

1 HB132
2 197363-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 05-MAR-19

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8 SYNOPSIS: This bill would implement the
9 recommendations of the Alabama Juvenile Justice
10 Task Force from 2018 and would substantially revise
11 provisions relating to the juvenile justice system
12 in this state.

13 This bill would expand early interventions
14 to address the needs of certain youth prior to
15 court involvement.

16 This bill would require development of a
17 statewide detention risk assessment tool for
18 pre-adjudication detention decisions and would
19 establish standards for informal adjustments for
20 certain youth.

21 This bill would provide for video detention
22 hearings under certain conditions.

23 This bill would remove the assessment of
24 fines or court costs against children under certain
25 conditions while maintaining the ability to assess
26 them against the parents of those children.

1 This bill would provide for a risk and needs
2 assessment tool to aid courts in determining when
3 placement in the custody of the Department of Youth
4 Services is necessary and when placement is not
5 advisable. This bill would also specify those
6 offenses that make a child eligible for placement
7 with the Department of Youth Services and would
8 further establish presumptions for the length of
9 supervision ordered by a juvenile court.

10 This bill would require local boards of
11 education to inform parents of services available
12 relating to absenteeism and other school-related
13 misconduct and would require the Alabama Department
14 of Education to require each local board of
15 education to annually develop, approve, and submit
16 multi-disciplinary agreements in collaboration with
17 community stakeholders relating to appropriate
18 responses to school-based offenses, court
19 referrals, and accountability.

20 This bill would create the Juvenile Justice
21 Reinvestment Fund, administered by the Department
22 of Youth Services, to reinvest averted costs from
23 reduction in the department's custody and placement
24 of youth in residential facilities, as well as
25 other funds, back into local community-based
26 programs and services.

1 This bill would create the Juvenile Justice
2 Fund Oversight Committee to oversee distribution of
3 funds to local communities for local evidence-based
4 programs and other services.

5 This bill would require the Administrative
6 Office of Courts and the Department of Youth
7 Services to develop, adopt, and validate a risk and
8 needs assessment to identify a child's risk to
9 reoffend and needs that, if addressed, would likely
10 reduce reoffending.

11 This bill would also provide courts
12 discretion as to whether or not a child should be
13 subject to registration or notification as a sex
14 offender under certain conditions.

15
16 A BILL

17 TO BE ENTITLED

18 AN ACT

19
20 Relating to juvenile justice; to amend Sections
21 12-15-102, 12-15-107, 12-15-119, 12-15-120, 12-15-126,
22 12-15-127, 12-15-128, 12-15-132, 12-15-207, 12-15-209,
23 12-15-211, 12-15-215, 12-15-221, 12-15-701, 12-25-9, 15-20A-5,
24 as last amended by Act 2018-528, 2018 Regular Session,
25 16-28-2.2, 16-28-8, 16-28-13, 16-28-14, 16-28-16, 16-28-17,
26 16-28-18, 44-1-24, and 44-1-36, Code of Alabama 1975, to
27 expand early interventions to address the needs of certain

1 youth prior to court involvement; to require development of a
2 statewide detention risk assessment tool for pre-adjudication
3 detention decisions; to provide for video conferencing of
4 certain detention hearings under certain conditions; to
5 establish standards for informal adjustments for certain
6 youth; to remove the assessment of fines or court costs
7 against children under certain conditions; to provide for a
8 risk and needs assessment tool to aid courts in determining
9 when placement in the custody of the Department of Youth
10 Services is necessary; to specify those offenses that would
11 make a child eligible for placement with the Department of
12 Youth Services; to further specify the length of supervision
13 ordered by a juvenile court; to require local boards of
14 education to inform parents of services available relating to
15 absenteeism and other school-related misconduct; to create the
16 Juvenile Justice Reinvestment Fund, administered by the
17 Department of Youth Services; to require the Administrative
18 Office of Courts and the Department of Youth Services to
19 develop and adopt a risk and needs assessment; to create the
20 Juvenile Justice Fund Oversight Committee and to provide for
21 its membership and duties; and to amend Section 15-20A-5, Code
22 of Alabama 1975, as last amended by Act 2018-528, 2018 Regular
23 Session, to provide courts discretion as to requiring a child
24 to comply with sex offender registration and notification
25 requirements under certain conditions.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 12-15-102, 12-15-107, 12-15-119,
2 12-15-120, 12-15-126, 12-15-127, 12-15-128, 12-15-132,
3 12-15-207, 12-15-209, 12-15-211, 12-15-215, 12-15-221,
4 12-15-701, 12-25-9, 15-20A-5, as last amended by Act 2018-528,
5 2018 Regular Session, 16-28-2.2, 16-28-8, 16-28-13, 16-28-14,
6 16-28-16, 16-28-17, 16-28-18, 44-1-24, and 44-1-36, Code of
7 Alabama 1975, are amended to read as follows:

8 "§12-15-102.

9 "When used in this chapter, the following words and
10 phrases have the following meanings:

11 "(1) ADULT. An individual 19 years of age or older.

12 "(2) AFTERCARE. Conditions and supervision as the
13 juvenile court orders after release from the Department of
14 Youth Services.

15 ~~"(3) CHILD. An individual under the age of 18 years,~~
16 ~~or under 21 years of age and before the juvenile court for a~~
17 ~~delinquency matter arising before that individual's 18th~~
18 ~~birthday. Where a delinquency petition alleges that an~~

19 "(3) CHILD. An individual under 18 years of age, or
20 under 21 years of age and before the juvenile court for a
21 delinquency matter arising before that individual's 18th
22 birthday, or under 19 years of age and before the juvenile
23 court for a child in need of supervision matter. Where a
24 delinquency petition alleges that an individual, prior to the
25 individual's 18th birthday, has committed an offense for which
26 there is no statute of limitation pursuant to Section 15-3-5,
27 the term child also shall include the individual subject to

1 the petition, regardless of the age of the individual at the
2 time of filing.

3 "(4) CHILD IN NEED OF SUPERVISION. A child who has
4 been adjudicated by a juvenile court for doing any of the
5 following and who is in need of care, rehabilitation, or
6 supervision:

7 "a. Being subject to the requirement of compulsory
8 school attendance, is habitually truant from school as defined
9 by the State Board of Education in the Alabama Administrative
10 Code. Notwithstanding the foregoing, a child shall not be
11 found in need of supervision pursuant to this subdivision if
12 ~~the juvenile court determines that the parent, legal guardian,~~
13 ~~or legal custodian of the child was solely responsible for the~~
14 ~~nonattendance of the child.~~ either of the following occur:

15 "1. The juvenile court determines that the parent,
16 legal guardian, or legal custodian of the child was solely
17 responsible for the nonattendance of the child.

18 "2. The school did not make reasonable efforts to
19 engage the child in an early warning truancy prevention
20 program in the school or at home prior to filing a complaint.

21 "b. Disobeys the reasonable and lawful demands of
22 his or her parent, legal guardian, or legal custodian and is
23 beyond the control of the parent, legal guardian, or legal
24 custodian.

25 "c. Leaves, or remains away from, the home without
26 the permission of the parent, legal guardian, legal custodian,
27 or person with whom he or she resides.

1 "d. Commits an offense established by law but not
2 classified as criminal.

3 "(5) CHILD'S ATTORNEY. A licensed attorney who
4 provides legal services for a child, or for a minor in a
5 mental commitment proceeding, and who owes the same duties of
6 undivided loyalty, confidentiality, and competent
7 representation to the child or minor as is due an adult
8 client.

9 "(6) DELINQUENT ACT. An act committed by a child
10 that is designated a violation, misdemeanor, or felony offense
11 pursuant to the law of the municipality, county, or state in
12 which the act was committed or pursuant to federal law. This
13 term shall not apply to any of the following:

14 "a. An offense listed in Section 12-15-204 when
15 committed by a child 16 or 17 years of age ~~as follows:~~.

16 ~~"1. b.~~ A nonfelony traffic offense or water safety
17 offense other than one charged pursuant to Section 32-5A-191
18 or 32-5A-191.3 or a municipal ordinance prohibiting the same
19 conduct.

20 ~~"2. A capital offense.~~

21 ~~"3. A Class A felony.~~

22 ~~"4. A felony which has as an element the use of a~~
23 ~~deadly weapon.~~

24 ~~"5. A felony which has as an element the causing of~~
25 ~~death or serious physical injury.~~

1 ~~"6. A felony which has as an element the use of a~~
2 ~~dangerous instrument against any person who is one of the~~
3 ~~following:~~

4 ~~"(i) A law enforcement officer or official.~~

5 ~~"(ii) A correctional officer or official.~~

6 ~~"(iii) A parole or probation officer or official.~~

7 ~~"(iv) A juvenile court probation officer or~~
8 ~~official.~~

9 ~~"(v) A district attorney or other prosecuting~~
10 ~~officer or official.~~

11 ~~"(vi) A judge or judicial official.~~

12 ~~"(vii) A court officer or official.~~

13 ~~"(viii) A person who is a grand juror, juror, or~~
14 ~~witness in any legal proceeding of whatever nature when the~~
15 ~~offense stems from, is caused by, or is related to the role of~~
16 ~~the person as a juror, grand juror, or witness.~~

17 ~~"(ix) A teacher, principal, or employee of the~~
18 ~~public education system of Alabama.~~

19 ~~"7. Trafficking in drugs in violation of Section~~
20 ~~13A-12-231, or as the same may be amended.~~

21 ~~"8. Any lesser included offense of the offenses in~~
22 ~~subparagraphs 1 to 7, inclusive, charged or any lesser felony~~
23 ~~offense charged arising from the same facts and circumstances~~
24 ~~and committed at the same time as the offenses listed in~~
25 ~~subparagraphs 1 to 7, inclusive.~~

1 ~~"b.~~ c. Any criminal act, offense, or violation
2 committed by a child under the age of 18 years who has been
3 previously convicted or adjudicated a youthful offender.

4 "(7) DELINQUENT CHILD. A child who has been
5 adjudicated for a delinquent act and is in need of care or
6 rehabilitation.

7 "(8) DEPENDENT CHILD. a. A child who has been
8 adjudicated dependent by a juvenile court and is in need of
9 care or supervision and meets any of the following
10 circumstances:

11 "1. Whose parent, legal guardian, legal custodian,
12 or other custodian subjects the child or any other child in
13 the household to abuse, as defined in subdivision (2) of
14 Section 12-15-301 or neglect as defined in subdivision (4) of
15 Section 12-15-301, or allows the child to be so subjected.

16 "2. Who is without a parent, legal guardian, or
17 legal custodian willing and able to provide for the care,
18 support, or education of the child.

19 "3. Whose parent, legal guardian, legal custodian,
20 or other custodian neglects or refuses, when able to do so or
21 when the service is offered without charge, to provide or
22 allow medical, surgical, or other care necessary for the
23 health or well-being of the child.

24 "4. Whose parent, legal guardian, legal custodian,
25 or other custodian fails, refuses, or neglects to send the
26 child to school in accordance with the terms of the compulsory
27 school attendance laws of this state.

1 "5. Whose parent, legal guardian, legal custodian,
2 or other custodian has abandoned the child, as defined in
3 subdivision (1) of Section 12-15-301.

4 "6. Whose parent, legal guardian, legal custodian,
5 or other custodian is unable or unwilling to discharge his or
6 her responsibilities to and for the child.

7 "7. Who has been placed for care or adoption in
8 violation of the law.

9 "8. Who, for any other cause, is in need of the care
10 and protection of the state.

11 "b. The commission of one or more status offenses as
12 defined in subdivision (4) of Section 12-15-201 is not a
13 sufficient basis for an adjudication of dependency.

14 "(9) DETENTION. The temporary placement of children
15 alleged or adjudicated to be delinquent in secure custody as
16 defined herein pending juvenile court disposition or transfer
17 to a residential facility for further care of a child
18 adjudicated delinquent.

19 "(10) GUARDIAN AD LITEM. A licensed attorney
20 appointed by a juvenile court to protect the best interests of
21 an individual without being bound by the expressed wishes of
22 that individual.

23 "(11) INTAKE OFFICER. A juvenile probation officer
24 or an employee of the judicial branch of government, who is
25 neutral and detached from executive and legislative branch
26 activities, designated by the juvenile court judge to initiate
27 original delinquency, dependency, and child in need of

1 supervision cases, as well as cases designated in Section
2 12-15-132 before the juvenile court. The juvenile court intake
3 officer shall be appointed a magistrate pursuant to Rule 18,
4 Alabama Rules of Judicial Administration, to issue warrants of
5 arrest for individuals 18 years of age or older committing
6 criminal offenses under the jurisdiction of the juvenile
7 court.

