
10-79 In contact with _____ .
10-80 DCG-Disaster Control Group (Op Con 1, Op Con 2, Op Con 3)
10-81 Squad in vicinity.
10-82 Reserve lodging.
10-83 Cancel reservations.
10-84 En route.
10-85 Will be late.
10-86 Missing person.
10-87 ETA (Estimated time of arrival.)
10-88 Present telephone number of _____ .
10-89 Dead person.
10-90 Bank alarm.
10-91 Unnecessary use of radio.
10-92 Murder.
10-93 Blockade. (Roadblock.)
10-94 Drag racing.
10-95 Reckless driving.
10-96 Mentally ill or mentally retarded person.
10-97 Civil disturbance. (A-Racial, B-Teenagers, C-Crowd gathering, D-Fighting)
10-98 Prison or jail break.
10-99 Records indicate wanted or stolen.
10-100 Hot pursuit.
10-100A Attempting to outrun patrol car.

Inquiries and Off-Line Searches

The ALEA Criminal Justice Information Services (CJIS) Division maintains information systems that allow law enforcement agencies to enter stolen property, missing persons, wanted persons, etc. (often referred to as "hot files"), through the State Criminal Justice Network into FBI and State CJIS systems. Various inquiries can be made on this network during an investigation. You may inquire on the following through the CJIS Systems/NCIC networks.

1. **Driver License**

   Alabama Only
   - By Name, Date of Birth (DOB), Race and Sex **or**
   - By Operator License Number (OLN)
   - By Social Security Number (SOC)

   Out-of-State
   - By Name, Date of Birth (DOB), Race, Sex and License State **or**
   - By Operator License Number (OLN) and License State
     Please Note: When conducting an our-of-state check by OLN only, the check will provide out-of-state license status and a wanted check from Alabama only.

2. **Vehicle Registration**

   Alabama Only
   - By Vehicle Identification Number (VIN) **or**
   - By VIN and License State **or**
   - By Name **or**
   - By License # (Code 10-28 Only) **or**
   - By License # and License State (Codes 10-28 and 10-29 Only) **or**
   - By Name and County # (Code 10-28 Only)

   Out-of-State
   - By VIN, Vehicle Year, Vehicle Make and License State (Up to five license states or regions – or a combination of both) **or**
   - License #, License State, License Type and License Year (Up to five license states)

3. **Wanted Vehicle**

   - By License # and License State **or**
   - By License #, License State, VIN and Vehicle Make **or**
   - By VIN **or**
   - By VIN and Vehicle Make

4. **Wanted Boat**

   - By Boat Registration # **or**
   - By Hull #
   - By VIN **or**
   - By VIN and Vehicle Make

5. **Stolen Articles**

   - By Type and Serial # **or**
   - By Type, Serial # and Owner Applied Number (OAN)

6. **Stolen / Recovered Gun**

   - By Type (Gun), Serial # and Make **or**
   - By Type, Serial #, Make and Caliber

7. **Wanted or Missing Person**

   - By Name, Sex, Race and DOB **or**
   - By Name and Social Security Number (SOC) **or**
   - By Name and Operator License #

8. **Criminal History Summary**

   - By Name, Sex, Race and DOB **or**
   - By Name and SOC **or**
   - By Name and State Identification # **or**
   - By Name and FBI #
     Please Note: Criminal History Information cannot routinely be given out over the radio and should not be transmitted. Obtain only upon return to base.

9. **Vehicle Data Searches** (off-line search)

   - By Partial Tag **or**
   - By Partial VIN with Vehicle Make **or**
   - By Vehicle Owner Name **or**
   - By Vehicle Description (Vehicle make, model, year, year range, etc. – Obtain as much information about vehicle as possible to assist in searching.)
   - By County (Include as much information about vehicle as possible to assist in searching.)

10. Log Searches (off-line search) – The dissemination of system logs as defined herein shall be limited to the following:

- ALEA staff as authorized by the Secretary of Law Enforcement when necessary for the performance of their duties.
- The Director (chief, sheriff or chief executive officer) of the department, agency or other entity whose activity the report concerns.
- A person or entity upon an order of a court of competent jurisdiction.
- A criminal justice agency conducting an official investigation of alleged or suspected criminal activity in which such records may be useful to the investigating authority upon a formal written request to the State Crime Information Director or the ALEA CJIS Division Chief.

The Alabama Uniform Incident/Offense (IO) Report

Alabama state law requires all state, county and local law enforcement agencies to record an incident or offense report in a uniform matter. The Alabama Justice Information Commission is responsible for setting the rules for making the report and providing it to the ALEA CJIS Division for inclusion in the State Incident Offense Report Repository.

The State IO Report is no longer a paper report, but rather a standard for gathering and recording incident or offense information. The last official form was established in 2012. An agency may initially record the incident on paper using this form, but all information must be digitally recorded and transmitted to ALEA CJIS.

The IO Report consists of three parts:

1. The initial recording of the event.
2. A supplemental recording of information that contains information related to the initial report received at a later date. For paper reports, the supplemental form also allows for additional information that does not fit on the initial report portion of the form.
3. A recording of an arrest directly related to the initial report regarding an offense.

Purpose of Reports

In general, IO Reports are completed for the following reasons:

1. To provide a record of a police officer's criminal offense or public safety-related activities and findings.
2. To establish a permanent record of a case.
3. To serve as a basis for prosecution.
4. To explain how and where police officers and their equipment are used.
5. To provide a basis for budget planning.
6. To identify training needs.
7. To facilitate information exchanges between agencies.

When to Write a Report

The following events or incidents should always foster the creation of an IO Report:

1. Whenever a law enforcement agency responds to a request or otherwise takes action for service related to an incident or offense.
    a. The initial report is completed by the responding officer.
    b. A supplemental report is completed by any officer that obtains additional information related to the initial recorded event or when there is a need to continue the narrative when using the paper form.
    c. The arrest report is completed for each arrest made by the jurisdiction.
2. All complaints that involve the commission or attempted commission of a felony

or misdemeanor crime.
3. Hit and run automobile accidents.
4. Any other situation so designated by the head of the department.

Individual Agency Paper Recording

General instructions for completing paper forms include the following:

1. Print (legibly) or type.
2. Use black ink (for copying purposes).
3. When putting check marks in boxes, be sure the choice is obvious. Put the point of your pen inside the box that corresponds to the correct choice when making a check or make an "X" inside the box.
4. Certain portions of the report must use standardized codes that are provided to all agencies. An agency UCR point of contact shall ensure that these standard codes are used by their agency.
5. Each IO Report must be signed by the officer generating the information in the report. The victim or complainant must acknowledge the report in writing prior to final approval and submission of the report to ALEA. The signature is necessary to protect you and your department from possible lawsuits. It is also required for monthly validations.

Information Concerning Release of IO Reports to the Public and Media

Certain information contained on the IO Report is generally considered public information. This information will be designated below. On the paper IO Report form, the front page of the report was specifically designed to provide as a public record.

The only time a local law enforcement agency may deny a member of the public or media information contained on the front page of an IO Report is when one or more of the following reasons apply:

- When disclosure of the information would compromise criminal investigations, result in potential harm to innocent persons or infringe upon the constitutional rights of the accused.
- When keeping all or a portion of a report confidential is necessary to protect witnesses and/or victims.
- To protect the identities of law enforcement officers currently working undercover with their agencies.
- When disclosure would reveal the identity of informants.
- When disclosure of the information would impede an agency's enforcement or detection efforts.
- When disclosure would reveal investigatory techniques.
- When disclosure would deprive a person of a right to a fair trial or an impartial adjudication.

A law enforcement agency head shall not establish any policy or procedure that would routinely prevent access to information contained in an IO Report that is declared public information. Any decision to deny public access to such information should be made on a case-by-case basis.

A law enforcement agency is not required to release other information within the IO Report. However, an agency may release any information at the discretion of the agency head that is not otherwise exempted from release. If the agency head determines information from the second page of the IO Report will be routinely provided to the public, the same exceptions cited above may be used to deny access to information on a case-by-case basis.

A law enforcement agency should establish policies and procedures to ensure that personal identity information (PII) and any additional identifying information concerning juveniles is redated from all IO Reports prior to being released to the public and media.

Related to IO Reports, PII shall include name, telephone numbers, exact street addresses of individuals, exact dates of birth, SSN, or any medical information. Age, sex, race, city, state and zip code information is not considered identifying information.

A law enforcement agency shall comply with the following polices governing the dissemination of information:

- No request to inspect, copy, or obtain copies of IO Reports shall be denied on the ground that information exempt from disclosure is commingled with nonexempt information.
- Any reasonably segregable portion of a record shall be provided after redaction of the exempt information.
- If necessary to separate exempt from nonexempt information to permit a citizen to inspect, copy, or obtain copies of public records, the custodian shall bear the cost of the separation.

Completing an IO Report

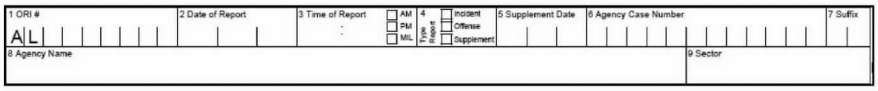
The Alabama Justice Information Commission has determined what information must be collected and other information that is suggested or optional for collection. For uniformity, the Commission has established the standards for collecting each type of information. The ALEA CJIS Division provides the information system eCrime at no cost to any law enforcement that meets the standards for data collection and the creation of an IO Report. An agency may operate its own information system to collect this information, but such system must comply with each of the rules for data collection issued by the Commission.

Most information for collection is self-explanatory, but this guide will detail each data element and its proper form of collection. For the purposes of explaining each of the data elements required or suggested for an IO Report, this guide will reference the original paper form.

In this guide, an asterisk (*) indicates a required data element. Two asterisks (**) indicate a data element that may be required based on the type of offense.

Primary Information

Note that this information is the first page of the paper IO Report form and is generally considered public information. See above for exceptions.



***ORI (1)** – Nine spaces are allowed for your Agency Identification Number (ORI). (Required)

***Date (2)** – Dates should be entered using a MMDDYY format. (Example: July 11, 2016 = 07/11/16.) (Required)

***Time of Report (3)** – Times on may be entered as AM, PM or Military (24-hour clock). Indicate the correct time type. (Required)

***Type of Report (4)** – Select Incident, Offense or Supplement. (Required)

- Incident – Any non-criminal activity for which an officer is called. Examples include dog bites and home alarm system calls.
- Offense – Any criminal offense for which an officer is called.
- Supplement – Supplement reports collect additional information gathered subsequent to the original report or, when using the paper form, provide additional space for recording the narrative or other information. Supplement reports are used to clear cases, add stolen/recovered property to a previously submitted offense, change previously reported UCR codes, etc. Supplement reports must include 1) the original case number, 2) the date of the original IO Report and 3) the date of the supplement. If a supplement is being used to clear a case, at a minimum the offender's sex, race and age (DOB) must be reported.

