

Sine Die Report

*A Publication of the Alabama District Attorneys Association
(ADAA) and the Office of Prosecution Services (OPS)*



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Trisha Mellberg Cater
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From the Director

A statement from Barry Matson detailing
the 2023 Session

Page 2

House and Senate Bills

Briefs of the House Bills and Senate Bills
that were signed into law during the
2023 Session.

Page 3

The 2023 Session – From the Director

The 2023 Alabama Legislative Regular Session adjourned *sine die* on Tuesday June 6, 2023. The 92-day session began on March 7, 2023. The Legislature introduced, enrolled, debated, amended, substituted, engrossed, and voted on 882 separate bills. Within the Regular Session, a Special Session was held. There were a total of 261 bills that were impactful on the criminal justice system, public safety, victims of crime, law enforcement, and prosecution.

Every legislative session, the team at the Office of Prosecution Services (OPS) identifies, briefs, and works diligently within the legislative process to assure that each bill upholds the fair administration of justice and public safety. We believe that this Sine Die Report will serve as a valuable resource for the reader as it reviews all the criminal justice impact bills that passed during the 2023 legislative session and were signed into law by Governor Kay Ivey.

I would like to recognize the commitment of the District Attorneys and the OPS staff for crafting and seeking passage of legislation that reflects the public safety needs of our communities and that promotes a fair and just society both which are instrumental in maintaining public trust and confidence in our criminal justice system. The Alabama District Attorneys successfully sought passage of several bills this session in our “Alabama Fights Crime Package”. In this package, the District Attorneys fixed the failed “D Felony” by returning the ability to hold criminal defendants accountable, fought the rise in organized retail crime, created stronger punishment for fentanyl traffickers, held accountable drug dealers that drive our overdose crisis, protected first responders from the dangers of deadly drug exposure, and protected our most vulnerable victims of physical and sexual abuse.

The District Attorneys appreciate the willingness of our legislature to engage with us and other critical stakeholders to seek input from our perspectives. Their commitment to engaging in meaningful dialogue and considering the potential impact of proposed legislation is greatly appreciated. By involving our perspective and listening to our voices, the 2023 legislature fostered an environment that promoted collaboration, understanding, and the development of effective and balanced criminal statutes.

We value the relationship between the District Attorneys, Governor Ivey, and the Alabama Legislature, which is a testament to our collaborative devotion to public service and the greater good. As we move forward, we will continue to seek the successful implementation of the legislation passed during this session.

We hope you find this Sine Die Report helpful. If you wish to view the actual legislative Act that was passed and signed into law, please visit the Alabama Secretary of State’s website at www.sos.alabama.gov.

With every good wish, I am,
Sincerely,

Barry D. Matson



The Alabama State House, Montgomery Alabama

IMPACT LEGISLATION

CRIMINAL OFFENSES

Organized Crime, Firearms

Act 2023-416

Senate Bill 143

Sponsor Senator Barfoot

This Act would enhance penalties when a criminal enterprise member commits a crime for the purpose of benefiting, promoting, or furthering the interest of the criminal enterprise:

- (1) On conviction of a Class A felony, he or she shall be punished not less than 25 years.
- (2) On conviction of a Class B felony, he or she shall be punished for a Class A felony.
- (3) On conviction of a Class C felony, he or she shall be punished for a Class B felony.

The Act would also establish mandatory consecutive penalties for any individual who knowingly possesses, uses, or carries a firearm during the commission of any act intended to benefit, promote, or further the interest of the criminal enterprise:

- (1) A term of imprisonment of not less than five years.
- (2) If the firearm is brandished, not less than seven years.
- (3) If the firearm is discharged, not less than 10 years.

- (4) If the firearm is a short-barreled rifle or short-barreled shotgun, not less than 10 years.
- (5) If the firearm is a machine gun, a destructive device, or is equipped with a firearm silencer, not less than 30 years.

Lastly, this Act would require any juvenile 16 years of age or older to be tried as an adult for any violation of these new statutes. Also, the Act requires the Attorney General, in coordination with the District Attorneys, to report to the number of convictions under this Act annually.

Effective: September 1, 2023

Retail Theft & Organized Retail Theft

Act 2023-531

Senate Bill 206

Sponsor Senator Chambliss

This Act creates the crimes of retail theft and organized retail theft.

A person commits the crime of retail theft if with intent to obtain or exert unauthorized control over retail merchandise the person conceals and takes possession of two or more items; alters/transfers/removes price or attempts to purchase at lower value; transfers to a difference container to pay less; changes price at cash register; fails to scan at register; removes security alarm prior to purchase; removes from premises; or collaborates with employee to commit retail theft.