8 "(12) JUVENILE COURT. The juvenile or family court
9 division of the circuit or district court having jurisdiction
10 over matters as provided by this chapter.

11 "(13) JUVENILE DETENTION FACILITY. Any facility
12 owned or operated by the state, any county, or other legal
13 entity licensed by and contracted with the Department of Youth
14 Services for the detention of children.

15 "(14) LAW ENFORCEMENT OFFICER. Any person, however
16 denominated, who is authorized by law to exercise the police
17 powers of the state, a county, or local governments.

18 "(15) LEGAL CUSTODIAN. A parent, person, agency, or
19 department to whom legal custody of a child under the
20 jurisdiction of the juvenile court pursuant to this chapter
21 has been awarded by order of the juvenile court or other court
22 of competent jurisdiction.

23 "(16) LEGAL CUSTODY. A legal status created by order
24 of the juvenile court which vests in a legal custodian the
25 right to have physical custody of a child under the
26 jurisdiction of the juvenile court pursuant to this chapter
27 and the right and duty to protect, train, and discipline the

1 child and to provide the child with food, shelter, clothing,
2 education, and medical care, all subject to the powers,
3 rights, duties, and responsibilities of the legal guardian of
4 the person of the child and subject to any residual parental
5 rights and responsibilities. A parent, person, agency, or
6 department granted legal custody shall exercise the rights and
7 responsibilities personally, unless otherwise restricted by
8 the juvenile court.

9 "(17) LEGAL GUARDIAN. A person who has been
10 appointed by a probate court pursuant to the Alabama Uniform
11 Guardianship and Protective Proceedings Act, Chapter 2A
12 (commencing with Section 26-2A-1) of Title 26 to be a guardian
13 of a person under 19 years of age who has not otherwise had
14 the disabilities of minority removed. This term does not
15 include a guardian ad litem as defined in this section.

16 "(18) MINOR. An individual who is under the age of
17 19 years and who is not a child within the meaning of this
18 chapter.

19 "(19) PARENT. The legal mother or the legal father
20 of a child under the jurisdiction of the juvenile court
21 pursuant to this chapter.

22 "(20) PICK-UP ORDER. In any case before the juvenile
23 court, an order directing any law enforcement officer or other
24 person authorized by this chapter to take a child into custody
25 and to deliver the child to a place of detention, shelter, or
26 other care designated by the juvenile court.

1 "(21) PROBATION. The legal status created by order
2 of the juvenile court following an adjudication of delinquency
3 or in need of supervision whereby a child is permitted to
4 remain in a community subject to supervision and return to the
5 juvenile court for violation of probation at any time during
6 the period of probation.

7 "(22) RESIDENTIAL FACILITY. A dwelling, other than a
8 detention or shelter care facility, providing living
9 accommodations, care, treatment, and maintenance for children,
10 including, but not limited to, institutions, foster family
11 homes, group homes, half-way houses, and forestry camps
12 operated, accredited, or licensed by a federal or state
13 department or agency.

14 "(23) RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES.
15 Those rights and responsibilities remaining with a parent
16 after a transfer of legal custody of a child under the
17 jurisdiction of the juvenile court pursuant to this chapter,
18 including, but not necessarily limited to, the right of
19 visitation, the right to withhold consent to adoption, the
20 right to determine religious affiliation, and the
21 responsibility for support, unless determined by order of the
22 juvenile court not to be in the best interests of the child.

23 "(24) SECURE CUSTODY. As used with regard to
24 juvenile detention facilities and the Department of Youth
25 Services, this term means residential facilities with
26 construction features designed to physically restrict the
27 movements and activities of persons in custody such as locked

1 rooms and buildings, including rooms and buildings that
2 contain alarm devices that prevent departure; fences; or other
3 physical structures. This term does not include facilities
4 where physical restriction of movement or activity is provided
5 solely through facility staff.

6 "(25) SHELTER CARE. The temporary care of children
7 in group homes, foster care, relative placement, or other
8 nonpenal facilities.

9 "§12-15-107.

10 "(a) For the purpose of carrying out the objectives
11 and purposes of this chapter and subject to the limitations of
12 this chapter or imposed by the juvenile court, a juvenile
13 probation officer shall perform the following duties:

14 "(1) Make investigations, reports, and
15 recommendations to the juvenile court.

16 "(2) Serve as a juvenile court intake officer when
17 designated by the juvenile court judge.

18 "(3) Supervise and assist a child placed on
19 probation or aftercare by order of the juvenile court or other
20 authority of law until the terms of probation or aftercare
21 expire or are otherwise terminated.

22 "(4) Make appropriate referrals to other private or
23 public departments or agencies of the community if their
24 assistance appears to be needed or desirable.

25 "(5) Make predisposition studies and submit reports
26 and recommendations to the juvenile court as required by this
27 chapter.

1 "(6) Collect and compile statistical data and file
2 reports as may be required by the Administrative Director of
3 Courts pursuant to subdivision (1) of Section 12-5-10. The
4 reports may include, but shall not be limited to, statistical
5 data, case studies, and research materials.

6 "(7) Notify the state and either the parent, legal
7 guardian, or legal custodian of a juvenile sex offender, or
8 the child's attorney for the juvenile sex offender, of the
9 pending release of the juvenile sex offender and provide them
10 with a copy of the risk assessment pursuant to subsection (c)
11 of Section 15-20A-26.

12 "(8) Perform other functions as are designated by
13 this chapter or directed by the juvenile court.

14 ~~"(b) For the purposes of this chapter, a juvenile~~
15 ~~probation officer with the approval of the juvenile court,~~
16 ~~shall have the power to take into custody and place in shelter~~
17 ~~or detention, subject to Section 12-15-208, a child who is on~~
18 ~~probation or aftercare under his or her supervision when the~~
19 ~~juvenile probation officer has~~ A juvenile probation officer
20 may request an order for a law enforcement officer or other
21 authorized person to take a child into custody and place the
22 child in shelter or detention when the juvenile probation
23 officer has reasonable cause to believe that the child has
24 violated the conditions of his or her probation or aftercare,
25 or that he or she may flee from the jurisdiction of the
26 juvenile court. A juvenile probation officer does not have the
27 powers of a law enforcement officer.

1 "§12-15-119.

2 "(a) After a verified complaint has been filed and
3 before a petition alleging delinquency or in need of
4 supervision is filed, the juvenile court intake officer,
5 subject to the direction of the juvenile court, may shall
6 offer give counsel and advice to the parties child for the
7 purpose of an informal adjustment pursuant to rules of
8 procedure adopted by the Supreme Court of Alabama. if both of
9 the following are satisfied and the complaint does not allege
10 that the child has committed a sex offense, or that the child
11 has committed a delinquent act where restitution is owed to
12 the victim:

13 "(1) The complaint alleges that the child has either
14 committed a misdemeanor not involving a deadly weapon as
15 defined in Section 13A-1-2 or is a child in need of
16 supervision.

17 "(2) The child has no prior adjudications of
18 delinquency or as a child in need of supervision.

19 "(b) The juvenile court intake officer may offer an
20 information adjustment to any other child.

21 "(c) The juvenile court intake officer shall not
22 assess or collect a fine, fee, or other financial obligation
23 as part of an informal adjustment.

24 "§12-15-120.

25 "(a) Delinquency, child in need of supervision, and
26 dependency cases and proceedings pursuant to Section 12-15-132
27 before the juvenile court shall be initiated by the filing of

1 a petition by the juvenile court intake officer who shall
2 receive verified complaints and proceed thereon pursuant to
3 rules of procedure adopted by the Supreme Court of Alabama.

4 "(b) A petition alleging that a child is a
5 delinquent child, dependent child, or a child in need of
6 supervision shall not be filed by a juvenile court intake
7 officer unless the juvenile court intake officer has
8 determined and endorsed upon the petition that ~~the juvenile~~
9 ~~court has subject matter jurisdiction and venue over the case~~
10 ~~and that the filing of the petition is in the best interests~~
11 ~~of the public and the child.~~ all of the following are
12 satisfied:

13 "(1) The juvenile court has subject matter
14 jurisdiction and venue over the case.

15 "(2) The child does not meet the informal adjustment
16 criteria defined in subsection (a) of Section 12-15-119 or the
17 child has rejected an offer of informal adjustment.

18 "(3) The filing of the petition is in the best
19 interests of the public and the child.

20 "(c) A petition alleging that a child is in need of
21 supervision for habitual truancy shall not be filed unless a
22 representative of the school has provided written
23 documentation to the intake officer that the school made
24 reasonable efforts to engage the child in an early warning
25 truancy prevention program.

26 "(d) Absent serious threats to school safety or
27 emergency circumstances, or a child committing a delinquent

1 act, when a petition is filed based upon acts committed on
2 school grounds during the school day, information shall be
3 included in the petition which shows all of the following:

4 "(1) The steps the school has taken to resolve the
5 expressed problem through available educational approaches.

6 "(2) That the school has sought to engage the
7 parents or guardian in solving the problem but they have been
8 unwilling or unable to do so.

9 "(3) That the child has not responded to such
10 approaches and continues to engage in offending behavior.

11 "(4) That court intervention is needed.

12 "§12-15-126.

13 "If it appears from a sworn statement, written or
14 verbal, presented to the juvenile court that a child needs to
15 be placed in detention or shelter or other care, pursuant to
16 the criteria provided in Section 12-15-128, the juvenile court
17 may issue a pick-up order that a law enforcement officer or
18 other person authorized by this chapter shall at once take the
19 child into custody and take him or her to the place of
20 detention or shelter or other care designated by the juvenile
21 court.

22 "§12-15-127.

23 "(a) A person taking a child into custody without an
24 order of the juvenile court shall, with all possible speed,
25 and in accordance with this chapter and the rules of court
26 pursuant thereto:

1 "(1) Release the child to the parents, legal
2 guardian, or legal custodian of the child or other suitable
3 person able to provide supervision and care for the child and
4 issue verbal counsel and warning as may be appropriate.

5 "(2) Release the child to the parents, legal
6 guardian, or legal custodian of the child upon his or her
7 promise to bring the child before the juvenile court when
8 requested, unless the placement of the child in detention or
9 shelter care appears required pursuant to the criteria
10 provided in Section 12-15-128. If a parent, legal guardian, or
11 other legal custodian fails, when requested, to bring the
12 child before the juvenile court as provided in this section,
13 the juvenile court may issue an order directing that the child
14 be taken into custody and brought before the juvenile court,
15 in accordance with subsection (b).

16 "(3) Bring the child, if not released, to the place
17 designated by the juvenile court and give written notice of
18 the action taken and the reasons for taking the child into
19 custody to the juvenile court intake officer, to the parent,
20 legal guardian, or other legal custodian of the child, and, in
21 the case of dependency, to the Department of Human Resources.

22 "(b) Prior to authorizing the admission of the child
23 to detention, shelter, or other care, the juvenile court
24 intake officer, on an allegation of delinquency or in need of
25 supervision or of dependency, shall administer a detention
26 risk assessment tool to any child who is under consideration
27 for placement in detention, developed pursuant to Section 2 of

1 the act adding this amendatory language, and review the need
2 for detention or shelter care, including reviewing the written
3 notice of the person who took the child into custody without
4 an order of the juvenile court and the results of the
5 detention risk assessment tool, and shall direct the law
6 enforcement officer or other person currently having the child
7 in custody to release the child unless detention or shelter
8 care is required pursuant to Section 12-15-128. The juvenile
9 court intake officer may allow release with or without
10 electronic or telephone monitoring pending the 72-hour hearing
11 requirement.

12 "(c) A person taking a child or minor into custody
13 pursuant to subdivision (3) of subsection (a) of Section
14 12-15-125 shall bring the child or minor to a medical or
15 mental health facility if the child or minor is believed to be
16 suffering from a serious mental health condition, illness, or
17 injury which requires either prompt treatment or prompt
18 diagnosis for the welfare of the child or minor or for
19 evidentiary purposes, and, in the most expeditious manner
20 possible, give notice of the action taken together with a
21 statement of taking the child or minor into custody in writing
22 to the court, the parents, legal guardian or other legal
23 custodian and to the intake office and to the Department of
24 Human Resources in the case of a dependency allegation.

25 "§12-15-128.