Supplement Date (5) – Dates on paper reports should be entered using a MMDDYY format. Only provide this date if this report is a supplement.

***Agency Case Number (6)** – A case number may be up to twelve digits and must be unique for each IO Report completed within an agency. Each agency may set its own policy for determining unique case numbers. (Required)

Suffix (7) – When used, the suffix block becomes part of the original case number. Up to

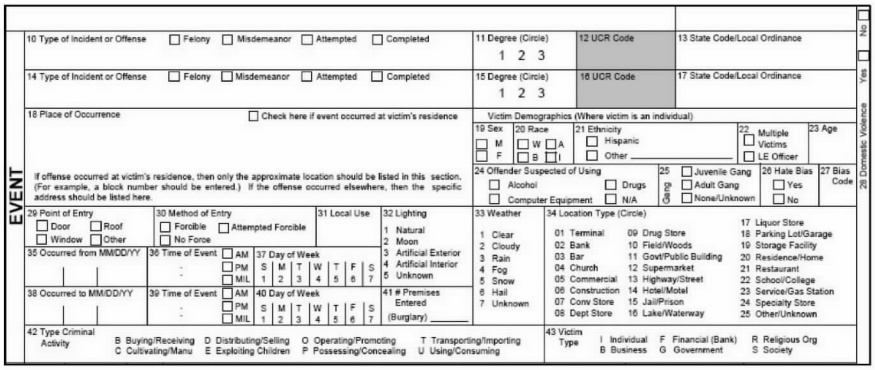
two alpha or numeric characters may be entered, and the intended use is to associate multiple cases. (Optional)

- Example: There is a double homicide (two victims), so two IO Reports must be completed. The case number suffix is used to tie these two cases together.
  - Case # 160711010-01 = Victim #1
  - Case # 160711010-02 = Victim #2

Agency Name (8) – The proper name of your law enforcement agency.

Sector (9) – Indicate the sector (beat, district, road code, census tract, etc.) the agency uses to identify the geographical area in which the offense occurred. Leave blank if the department does not use such codes. Keep in mind that sector codes can be beneficial in breaking out criminal activity by area within the agency's jurisdiction. (Optional)

Event Information



***Type Incident or Offense (10, 14)** – Select the appropriate box to indicate if the offense is a 1) felony or 2) misdemeanor. Also select whether the offense was 1) attempted or 2) completed. List the nature of the offense or incident being investigated or documented. When more than one offense is involved, list each offense beginning with the most serious. Up to two offenses may be listed on the paper form. Additional offenses for agencies using paper reports should be listed on an offense supplement. There is no limit on the number of offenses that can be recorded. (Required)

Degree (11, 15) – Select 1st, 2nd or 3rd. If you are unsure about the degree or no degree is associated with the offense, leave blank. (Optional)

***UCR Code (12, 16)** – For agencies using paper reports, this should be filled in by your agency's UCR clerk. (Required)

State Code/Local Ordinance (13, 17) – Cite Alabama's state code or the local ordinance that was violated.

Place of Occurrence (18) – This is the location that is generally considered to be public information. If the place of occurrence is the victim's residence, the reporting officer shall list the approximate location where the incident or offense occurred and check the appropriate box on the form to indicate the exact event location was the victim's residence. Examples of an "approximate location" include block number or the street name if the street does not have multiple blocks. In these cases, the exact location of the incident should be listed on the second page in the section where victim/complainant information is collected.

If an incident or offense occurs at a business or any other public place – e.g. store, restaurant, park, parking lot or garage, shopping mall, government building, etc. – then the exact street address should be listed.

Victim Demographics (when victim is a person)

Sex (19) – Select M for Male or F for female. (Select both if there were one or more victims of both sexes.)

Race (20) – Select W for White, B for Black, A for Asian or I for Indian. (More than one option may be selected if multiple victims were present.)

Ethnicity (21) – Select Hispanic if this applies. Other or additional entries can be made by checking the Other box and entering the correct response in the space provided. (This space may also be used to indicate the victim's national origin which may be important in reporting and investigating hate crimes.)

Age (22) – Enter the exact age (if known) of the first victim listed in the Victim Section of the Report.

Multiple Victims/LE Officer (23) – Check the Multiple Victims box if more than victim was reported. Check the LE Officer box if one or more victims of the offense was a law enforcement officer. (Both boxes may be selected if both apply.)

Offender Information

***Offender Suspected of Using (24)** – Indicate whether any of the offenders/suspects listed were suspected of consuming alcohol or using drugs/narcotics during or shortly after before the incident/offense; or of using a computer or any other computer equipment to perpetrate the crime. Any or all of the following three categories can be used for each offense:

- Alcohol

- Drugs/Narcotics
- Computer Equipment

If the offenders/suspects were not suspected using alcohol, drugs or computer equipment – or if it is unknown – indicate N/A.

***Gang Activity (25)** – Indicate whether any of the offenders/suspects listed were involved in adult or juvenile gang activity. If the offenders/suspects were not suspected or being involved in gang activity – or if it is unknown – indicate N/A.

***Hate Bias (26)** – Indicate whether the offense being reported was motivated by the victim's race, religion, ethnicity/national origin, sexual orientation or physical/mental disability. If the answer is "yes," then a separate Hate Crime Incident Report should be completed for the offense. (Please note: Even though Alabama's sentence enhancement for Hate Crimes [Section 13A-5-13] does not apply to crimes motivated by the victim's sexual orientation, for UCR reporting purposes these crimes are still considered as hate crimes according to the FBI's definition.)

****Bias Code (27)** – To be completed by the agency UCR clerk or officer in cases where "yes" is checked in the previous block. This code denotes the bias motivation of the offender. Bias codes used by Alabama's UCR Program are as follows:

Racial Bias
11 - Anti-White
12 - Anti-Black
13 - Anti-American Indian/Alaska Native
14 - Anti-Asian/Pacific Islander
15 - Anti-Multi-Racial Group

Religious Bias
21 - Anti-Jewish
22 - Anti-Catholic
23 - Anti-Protestant
24 - Anti-Islamic
25 - Anti-Other Religious Group (Buddhism, Hinduism, Shintoism, Scientology)
26 - Anti-Multi-Religious Group
27 - Anti-Atheist/Agnostic

Ethnicity/Racial Bias
32 - Anti-Arab
33 - Anti-Hispanic
34 – Anti-Other Ethnicity/National Origin

Sexual Orientation Bias
41 - Anti-Male Homosexual (Gay)
42 - Anti-Female Homosexual (Lesbian)

43 - Anti-Homosexual (Gay and Lesbian)
44 - Anti-Heterosexual
45 - Anti-Bisexual

Disability Bias
51 - Anti-Physical Disability
52 - Anti-Mental Disability

Domestic Violence (28) – Check this box (next to the vertical text on right hand side of form) if the case being reported involved domestic violence. (Required)

****Point of Entry (29)** – Select the appropriate response from: door, window, roof or other. (Required for all burglaries and unlawful entries.)

****Method of Entry (30)** – Select the appropriate response from: forcible, no force or attempted forcible. (Required for all burglaries and unlawful entries.)

Local Use (31) – This area is provided for local agency use. An agency may determine how this data element is used. For instance, local use codes can be used to keep track of certain types of offenses for further study. For instance, a department might require officers to enter a "D" in this block to indicate a drug related offense. Entries may be alpha or numeric.

***Lighting (32)** – Select the option that best describes the light available in the area at the time of occurrence. (Required)

***Weather (33)** – Select the option that best describes the weather during which the incident/offense occurred. (Required)

***Location Type (34)** – Select the option that best describes the type of location where the incident/offense occurred. (Required)

***Occurred on or between (35-37, 38-40)** – Records a specific time or time interval. If the exact time of the incident/offense is known, enter this time in the first set of time/date blocks. If only a time interval between two known times can be determined for the occurrence of the incident or offense, complete both sets of time/date blocks. Select whether the reported time was AM, PM or Military (24-hour clock). (Required)

****# of Premises Entered (41)** – For all burglaries, enter the total number of premises entered here. (Required data element for burglaries.)

****Type Criminal Activity (42)** – This should be reported for the following offenses: Counterfeiting/Forgery; Stolen Property Offenses; Drug/Narcotic Violations; Drug Equipment Violations; Pornography/Obscene Material; and Weapon Law Violations. Up to three activities may be selected from the following:

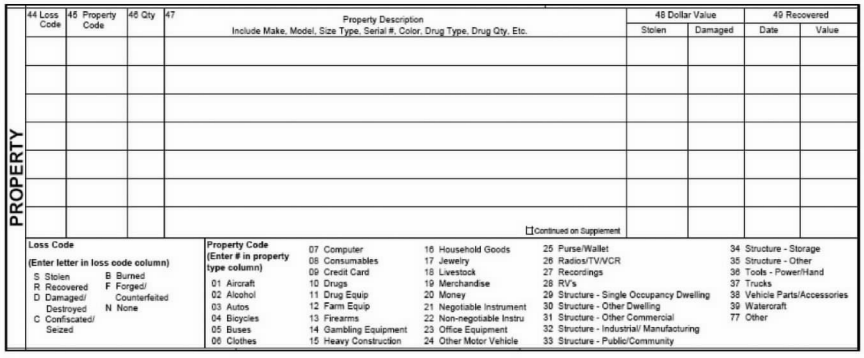
- B - Buying/Receiving.
- C - Cultivating/Manufacturing/Publishing/Producing.
- D - Distributing/Selling.
- E - Exploiting Children.
- O - Operating/Promoting/Assisting.
- P - Possessing/Concealing.
- T - Transporting/Transmitting/Importing.
- U - Using/Consuming.

***Victim Type (43)** – The type of victim is to be reported for each numbered victim. Only one of the following types is to be reported for each victim:

- I - Individual.
- B - Business.
- F - Financial Institution.
- G - Government.
- R - Religious Organization.
- S - Society/Public.

Property Information

This section is designed to record information concerning property damaged, stolen or recovered during an incident or offense. It is important that the investigator obtain as much information as possible about any reported property because this information will be a key factor in court testimony and in returning property to its rightful owner. (Required if property is involved.)