Retail Theft in the First Degree is a Class B felony and has a value exceeding \$2,500, is the theft one or more items in 180 days with aggregate value of \$1,000 or more, or theft of a firearm. Retail Theft in the Second Degree is a Class C felony and has a value greater than \$500 but not exceeding \$2,500. Retail Theft in the Third Degree is a Class A misdemeanor, however on a fourth or subsequent conviction is it a Class C felony. The value is \$500 or less.

Organized Retail Theft occurs when two or more people knowingly:

- (1) Organize, supervise, finance, participate, direct, solicit, or otherwise manage or assist another person in committing organized retail theft.
- (2) Remove, destroy, deactivate, or knowingly evade any component of an antishoplifting or inventory control device to prevent the activation of that device or to facilitate another person in committing organized retail theft.
- (3) Attempt, solicit, or conspire with another person to commit organized retail theft.
- (4) Receive, purchase, or possess retail merchandise for sale or resale knowing or believing the retail merchandise to be stolen from a retail merchant.
- (5) Use any fraud, artifice, instrument, container, device, or other article to facilitate the commission of organized retail theft.
- (6) Remain unlawfully inside a retail establishment after business hours, with the intent to commit a retail theft therein.
- (7) Use a wireless telecommunication device or other digital or electronic device to facilitate the theft of retail merchandise.
- (8) Use a rental or

stolen motor vehicle or vehicle of another in the course of committing retail theft for the purposes of the concealment of his or her identity. (9) Receive, retain, or dispose of retail merchandise knowing that it has been stolen or having reasonable grounds to believe it has been stolen.

Organized Retail Theft is a Class B felony. The aggregate value amount must exceed \$2,500 during a one-year or longer period; theft of one or more items during 180 days have an aggregate value of \$1,000; or one or more items during 30 days have an aggregate value of \$500.

It is prima facie evidence that a person acted knowingly when any of the following apply: (1) On two or more separate occasions within a year prior of the commission of the instant offense of organized retail theft, the person is found in possession or control of stolen retail merchandise. (2) The person possesses retail merchandise which has been recently stolen. (3) The person regularly buys, sells, uses, or handles in the course of business retail merchandise of the sort received, and acquired the retail merchandise without making reasonable inquiry whether the individual selling or delivering the retail merchandise to him or her had a legal right to do so.

The proceeds, property obtained by the proceeds or instruments of the crime are subject to forfeiture. **Violations are prosecuted solely in Circuit or District Court.** Warrants may be issued by a judge or magistrate remotely, digitally, via video link or by telephone. Jurisdiction is in state court and may be commenced in any county in which the offense took place.

Effective: September 1, 2023

Terrorist Threat

Act 2023-493

House Bill 37

Sponsor Representative Hill

The Act repeals § 13A-10-15, Making a Terrorist Threat and creates § 13A-10-241, making a terrorist threat first degree and § 13A-10-242, making a terrorist threat second degree.

Definitions are contained in § 13A-10-240, which provides definitions for “property” “threaten” and “weapon of mass destruction” as they are used in these new code sections, all of which are the same as found in § 13A-10-15.

Making Terrorist Threat first degree, found in § 13A-10-241, is a Class C felony and contains all the same elements of the former statute. When a person, based on an objective evaluation, credibly threatens to commit a crime of violence against a person or to damage property by a bomb, explosive, weapon of mass destruction, firearm, deadly weapon or other mechanism

and they either (1) cause the evacuation of real property, or (2) the disruption of school, church or government activity, or (3) threaten to retaliate against those involved in a judicial or administrative proceeding.

Section **13A-10-242**, terrorist threat second degree, is committed when a person, based on an objective evaluation, credibly threatens to commit a crime of violence against a person or to damage property by a bomb, explosive, weapon of mass destruction, firearm, deadly weapon or other mechanism and a violation is a Class A misdemeanor.

Effective: September 1, 2023

Impersonating a Peace Officer

Act 2023-361

House Bill 235

Sponsor Representative R. Wood

The Act amends § **13A-10-11**, impersonating a peace officer, to provide a definition for “peace officer” to include “any officer or employee of the federal government vested by law with a duty to maintain public order or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.”

Effective: September 1, 2023

Electronic Tracking Devices

Act 2023-481

House Bill 153

Sponsor Representative Treadaway

This Act creates §§ **13A-6-95** and **13A-6-96** to prohibit the use of an electronic tracking device and creates new criminal offenses.

Section **13A-6-92** is amended to include a definition of “electronic tracking device” for the new statutes and defines the term as “an electronic or mechanical device that permits the tracking of the movement of a person or object.” The “owner” under the statute is defined to exclude the defendant from the definition. Also, § **30-3-130** is amended to include these new statutes in the custody and domestic or family abuse statutes through the definition of “stalking” in § **30-3-130**.