26 "(a) An allegedly delinquent child, dependent child,
27 or child in need of supervision lawfully taken into custody

1 shall immediately be released, upon the ascertainment of the
2 necessary facts and in a case of a child alleged to be
3 delinquent and where detention is being considered, upon
4 consideration of the statewide detention risk assessment tool,
5 developed pursuant to Section 2 of the act adding this
6 amendatory language, to the care, custody, and control of the
7 parent, legal guardian, or legal custodian of the child or
8 other suitable person able to provide supervision and care for
9 the child, unless the juvenile court or juvenile court intake
10 officer, subject to the limitations in Section 12-15-208,
11 finds any of the following:

12 "(1) The child has no parent, legal guardian, legal
13 custodian, or other suitable person able to provide
14 supervision and care for the child.

15 "(2) The release of the child would present a clear
16 and substantial threat of a serious nature to the person or
17 property of others and where the child is alleged to be
18 delinquent.

19 "(3) The release of the child would present a
20 serious threat of substantial harm to the child.

21 "(4) The child ~~has a history~~ is at risk of failing
22 to appear at a future court hearing based upon a recent record
23 of failing to appear for hearings before the juvenile court.

24 "(5) The child is alleged to be delinquent for
25 possessing a pistol, short-barreled rifle, or short-barreled
26 shotgun, in which case the child may be detained in a juvenile
27 detention facility until the hearing required by Section

1 12-15-207. Pistol as used in this section shall be as defined
2 in subdivision (1) of Section 13A-11-70. Short-barreled rifle
3 and short-barreled shotgun as used in this section shall be as
4 defined in Section 13A-11-62.

5 "(b) Detention shall not be used as a result of a
6 parent, legal guardian, or legal custodian avoiding his or her
7 legal responsibility to provide supervision and care for the
8 child.

9 "(c) A child alleged to be in need of supervision
10 shall not be placed in detention except pursuant to Section
11 12-15-208.

12 "(d) The length of stay in detention
13 pre-adjudication may not exceed 30 days, except in those cases
14 where a motion has been filed pursuant to Section 12-15-203 to
15 transfer the case to adult court or upon extension granted by
16 the court where the child could be considered a serious
17 juvenile offender pursuant to Section 12-15-219, if the child
18 is alleged to have caused death or serious physical injury to
19 another person, or if there is a substantial and compelling
20 reason justifying an extension. If the court finds a
21 substantial and compelling reason justifying an extension, the
22 court shall enter an order of specific findings for the
23 extension.

24 ~~"(b)"~~ (e) The criteria for continuing the allegedly
25 delinquent child or child in need of supervision in detention
26 or shelter or other care, or for continuing the allegedly
27 dependent child in shelter or other care, as set forth in

1 subsection (a) shall govern the decisions of all persons
2 involved in determining whether the continued detention or
3 shelter care is warranted pending juvenile court disposition
4 and those criteria shall be supported by clear and convincing
5 evidence in support of the decision not to release the child.

6 "~~(c)~~ (f) In releasing a child, a juvenile court or
7 the juvenile court intake officer may impose restrictions on
8 the travel, association, or place of abode of the child or
9 place the child under the supervision of a department, agency,
10 or organization agreeing to supervise him or her, and may
11 place the child under supervision such as electronic or
12 telephone monitoring, if available. A child, once placed in
13 detention, may also be released pursuant to the same
14 conditions should there be a need to release the child from a
15 juvenile detention facility because of an overcrowded
16 population.

17 "§12-15-132.

18 "(a) A child on probation or aftercare incident to
19 an adjudication as a delinquent child or a child in need of
20 supervision who violates the terms of his or her probation or
21 aftercare may be proceeded against for a revocation of the
22 order.

23 "(b) A proceeding to revoke probation or aftercare
24 shall be commenced by the filing of a petition entitled
25 "petition to revoke probation" or "petition to revoke
26 aftercare." Except as otherwise provided, these petitions
27 shall be screened, reviewed, and prepared in the same manner

1 and shall contain the same information as provided in Sections
2 12-15-120 and 12-15-121. The petition shall recite the date
3 that the child was placed on probation or aftercare and shall
4 state the time and manner in which notice of the terms of
5 probation or aftercare was given.

6 "(c) Probation or aftercare revocation proceedings
7 shall require clear and convincing evidence. In all other
8 respects, proceedings to revoke probation or aftercare shall
9 be governed by the procedures, safeguards, and rights and
10 duties applicable to delinquency and child in need of
11 supervision cases contained in this chapter.

12 "(d) If a child is found to have violated the terms
13 of his or her probation or aftercare pursuant to a revocation
14 hearing, the juvenile court may extend the period of probation
15 or aftercare or make any other order of disposition specified
16 for a child adjudicated delinquent or in need of supervision
17 pursuant to the limitations of Section 12-15-215.

18 "(e) A violation of probation for a child in need of
19 supervision is not an adjudication of delinquency.

20 "§12-15-207.

21 "(a) When a child is not released from detention or
22 shelter care as provided in Section 12-15-127, a petition
23 shall be filed and a hearing held within 72 hours of placement
24 in detention or shelter care, Saturdays, Sundays, and holidays
25 included, to determine probable cause and to determine whether
26 or not continued detention or shelter care is required.

1 "(b) Notice of the detention or shelter care
2 hearing, either verbal or written, stating the date, time,
3 place, and purpose of the hearing and the right to counsel
4 shall be given by a juvenile probation officer to the parent,
5 legal guardian, or legal custodian if they can be found and to
6 the child if the child is over 12 years of age.

7 "(c) At the commencement of the detention or shelter
8 care hearing, the juvenile court shall advise the parent,
9 legal guardian, legal custodian, and the parties of the right
10 to counsel and shall appoint counsel if the juvenile court
11 determines they are indigent. The parties shall be informed of
12 the right of the child to remain silent. The parent, legal
13 guardian, legal custodian, and the parties shall also be
14 informed of the contents of the petition and, except as
15 provided herein, shall be given an opportunity to admit or
16 deny the allegations of the petition. Prior to the acceptance
17 of an admission of the allegations of the petition, the
18 juvenile court shall: (1) Verify if the child was previously
19 convicted or adjudicated a youthful offender pursuant to
20 Section 12-15-203 or (2) rule on any motion of the prosecutor
21 requesting the juvenile court to transfer the child for
22 criminal prosecution. The juvenile court shall not accept a
23 plea of guilt or an admission to the allegations of the
24 petition in any case in which the child will be transferred
25 for prosecution as an adult, either by grant of the motion of
26 the prosecutor to transfer or pursuant to Section 12-15-203.

1 "(d) All relevant and material evidence helpful in
2 determining the need for detention or shelter care may be
3 admitted by the juvenile court even though not admissible in
4 subsequent hearings, including the results of a detention risk
5 assessment.

6 "(e) If the child is not released and no parent,
7 legal guardian, or other legal custodian has been notified and
8 none appeared or waived appearance at the hearing, upon the
9 filing of an affidavit by the parent, legal guardian, or legal
10 custodian stating these facts and requesting a hearing, the
11 juvenile court shall rehear the matter within 24 hours

12 "(f) If a person 18 years of age or older is alleged
13 to have violated a condition of probation or aftercare after
14 the person was adjudicated to be delinquent, and that person
15 is eligible for detention, the juvenile court may order that
16 the person be confined in the appropriate jail or lockup for
17 adults as ordered by the juvenile court pursuant to the
18 criteria listed in Section 12-15-208.

19 "(g) Video conferencing shall follow the procedures
20 set out by the Supreme Court and may be used to conduct a
21 detention hearing unless one or more party objects and the
22 court finds good cause to hold the hearing in person.

23 "§12-15-209.

24 "(a) When the juvenile court finds that full-time
25 detention or shelter care of a child is not required, the
26 juvenile court shall order the release of the child, and in so
27 doing, may impose one or more of the following conditions:

1 "(1) Place the child in the custody of a parent,
2 legal guardian, legal custodian, or any other person whom the
3 juvenile court deems proper, or place the child with a
4 department, agency, or organization agreeing to supervise the
5 child.

6 "(2) Place restrictions on the travel, association,
7 or place of abode of the child during the period of his or her
8 release, or place the child under electronic or telephone
9 monitoring, if available.

10 "(3) Impose any other condition deemed reasonably
11 necessary and consistent with the criteria for detaining
12 children specified in Section 12-15-128, ~~including~~ other than
13 a condition requiring that the child return to custody ~~as~~
14 ~~required~~ of the Department of Youth Services; provided
15 however, a child may be placed in a residential facility
16 funded by the Department of Youth Services or another
17 residential facility subject to the provisions of law.

18 "(b) An order releasing a child on any conditions
19 specified in subsection (a) may at any time be amended to
20 impose additional or different conditions of release or to
21 return the child to custody for failure to conform to the
22 conditions originally imposed.

23 "§12-15-211.

24 "(a) The juvenile court may suspend delinquency or
25 child in need of supervision proceedings pursuant to a consent
26 decree. The terms and conditions of the consent decree shall
27 be agreed to by the child and his or her parent, legal

1 guardian, or legal custodian. The consent decree shall be
2 entered at any time after the filing of a delinquency or child
3 in need of supervision petition and before the entry of an
4 adjudication order. The child and his or her parent, legal
5 guardian, or legal custodian shall be advised of their rights,
6 including the right to counsel.

7 "(b) Where an objection is made by the prosecutor,
8 the juvenile court, after considering the objection and the
9 reasons therefor, shall proceed to determine whether it is
10 appropriate to enter a consent decree.

11 "(c) A consent decree shall remain in force for six
12 months unless the child is discharged sooner by the juvenile
13 court. Upon application of a juvenile probation officer or
14 other department or agency supervising the child, made before
15 the expiration of the six-month period, a consent decree may
16 be extended by the juvenile court for an additional six
17 months.

18 "(d) If prior to discharge by the juvenile probation
19 officer or expiration of the consent decree, a new delinquency
20 or child in need of supervision petition is filed against the
21 child, or the child otherwise fails to fulfill express terms
22 and conditions of the decree, the petition under which the
23 child was continued under supervision may be reinstated after
24 a hearing and the case may proceed to adjudication.

25 "(e) Upon satisfaction by the child of the
26 conditions of the consent decree or upon the child being

1 otherwise discharged by the juvenile court, the petition shall
2 be dismissed with prejudice.

3 "(f) No fine, fee, or court cost shall be assessed
4 against a child as part of a consent decree; however, a fee,
5 including supervision fees, may be assessed against parents.
6 ~~Nothing in this subsection should be construed as prohibiting~~
7 ~~the assessment of supervision fees.~~

8 "(g) (1) The juvenile court shall retain jurisdiction
9 over an individual of any age for the enforcement of any prior
10 orders of the juvenile court requiring the payment of court
11 costs, restitution, or other money ordered by the juvenile
12 court until paid in full.

13 (2) Provided, however, for orders entered following
14 the effective date of this act, a court may not extend the
15 period of probation or aftercare for non-payment of fines,
16 fees, court costs, or restitution, including those assessed
17 against a parent.

18 "§12-15-215.

19 "(a) If the juvenile court finds on proof beyond a
20 reasonable doubt, based upon competent, material, and relevant
21 evidence, that a child committed the acts by reason of which
22 the child is alleged to be delinquent or in need of
23 supervision, it may proceed immediately to hear evidence as to
24 whether the child is in need of care or rehabilitation and to
25 file its findings thereon. In the absence of evidence to the
26 contrary, a finding that the child has committed an act which
27 constitutes a felony is sufficient to sustain a finding that

1 the child is in need of care or rehabilitation. If the
2 juvenile court finds that the child is not in need of care or
3 rehabilitation, it shall dismiss the proceedings and discharge
4 the child from any detention or other temporary care
5 theretofore ordered. If the juvenile court finds that the
6 child is in need of care or rehabilitation, it may make any of
7 the following orders or dispositions, subject to the
8 limitations and prohibitions of this section, and the
9 limitations on secure custody or placement in the custody of
10 the Department of Youth Services contained in Section
11 12-15-208 and Section 12-15-132:

12 "(1) Permit the child to remain with the parent,
13 legal guardian, or other legal custodian of the child, subject
14 to the conditions and limitations the juvenile court may
15 prescribe in accordance with this section.

16 "(2) Place the child on probation pursuant to
17 conditions and limitations the juvenile court may prescribe in
18 accordance with this section.

19 "(3) Transfer legal and physical custody to any of
20 the following:

21 "a. The Department of Youth Services, ~~with or~~
22 ~~without an order to a specific institution~~.