PROPERTY

44 Loss Code	45 Property Code	46 Qty	47 Property Description Include Make, Model, Size Type, Serial #, Color, Drug Type, Drug Qty, Etc.	48 Dollar Value		49 Recovered	
				Stolen	Damaged	Date	Value
			☐Continued on Supplement				

Loss Code

(Enter letter in loss code column)

S Stolen — B Burned
R Recovered — F Forged/
D Damaged/ Destroyed — Counterfeited
C Confiscated/ Seized — N None

Property Code
(Enter # in property type column)

01 Aircraft	07 Computer	16 Household Goods	25 Purse/Wallet	34 Structure - Storage
02 Alcohol	08 Consumables	17 Jewelry	26 Radios/TV/VCR	35 Structure - Other
03 Autos	09 Credit Card	18 Livestock	27 Recordings	36 Tools - Power/Hand
04 Bicycles	10 Drugs	19 Merchandise	28 RV's	37 Trucks
05 Buses	11 Drug Equip	20 Money	29 Structure - Single Occupancy Dwelling	38 Vehicle Parts/Accessories
06 Clothes	12 Farm Equip	21 Negotiable Instrument	30 Structure - Other Dwelling	39 Watercraft
	13 Firearms	22 Non-negotiable Instru	31 Structure - Other Commercial	77 Other
	14 Gambling Equipment	23 Office Equipment	32 Structure - Industrial/ Manufacturing	
	15 Heavy Construction	24 Other Motor Vehicle	33 Structure - Public/Community	

Loss Code (44) – Enter the numeric code that indicates the type of loss incurred by the victim for each type of property entered from the following choices:

- 01 - None.

- 02 - Burned.
- 03 - Counterfeited/Forged.
- 04 - Destroyed/Damaged.
- 05 - Recovered.
- 06 – Seized.
- 07 - Stolen.

Property Code (45) – Enter the numeric code that indicates the type of property being reported from the following choices:

- 01 - Aircraft – airplanes, dirigibles, gliders, etc.
- 02 Alcohol – alcoholic beverages such as beer, wine and liquor.
- 03 - Autos – sedans, coupes, station wagons, convertibles, taxicabs, and other similar motor vehicles which serve the primary purpose of transporting people.
- 04 - Bicycles – includes tandem bicycles, unicycles and tricycles.
- 05 - Buses motor vehicles which are specifically designed, but not necessarily used to transport groups of people on a commercial basis.
- 06 - Clothes/Furs – wearing apparel for human use including accessories such as belts, shoes, scarves, ties, etc.
- 07 - Computer Hardware/Software – computers, computer peripherals, printers and storage media.
- 08 - Consumables – expendable items used by humans for nutrition, enjoyment or hygiene such as food, beverages, grooming products, cigarettes, gasoline and firewood.
- 09 - Credit/Debit Cards – includes automatic teller machine cards.
- 10 - Drugs/Narcotics.
- 11 - Drugs/Narcotics Equipment.
- 12 - Farm Equipment – includes tractors, combines, etc.
- 13 - Firearms – weapons that fire a shot by force of an explosion such as handguns, shotguns, rifles, etc. (Does not include "BB," pellet, paintball or other gas-powered guns.)
- 14 - Gambling Equipment.
- 15 - Heavy Construction/Industrial Equipment – cranes, bulldozers, steamrollers, oil drilling rigs, etc.
- 16 - Household Goods – beds, chairs, desks, sofas, tables, refrigerators, stoves, washers, dryers, air conditioners and heating equipment.
- 17 - Jewelry/Precious Metals – bracelets, necklaces, rings, watchers, silver, gold, platinum, etc.
- 18 - Livestock – living farm animals such as cattle, chickens, hogs, horses and sheep; (Does not include household pets).
- 19 - Merchandise – items held for sale.
- 20 - Money – legal tender such as coins and currency.
- 21 - Negotiable Instruments – any document other than currency which is payable without restriction such as endorsed checks, endorsed money orders and bearer bonds.
- 22 - Non-negotiable Instrument – documents requiring further action to become

negotiable such as unendorsed checks, food stamps, stocks and bonds.
- 23 - Office Equipment – typewriters, adding machines, calculators, cash registers, copying machines, etc.
- 24 - Other Motor Vehicle – any motor vehicle other than automobiles, buses, trucks or SUV's such as motorcycles, motor scooters, mopeds, snowmobiles, golf carts and four wheelers.
- 25 - Purses/Handbags/Wallets.
- 26 - Radios/TV/VCR includes radios, televisions, videotape recorders, stereo equipment, compact disk players, etc.
- 27 - Recordings – Audio/Visual – records, tapes, compact disks, etc.
- 28 - Recreational Vehicles – motor vehicles that are specifically designed, but not necessarily used, to transport people and also provide them with temporary lodging for recreational purposes.
- 29 - Structure - Single Occupancy Dwelling – houses, townhouses, duplexes, mobile homes or other private dwellings.
- 30 - Structure - Other Dwelling – apartments, tenements, hotels, motels and inns.
- 31- Structure - Other Commercial – stores, offices, restaurants, etc.
- 32 - Structure - Industrial/ Manufacturing – factories, plants, assembly lines, etc.
- 33 - Structure - Public/Community – colleges, hospitals, jails, libraries, meeting halls, passenger terminals, religious buildings, schools, sports arenas, etc.
- 34 - Structure – Storage – barns, garages, storehouse, warehouses, etc.
- 35 - Structure – Other – any other structure not fitting the other structure descriptions.
- 36 - Tools – Hand tools and power tools.
- 37 - Trucks – motor vehicles which are specifically designed, but not necessarily used, to transport cargo on a commercial basis.
- 38 - Vehicle Parts/Accessories – motor vehicle batteries, engines, transmissions, heaters, hubcaps, tires, manufacturer's emblems, license plates, side mirrors, etc.
- 39 – Watercraft – motorboats, sailboats, houseboats, etc.
- 77 – Other – all other property not fitting the above descriptions.

Quantity (46) – Enter the number of each item stolen or recovered.

Property Description (47) – Enter a complete description of the property damaged, stolen or recovered including the year, make, model, style, serial number, etc.

Value Stolen/Damaged (48) – Estimate value of each item stolen or damaged opposite its description in Block 60 using the following guidelines:

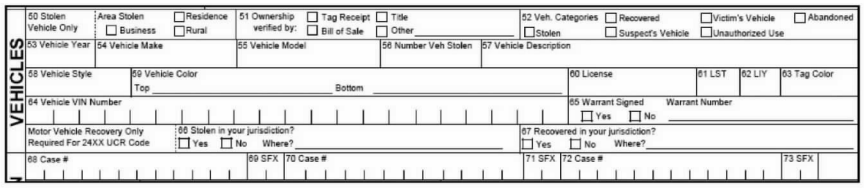
- Use fair market value for articles which are subject to depreciation because of wear and tear, age, etc.
- Use wholesale cost of goods stolen from retail establishments, warehouses, etc.
- Use victim's evaluation of items such as jewelry, watches, etc., which decrease slightly in value or not at all with use or age.
- Use replacement cost or actual cash cost to victim for new or almost new clothes, auto, accessories, bicycles, etc.

- Non-negotiable instruments such as travelers' checks, personal checks, money orders, stocks and bonds, etc. should be described but no value recorded. Negotiable instruments such as bonds payable to bearer are valued as the current market price at the time of the theft.

Recovered Date/Value (49) – Enter the date (MMDDYY) the property was recovered. In the value block, indicate the estimated market value of the item(s) at the time of recovery.

Vehicle Information

If a vehicle is involved in the incident or offense, complete the vehicle section of the IO Report.



Area Stolen (50) – Select one of the following 1) business, 2) residence or 3) rural.

Ownership Verified By (51) – Enter one of the following choices: 1) Tag Receipt, 2) Bill of Sale, 3) Title or 4) Other. (Applies to stolen vehicles only.)

Vehicle Involved (52) – Select the appropriate category of the vehicle involved: 1) Stolen, 2) Recovered, 3) Suspect's Vehicle, 4) Victim's Vehicle, 5) Unauthorized Use of a Vehicle, or 6) Abandoned Vehicle.

Vehicle Year (53) – Enter the last two digits of the year to indicate the year the vehicle was manufactured.

Vehicle Make (54) – Enter the make of the vehicle. (Ford, Chevrolet, Toyota, etc.)

Vehicle Model (55) – Enter the model of the Vehicle. (Explorer, Corvette, Camry, etc.)

Number Vehicles Stolen (56) – Enter the number of vehicles stolen in the particular incident/offense. If several vehicles are stolen at one time, use a suffix number on subsequent IO Reports to link the case numbers.

Vehicle Description (57) – List any other identifiable descriptors such as decals, bumper stickers, dents, missing wheel covers, etc.

Vehicle Style (58) – Enter the style of the vehicle. (2-door sedan, 4-door sedan, etc.)

Vehicle Color (59) – Enter the color of the vehicle. If the vehicle is two colors, you may enter the top color and the bottom color on the paper report.

License (60) – Enter the license tag number of the vehicle in this block. If only part of the tag number is obtained, put the numbers in the block and indicate which letters or numbers are missing. It is possible for CJIS Systems to run a tag search on a partial number.

LST - License State (61) – Enter the state where the tag was issued.

LIY – License Year (62) – Enter the year the tag was issued or expires as displayed on the tag.

Tag Color (63) – Enter the color of the letters/numbers first, then the color of the background.

Vehicle Identification Number (64) – Enter the complete VIN number.

Warrant Signed (65) – If no warrant has been signed, select "no." If a warrant has been signed, select "yes" and enter the warrant number in the space provided. (Applies to stolen vehicles only.)

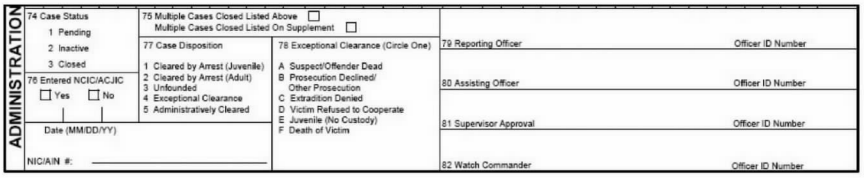
Stolen in Your Jurisdiction (66) – If the recovered vehicle was stolen in your jurisdiction, select "yes." It the recovered vehicle was not stolen in your jurisdiction, select "no" and list where it was stolen. (Required for all recovered vehicles.)

Recovered in Your Jurisdiction (67) – If the recovered vehicle was recovered in your jurisdiction, select "yes." If the recovery was made outside your jurisdiction, select "no" and explain where it was recovered. (Required for all recovered vehicles.)

Additional Cases Closed (68-73) – Up to three additional case numbers and suffixes may be listed here. If four or more additional cases are closed, these should be listed on a supplemental report.

Administrative Information

This section contains information about the reporting / assisting officer in the case, case status and dispositional information.



Case Status (74) – A case status should be indicated for all cases including non-criminal incidents.

- Pending – The case is considered pending if any additional information is required by follow-up investigation or if the case is under active investigation.
- Inactive – The case is unsolved and every reasonable avenue of investigation has been pursued and exhausted. No arrests have been made, and all active investigation has been terminated.
- Closed – The case is declared closed for UCR purposes when the entire matter has been completed and no additional police action is required. If a case is closed, disposition information must be provided.

Multiple Cases Closed Check Box (75) – Check the appropriate box(es) to indicate whether or not additional cases closed are listed in the administrative section and/or on a supplement report.