23 "1. A child shall be eligible for placement with the
24 department only upon adjudication under this section for
25 either of the following:

26 "(i) A Class A, B, or C felony.

27 "(ii) A. A Class D felony or a misdemeanor; and

1 "B. The child has at least three prior felony or
2 misdemeanor adjudications arising from separate incidents.

3 "(iii) If a child is not eligible for placement with
4 the department, the child may be placed in another residential
5 facility as provided by law.

6 "2. The court may order specific conditions that the
7 child must complete prior to release from custody of the
8 department, provided the condition does not extend treatment,
9 as approved by the department.

10 "3. The court may not order a determinate sentence
11 for a child committed to custody of the department, except
12 upon a finding that the child is a serious juvenile offender
13 pursuant to Section 12-15-219 or has caused the death of
14 another person.

15 4. Once a risk assessment has become available
16 pursuant to Section 9 of the act adding this amendatory
17 language, a court shall consider the contents and
18 recommendations of the risk and needs assessment prior to
19 placing any eligible child in the custody of the Department of
20 Youth Services. If the risk assessment recommends against
21 placement in the custody of the Department of Youth Services,
22 a court may only make the placement if accompanied by express
23 findings as to why placement is in the best interest of the
24 child or the community.

25 "b. In the case of a child in need of supervision,
26 ~~the Department of Youth Services, or~~ the Department of Human
27 Resources; provided however 1. that prior to any transfer of

1 custody to the Department of Human Resources, the case shall
2 first be referred to the county children's services
3 facilitation team, which must proceed according to Article 5;
4 and 2. that the child's commission of one or more status
5 offenses shall not constitute a sufficient basis for transfer
6 of legal or physical custody to the Department of Human
7 Resources. Upon referral to the county children's services
8 facilitation team, the juvenile probation officer shall
9 continue to provide case management to the status offender
10 unless the county children's services facilitation team
11 appoints another person to act as case manager. The juvenile
12 probation officer shall participate in county children's
13 services facilitation team meetings and share records
14 information and reports on the status offender with the county
15 children's services facilitation team. When the juvenile court
16 transfers legal and physical custody to the Department of
17 Human Resources, all requirements which shall be met for a
18 child to be eligible for federal funding shall apply,
19 including, but not limited to, the requirements set out in
20 Sections 12-15-312, 12-15-315, and 12-15-317.

21 "c. A local, public, or private agency,
22 organization, or facility willing and able to assume the
23 education, care, and maintenance of the child and which is
24 licensed or otherwise authorized by law to receive and provide
25 care for children.

1 "d. During the term of supervision, a relative or
2 other individual who is found by the juvenile court to be
3 qualified to receive and care for the child.

4 "(4) Make any other order as the juvenile court in
5 its discretion shall deem to be for the welfare and best
6 interests of the child after consideration of the results of a
7 validated risk and needs assessment, including random drug
8 screens, ~~assessment of fines not to exceed two hundred fifty~~
9 ~~dollars (\$250)~~, and restitution against the parent, ~~legal~~
10 ~~guardian, legal custodian, or child~~, as the juvenile court
11 deems appropriate. Costs for juvenile court-ordered drug
12 screening may not be ordered against the child, but may be
13 ordered against the parents, or may be ordered paid for by the
14 state out of moneys appropriated as "court costs not otherwise
15 provided for." Restitution against the parent, ~~legal guardian,~~
16 ~~legal custodian, or child~~ shall be governed by the same
17 principles applicable in the Restitution to Victims of Crime
18 Act, commencing with Section 15-18-65, and restitution ordered
19 against the parents shall be limited to five thousand dollars
20 (\$5,000) collectively, except that restitution may only be
21 assessed for material loss, which means uninsured property
22 loss, uninsured out-of-pocket monetary loss, uninsured lost
23 wages, and uninsured medical expenses, and restitution may be
24 assessed for the cost of the victim's deductible.

25 "(5) Direct the parent, legal guardian, or legal
26 custodian of the child to perform reasonable acts as are
27 deemed necessary to promote the best interests of the child.

1 "(6) In any case where a child is adjudicated
2 delinquent for possessing a pistol, short-barreled rifle, or
3 short-barreled shotgun, any pistol, short-barreled rifle, or
4 short-barreled shotgun possessed by that child is forfeited
5 and shall be ordered to be destroyed by the juvenile court.

6 "(b) No child by virtue of a disposition pursuant to
7 this section shall be committed or transferred to a penal
8 institution or other facility used for the execution of
9 sentences of persons convicted of a crime.

10 "(c) No child in need of supervision, unless also a
11 delinquent child, shall be ordered to be placed in an
12 institution or facility established for the care and
13 rehabilitation of delinquent children ~~unless the juvenile~~
14 ~~probation officer submits a written recommendation and the~~
15 ~~juvenile court finds upon a further hearing that the child is~~
16 ~~not amenable to treatment or rehabilitation pursuant to any~~
17 ~~prior disposition.~~

18 ~~"In determining if a child is not amenable to~~
19 ~~treatment or rehabilitation, the juvenile court shall consider~~
20 ~~evidence of the following and other relevant factors:~~

21 ~~"(1) Prior treatment efforts, such as, but not~~
22 ~~limited to:~~

23 ~~"a. Mental health counseling, if any.~~

24 ~~"b. Individualized educational plans, if any.~~

25 ~~"c. Other educational records.~~

26 ~~"d. Individualized service plans, if any.~~

27 ~~"(2) The age of the child.~~

1 ~~"(3) The history of the child being involved with~~
2 ~~the juvenile court, including, but not limited to, informal~~
3 ~~adjustments, consent decrees, adjudications, and prior~~
4 ~~placements.~~

5 ~~"(4) Other factors contributing to the behavioral~~
6 ~~difficulties of the child.~~

7 ~~"The written recommendations of the juvenile~~
8 ~~probation officer shall include evidence of the foregoing and~~
9 ~~other relevant factors.~~

10 "(d) When a delinquent child may be committable to
11 the Department of Mental Health, the juvenile court shall
12 proceed as provided in Article 4, commencing with Section
13 12-15-401.

14 "(e) Whenever the juvenile court vests legal custody
15 in an agency or department, it shall transmit with the order
16 copies of the clinical reports, predisposition study, and
17 other information it has pertinent to the care and treatment
18 of the child.

19 "(f) When a child is placed in the legal custody of
20 a department, agency, organization, entity, or person as
21 provided in this section, when the parent, legal guardian, or
22 legal custodian of the child has resources for child support,
23 the juvenile court shall order child support in conformity
24 with the child support guidelines as set out in Rule 32,
25 Alabama Rules of Judicial Administration. The child support
26 shall be paid to the department, agency, organization, entity,
27 or person in whose legal custody the child is placed and may

1 be expended for those matters that are necessary for the
2 welfare and well-being of those children placed in the
3 departments, agencies, organizations, entities, or persons. In
4 these cases, the juvenile court shall issue income withholding
5 orders subject to state law.

6 "(g) (1) Whenever the juvenile court commits a child
7 to a state or local department or agency or orders a state or
8 local department or agency to provide services or treatment
9 for a child, that department or agency shall accept the child
10 for commitment, ordered services, or treatment within ~~seven~~
11 ~~days of the order of the juvenile court. Notwithstanding the~~
12 ~~foregoing, if compliance with the order of the juvenile court~~
13 ~~within seven days , including Section 44-1-24, would place a~~
14 ~~department or agency in violation of either a state statute or~~
15 ~~standard create a health or safety risk for the child or other~~
16 ~~children placed with the department or agency, then~~
17 ~~compliance is not required for a period of not more than 30~~
18 ~~days from notification. 10 days of transmittal of the order of~~
19 ~~the juvenile court. Notwithstanding the foregoing, if~~
20 ~~compliance with the order of the juvenile court within If the~~
21 ~~child remains at a juvenile detention facility after the~~
22 ~~expiration of 10 days from transmittal of the order of the~~
23 ~~juvenile court would place a department or agency in violation~~
24 ~~of either a state statute or standard, then compliance is not~~
25 ~~required, the county commission shall not be responsible for~~
26 ~~the cost of housing, medical care, or other expenses, and the~~
27 ~~state shall reimburse the facility for such costs, beginning~~

1 on the eleventh day; provided, however, that in no instance
2 shall any child be held in a juvenile detention facility for
3 more than a total of 30 days following the order of the
4 juvenile court.

5 (2) Notwithstanding subdivision (1), for juveniles
6 committed to the custody of the Department of Youth Services,
7 the juvenile probation officer shall electronically transfer
8 the risk assessment and social evaluation previously submitted
9 to the court to the department and the regional detention
10 facility where the juvenile is detained simultaneously with
11 the court order of the juvenile court. The department shall be
12 responsible for the cost of housing, medical care, and other
13 expenses for the juvenile following the tenth business day
14 after such receipt. The 10-day limit may be extended, with the
15 consent of the county commission and sheriff, to allow the
16 consolidation of transportation for two or more children being
17 transferred to the custody of the Department of Youth
18 Services.

19 "(h) The presumptive length of probation shall be
20 six months; however, such probation may be extended for a
21 judicial finding of good cause, subject to Sections
22 12-15-221(c).

23 "(i) The court may not order against any child any
24 fine, fee, or court cost; however, a fine, fee, or court cost
25 may be ordered against the parents.

26 "(j) The juvenile court may continue exercising its
27 jurisdiction over the child with respect to previously

1 disposed delinquency cases after the termination of its
2 jurisdiction with respect to other criminal charges, including
3 jurisdiction to enforce its order requiring the payment of
4 finances, costs, restitution, or other money ordered by the
5 juvenile court pursuant to Section 12-15-117.

6 "(k) Upon release from custody of the Department of
7 Youth Services, the court may place a child on aftercare
8 supervision, pursuant to Section 44-1-36, for up to six months
9 at a time, which term shall expire six months after entry of
10 the order beginning the aftercare unless renewed by court
11 order prior to that time, except that where the commitment was
12 for those offenses for which a child would be automatically
13 transferred pursuant to Section 12-15-204 if the child was 16
14 or 17 years old, the six-month limitation does not apply.

15 "(l) In issuing an order of probation pursuant to
16 subdivision (a)(2), the juvenile court shall only issue orders
17 that adhere to the following limitations:

18 "(1) Probation conditions shall only be ordered
19 after consideration of the results of a validated risk and
20 needs assessment pursuant to Section 9 of the act adding this
21 amendatory language.

22 "(2) The results of a validated risk and needs
23 assessment, pursuant to Section 9 of the act adding this
24 amendatory language and Section 12-15-221 shall be considered
25 prior to making any modifications of supervision conditions.

26 "(3)a. The court may not order that a child be
27 placed in secure custody or a residential facility upon

1 violation of probation or aftercare, unless the placement
2 would have been allowable under the original adjudication from
3 which the violation of probation or aftercare arose.

4 "b.1. Notwithstanding anything to the contrary in
5 this subdivision, the court, in addition to all other
6 sanctions, may order that a child be placed in detention upon
7 a violation of probation or aftercare of either an
8 adjudication of delinquency or child in need of supervision,
9 for the following time periods:

10 "(i) Up to 24 hours for a first violation.

11 "(ii) Up to 48 hours for a second or subsequent
12 violation.

13 "2. An order to detention under this paragraph may
14 be either a short-term detention facility or a regional or
15 county detention facility.

16 "(4) No person shall be ordered into placement in a
17 residential facility, detention, or jail for non-payment of
18 finest, fees, court costs, or restitution unless the court
19 finds by clear and convincing evidence that the person had the
20 ability to pay and willfully refused to do so.

21 "§12-15-221.

22 "(a) An order awarding legal custody or an order of
23 probation made by the juvenile court in the case of a child
24 may be modified, revoked, or extended on motion by:

25 "(1) A child, whose legal custody has been
26 transferred to a department, institution, agency, or person,
27 requesting the juvenile court for a modification or

1 termination of the order, alleging that the child is no longer
2 in need of placement or probation and the department,
3 institution, agency, or person has denied application for
4 release of the child or has failed to act upon the application
5 within a reasonable time; or

6 "(2) A department, institution, agency, or person
7 vested with legal custody or responsibility for probation,
8 requesting the juvenile court for a modification, an
9 extension, or a termination of the order on the grounds that
10 the action is in the best interests of the child or necessary
11 to safeguard the welfare of the child or the public interest.