Entered ACIC/NCIC (76) – Indicate yes and provide the date entered if any information from the report into NCIC.

Case Disposition (77) – Indicates how and why a case was closed.

- Cleared by Arrest (Adult/Juvenile) – An offense is "cleared by arrest" or solved for crime reporting purposes when at least on person is arrested, charged with the commission of the offense and turned over to the court for prosecution. If an arrest was made, indicate whether the defendant was under 18 (juvenile) or 18 years of age or older (adult).
- Unfounded – If a complaint is found to be false or baseless after investigation, then this category should be selected. Do not classify a case as unfounded if there are no leads available, stolen property was recovered, victim refuses to prosecute, or the incident seems insignificant.

Exceptional Clearance (78) – For a case to be exceptionally cleared, **all** of the following criteria must be met:

- The identity of the offender must be determined. (Name must be known.)
- The exact location of the offender must be known.
- The grounds of the criminal charges must be sufficient for prosecution.
- There is some reason(s) beyond your control that prevents you from arresting and prosecuting the offender. Examples include:
  - The offender you are seeking is serving a life without parole sentence for a separate conviction.
  - The offender is in another state/country and extradition is refused.
- To exceptionally clear an offense, one of the following reasons **must** be selected:
  - Suspect/offender is dead.
  - Prosecution declined/Other prosecution.
  - Extradition denied.
  - Victim refused to cooperate (Lack of prosecution on the part of the victim).
  - Juvenile (no referral).
  - Death of Victim.
- For an exceptional clearance to count for UCR purposes, the following information concerning the offender **must** be provided:
  - Offender's sex.
  - Offender's race.
  - Offender's age or date of birth.
- Cases submitted to the UCR program that do not meet the above criteria will not be counted as cleared by the CJIS Systems.

Reporting Officer and Assisting Officer (79,80) – The officer(s) taking the report should enter their full names and shield/identification numbers in this space.

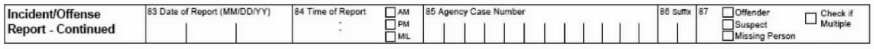
Supervisor Approval (81) – The reporting officer's supervisor should sign his or her last name in this section to indicate he or she has reviewed and approved the report for accuracy and completeness.

Watch Commander (82) – For paper reporting agencies, the watch commander is to sign his or her name in this space to indicate he or she has reviewed and approved the report for accuracy and completeness.

Public or Media Disclosure Not Required

The remaining information within the IO Report (beginning on page 2 of the original paper report) is presumptively considered sensitive and not provided to the pubic or media.

Administrative Information

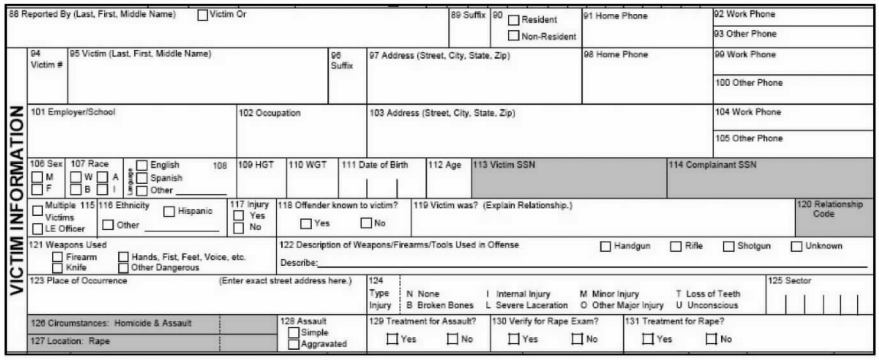


Date of Report (83) – This date should correspond with the date on the front side of the report.

Time of Report (84) – This time should correspond with the time on the front side of the report. **Agency Case Number (85)** – This should be the same case number as listed on side one.
SFX (86) – If a suffix is used, put the same suffix as it appears on side one of this report.

Person(s) Involved in Report (87) – Select one of the following to indicate who the information in blocks 133-175 is about: 1) Offender, 2) Suspect, 3) Missing Person or 4) Multiple.

Victim Information



Note: Law enforcement officials in Alabama have historically released victim names and telephone numbers to credentialed members of the news media. Placement of this information in this area of the report is not intended to alter that practice. The Chief Law Enforcement Officer retains the discretion to withhold such information but is not required to do so.

Reported by Victim or (88) – List the name of the person who reported the incident or offense. If the person making the report is the victim, put a check mark in the box and drop down to the Victim Section to fill in information. If the person reporting the incident/offense is someone other than the victim, put that person's name in the space provided.

Suffix (89) – Enter any suffix - Sr., Jr., III, IV, etc. – associated with the name of the complainant.

Resident (90) – Check the correct box to indicate whether the victim was a resident or non- resident of the jurisdiction where the incident/offense was reported.

Home Phone (91) – Enter the home phone number of the complainant including area code.

If the complainant has no phone, enter the word "none" or leave blank. Keep in mind that phone numbers are important investigative tools.

Work Phone (92) – Enter the work phone number of the complainant including area code.

Other Phone (93) – Enter any other phone or pager number of the complainant including area code.

***Victim Number (94)** – Each victim in an offense is to be assigned a sequence number from 001 to 999. A separate set of victim data is to be submitted for each numbered victim.

The sequence numbers provide uniqueness when there are multiple victims. For example, if three victims were involved in one offense, one victim would be assigned the number 001, the next victim would be designate 002, and the last victim would be 003.

Victim (95) – List the name of the victim here if different from the person who reported the incident or offense.

Suffix (96) – Enter any suffix - Sr., Jr., III, IV, etc. – associated with the name of the victim if different from the complainant.

Address (97) – Enter the actual physical address where the victim can be reached.Be sure to include the street number and name, city, state and zip code. DO NOT give a Post Office Box or General Delivery as an address. Rural route numbers designate a geographic area and are acceptable.

Home Phone (98) – Enter the home phone number of the victim (if different from complainant) including area code. If the victim has no phone, enter the word "none" or leave blank. Keep in mind that phone numbers are important investigative tools.

Work Phone (99) – Enter the work phone number of the victim (if different from complainant) including area code.

Other Phone (100) – Enter any other phone or pager number of the victim (if different from complainant) including area code.

Employer/School (101) – If the victim is a person, list the employer's name or school he or she is attending. If the victim is unemployed, enter "None" or leave blank. In cases where the victim is a business or organization, list the name of the person in charge. (Optional)

Occupation (102) – Print the victim's usual occupation such as student, bricklayer, clerk, etc. (Optional)

Address (103) – If the victim is a person, list the victim's complete business address. If the victim is a business or organization, list the home address of the person in charge. (Optional)

Work Phone (104) – If the victim is a person, list his or her business phone. If the victim is an organization, list the home phone of the person in charge. Be sure to include area codes. (Optional)

Other Work Phone (105) – Enter any other business cellular phone or pager number of the complainant including area code.

****Sex (106)** – Select Male (M) or Female (F). (Required data element for victims of Homicide, Rape, Robbery and Assault.)

****Race (107)** – Enter the race of the victim by selecting one of the following codes (Required data element for Homicide, Rape, Robbery and Assault):

W = White
B = Black
A = Asian or Pacific Islander
I = American Indian or Alaskan Native

Language (108) – Select the primary language spoken by the victim/complainant. (Optional)

Height (109) – Enter the approximate height of the victim in feet and inches. Do not use fractional inches. (Optional)

Weight (110) – Enter the approximate weight of the victim. Do not use fractional pounds. (Optional)

****Date of Birth (111)** – Enter the victim's date of birth if known. Enter this in a MMDDYY format. For instance March 17, 2005 – 03/17/05. If the date of birth is unknown or refused, you may estimate the person's age and enter the person's estimated year of birth in the space allotted for the year. (Required data element for Homicide, Rape, Robbery and Assault if victim's age is not entered.)

****Age (112)** – Enter the victim's age in this block. (Required data element for Homicide, Rape, Robbery and Assault if victim's date of birth is not entered.)

Victim SSN (113) - A space is provided to capture the victim's social security number on the IO Report. (Optional) It shall be up to the local agency head to determine whether or not officers should include social security number on IO Reports.

- Note: Even though entering social security numbers is optional and the information is confidential (limited to law enforcement use only), social security

numbers can be very helpful in locating individuals at a later date.

Complainant SSN (114) - A space is provided to capture the victim's social security number on the IO Report. (Optional) It shall be up to the local agency head to determine whether or not officers should include social security number on IO Reports.

Multiple Victims/Law Enforcement (LE) Officer (115) – If there are multiple victims and/or LE officer(s) involved, check the appropriate box.

Ethnicity (116) – If the victim was Hispanic, please indicate this in the appropriate box. There is also a blank to allow officers to enter other ethnicities. (Optional)

****Injury (117)** – Check block "y" if there was injury to the victim; check block "n" if there was no injury. (Required data element for Homicide, Rape, Robbery and Assault.)

****Offender Known to Victim? (118)** – Check "y" if offender is known to victim, and check "n" if offender was a stranger. (Required data element for Homicide, Rape, Robbery and Assault.)

****Victim Was? (119)** – Enter the relationship of the victim to the offender. This response should answer the question, "Victim was _____?" (Required data element for Homicide, Rape, Robbery and Assault.)

Relationship Code (120) – Enter the two-digit relationship code in the shaded area.

Weapon Used (121) – Select the weapon used. In cases involving pretended weapons, or those in which the weapon is not seen by the victim but the offender claims to have a weapon, check the weapon he or she pretends to have or use. (Required data element for criminal homicide, forcible rape, robbery and assault.)

Please note: "Hands, fists, voice, etc." pertains to any part of the body used to inflict injury. "Other dangerous weapons" include a baseball bat, crowbar, bottle, candlestick, brass knuckles, etc.

Description of Weapons/Firearms/Tools Used in Offense (122) – You may make a selection from those listed on the printed/electronic form. Additional information may be added to further describe the weapon or device used during the commission of the offense in the space provided. (Optional)

Place of Occurrence (123) – Enter address where event occurred.

Type Injury (124) – For victims of forcible rape, robbery and assault, select one of the following:

- N – None
- B – Broken Bones

- I – Internal Injury
- L – Severe Laceration
- M – Minor Injury
- O – Other Major Injury
- T – Loss of Teeth
- U – Unconsciousness

Sector (125) – Local use block.

****Homicide and Assault Circumstance Code (126)** – Enter the code for the circumstance that best describes the Homicide or Assault. (Required data element for homicides and assaults.)

****Rape Location Code (127)** – Enter the code for the circumstance that best describes the offense. (Required data element for rapes.)

Simple or Aggravated Assault (128) – Select simple or aggravated depending on the severity of the assault. (Complete only for assaults.)

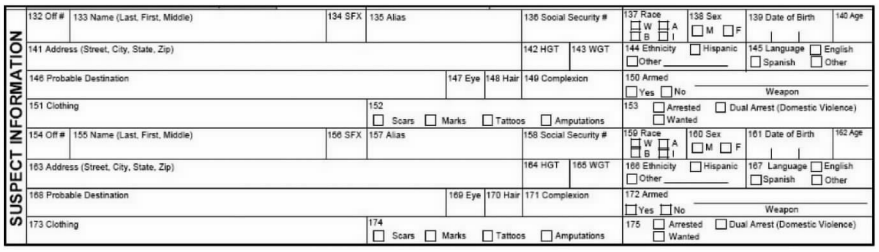
- Simple Assault = No physical injuries or injuries are so minor as to require no more than basic first aid procedures.
- Aggravated Assault = Any assault in which a weapon was involved OR any assault where the injuries sustained required treatment by a physician for missing teeth, broken bones, stitches, etc. (Note: Any offense involving a weapon or dangerous instrument other than the offender's hands, fist, feet, voice, etc. is an aggravated assault for UCR reporting purposes.)

Treatment for Assault Injury (129) – If the victim required medical attention for injuries, select "y," otherwise select "n." (Complete only for assaults.)

****Verification Exam for Rape (130)** – Select "y" if victim had an exam and select "n" if victim did not have an exam. (Required data element for rapes only.)

****Treatment for Rape Injury (131)** – Select "y" if victim received medical attention for injuries, and select "n" if victim did not require medical attention. (Required data element for rapes only.)

Suspect/Offender Information



Note: On the paper report, if the "Missing Person" block is checked, this section may be used to report characteristics of the missing person.

Offender # (132, 154) - List the sequence number of this offender in association with the offense(s) being reported. For instance, if there are three suspects in a robbery, then report offender numbers 1, 2 and 3.

Name (133, 155) – Enter the last, first and middle name of the offender, suspect or missing person.

Suffix (134, 156) – Enter Sr., Jr., III, IV, etc.

Alias (135, 157) – Enter all nicknames and aliases by which the person is known.

SSN (136, 158) – A space is provided to capture the suspect/complainant/ missing person's social security number on the IO Report. (Optional) It shall be up to the local agency head to determine whether or not officers should include social security number on IO Reports.

Race (137, 159) – Enter the race of the offender/suspect/missing person.

W = White
B = Black
A = Asian or Pacific Islander
I = American Indian or Alaskan Native

Sex (138, 160) – Select "M" for male or "F" for female.

Date of Birth (139, 161) – Enter date of birth of the suspect/offender/missing person if known.

Age (140, 162) – Enter the age of the suspect/offender/missing person.

Address (141, 163) – Enter the suspect's/offender's/missing person's physical address.

Be sure to include street number and name, city, state and zip. Do not list a Post Office Box or General Delivery as an address. Rural route numbers designate a geographic area and are acceptable.

HGT (142, 164) – Enter the suspect's/offender's/missing person's height in feet and inches. Do not use fractions or decimals.

WGT (143, 165) – Enter the suspect's/offender's/missing person's weight in pounds. Do not use fractions or decimals.

Ethnicity (144, 166) – If the suspect/offender/missing person was Hispanic, please indicate this in the appropriate box. There is also a blank to allow officers to enter other ethnicities. (Optional)

Language (145, 167) – Select the primary language spoken by the suspect/offender/missing person. (Optional)

Probable Destination (146, 168) – Enter the probable destination of the suspect/offender/missing person if known.

Eye (147, 169) – Enter the eye color of the suspect/offender/missing person.

Hair (148, 170) – Enter the hair color of the suspect/offender/missing person.

Complexion (149, 171) – Enter the suspect's/offender's/missing person's complexion type. (E.g. Light, medium, dark, etc.)

Armed/Weapon (150, 172) – Select "Yes" if the suspect/offender/missing person is armed, or if he or she may be armed. Select "No" if you are positive the suspect/offender/missing person is not armed. Select "Unknown/UNK" if it is not known whether the person is armed. If "Yes" is selected for "Armed," enter the type of suspected weapon here. (e.g. Pistol, rifle, knife, etc.)

Clothing (151, 173) – If known, enter a brief description of the clothing worn by the suspect/offender/missing person when he or she was last seen.

Scars, Marks, Tattoos, Amputations (152, 174) – Enter any and all known scars, marks, tattoos and clothing which may be used to identify the suspect/offender/missing person.

Arrested/Wanted/Dual Arrest (153, 175) – Select "Yes" or "No" to indicate whether the suspect/offender/ missing person has been arrested or if they are wanted.

Dual Arrest – This box only applies to domestic violence cases. Check this box in the event both the primary aggressor and victim are arrested.

Witness Information

WITNESSES	Name (Last, First, Middle)	Sex	Race	Date of Birth	Address	Contact Telephone Numbers	
	176	177 ☐M ☐F	178 ☐W ☐A ☐B ☐I	179	180	181 Home	182 Work
							183 Other
	184	185 ☐M ☐F	186 ☐W ☐A ☐B ☐I	187	188	189 Home	190 Work
							191 Other
	192	193 ☐M ☐F	194 ☐W ☐A ☐B ☐I	195	196	197 Home	198 Work
							199 Other
	200 Witness # 1 SSN			201 Witness # 2 SSN		202 Witness # 3 SSN	

The witness section of the paper IO Report allows up to four names, addresses, dates of birth, sex, race, phone numbers and social security numbers. For paper reporting agencies, additional witness information should be included on a supplement sheet.

Name (176, 184, 192) – Enter the last, first and middle name of the witness.

Sex (177, 185, 193) – Select the witness's sex.

Race (178, 186, 194) – Witness's race.

Date of Birth (179, 187, 195) – Witness's date of birth.

Address (180, 188, 196) – Enter the witness's physical address including street number, street name, city, state and zip code. Do not list a Post Office Box or General Delivery as an address. Rural route numbers designate a geographical area and are acceptable.

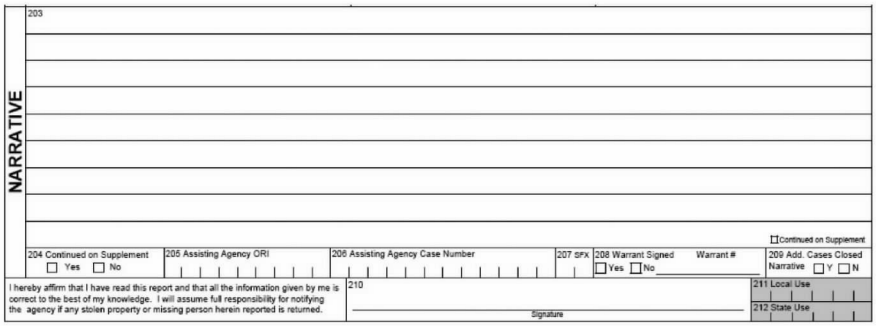
Home Phone (181, 189, 197) – Enter the witness's home telephone number including area code. If the witness does not have a home telephone, enter none or leave blank.

Work Phone (182, 190, 198) – Enter the witness's business telephone number including area code. If the witness does not have a business telephone, enter none (for paper reports) or leave blank (for electronic reports).

Other Phone (183, 191, 199) – Enter any other cellular phone or pager number of the witness including area code.

SSN's (200, 201, 202) – You may enter social security numbers. While this information is not required, it may be helpful in locating witnesses in the future. It shall be up to the local agency head to determine whether or not officers should include social security number on IO Reports.

Narrative



Narrative (203) – The primary purpose of this section of the IO Report is to inform others about the event being reported. Officers should strive to answer the following questions when writing a narrative:

- Who was involved?
- What happened?
- When did it happen?
- Where did it happen?
- How did it happen?
- Why did it happen?

This section should tell the story of the officer's actions and all other involved persons' actions as they relate to the event being reported. Remember, when writing the narrative, you are telling the story to someone who does not know any of the facts surrounding the event. The narrative should give the reader a clear picture of the event as observed by the reporting officer.

The narrative section is also used to expand upon or continue any items on the rest of the report where additional space or explanation is needed. If the narrative section of the paper report is not large enough to allow you to give all of the details that need to be included, use an IO supplement as a continuation sheet. When using a supplement, remember to indicate this on the appropriate box on the form.

Continued on Supplement (204) – Check this box to indicate more information is contained on a supplemental form.

Assisting Agency ORI (205) – Enter the ORI of any agency providing assistance with the case.

Assisting Agency Case Number (206) – If an assisting agency has assigned its own case number to the incident/offense enter this number here.

Suffix (207) – If the assisting agency's case number uses a suffix, enter it here.

Warrant Signed (208) – Check yes if a warrant has been signed in the case. If a warrant has been signed, the warrant number should be entered here.

Additional Cases Closed in Narrative (209) – Select "yes" or "no."

Signature (210) – A signature line is provided on the paper form for the complainant to enter his or her signature attesting that the information contained in the report is true and correct. For the electronic reporting, the following form (or something similar developed by the agency) may be completed by the officer and signed by the complainant. This form must be stored at the agency.

A signature is **required** if any information obtained by the report is to be entered into the State IO Repository. This signature will protect you and your department from civil liability in the event the complainant/victim fails to notify your department when property has been recovered or has misrepresented the events that occurred.

SAMPLE POLICE DEPARTMENT

OFFENSE/INCIDENT REPORT SIGNATURE SHEET

Case #_____

On _____, **the crime(s) of** _____ **and** _____
Date Offense Offense

was/were reported to *Your Police Department Name* by _____
Complainant/Victim

I have reported the above crime/incident and all information given by me is correct to the best of my knowledge. I will assume full responsibility for notifying the *Your Police Department Name* if any changes and/or updates need to be made or if any stolen property or missing person hereby reported is located.

X _____
Complainant/Victim's Signature

X _____
Reporting Officer

Local Use (211) – This area is provided for local agency use. Your department may determine how this data element is used. For instance, local use codes can be used to keep track of certain types of offenses for further study. For instance, a department might require officers to enter a "D" in this block to indicate a drug related offense. Entries may be alpha or numeric.

State Use (212) – This is for CJIS Systems use only.

IO Report Supplemental Report

When a "Supplement" is Required

The Supplement Report (supplement) is used to record information or action taken on a case after the submission of the IO Report. Examples include:

- As continuation sheets for the IO Report when there is insufficient narrative space on the IO Report and additional reporting space is needed.
- To report recovered property.
- To report additional stolen property.
- To change stolen or recovered property values.
- To change an offense code.
- To indicate the disposition of a case.

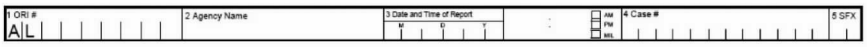
There is no limit to the number of supplements that may be completed during the investigation of a single case. However, the only reports required to be sent to the State IO Repository are supplements:

- For additional stolen property.
- For recovered property.
- To change an offense.
- To unfound a case.
- To clear a case.