12 "(b) The juvenile court may dismiss the motions
13 filed pursuant to subsection (a) if, after preliminary
14 investigation, it finds that they are without substance. If
15 the juvenile court is of the opinion that the order should be
16 reviewed, upon due notice to all necessary parties as
17 prescribed by rules of court, it may proceed to a hearing in
18 the same manner and under the same safeguards provided for in
19 this chapter for the issuance of the original order. It may
20 thereupon terminate the order if it finds the child is no
21 longer in need of care or rehabilitation or it may enter an
22 order extending or modifying the original order if it finds
23 this action necessary to safeguard the child or the public
24 interest.

25 "(c) The juvenile court shall only extend probation
26 or add additional conditions upon adjudication of a violation

1 of probation and consistent with the results of a validated
2 risks and needs assessment.

3 "§12-15-701.

4 "(a) For the purposes of this section, sexually
5 exploited child shall mean an individual under the age of 18
6 years who is under the jurisdiction of the juvenile court and
7 who has been subjected to sexual exploitation because he or
8 she is any of the following:

9 "(1) A victim of the crime of human trafficking
10 sexual servitude as provided in Section 13A-6-150, et seq.

11 "(2) Engaged in prostitution as provided in Section
12 13A-12-120 or 13A-12-121.

13 "(3) A victim of the crime of promoting prostitution
14 as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113.

15 "(b) A sexually exploited child may not be
16 adjudicated delinquent or convicted of a crime of prostitution
17 as provided in Section 13A-12-120 or 13A-12-121, or any
18 municipal ordinance prohibiting such acts.

19 "(c) In any proceeding based upon a child's arrest
20 for an act of prostitution, there is a presumption that the
21 child satisfies the definition of a sexually exploited child
22 as provided in this section.

23 "(d) If a law enforcement officer or a person seeks
24 to file a complaint against a child for an offense of
25 prostitution as provided in Section 13A-12-120 or 13A-12-121,
26 the juvenile court intake officer shall evaluate the complaint
27 to determine if the child is a sexually exploited child and

1 could have another complaint filed stating that the child is
2 alleged to be in need of supervision or alleged to be
3 dependent, and not a child alleged to be delinquent, pursuant
4 to Rule 12 of the Alabama Rules of Juvenile Procedure. A
5 juvenile probation officer who is designated to be a juvenile
6 court intake officer may determine if a child alleged to be in
7 need of supervision is appropriate for an informal adjustment
8 ~~pursuant to~~ subject to Section 12-15-119 and Rule 15 of the
9 Alabama Rules of Juvenile Procedure.

10 "(e) If a petition alleging that a sexually
11 exploited child is in need of supervision or is dependent is
12 filed, a sexually exploited child may be adjudicated a child
13 in need of supervision or a dependent child pursuant to
14 Section 12-15-102(4) and (8). Once the sexually exploited
15 child is adjudicated, the juvenile court shall retain
16 jurisdiction over the sexually exploited child and may enforce
17 prior orders requiring payment of court-ordered monies
18 pursuant to Section 12-15-117. The juvenile court may issue
19 any requisite order or conduct any hearing necessary to
20 protect the health or safety of a sexually exploited child
21 that is determined to be in the best interests of the child.
22 The juvenile court may also, on an emergency basis, enter an
23 order of protection or restraint to protect the health or
24 safety of a sexually exploited child.

25 "(f) A sexually exploited child who commits an act
26 of prostitution as provided in Section 13A-12-120 or
27 13A-12-121 may not be transferred from the jurisdiction of

1 juvenile court to any adult court pursuant to Section
2 12-15-203, except in those cases where the child has been
3 convicted or adjudicated a youthful offender divesting the
4 juvenile court of jurisdiction as provided in Sections
5 12-15-203(i) and 12-15-204(b).

6 "(g) A sexually exploited child who commits an act
7 of prostitution as provided in Section 13A-12-120 or
8 13A-12-121 shall be afforded all rights pursuant to Section
9 12-15-202.

10 "(h) All social and community services shall be made
11 available to a sexually exploited child. Services may include,
12 but are not limited to, any of the following:

13 "(1) Forensic evidence collection.

14 "(2) Forensic interviewing.

15 "(3) Counseling.

16 "(4) Advocacy.

17 "(5) Shelter.

18 "(6) Alcohol or substance abuse treatment.

19 "(7) Mental health services.

20 "(8) Medical treatment.

21 "(9) Legal services.

22 "(10) Educational tutoring, counseling, and language
23 interpreter services.

24 "(11) Crisis intervention services.

25 "(12) Safety planning.

1 "(13) Investigation and prosecution of the
2 individuals subjecting the child to sexual exploitation or
3 abuse.

4 "§12-25-9.

5 "The commission shall have the following
6 responsibilities:

7 "(1) To review state sentencing structure, including
8 laws, policies, and practices, and recommend changes to the
9 criminal code, criminal rules of procedure, and other aspects
10 of sentencing necessary to accomplish the purposes and
11 objectives of this article.

12 "(2) To review the overcrowding problem in county
13 jails, with particular emphasis on funding for the county
14 jails and the proper removal of state prisoners from county
15 jails pursuant to state law and state and federal court
16 orders, and to make recommendations for resolution of these
17 issues to the Governor, Legislature, Attorney General, and
18 Judicial System Study Commission before the 2002 Regular
19 Legislative Session.

20 "(3) To make recommendations to the Governor,
21 Legislature, Attorney General, and Judicial System Study
22 Commission concerning the enactment of laws relating to
23 criminal offenses, sentencing, and correctional or probation
24 matters.

25 "(4) To publish an annual report and other reports
26 as the chair deems necessary.

1 "(5) To serve as a clearinghouse for the collection,
2 preparation, and dissemination of information on sentencing
3 practices.

4 "(6) To maintain and make available for public
5 inspection records of actions taken by the commission.

6 "(7) To serve as a partner to the Juvenile Justice
7 Fund Oversight Committee in accordance with Section 7 of the
8 act adding this amendatory language to do all of the
9 following:

10 "a. Collect juvenile justice data.

11 "b. Monitor custody orders committing youth to the
12 Department of Youth Services and report comprehensive data on
13 orders that commit ineligible youth to the department to the
14 committee.

15 "c. Report juvenile justice data regularly to the
16 committee.

17 "§15-20A-5.

18 "For the purposes of this chapter, a sex offense
19 includes any of the following offenses:

20 "(1) Rape in the first degree, as provided by
21 Section 13A-6-61.

22 "(2) Rape in the second degree, as provided by
23 Section 13A-6-62. A juvenile sex offender adjudicated
24 delinquent of a violation of rape in the second degree is
25 presumed to be exempt from this chapter unless the sentencing
26 court makes a determination that the juvenile sex offender is
27 to be subject to this chapter.

1 "(3) Sodomy in the first degree, as provided by
2 Section 13A-6-63.

3 "(4) Sodomy in the second degree, as provided by
4 Section 13A-6-64. A juvenile sex offender adjudicated
5 delinquent of a violation of sodomy in the second degree is
6 presumed to be exempt from this chapter unless the sentencing
7 court makes a determination that the juvenile sex offender is
8 to be subject to this chapter.

9 "(5) Sexual misconduct, as provided by Section
10 13A-6-65, provided that on a first conviction or adjudication
11 the sex offender is only subject to registration and
12 verification pursuant to this chapter. On a second or
13 subsequent conviction or adjudication of a sex offense, if the
14 second or subsequent conviction or adjudication does not arise
15 out of the same set of facts and circumstances as the first
16 conviction or adjudication of a sex offense, the sex offender
17 shall comply with all requirements of this chapter. The
18 sentencing court may exempt from this chapter a juvenile sex
19 offender adjudicated delinquent of sexual misconduct after the
20 juvenile has been counseled on the dangers of the conduct for
21 which he or she was adjudicated delinquent.

22 "(6) Sexual torture, as provided by Section
23 13A-6-65.1.

24 "(7) Sexual abuse in the first degree, as provided
25 by Section 13A-6-66.

26 "(8) Sexual abuse in the second degree, as provided
27 by Section 13A-6-67. A juvenile sex offender adjudicated

1 delinquent of a violation of sexual abuse in the second degree
2 is presumed to be exempt from this chapter unless the
3 sentencing court makes a determination that the juvenile sex
4 offender is to be subject to this chapter.

5 "(9) Indecent exposure, as provided by Section
6 13A-6-68, provided that on a first conviction or adjudication
7 of a sex offense, the sex offender is only subject to
8 registration and verification pursuant to this chapter. On a
9 second or subsequent conviction or adjudication of a sex
10 offense, if the second or subsequent conviction or
11 adjudication does not arise out of the same set of facts and
12 circumstances as the first conviction or adjudication, the sex
13 offender shall comply with all requirements of this chapter.
14 The sentencing court may exempt from this chapter a juvenile
15 sex offender adjudicated delinquent of indecent exposure after
16 the juvenile has been counseled on the dangers of the conduct
17 for which he or she was adjudicated delinquent.

18 "(10) Enticing a child to enter a vehicle, room,
19 house, office, or other place for immoral purposes, as
20 provided by Section 13A-6-69.

21 "(11) Sexual abuse of a child less than 12 years
22 old, as provided by Section 13A-6-69.1.

23 "(12) Promoting prostitution in the first degree, as
24 provided by Section 13A-12-111.

25 "(13) Promoting prostitution in the second degree,
26 as provided by Section 13A-12-112.

1 "(14) Violation of the Alabama Child Pornography
2 Act, as provided by Section 13A-12-191, 13A-12-192,
3 13A-12-196, or 13A-12-197. The sentencing court may exempt
4 from this chapter a juvenile sex offender adjudicated
5 delinquent of a violation of the Alabama Child Pornography Act
6 after the juvenile has been counseled on the dangers of the
7 conduct for which he or she was adjudicated delinquent.

8 "(15) Unlawful imprisonment in the first degree, as
9 provided by Section 13A-6-41, if the victim of the offense is
10 a minor, and the record of adjudication or conviction reflects
11 the intent of the unlawful imprisonment was to abuse the minor
12 sexually.

13 "(16) Unlawful imprisonment in the second degree, as
14 provided by Section 13A-6-42, if the victim of the offense is
15 a minor, and the record of adjudication or conviction reflects
16 the intent of the unlawful imprisonment was to abuse the minor
17 sexually.

18 "(17) Kidnapping in the first degree, as provided by
19 subdivision (4) of subsection (a) of Section 13A-6-43, if the
20 intent of the abduction is to violate or abuse the victim
21 sexually.

22 "(18) Kidnapping of a minor, except by a parent,
23 guardian, or custodian, as provided by Section 13A-6-43 or
24 13A-6-44.

25 "(19) Incest, as provided by Section 13A-13-3.

26 "(20) Transmitting obscene material to a child by
27 computer, as provided by Section 13A-6-111.

1 "(21) School employee engaging in a sex act or
2 deviant sexual intercourse with a student, or having sexual
3 contact or soliciting a sex act or sexual contact with a
4 student as provided by Sections 13A-6-81 and 13A-6-82.

5 "(22) Foster parent engaging in a sex act, having
6 sexual contact, or soliciting a sex act or sexual contact with
7 a foster child as provided by Section 13A-6-71.

8 "(23) Facilitating solicitation of unlawful sexual
9 conduct with a child, as provided by Section 13A-6-121.

10 "(24) Electronic solicitation of a child, as
11 provided by Section 13A-6-122.

12 "(25) Facilitating the on-line solicitation of a
13 child, as provided by Section 13A-6-123.

14 "(26) Traveling to meet a child for an unlawful sex
15 act, as provided by Section 13A-6-124.

16 "(27) Facilitating the travel of a child for an
17 unlawful sex act, as provided by Section 13A-6-125.

18 "(28) Human trafficking in the first degree, as
19 provided by Section 13A-6-152, provided that the offense
20 involves sexual servitude.

21 "(29) Human trafficking in the second degree, as
22 provided by Section 13A-6-153, provided that the offense
23 involves sexual servitude.

24 "(30) Custodial sexual misconduct, as provided by
25 Section 14-11-31.

26 "(31) Sexual extortion, as provided by Section
27 13A-6-241.

1 "(32) Directing a child to engage in a sex act, as
2 provided in Section 13A-6-243.