Completing the Supplement

The supplement form is designed to aid the investigating officer. It is made up of identifiable sections and numbered blocks providing a place for recording elements which link the supplement to the original IO Report.

"Front Page" of Supplement



***ORI Number (1)** – There is space for nine digits in this box. (Required)

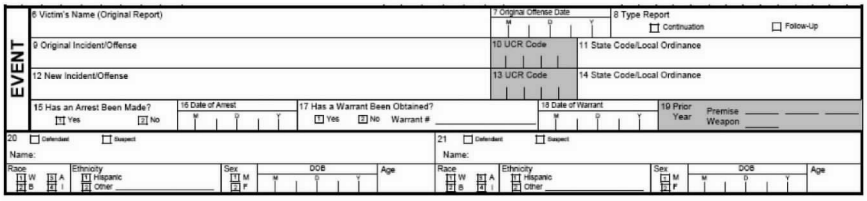
Agency Name (2) – Enter the name of your law enforcement agency.

***Date and Time of This Report (3)** – Enter the date this report was written using numbers to indicate the month ("M"), day ("D") and year ("Y") of the report. Enter the time of the report (minutes followed by hours) and check AM, PM or Mil (military or 24-hour clock). (Required)

***Case Number (4)** – Always enter the Agency Case Number that appears on the original IO Report. (Required)

Suffix (5) – If a suffix was used on the original IO Report, use the exact same case number on the supplement.

Event Information



Victim's Name (6) – Enter the victim's name. To prevent confusion, enter the exact name as it appears on the original report.

***Date of Original Report (7)** – Enter the date by month ("M"), day ("D") and year ("Y") that appears on the original IO Report. (Required)

Type Report (8) – Select the appropriate choice to indicate the purpose of the supplement.

- Continuation – Check this if you are completing the supplement because you ran out of room on the narrative section of the original IO Report.
- Follow up - Check this if you have additional information to report on a case.

***Original Incident/Offense (9)** – Enter the original incident or offense as it appears on the IO Report. (This is a required data element for prior year cases, or if you are changing an incident/offense code.)

***UCR Code (10)** – Required

State Code (11) – Enter the state code citation for the offense. (e.g. 13A-7-6.)

New Incident/Offense (12) – Complete this block only if there is a change in the incident/offense originally reported. If you are making a change in this block, explain the reason for the change in the narrative.

UCR Code (13) – Required

State Code (14) – Enter the state code citation for the offense. (e.g. 13A-7-6.)

Has an Arrest Been Made (15) – Check "Yes" if an arrest has been made, and check "No" if an arrest has not been made.

Date of Arrest (16) – If an arrest was made, indicate the month ("M"), day ("D") and year ("Y") in this block.

Has a Warrant Been Obtained (17) – If no warrant has been obtained, check "No." If a warrant has been obtained, check "Yes" and enter the warrant number.

Date of Warrant (18) – If a warrant has been obtained, indicate the month ("M"), day ("D") and year ("Y") in this block.

Prior Year (19) – On the form, this is a shaded block. Leave it blank.

Defendant's Name (20, 21) – If the offender(s) is known, enter his or her full name.

Local Use (22) – This is an optional data element. It is designed for your agency's local use. Either alpha or numeric characters may be entered here.

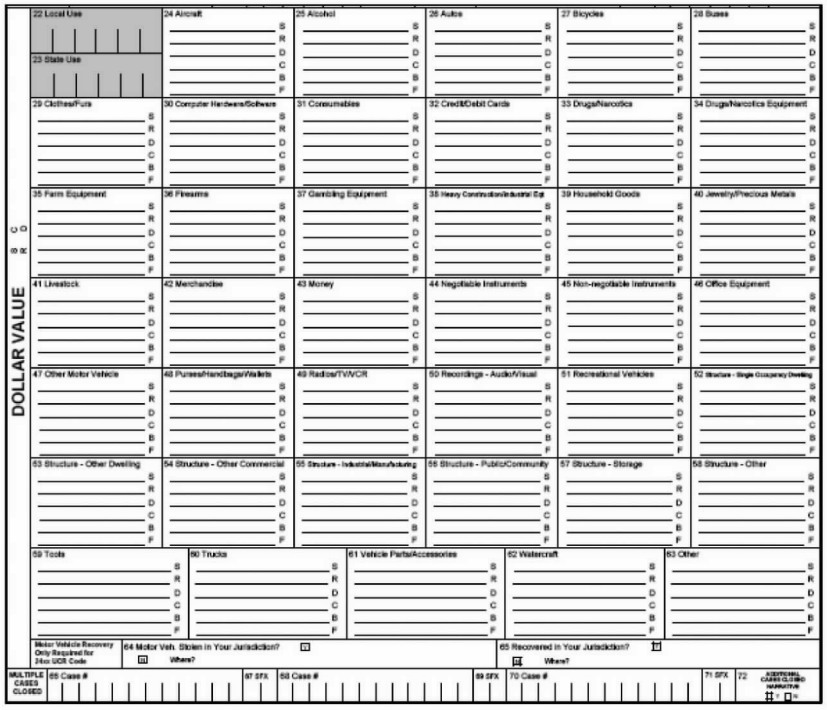
State Use (23) – This area is designated for use by the ALEA CJIS Division.

Value Information

Value Section (24-63) – After each article and its respective value is listed in the narrative, the totals of each property category must be entered in the appropriate block or blocks in this section. Each category contains six lines.

- S (Stolen)
- R (Recovered)
- D (Damaged or Destroyed)
- C (Confiscated)
- B (Burned)
- F (Forged or Counterfeited)

Please note you may only enter one dollar value in each line, so the amount entered on each line should represent the total value of the articles stolen, recovered, damaged/destroyed, confiscated, burned or forged/counterfeited. For instance, three gold watches each worth $1,000 are stolen in a burglary. Each watch should be listed individually (along with a description and any identifying numbers) in the narrative section. In the value section, you should enter $3,000 in the "S" line under the "jewelry" category.



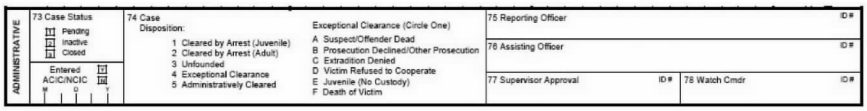
Motor Vehicle Stolen in Your Jurisdiction (64) – If the motor vehicle was stolen in your jurisdiction, select "Y." If the motor vehicle was not stolen in your jurisdiction, check "N" and indicate where it was recovered.

Recovered in Your Jurisdiction (65) – If the motor vehicle was recovered in your jurisdiction, check "Y." If the motor vehicle was not recovered in your jurisdiction, check "N" and list where it was recovered.

Multiple Cases Closed (66-71) – These blocks allow for paper reporting agencies to close up to three cases at the same time as long as they are all cleared by the same disposition type. If suffixes were included on the original report, they need to be reported here.

Additional Cases Closed in Narrative (72) – Select "yes" or "no" to indicate whether additional cases are closed in the narrative. You may close up to 18 additional cases in the narrative.

Administrative Information – This section contains information about the reporting/ assisting officer in the case, case status and dispositional information.



Case Status/Entered CJIS Systems/NCIC (73) – A case status should be indicated for all cases including non-criminal incidents.

- Pending – The case is considered pending if any additional information is required by follow-up investigation or if the case is under active investigation.
- Inactive – The case is unsolved, and every reasonable avenue of investigation has been pursued and exhausted. No arrests have been made, and all active investigation has been terminated.
- Closed – The case is declared closed for UCR purposes when the entire matter has been completed and no additional police action is required. If a case is closed, disposition information must be provided.
- Entered CJIS Systems/NCIC – If you have entered any information from the report into the CJIS Systems/NCIC network, indicate yes and provide the date entered.

Case Disposition (74) – Indicates how and why a case was closed.

- Cleared by Arrest (Adult/Juvenile) – An offense is "cleared by arrest" or solved for crime reporting purposes when at least on person is arrested, charged with the commission of the offense and turned over to the court for prosecution. If an arrest was made, indicate whether the defendant was under 18 (juvenile) or 18 years of age or older (adult).
- Unfounded – If a complaint is found to be false or baseless after investigation, then this category should be selected. Do not classify a case as unfounded if there are no leads available, stolen property was recovered, victim refuses to prosecute or the incident seems insignificant.
- Exceptional Clearance – For a case to be exceptionally cleared, **all** of the following criteria must be met.
  - The identity of the offender must be determined. (You must know his or her name).
  - The exact location of the offender must be known.
  - The grounds of the criminal charges must be sufficient for prosecution.
  - There is some reason(s) beyond your control that prevents you from arresting and prosecuting the offender. Examples include:
    - The offender you are seeking is serving a life without parole sentence for a separate conviction.
    - The offender is in another state/country and extradition is refused.
  - In order to exceptionally clear an offense, you **must** select one of the following reasons:

- Suspect/offender is dead;
- Prosecution declined/Other prosecution;
- Extradition denied;
- Victim refused to cooperate (Lack of prosecution on the part of the victim);
- Juvenile (no referral); or
- Death of victim.

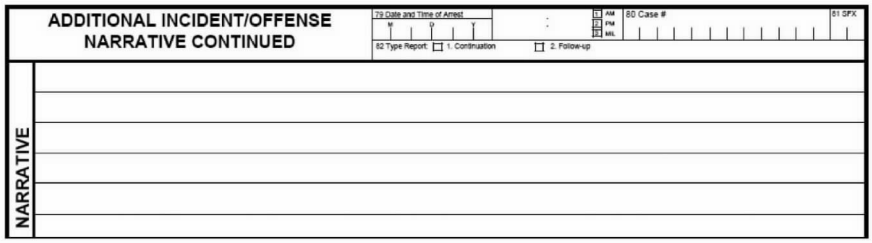
- For an exceptional clearance to count for UCR purposes, the following information concerning the offender **must** be provided:
  - Offender's sex;
  - Offender's race;
  - Offender's age or date of birth.
- Cases submitted to the UCR program that do not meet the above criteria will not be counted as cleared by CJIS Systems.

Reporting Officer and Assisting Officer (75, 76) – The officer(s) taking the report should enter their full names and shield/identification numbers in this space.

Supervisor Approval (77) – The reporting officer's supervisor should sign his or her last name in this section to indicate he or she has reviewed and approved the report for accuracy and completeness.

Watch Commander (78) – The watch commander is to sign his or her name in this space to indicate he or she has reviewed and approved the report for accuracy and completeness.

"Back Page" of Supplement



Date and Time of This Report (79) - Enter the date this report was written using numbers to indicate the month ("M"), day ("D") and year ("Y") of the report. Enter the time of the report (minutes followed by hours) and check AM, PM or Mil (military or 24-hour clock).

Case Number (80) – Always enter the Agency Case Number that appears on the original IO Report.