3 "(33) Any offense which is the same as or equivalent
4 to any offense set forth above as the same existed and was
5 defined under the laws of this state existing at the time of
6 such conviction, specifically including, but not limited to,
7 crime against nature, as provided by Section 13-1-110; rape,
8 as provided by Sections 13-1-130 and 13-1-131; carnal
9 knowledge of a woman or girl, as provided by Sections 13-1-132
10 through 13-1-135, or attempting to do so, as provided by
11 Section 13-1-136; indecent molestation of children, as defined
12 and provided by Section 13-1-113; indecent exposure, as
13 provided by Section 13-1-111; incest, as provided by Section
14 13-8-3; offenses relative to obscene prints and literature, as
15 provided by Sections 13-7-160 through 13-7-175, inclusive;
16 employing, harboring, procuring or using a girl over 10 and
17 under 18 years of age for the purpose of prostitution or
18 sexual intercourse, as provided by Section 13-7-1; seduction,
19 as defined and provided by Section 13-1-112; a male person
20 peeping into a room occupied by a female, as provided by
21 Section 13-6-6; assault with intent to ravish, as provided by
22 Section 13-1-46; and soliciting a child by computer, as
23 provided by Section 13A-6-110.

24 "(34) Any solicitation, attempt, or conspiracy to
25 commit any of the offenses listed in subdivisions (1) to (33),
26 inclusive.

1 "(35) Any crime committed in Alabama or any other
2 state, the District of Columbia, any United States territory,
3 or a federal, military, Indian, or foreign country
4 jurisdiction which, if it had been committed in this state
5 under the current provisions of law, would constitute an
6 offense listed in subdivisions (1) to (34), inclusive.

7 "(36) Any offense specified by Title I of the
8 federal Adam Walsh Child Protection and Safety Act of 2006
9 (Pub. L. 109-248, the Sex Offender Registration and
10 Notification Act (SORNA)).

11 "(37) Any crime committed in another state, the
12 District of Columbia, any United States territory, or a
13 federal, military, Indian, or foreign country jurisdiction if
14 that jurisdiction also requires that anyone convicted of that
15 crime register as a sex offender in that jurisdiction.

16 "(38) Any offender determined in any jurisdiction to
17 be a sex offender shall be considered a sex offender in this
18 state.

19 "(39) The foregoing notwithstanding, any crime
20 committed in any jurisdiction which, irrespective of the
21 specific description or statutory elements thereof, is in any
22 way characterized or known as rape, carnal knowledge, sodomy,
23 sexual assault, sexual battery, criminal sexual conduct,
24 criminal sexual contact, sexual abuse, continuous sexual
25 abuse, sexual torture, solicitation of a child, enticing or
26 luring a child, child pornography, lewd and lascivious
27 conduct, taking indecent liberties with a child, molestation

1 of a child, criminal sexual misconduct, video voyeurism, or
2 there has been a finding of sexual motivation.

3 "(40) Any crime not listed in this section wherein
4 the underlying felony is an element of the offense and listed
5 in subdivisions (1) to (39), inclusive.

6 "(41) Any other offense not provided for in this
7 section wherein there is a finding of sexual motivation as
8 provided by Section 15-20A-6.

9 "§16-28-2.2.

10 "(a) Local boards of education, pursuant to
11 guidelines established by the State Board of Education, shall
12 establish educational programs to inform parents of school
13 children of their education-related responsibilities to their
14 children. The programs shall include, but shall not be limited
15 to, coverage of each of the following topics:

16 "(1) The criminal liability and criminal sanctions
17 parents may be subject to under Section 16-28-12, for failing
18 to compel their child to properly conduct himself or herself
19 as a pupil, or for failing to ensure that their child attends
20 school or enrolls in school.

21 "(2) The necessity for a parent to monitor and
22 supervise the school work and educational activities of the
23 child.

24 "(3) An explanation of the responsibilities of
25 teachers and the school system to a child, and an enumeration
26 of those matters that are strictly the responsibility of the
27 parent.

1 "(4) Techniques and suggestions to enable a parent
2 to best supervise the school work and educational activities
3 of the child.

4 "(5) An explanation of the interrelationship of the
5 family life of a child and the educational achievement of the
6 child.

7 "(6) An explanation of the services available to
8 parents and families of school children that may be accessed
9 in response to absenteeism and other school-related
10 misconduct.

11 "(b) The State Board of Education and local boards
12 of education shall develop strategies to ensure that parents
13 of school children receive this information. These strategies
14 may include provisions for weekend meetings, one-to-one
15 conferences, telephone communications, and neighborhood
16 meetings.

17 "(c) Local district attorneys and law enforcement
18 officials shall, at the request of the local board of
19 education, assist in the implementation and operation of this
20 section.

21 "§16-28-8.

22 "All school officers, including those in private
23 schools, or private tutors, but not those in church schools,
24 in this state offering instruction to pupils within the
25 compulsory attendance ages, shall make and furnish all reports
26 that may be required by the State Superintendent of Education
27 and by the county superintendent of education or by the board

1 of education of any city with reference to the workings of
2 this article. The principal teacher of each public school,
3 private school, church school and each private tutor shall
4 keep an attendance register showing the enrollment of the
5 school and every absence of each enrolled child from school
6 for a half day or more during each school day of the year,
7 along with any efforts made to intervene with the child and
8 that child's family to address school absence.

9 "§16-28-13.

10 "No parent, guardian, or other person having control
11 or charge of any child shall be convicted for failure to have
12 said child enrolled in school or for failure to send a child
13 to school or for failure to require such child to regularly
14 attend such school or tutor, or for failure to compel such
15 child to properly conduct himself as a pupil, if such parent,
16 guardian, or other person having control or charge of such
17 child can establish to the reasonable satisfaction any of the
18 court the following:

19 "(1) That the principal teacher in charge of ~~said~~
20 the school which he or she attends or should attend or the
21 tutor who instructs or should instruct ~~said~~ the child gave
22 permission for the child to be absent,~~or.~~

23 "(2) That ~~such~~ the parent, guardian, or other person
24 is unable to provide necessary books and clothes in order that
25 the child may attend school in compliance with law, and that
26 ~~such~~ the parent, guardian, or other person had prior to the
27 opening of the school, or immediately after the beginning of

1 ~~such~~ the dependency, reported ~~such~~ the dependent condition to
2 the juvenile court of the county and offered to turn the child
3 over to the State Department of Human Resources as a dependent
4 child;~~or.~~

5 "(3) That ~~such~~ the parent, guardian, or other person
6 has made a bona fide effort to control ~~such~~ the child and is
7 unable to do so, and files in court a written statement that
8 he or she is unable to control ~~such~~ the child; or

9 "(4) That there exists a good cause or valid excuse
10 for ~~such~~ the absence;~~or.~~

11 "(5) That ~~such~~ the parent, guardian, or other person
12 has made a bona fide, diligent effort to secure the regular
13 attendance of ~~such~~ the child and that the absence was without
14 his or her knowledge, connivance, or consent.

15 "A good cause or valid excuse, as used in this
16 section, exists when on account of sickness or other condition
17 attendance was impossible or entirely inadvisable or
18 impracticable or when, by virtue of the extraordinary
19 circumstances, the absence is generally recognized as
20 excusable.

21 "(6) That the school did not make reasonable efforts
22 to engage the parent, guardian, or other person having control
23 or charge of the child in an early warning truancy prevention
24 program established pursuant to Section 4 of the act adding
25 this amendatory language prior to filing a complaint.

26 "§16-28-14.

1 "In case any child becomes an habitual truant, or
2 because of irregular attendance or misconduct has become a
3 menace to the best interest of the school which he or she is
4 attending or should attend, and the parent, guardian, or other
5 person files a written statement in court as provided in
6 Section 16-28-13, stating that he or she is unable to control
7 ~~such~~ the child, and the child has been afforded the
8 opportunity in the preceding 12 months to participate in an
9 early warning truancy prevention program in the school or at
10 home in response to the nonenrollment or nonattendance, the
11 attendance officer must file a complaint before the judge of
12 the juvenile court of the county, alleging the facts,
13 ~~whereupon such~~ where the child must be proceeded against in
14 the juvenile court for the purpose of ~~ascertaining~~ determining
15 whether ~~such~~ the child is a dependent, neglected, or
16 delinquent child.

17 "§16-28-16.

18 "(a) It shall be the duty of the county
19 superintendent of education or the city superintendent of
20 education, as the case may be, to require the attendance
21 officer to investigate all cases of nonenrollment and of
22 nonattendance. In all cases investigated where no valid reason
23 for nonenrollment or nonattendance is found, the attendance
24 officer shall give written notice to the parent, guardian, or
25 other person having control of the child. In the event of the
26 absence of the parent, guardian, or other person having
27 control of the child from his or her usual place of residence,

1 the attendance officer shall leave a copy of the notice with
2 some person over 12 years of age residing at the usual place
3 of residence, with instructions to hand the notice to the
4 parent, guardian, or other person having control of the child,
5 which notice shall require the attendance of the child at the
6 school within three days from the date of the notice. In the
7 event the investigation discloses that the nonenrollment or
8 nonattendance was without valid excuse or good reason and
9 intentional, the attendance officer shall be required to bring
10 criminal prosecution against the parent, guardian, or other
11 person having control of the child if the attendance officer
12 also finds that the school has made reasonable efforts to
13 engage the child in an early warning truancy prevention
14 program established pursuant to Section 4 of the act adding
15 this amendatory language in the school or at home in response
16 to the nonenrollment or nonattendance.

17 "(b) Each child who is enrolled in a public school
18 shall be subject to the attendance and truancy provisions of
19 this article except that any parent or parents, guardian or
20 guardians who voluntarily enrolls their child in public
21 school, who feel that it is in the best interest of that child
22 shall have the right to withdraw the child at any time prior
23 to the current minimum compulsory attendance age.

24 "§16-28-17.

25 "It shall be the duty of the attendance officer,
26 ~~probation officer~~ or other officer authorized to execute writs
27 of arrest to take into custody without warrant any child

1 required to attend school or be instructed by a private tutor
2 who is found away from home and not in the custody of the
3 person having charge or control of ~~such~~ the child during
4 school hours and who has been reported by any person
5 authorized to begin proceedings or prosecutions under the
6 provisions of this article as a truant. ~~Such~~ The child shall
7 ~~forthwith~~ immediately be delivered to the person having charge
8 or control of ~~said~~ the child or to the principal teacher of
9 the school or the private tutor from whom ~~said~~ the child is a
10 truant. If ~~such~~ the child is an habitual truant, and the
11 school has made reasonable efforts to engage the child in an
12 early warning truancy prevention program in the school or at
13 home in response to the child's nonattendance or
14 nonenrollment, he or she shall be brought before the juvenile
15 court for ~~such disposition as the judge of said court finds~~
16 ~~proper from the facts~~ intake.

17 "§16-28-18.

18 "The attendance officer whose appointment is by this
19 article provided for shall keep an accurate record of all
20 notices served, all cases prosecuted, and all other services
21 performed and shall make an annual report of the same to the
22 county board of education or to the city board of education by
23 whom he or she is employed, and to the Alabama State
24 Department of Education.

25 "§44-1-24.

26 "The Department of Youth Services shall perform the
27 following:

1 "(1) Provide services for youths who have run away
2 from their own communities in this state or from their home
3 communities in other states to this state, and provide such
4 services, care, or cost for the youths as may be required
5 pursuant to the provisions of the Interstate Compact on
6 Juveniles.

7 "(2) Provide for the expansion of local detention
8 care for youths alleged to be delinquent pending court
9 hearing.

10 "(3) Secure the provision of medical, hospital,
11 psychiatric, surgical, or dental service, or payment of the
12 cost of such services, as may be needed for committed youths.

13 "(4) License and subsidize foster care facilities or
14 group homes for youths alleged to be delinquent pending
15 hearing before a juvenile court or adjudged delinquent
16 following hearing, including detention, examination, study,
17 care, treatment, and training.

18 "(5) Establish, maintain, and subsidize programs to
19 train employees of the department, juvenile courts, and law
20 enforcement personnel in such subject matters and techniques
21 as may be necessary to assure efficient and effective
22 administration of services in accordance with the purpose of
23 this chapter.

24 "(6) Make and enforce all rules and regulations
25 which are necessary and appropriate to the proper
26 accomplishment of the duties and functions vested in the
27 department by law with respect to youth services and which do

1 not conflict with or exceed the provisions of law vesting the
2 duties and functions in the department.

3 "(7)a. Enter into contracts with any other state or
4 federal agency or with any private person, organization, or
5 group capable of contracting, if the department finds the
6 action to be in the public interest.

7 "b. Where contracts are for treatment,
8 rehabilitative, and prevention services provided through the
9 Juvenile Justice Reinvestment Fund, the contracts shall adhere
10 to a system of performance-based contracting developed by the
11 department.

12 "(8) Upon approval of the Attorney General, file and
13 prosecute civil actions in any court in the name of the
14 department to enforce this chapter and enforce such rules and
15 regulations as may be promulgated under this chapter. Civil
16 actions may include actions for an injunction to restrain any
17 person, agency, or organization from violating any provision
18 of this chapter or any rule or regulation promulgated under
19 this chapter.

20 "(9) Accept gifts, trusts, bequests, grants,
21 endowments, or transfers of property of any kind and prudently
22 to manage the property in accordance with sound financial
23 principles.

24 "(10) Prescribe and furnish forms to clerks of
25 probate and juvenile courts for use in connection with any
26 action to be taken under this chapter.

1 "(11) Enter into reciprocal agreements with
2 appropriate agencies of other states relative to youth
3 services programs.

4 "(12) Engage in research in the field of youth
5 services, enter into contracts with public or voluntary
6 organizations, including educational institutions, and with
7 individuals for the purpose of securing research and to make
8 provisions for any pay grants to such organizations or
9 individuals in accordance with the rules of the department, as
10 may be necessary to secure the performance of the research.

11 "(13) If the court commits a youth who, based on
12 information provided by the court, the department deems is
13 ineligible for custody to the custody of the department, the
14 department may file a motion to reconsider with the court. The
15 Department of Youth Services may not file a motion to
16 reconsider if the risk and needs assessment calls for a
17 commitment to the department.

18 "§44-1-36.

19 "(a) In the event a committed youth shall be
20 diagnosed in writing as mentally ill to the degree that ~~said~~
21 the youth is unable to profit from the programs operated by
22 ~~the department of youth services~~ Department of Youth Services
23 for the benefit of delinquent youth, the department may
24 petition the proper juvenile court for the commitment of the
25 ~~said~~ youth to the state hospital for the mentally ill. The
26 diagnosis must be made by a person who is legally and

1 professionally qualified under the laws of Alabama to make
2 such a diagnosis.

3 "(b) In the event a committed youth shall be
4 diagnosed in writing as ~~mentally retarded~~ a person with a an
5 intellectual disability to the degree that ~~said the~~ youth is
6 unable to profit from the programs operated by the department
7 for the benefit of delinquent youth, the department may
8 petition the proper juvenile court for the commitment of the
9 ~~said youth to the state hospital for the mentally retarded.~~
10 The diagnosis must be made by a person who is legally and
11 professionally qualified under the laws of Alabama to make
12 such a diagnosis.

13 "(c) A committed youth shall be discharged who, in
14 the judgment of the director, has gained optimal
15 rehabilitation from the programs of the department and will
16 not be received again by the department under the original
17 commitment order.

18 "(d) A committed youth shall be released into
19 aftercare when the department determines that ~~said the~~ youth
20 is no longer in need of the services of the state training
21 schools and can function within open society under the
22 supervision of a probation officer in accordance with terms
23 and conditions as established by the committing court. The
24 department shall notify the committing court in writing at
25 least 10 days in advance of the release. The committing court,
26 at the time of release into aftercare, shall then invest
27 custody in a party which the court deems suitable. An order of

1 aftercare may be issued pursuant to subsection (k) of Section
2 12-15-215.

3 "(e) The committing court shall have jurisdiction to
4 extend an order of commitment during the time of aftercare and
5 to issue further orders in relation to the investment of legal
6 custody in some other party until the youth reaches his or her
7 twenty-first birthday only in accordance with Section
8 12-15-215 upon proper ~~petitions~~ requests being filed with the
9 ~~said~~ court by a probation officer alleging all reasons for any
10 aftercare extension or change of legal custody. A hearing
11 shall be held in ~~said~~ the juvenile court within 10 days after
12 the filing of the ~~petition~~ request for extension to determine
13 whether the youth's aftercare should be extended, ~~for no more~~
14 ~~than six months.~~

15 "(f) When a committed youth has fulfilled his or her
16 period of commitment, he or she shall be discharged from the
17 department's custody, and any recommitment to the department
18 must be based on a new offense or violation of his or her
19 aftercare and a new hearing.

20 "(g) In the event that a youth has not been
21 discharged prior to the expiration of two years from the date
22 of the entry of the original commitment order, the department
23 must request either:

24 "(1) The termination of the commitment order and the
25 issuance of such other orders respecting the legal custody and
26 continued supervision of the youth as may be warranted under
27 the circumstances, or

1 "(2) The extension of the original order for a
2 further specifically limited period of time, on the grounds
3 that such extension is necessary for the welfare of the youth
4 or for the public interest, such extension not to exceed the
5 date upon which the youth will reach the age of 21 years.
6 "There must be a hearing at which the youth and his or her
7 parent, guardian, or counsel are notified to be present. The
8 committing court shall have jurisdiction until the youth
9 reaches his or her twenty-first birthday to issue an extension
10 of its original commitment order only pursuant to subsection
11 (h) of Section 12-15-215. If the department does not act as
12 prescribed in this subsection, custody awarded by the
13 commitment order is terminated, and such order as regards such
14 youth has no further force and effect after the expiration of
15 two years.

16 "(h) Upon the youth's reaching his or her
17 twenty-first birthday, custody awarded by the commitment order
18 is terminated, and ~~such order as regards such person~~ the order
19 regarding the person has no further force and effect."

20 Section 2. (a) For the purposes of this section, a
21 "detention risk assessment tool" means an evidence-based tool
22 that is designed to assist in making detention determinations
23 by assessing a child's risk of failure to appear in court or
24 reoffend prior to adjudication.

25 (b) By October 1, 2019, the Administrative Office of
26 Courts shall develop a statewide detention risk assessment
27 tool to inform pre-adjudication detention decisions, including

1 whether a child is eligible for detention, whether a child is
2 eligible to continue in detention once the child has been
3 placed in detention, and whether the child is eligible for a
4 non-custodial alternative to detention in lieu of release
5 without conditions.

6 (c) By January 1, 2022, the detention risk
7 assessment tool shall be validated on the youth population of
8 this state.

9 (d) The Administrative Office of Courts shall
10 develop a scoring system to inform eligibility for detention
11 and detention alternatives, in conjunction with the criteria
12 provided in Section 12-15-128, Code of Alabama 1975.

13 Section 3. (a) The Alabama State Department of
14 Education shall require each local board of education to
15 annually develop, approve, and submit a multi-disciplinary
16 agreement to the department in collaboration with relevant
17 stakeholders, including law enforcement agencies, the district
18 attorney, juvenile defense attorneys, chief probation
19 officers, local mental health authorities, families, and the
20 courts to improve responses to school-based offenses and
21 reduce school-based referrals to law enforcement and the
22 courts while effectively holding youth accountable within the
23 school setting.

24 (b) Each agreement shall establish the following:

25 (1) Specific multi-tiered responses to school-based
26 offenses to be carried out within the school setting or at

1 home, prior to a court referral, to safely and effectively
2 hold youth accountable.

3 (2) Clear guidelines for how and when school-based
4 offenses are referred to law enforcement or the juvenile
5 justice system.

6 (c) To guide the development of local agreements,
7 the department shall develop minimum standards and best
8 practices for creating and implementing multi-tiered responses
9 to school-based offenses in the school setting. The department
10 shall ensure that its standards, and all local agreements, are
11 based upon evidence-based research, are data-driven, and
12 provide for continuous improvement.

13 (d) Each year, the department shall provide a report
14 to the oversight committee established pursuant to Section 7
15 compiling data on school district compliance with department
16 standards and best practices developed pursuant to subsection
17 (c) and summarizing the content of each local protocol.

18 Section 4. (a) The Alabama State Department of
19 Education shall require the Superintendent of Education, or
20 his or her designee, in each local school district to develop,
21 approve, and submit an annual plan to the department outlining
22 early warning truancy prevention programming for children and
23 their families in the home or school setting in response to
24 nonattendance or nonenrollment.

25 (b) To guide the development of local early warning
26 truancy prevention programming, the department shall develop
27 standards and best practices that are based upon

1 evidence-based research, are data-driven, and show continuous
2 improvement.

3 (c) Each school shall make reasonable efforts to
4 engage a child and the child's family in early warning truancy
5 prevention programming prior to filing a complaint alleging
6 either of the following:

7 (1) A violation against a parent, guardian, or other
8 person having control or custody of a child under Section
9 16-28-12, Code of Alabama 1975.

10 (2) That a child is in need of care, rehabilitation,
11 or supervision for alleged habitual truancy.

12 (d) After a complaint is received in the juvenile
13 court intake office, a juvenile court judge may participate in
14 an early warning truancy program for educational purposes with
15 the child if it is in a group setting and is not related to
16 any specific complaint.

17 Section 5. (a) There is created the Juvenile Justice
18 Reinvestment Fund to the credit of the Department of Youth
19 Services within the State Treasury. Amounts deposited into the
20 fund shall be budgeted and allotted in accordance with
21 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through
22 41-19-12, Code of Alabama 1975.

23 (b) (1) The Department of Youth Services shall
24 administer the fund and shall do all of the following:

25 a. Calculate the costs averted from reductions in
26 the department's custody and placement of youth in residential
27 facilities funded in whole or in part by the department.

1 b. Reserve the averted costs in the fund for
2 reinvestment.

3 c. Disburse grants pursuant to the requirements in
4 subsection (d).

5 d. Execute contracts pursuant to the requirements in
6 subsection (d).

7 e. Evaluate programs.

8 (2) Any monies in the fund that are unspent at the
9 end of a fiscal year shall be carried over for use by the
10 department for the purposes provided in this section for the
11 next fiscal year.

12 (3) The Department of Youth Services may adopt rules
13 to ensure that distributions from the fund during a fiscal
14 year do not exceed funding for the fiscal year.

15 (4)a. For the purposes of this section, "averted
16 costs" means any costs avoided by a reduction in the number of
17 youth placed in Department of Youth Services residential
18 programs, as compared to a Fiscal Year 2019 baseline,
19 calculated by comparing the actual costs of youth in custody
20 and placed in residential programs during each fiscal year
21 with the costs of youth in custody and placed in residential
22 programs during Fiscal Year 2019.

23 b. For the purposes of this section, "allocation of
24 local funds" means the process by which funds are disbursed
25 pursuant to subsection (f) to the county or counties for use
26 in rehabilitation, treatment, or prevention of delinquency.

1 (c) The Juvenile Justice Fund Oversight Committee
2 shall monitor and advise in the administration of the fund,
3 pursuant to Section 7.

4 (d)(1) The department shall disburse the funds to be
5 used for rehabilitative, treatment, or prevention programs.
6 Disbursement of funds by the department shall adhere to the
7 following criteria to ensure that access to evidence-based
8 nonresidential services are available to every county in the
9 state:

10 a. Services shall be expanded such that juvenile
11 courts in every county in this state shall have access to
12 evidence-based nonresidential services, subject to the review
13 of the Juvenile Justice Fund Oversight Committee.

14 b. State contracts for evidence-based,
15 nonresidential programs for youth who might otherwise be
16 committed to the custody of the Department of Youth Services
17 shall be prioritized for rural and low-population counties
18 that currently have limited or no access to such programs and
19 that have limited means to support the submission of grant
20 proposals.

21 c. The department shall prioritize state contracts
22 and county grants for non-residential services to areas of the
23 state that satisfy both of the following:

24 1. Demonstrate a high rate of department commitments
25 per capita.

26 2. Have access to few existing nonresidential
27 services.

1 d. The department may provide incentives for those
2 counties that decrease the number of juveniles in custody of
3 the department, in consultation with the Juvenile Justice Fund
4 Oversight Committee.

5 (2) The Juvenile Justice Fund Oversight Committee
6 may recommend that the department consider additional criteria
7 to effectuate the priorities and other objectives of this
8 section.

9 (e) The allocation of local funds may be
10 specifically used for the following:

11 (1) Services that are appropriately matched to a
12 youth's risk and needs, as determined by the results of a
13 validated risk and needs assessment pursuant to Section 9, and
14 that focus on serving youth and their families in their own
15 homes with the appropriate level of intensity, including, but
16 not limited to, all of the following:

17 a. In-home family-focused therapy.

18 b. Individual and group therapy.

19 c. Mentoring programs.

20 d. Substance abuse treatment.

21 e. Outpatient juvenile sex offense treatment.

22 (2) For partnerships with state and local agencies
23 for the expansion or enhancement of programs that avert
24 juvenile justice system involvement.

25 (3) For expansion of early truancy prevention
26 efforts that do all of the following:

1 a. Take place prior to a court referral in schools,
2 in the home, or both.