Suffix (81) – If a suffix was used on the original IO Report, use the exact same case number on the supplement.

Narrative (82) – The back of the supplement provides additional space for narrative. If more space is needed, check the box and continue on and an additional supplement form. This section should also be used to record your activity and all developments in the case subsequent to the last report. Check the appropriate box if the narrative is continued on the back of the supplement. Examples of items to be placed in the narrative include the following.

- A description and value of each item of additional property stolen or recovered.
- Names of persons arrested.
- An explanation of any changes to the incident/offense from what was indicated on the original IO Report.
- Disposition of recovered property.
- Case status and case disposition.
- The section and item numbers continued from the IO Report.

Arrest Report

General Information

The arrest form is composed of five basic sections which provide a complete record on all persons arrested. The sections of an arrest form include:

- Identification of the person arrested.
- Details of the arrest.
- Details on vehicles and items seized at the time of arrest.
- Juvenile arrestee information.
- Release information.

The paper arrest report is designed to allow for up to four charges per person arrested.

When an Arrest Report is Required

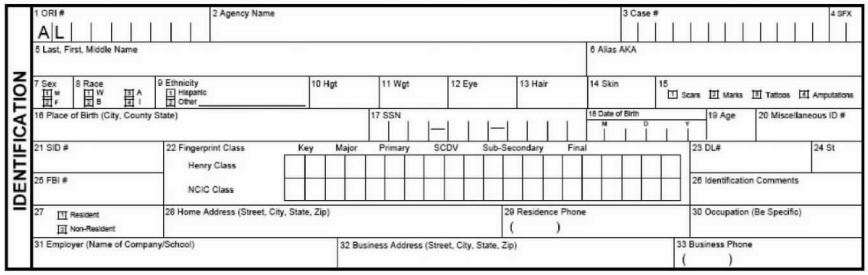
An arrest report is required every time every time an officer makes a criminal arrest. Arrest reports provide a complete arrest history record and are a source of information for locating persons at a later date.

In cases involving juveniles, complete an arrest report for any of the following reasons:

- The juvenile is processed for judicial action.
- The juvenile is handled by the department and released to another agency.
- The juvenile is handled by the department and released to his or her parents for disciplinary action.

Identification Information

In the upper right-hand corner of the paper report, check "yes" or "no" to indicate whether the arrestee was fingerprinted. Also indicate whether the green R84 Disposition Form was completed and forwarded to the court clerk.



***ORI Number (1)** – Enter the seven-digit agency identification number in this block. Do not put the AL in this block. (Required)

Agency Name (2) – The name of your law enforcement agency.

***Case Number (3)** – A case number may be up to twelve digits and must be a unique number. Whenever possible, enter the case number of the related IO Report as this will ensure you agency can clear the case and get credit for the arrest. (Required)

Suffix (4) – If a suffix was used on the original IO Report, make sure you include the same suffix in this field. The suffix can also be used to indicate multiple offenders associated with a single offense. (Optional)

- Example: Three people are arrested for a burglary. The burglary was originally assigned the case number 050317123. The arrests should be reported as:
  - First arrest – 050317123
  - Second arrest – 050317123-A
  - Third arrest – 050317123-B

By entering the arrest case numbers as shown, your agency will get credit for a clearance and three arrests.

Name (5) – Enter the last, first and middle name of the arrestee.

Alias/AKA (6) – Enter all aliases and/or nicknames used by the arrestee.

***Sex (7)** – Select male or female. (Required)

***Race (8)** – Enter the race of the arrestee by selecting one of the following codes

(Required):

W = White
B = Black
A = Asian or Pacific Islander
I = American Indian or Alaskan Native

Ethnicity (9) – Select Hispanic if this applies. Other or additional entries can be made by checking the Other box and entering the correct response in the space provided. (This space may also be used to indicate the victim's national origin which may be important in reporting and investigating hate crimes.)

HGT (10) – Enter the arrestee's height in feet and inches. Do not use fractions or decimals.

WGT (11) – Enter the arrestee's weight in pounds. Do not use fractions or decimals.

Eye (12) – Enter the arrestee's eye color.

Hair (13) – Enter the arrestee's hair color.

Skin (14) – Enter the arrestee's complexion type. (e.g. Light, medium, dark, etc.)

Scars, Marks, Tattoos, Amputations (15) – Enter all known scars, marks, tattoos and amputations which may be used to identify the arrestee.

Place of Birth (16) – Enter the city, county, state and country where the arrestee was born.

Social Security Number (17) – Enter the arrestee's Social Security Number. If this number cannot be obtained voluntarily, leave blank.

Date of Birth (18) – Enter the arrestee's date of birth. For paper reports, enter this in a MMDDYY format. For instance March 17, 2005 – 03/17/05. If the date of birth is unknown or refused, you may estimate the person's age and enter the person's estimated year of birth in the space allotted for the year.

Age (19) – Enter the arrestee's actual or estimated age.

Miscellaneous ID Number (20) – Enter any other identification number assigned to the arrestee and indicate the type of number. Examples include: student ID #, military ID #, hunting license #, etc.)

SID Number (21) – This is the number assigned to the arrestee after the fingerprint card is sent to the ALEA CJIS Division.

Fingerprint Class (22) – This block will be completed at a later date once the fingerprints have been classified.

Driver's License Number (23) – If available, enter the arrestee's driver's license number.

State (24) – Enter the state where the driver's license was issued.

FBI Number (25) – This number is assigned after the felony fingerprint card is sent to the FBI.

Identification Comments (26) – Enter any additional descriptive information about the arrestee. Examples include wears glasses, has a moustache, walks with a limp, etc.

Resident/Nonresident (27) – If the arrestee lives in your jurisdiction, select "resident." If the person lives outside of your jurisdiction, select "nonresident."

Home Address (28) – Enter the actual physical address where the arrestee lives. Be sure to include the street number and name, city, state and zip code. DO NOT give a Post Office Box or General Delivery as an address. Rural route numbers designate a geographic area and are acceptable.

Residence Phone (29) – Enter the arrestee's home telephone number including area code.

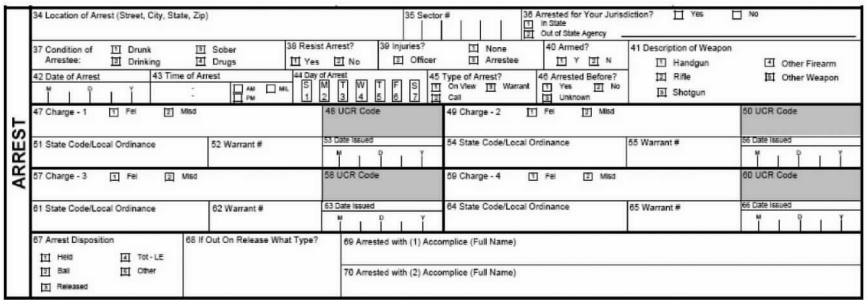
Occupation (30) – Enter the arrestee's usual occupation.

Employer (31) – Enter the name of the arrestee's employer (boss or business name) or the school he or she attends. If the arrestee is unemployed, leave blank or enter "unemployed."

Business Address (32) – Enter the business address of the arrestee's employer including street, city, state and zip code.

Business Phone (33) – Enter the business telephone number of the arrestee's employer including area codex

Arrest Information



Location of Arrest (34) – Enter the complete address or geographic location of the place where the arrest occurred.

Sector (35) – Enter the sector (beat, district, census tract, etc.) used by your agency to identify the geographical area where the arrest occurred. Entries may be alpha or numeric. If your agency does not use sector identifiers, leave this data element blank.

Arrested for Your Jurisdiction (36) – Indicate whether the arrest was made for an offense committed in your jurisdiction, another jurisdiction within Alabama or out of state by selecting the appropriate box. If the person was arrested for another jurisdiction, enter the agency's name in the appropriate box.

Condition of Arrestee (37) – Indicate whether the arrestee was drunk, drinking, sober or on drugs.

Resist Arrest (38) – Indicate if the arrestee resisted arrest. If "yes" is selected, be sure to document the circumstance in the narrative/remarks section.

Injuries (39) – If no injuries occurred during the course of the arrest, select "none." If injuries were involved, indicate if the arrestee and/or the officer(s) were injured. If injuries occurred, be sure you document the circumstances and the extent of the injuries.

Armed (40) – Indicate if the person arrested was armed at the time of arrest by selecting "yes" or "no."

Description of Weapon (41) – If the arrestee was armed, describe the weapon in his or her possession by selecting the appropriate category. If the weapon is something other than a firearm, select other weapon and enter descriptive information in the space provided.

***Date of Arrest (42)** - Enter the date of arrest in a MMDDYY format. (Required)

Time of Arrest (43) – Times on paper reports may be entered as AM, PM or Military (24-hour clock). Put the time in the blocks provided and check the correct time type.

Day of the Week (44) – Indicate the day of the week on which the arrest occurred.

Type of Arrest (45) – Indicate whether the arrest was: 1) on view, 2) on call or 3) result of a warrant.

Arrested Before (46) – Select "yes," no," or "unknown" to indicate the person's previous arrest history.

Charge (47, 49, 57, 59) – For paper reporting agencies, there are spaces to list up to four charges. List each offense the person is charged with committing. Be sure to check the

appropriate box to indicate if the offense is a felony or misdemeanor.

UCR Code (48, 50, 58, 60) – The UCR clerk should enter the code(s) corresponding to each offense committed.

State Code (51, 54, 61, 64) – Enter the state statute(s) the arrestee is charged with committing.

Warrant Number (52, 55, 62, 65) – If the arrest is made on the basis of a warrant, enter the warrant number in this block.

Date Issued (53, 56, 63, 66) – Enter the date the warrant was issued using a MMDDYY formation.

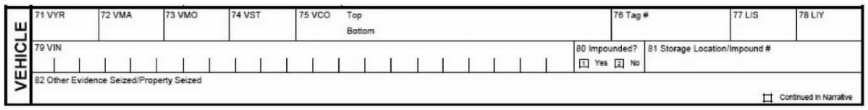
Arrest Disposition (67) – Indicate how the arrest was disposed by selecting the appropriate choice.

- Held – Held in custody
- Bail – Released on bail or own recognizance
- Released – Release with no formal charges filed
- TOT-LE – Turned over to another law enforcement agency
- Other – Indicate disposition in the "Additional Arrest Information Section" or "Remarks" section.

If out on release, what type (68) – If released on bail, indicate the type and amount of bond posted. If out on work release, pre-trial diversion, etc. indicate which program.

Arrested With (69, 70) – Enter the full name(s) of any person(s) arrested with the subject in connection with the alleged offense.

Vehicle Information



VYR – Vehicle Year (71) – Enter the last two digits of the year to indicate the year the vehicle was manufactured.

VMA – Vehicle Make (72) – Enter the make of the vehicle. (Ford, Chevrolet, Toyota, etc.)

VMO – Vehicle Model (73) – Enter the model of the Vehicle. (Explorer, Corvette, Camry, etc.)

VST – Vehicle Style (74) – Enter the style of the vehicle. (2-door sedan, 4-door sedan, etc.)

VCO – Vehicle Color (75) – Enter the color of the vehicle. If the vehicle is two colors, you may enter the top color and the bottom color on the paper report.

Tag Number (76) – Enter the complete license tag number.

LIS (77) – Enter the state that issued the license tag.

LIY – License Year (78) – Enter the year the tag was issued or expires as displayed on the tag.

VIN – Vehicle Identification Number (79) – Enter the complete VIN number.

Impounded (80) – Indicate if the vehicle was impounded.

Storage Location/Impound (81) – Enter the exact physical address where the vehicle is stored or enter the impound number assigned to this vehicle.

Other Evidence Seized (82) – List any and all evidence seized by your department during the arrest. If inadequate space is provided, continue listing property on the back side of report. Also include any CJIS Systems/NCIC responses on vehicle and/or property.

Juvenile Arrest Information

Complete this section only if the person arrested is under 18 years of age.

JUVENILE				
83 Juvenile Disposition: [1] Handled and Released [2] Ref. to Juvenile Court [3] Ref. to Welfare Agency [4] Ref. to Other Police Agency [5] Ref. to Adult Court			84 Released To	
85 Parent or Guardian (Last, First, Middle Name)		86 Address (Street, City, State, Zip)		87 Phone ( )
88 Parents Employer	89 Occupation	90 Address (Street, City, State, Zip)		91 Phone ( )

Juvenile Disposition (83) – Select one of the following responses to indicate how the juvenile was handled. (Required data element for all juvenile arrests.)

- Handled and released (no charges)
- Referred to juvenile court
- Referred to welfare agency (Department of Human Resources)
- Referred to other police agency
- Referred to adult court

Released to (84) – If the juvenile was released, enter the name of the person or agency to whom the juvenile was released.

Parent or Guardian (85) – Enter the last, first and middle name of the parent or legal

guardian.

Address (86) - Enter the actual physical address of the parent or guardian. Be sure to include the street number and name, city, state and zip code. DO NOT give a Post Office Box or General Delivery as an address. Rural route numbers designate a geographic area and are acceptable.

Phone (87) – Enter the parent or guardian's home telephone number including area code.

Employer (88) – Enter the name of the parent or guardian's employer (boss or business name) or the school he or she attends. If the parent or guardian is unemployed, leave blank or enter "unemployed."

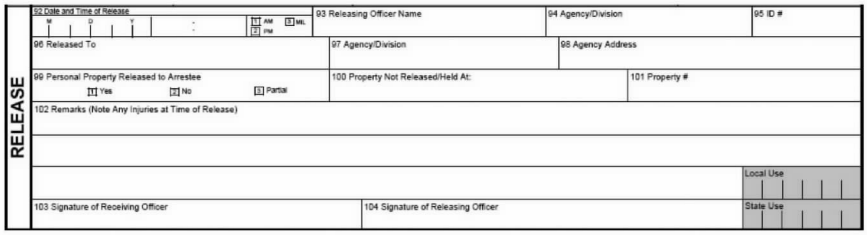
Occupation (89) – Enter the parent or guardian's usual occupation.

Address (90) – Enter the business address of the parent or guardian's employer including street, city, state and zip code.

Phone (91) – Enter the business telephone number of the parent or guardian's employer including area code.

Release Information

This section is to be completed when an arrestee is released or turned over to another law enforcement agency.



Date and Time of Release (92) – Dates on paper reports should be entered using a MMDDYY format. (Example: March 17, 2005 = 03/17/05.)

Releasing Officer (93) – Enter the name of the releasing officer.

Agency/Division (94) – Enter the releasing authority's name or division.

ID Number (95) – Enter the ID number or shield number of the releasing officer.

Released to (96) – Enter the name of the person to whose custody the arrestee was released.

Agency/Division (97) – Enter the police agency or division, bail bondsman, etc. to whom the arrestee was released.

Agency Address (98) – Enter the city and state of the receiving agency.

Personal Property Released to Arrestee (99) – If all personal property was released to the arrestee, select "yes." If no personal property was released to the arrestee, check "no." If part of the arrestee's personal property was released, select "partial."

Property Not Released Held At (100) – If any personal property was not released to the arrestee, enter the location of said property.

Property Number (101) – Enter the identification number assigned to the arrestee's property.

Remarks (102) – Make any other additional comments concerning the arrestee or his personal property at the time of arrest.

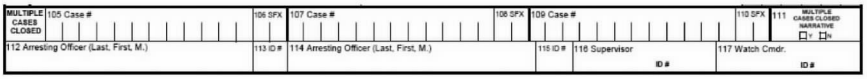
Signature of Receiving Officer (103) – Have the receiving officer or person receiving the arrestee sign this space.

Signature of Releasing Officer (104) – Have the releasing officer sign his/her name in this space.

Local Use Block – The shaded local use block is provided for local agency use. Information put in this block should be determined by your local agency. Entries may be alpha or numeric.

State Use Block – This shaded block should be left blank.

Multiple Cases Closed



Multiple Cases Closed (105-110) – This section allows agencies to close up to three cases with one reported disposition. (Paper reports only.) All cases closed in this section, must have a disposition of arrest (either adult or juvenile).

Additional Cases Closed in Narrative (111) – Select "yes" or "no." You can list up to 18 additional cases in the narrative section. (Paper reports only.)

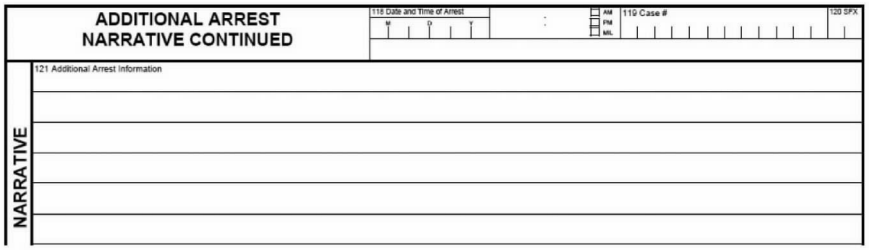
Arresting Officer (112, 114) – Enter the name of the officer(s) making the arrest.

ID Number (113, 115) – Enter the ID number or badge number of the officer(s) making the arrest.

Supervisor ID Number (116) – The supervisor should initial the report and include his or her badge number in this section.

Watch Commander ID Number (117) – The supervisor should initial the report and include his or her badge number in this section.

"Page 2" of Arrest Report



Date and Time of Arrest (118) – Dates on paper reports should be entered using a MMDDYY format. (Example: March 17, 2005 = 03/17/05.) Times may be entered as AM, PM or Military (24-hour clock). Put the time in the blocks provided and check the correct time type.

Case Number (119) – Enter the case number from the front of page.

SFX (120) – If a suffix is used on the front page, enter the same suffix year.

Additional Arrest Information (121) – In the space provided, list any additional information related to this arrest. Multiple pages may be used for this purpose, just be sure to check the block at the bottom of the narrative section to indicated that a report is continued.

Appendix A: Code Sheet

CODE SHEET

Assault Circumstances		Homicide Circumstances		Rape Locations	
A01	Argument	H01	Argument	R01	Victim's Car
A02	Argument Over Money	H02	Argument Over Money	R02	Offender's Care
A03	Argument Over Boyfriend	H03	Argument Over Boyfriend	R03	Victim's Residence
A04	Argument Over Girlfriend	H04	Argument Over Girlfriend	R04	Offender's Residence
A05	Argument Over Weapon	H05	Argument Over Weapon	R05	Alley/Street
A06	Bar-Room Brawl	H06	Bar-Room Brawl	R06	Parking Lot
A07	Burglary Attempt	H07	Burglary Attempt	R07	Wooded Area
A08	Child Abuse	H08	Child Abuse	R08	Office Building
A09	Domestic Violence	H09	Domestic Argument	R09	School
A10	Fight	H10	Fight	R10	Apartment Complex
A11	Fleeing Suspect/Police	H11	Fleeing Suspect/Police	R11	Vacant Lot
A12	Gambling	H12	Gambling	R12	Vacant House/Building
A14	Kidnapping/Stranger	H13	Homicide/Suicide	R13	Dirt Road
A15	Kidnapping/Non-Custodial	H14	Kidnap/Murder	R14	Residence of Offender's Friend or Relative
A16	Mental Problem	H15	Lovers Quarrel	R15	Motel/Hotel
A17	Mugging	H16	Mental Problem	R16	Lounge/Bar
A18	Drive By Shooting	H17	Mugging	R17	Commercial
A19	Playing With Weapon	H18	Drive By Shooting	R18	Park
A22	Race Related	H19	Playing With Weapon	R19	Church
A24	Self Defense	H20	Rape	R20	Residence of Victim's Friend or Relative
A25	Unknown	H21	Rape Attempt	R21	Public Building
A27	Revenge	H22	Race Related	R22	Trailer Park
A28	Ambush	H23	Robber Killed by Victim	R23	Hospital
A29	Dealing in Drugs	H24	Self Defense	R24	Lake/Beach
A30	Bootlegging	H25	Unknown	R25	Railroad Tracks
A31	Police Officer Assault	H26	Victim Killed by Robber	R26	Prison/Correctional Inst
A32	Gang Fight	H27	Revenge	R27	Cemetery
A33	Arson	H28	Ambush	R98	Other
A36	Stalking	H29	Dealing in Drugs	R99	Unknown
A37	Aggravated Stalking	H30	Bootlegging		
		H31	Police Officer Assault		
		H32	Gang Fight		
		H33	Arson		
		H34	Murder for Hire		

Relationship Codes for Relation of Victim to Offender

Husband....HU....01	Step Son....SS....14	Friend....FR....27
Wife....WI....02	Step Daughter....SD....15	Homosexual....HO....28
Common-Law Husband....CH....03	Other Family....OF....16	Stranger....ST....29
Common-Law Wife....CW....04	Neighbor....NE....17	Unknown....UN....30
Father....FA....05	Acquaintance....AC....18	Customer....CU....31
Mother....MO....06	Boyfriend....BF....19	Clerk/Cashier....CL....32
Son....SO....07	Girlfriend....GF....20	Co-Worker....CO....33
Daughter....DA....08	Ex Boyfriend....XB....21	Delivery Worker....WR....34
Brother....BR....09	Ex Girlfriend....XG....22	Teacher/Student....TS....35
Sister....SI....10	Ex Husband....XH....23	Child in Common....CC....36
In-Law....IL....11	Ex Wife....XW....24	LandLord/Leasee....LL....37
Step Father....SF....12	Employee....EE....25	Protected Person....PP....38
Step Mother....SM....13	Employer....ER....26	