3 b. Engage families.

4 c. Focus on youth who pose the greatest risk of
5 truancy.

6 d. Ensure that responses to behaviors by youth with
7 documented disabilities are handled in accordance with any
8 plans established for response to their disabilities in
9 educational settings such as individualized education programs
10 or 504 plans; and

11 e. Are shown to reduce referrals to the juvenile
12 court.

13 (4) For reimbursement of a portion of transportation
14 costs incurred by sheriffs.

15 (5) For training pursuant to Section 7.

16 (f) The department shall disburse funds through the
17 following:

18 (1) Contracts for services.

19 (2) Grants to counties or groups of counties, to
20 allow for program expansion across the state, especially in
21 rural counties.

22 (g) (1) The Department of Youth Services shall ensure
23 that programs funded from the Juvenile Justice Reinvestment
24 Fund adhere to performance-based standards which incentivize
25 reductions in reoffending and reductions in subsequent
26 commitments to the department.

1 (2) Performance-based standards may be implemented
2 by any of the following:

3 a. Contract provisions.

4 b. Grant provisions.

5 c. Shared funding provisions.

6 (h)(1) Programs receiving funding from the fund
7 shall adhere to evidence-based models or other interventions
8 rated by a standardized tool as effective for reducing
9 reoffending.

10 (2) The standardized tool used to rate effectiveness
11 for recidivism reductions shall be selected by the department
12 and the Administrative Office of Courts, in consultation with
13 the Juvenile Justice Fund Oversight Committee in accordance
14 with Section 7.

15 Section 6. Alternatives to detention; definition,
16 funding.

17 (a) For the purposes of this section, the term
18 "non-custodial alternative to detention" means a program or
19 practice that is designed to ensure a youth's appearance at
20 future court hearings and to prevent rearrest prior to
21 adjudication, and is non-punitive and non-residential.

22 (b) A program of fiscal incentives shall be
23 developed and administered by the Department of Youth Services
24 to encourage the use of non-custodial alternatives to
25 detention, with a higher reimbursement rate to be paid for
26 alternatives to detention than for detention pursuant to
27 Section 44-1-28, Code of Alabama 1975.

1 (c) Funds from the Juvenile Justice Reinvestment
2 Fund created in Section 5 shall be reinvested into
3 non-custodial alternatives to detention.

4 (d) Home detention shall be available in every
5 county.

6 (e) Individual counties or groups of counties may
7 develop non-custodial alternatives to detention.

8 Section 7. Juvenile Justice Fund Oversight
9 Committee; purpose, responsibilities.

10 (a) The Juvenile Justice Fund Oversight Committee is
11 created to oversee implementation of changes to the juvenile
12 justice system and coordinate communication and information
13 sharing across the juvenile justice system, including the
14 following:

15 (1) The Governor, or his or her designee.

16 (2) The Chair of the House Judiciary Committee, or
17 his or her designee.

18 (3) The Chair of the Senate Judiciary Committee, or
19 his or her designee.

20 (4) The Chief Justice of the Alabama Supreme Court,
21 or his or her designee.

22 (5) The Director of the Administrative Office of
23 Courts, or his or her designee.

24 (6) Three current juvenile court judges, with at
25 least one representing a rural county, one representing a
26 mid-sized county, and one representing an urban county,

1 appointed by the president of the Alabama Council of Juvenile
2 and Family Court Judges.

3 (7) The Director of the Department of Youth
4 Services, or his or her designee.

5 (8) The Commissioner of the Department of Mental
6 Health, or his or her designee.

7 (9) The Commissioner of the Department of Human
8 Resources, or his or her designee.

9 (10) An attorney appointed by the Alabama State Bar,
10 with experience in delinquency proceedings.

11 (11) One chief juvenile probation officer, appointed
12 by the Chief Juvenile Probation Officers Association.

13 (12) One law enforcement official representing a
14 county with a local juvenile detention facility, appointed by
15 the Governor.

16 (13) The State Superintendent of Education, or his
17 or her designee.

18 (14) One district attorney appointed by the District
19 Attorneys Association.

20 (15) A representative selected by Alabama Children
21 First.

22 (b) The appointing authorities shall coordinate
23 their appointments to assure the committee membership is
24 inclusive and reflects the racial, gender, geographic, urban,
25 rural, and economic diversity of the state.

1 (c) The oversight committee shall select a member to
2 serve as its chair at its first meeting, and annually
3 thereafter.

4 (d) The responsibilities of the oversight committee
5 shall include, and be limited to, all of the following:

6 (1) To review averted costs and ensure reinvestment
7 into evidence-based services for youth living in the community
8 according to the guidelines set out in Section 5.

9 (2) To review the appropriateness of expenditures,
10 programs, and services and assess the progress of
11 implementation.

12 (3) To make recommendations to strengthen juvenile
13 justice data systems to allow for linking individual cases
14 across agency data systems.

15 (4) To publish an annual report to the Governor,
16 Chief Justice of the Alabama Supreme Court, Speaker of the
17 House of Representatives, and Senate President Pro Tempore on
18 implementation progress and areas for further review.

19 (5) Oversee the creation of a collaborative funding
20 structure similar to existing collaborative funding structures
21 between the Department of Youth Services, the Department of
22 Human Resources, the Alabama State Department of Education,
23 and the Department of Mental Health for providing pre-court
24 early interventions for youth at imminent risk of juvenile
25 justice system involvement.

26 (e) The Administrative Office of Courts shall
27 partner with the Sentencing Commission, the Department of

1 Youth Services, and any other agency necessary, to collect,
2 analyze, and report on juvenile data to assist the oversight
3 committee. Such information shall include, but not be limited
4 to, tracking a juvenile's trajectory through the juvenile or
5 adult justice system, case history across counties, recidivism
6 rates, efficacy of specific county programs, outcomes after a
7 child leaves the juvenile justice system, and any disparate
8 impact of Alabama's juvenile justice system related to gender,
9 race, and ethnicity. Data collected under this subsection
10 shall be included in the annual report mandated in subdivision
11 (d)(4). Provided, however, that identifying personal
12 information may be redacted from the report.

13 (f) The Alabama State Bar, in consultation with the
14 oversight committee, shall study the expansion of training for
15 juvenile defense attorneys, including making a recommendation
16 to the Office of Indigent Defense Services to increase the
17 requirement for juvenile appointment from three to six
18 Continuing Legal Education hours.

19 Section 8. (a) A case plan shall be created for all
20 delinquency and child in need of supervision cases following
21 disposition. Each case plan shall satisfy both of the
22 following:

23 (1) Be informed by the results of a validated risk
24 and needs assessment pursuant to Section 9.

25 (2) Be individualized to the child.

26 (b) The Administrative Office of Courts shall
27 develop a statewide system of graduated responses to the

1 behavior of a child under court supervision, including those
2 placed on probation or placed on aftercare. The system of
3 graduated responses shall include both sanctions and
4 incentives that satisfy both of the following:

5 (1) Include a continuum of community-based responses
6 that serve the child without placement in a residential
7 facility or detention.

8 (2) Target the child's risk of reoffending, as
9 determined by the results of a validated risk and needs
10 assessment pursuant to Section 9.

11 (c) (1) The system of graduated response shall
12 authorize earned discharge credits as one incentive for
13 compliance. Earned discharge credits are defined as time
14 awarded toward early termination of an order of probation or
15 an order of aftercare.

16 (2) The Administrative Office of Courts shall
17 develop a system for awarding earned discharge credits for
18 each month that a child is compliant with the conditions of
19 his or her order of probation or order of aftercare.

20 (d) Behaviors under subsection (b) shall be
21 documented in the child's case plan. Documentation shall
22 include all of the following:

23 (1) Positive behaviors and incentives offered.

24 (2) Violations and corresponding sanctions.

25 (3) Whether the child has a subsequent violation
26 following an incentive or sanction.

1 (e) Before referring a child to juvenile court for
2 noncompliance with the terms of an order of probation or
3 aftercare under Section 12-15-132, Code of Alabama 1975, a
4 pattern of appropriate responses shall be documented in the
5 child's case plan.

6 (f) The Administrative Office of Courts shall
7 conduct training for chief probation officers and juvenile
8 probation officers on evidence-based best practices for
9 graduated responses, including, but not limited to,
10 instruction on all of the following:

11 (1) Proper selection and use of incentives for
12 compliance.

13 (2) Proper selection and use of sanctions for
14 noncompliance.

15 (3) Integrating results from graduated responses
16 into case plans.

17 Section 9. (a) For the purposes of this section and
18 Section 8, "a risk and needs assessment" means an
19 evidence-based tool that identifies a child's risk to reoffend
20 and individual needs that, if met, are likely to reduce the
21 child's likelihood of reoffending.

22 (b) By October 1, 2019, the Administrative Office of
23 Courts and the Department of Youth Services shall together
24 develop and adopt a risk and needs assessment to inform
25 supervision and necessary treatment for any child petitioned
26 before the juvenile court on a delinquency or child in need of
27 supervision offense.

1 (c) By January 1, 2022, the risk and needs
2 assessment shall be validated on the youth population to
3 ensure accuracy in assessing a child's risk to reoffend and
4 individual needs that, if met, are likely to reduce the
5 child's likelihood of reoffending.

6 (d) The risk and needs assessment shall be used as
7 follows:

8 (1) Beginning October 1, 2019, a juvenile probation
9 officer shall administer a risk and needs assessment to every
10 child petitioned before the court on a delinquency or child in
11 need of supervision offense.

12 (2) Beginning January 1, 2022, a juvenile judge
13 shall review the risk and needs assessment prior to
14 disposition and use it to inform disposition including any
15 necessary treatment services for the child.

16 (3) The juvenile judge shall not review the results
17 of the risk and needs assessment related to final disposition
18 prior to adjudication.

19 (4) Department of Youth Services staff and
20 contracted providers shall incorporate results from the risk
21 and needs assessment into the development of a case plan for
22 every child placed in a residential facility for delinquency
23 or child in need of supervision offense, and juvenile
24 probation officers shall incorporate the risk and needs
25 assessment into the development of a case plan for every child
26 placed on probation or aftercare, pursuant to Section 8.

1 (e) Access to the results of risk and needs
2 assessments shall be granted to the following people,
3 officials, or agencies and only for the following stated
4 purposes and only while the child is subject to the
5 jurisdiction of the juvenile court:

6 (1) The juvenile judge, following adjudication, to
7 inform disposition.

8 (2) A juvenile probation officer for the purpose of
9 compiling information for assessments, administering
10 assessments, and preparing assessment reports.

11 (3) The Department of Youth Services and its
12 contracted providers.

13 (4) The child who is the subject of the report.

14 (5) A parent, legal guardian, or custodian of the
15 child who is the subject of the report.

16 (6) A defense attorney or guardian ad litem for the
17 child.

18 (7) The district attorney following adjudication for
19 recommendation of disposition.

20 (8) Any other person, official, agency, or entity
21 that the juvenile court determines requires access to the
22 results of the risk and needs assessment for the purpose of
23 treatment and rehabilitation of the child.

24 (f) No incriminatory or otherwise unfavorable or
25 disparaging information obtained from a child in the course of
26 a risk and needs assessment shall be subject to any court
27 subpoena or admitted into evidence against the child on the

1 issue of whether the child committed a delinquency or child in
2 need of supervision offense or on the issue of guilt in any
3 criminal proceedings.

4 (g) The risk and needs assessment and all materials
5 used to compile the information in the assessment in
6 possession of the juvenile court shall be destroyed when the
7 person about whom the risk and needs assessment was conducted
8 is no longer a child.

9 Section 10. The amendatory language in Section 1 of
10 this act to Section 15-20A-5, Code of Alabama 1975, relating
11 to delinquent sex offenses, shall become effective
12 immediately; Section 5 of this act creating the Juvenile
13 Justice Reinvestment Fund, the amendatory language in Section
14 1 of this act to Section 44-1-24, Code of Alabama 1975,
15 subsection (b) of Section 2 of this act requiring development
16 of a statewide detention risk assessment tool, and subsection
17 (b) of Section 9 of this act requiring development of a risk
18 and needs assessment shall become effective October 1, 2019;
19 subsection (c) of Section 2 of this act requiring validation
20 of a statewide detention risk assessment tool and subsection
21 (c) of Section 9 of this act requiring validation of a risk
22 and needs assessment, shall become effective January 1, 2022;
23 the remainder of this act shall become effective on July 1,
24 2020.