Section **13A-6-95** creates the offense of electronic stalking first degree, if, without the consent of the owner, except as otherwise authorized by law, he or she places an electronic tracking device on the property of another with the intent to surveil, stalk, harass, or for any other unlawful purpose. Electronic stalking first degree is a Class C felony unless the place

the tracking device in violation of an existing domestic violence protection order, elder abuse protection order, temporary restraining order or any other order of the court, then it is a Class B felony.

Section **13A-6-96** creates the offense of electronic stalking second degree, if without the consent of the owner, except as otherwise authorized by law, he or she places an electronic tracking device on the property of another. Electronic stalking first degree is a Class A misdemeanor.

Jurisdiction for either offense may be where the crime took place, the tracking device is discovered, the residence of the owner and the statute of limitations begins to run with the discovery of the device.

Effective: September 1, 2023

Doxing

Act 2023-369

House Bill 287

Sponsor Representative Stringer

The Act creates the crime of “doxing” if someone electronically publishes, posts or provides personal identifying information of another with the intent that it will be used to harass or harm the individual and they are actually harassed or harmed. Also, if the personal identifying information is that of a law enforcement officer, firefighter or public servant and the intent is to harass, harm or impede the duties of the officer, firefighter or public servant and they are actually harassed, harmed or their duties impeded. The first offense is a Class A misdemeanor and second and subsequent offenses are Class C felonies.

Effective: September 1, 2023.

Loitering

Act 2023-245

House Bill 24

Sponsor Representative Ingram

The Act amends §§ **13A-11-9** and **32-5A-216** to address loitering in public rights of way. An additional type of loitering is added to § **13A-11-9**, which expands the section to include remaining on a public roadway or the right of way of a public roadway, either of which must be maintained by the state. First violations remain a violation and second or subsequent violations are now Class C misdemeanors. Newly created subsection (f) requires law enforcement to instruct a person in violation of this statute to exit the public roadway or right of way or they may transport the violator to a location in the jurisdiction that provides

emergency housing. If law enforcement does any of these actions, the officer is given sovereign immunity.

Effective: August 1, 2023

Eluding

Act 2023-489

House Bill 272

Sponsor Representative Shaver

This Act amends § 13A-10-52 to increase the scenarios where the eluding will result in a felony. It would be a Class C felony if the defendant, while committing a separate felony or while fleeing to avoid apprehension from an arrest warrant for another felony offense, the flight or attempt to elude results in the offender crossing the lines of the State of Alabama into a neighboring state. It would also be a Class C felony if, during the act of eluding, there is a collision or striking of another vehicle or pedestrian, or if the eluding causes any physical injury to any another person. It becomes a Class B felony if, during the flight or attempt to elude, the speed exceeds 20 m.p.h. over the posted speed limit or causes serious physical injury or death to any other person.

It is not a violation of the Act if a vehicle continues traveling at or below the speed limit, with or without the vehicle's flashers turned on, with the intent of stopping the vehicle at the nearest safe place.

Effective: September 1, 2023

Property

Act 2023-201

Senate Bill 228

Sponsor Senator Roberts

This Act provides that a person may acquire an equitable interest in a single-family residential property as the buyer under a contract for the purchase and sale of the property and then may assign or offer to assign the interest for a fee if the buyer discloses in writing all of the following: (1) To any potential subsequent purchaser or assignee, the nature of the buyer's equitable interest. (2) To the seller of the property, the buyer's intent to market its equitable interest prior to commencing any marketing of the property. (3) To the seller of the property, the effective date of any assignment of the buyer's interest to a subsequent purchaser of the property at least three business days prior to the effective date of any assignment. Written disclosure shall be required for the intent to market and transfer an equitable interest in residential real property. A violation is a Class C misdemeanor.

Effective: August 1, 2023

Charitable Organizations

Act 2023-277

House Bill 184

Sponsor Representative Stubbs

The Act amends § 13A-9-71 to prohibit any state agency or state official from imposing certain types of filings or reporting requirements on certain charitable organizations found in subsection (s)(1) and (s)(2). Penalties for violation of this statute are found in subsection (q) and remain Class A misdemeanor for first conviction and a Class C felony for second or subsequent convictions.

Effective: August 1, 2023

Bail

Act 2023-476

Senate Bill 213

Sponsor Senator Sessions

This is known as the Alabama Bail Reform Act. This Act would allow the sheriff or jailer to accept the bail bond filing fee if the payment is physically attached to the bail bond form at the time of posting bail. The Act increases response time for sureties on forfeitures and provides that professional bondsman may not own a professional bail company until he or she has been licensed as a professional bondsman for at least three years. If the owner of a professional bail company dies or becomes completely incapacitated, the company may be sold to an unlicensed individual. The unlicensed individual has 90 calendar days, from date of purchase, to obtain a license and employ a minimum of one employee who has been licensed for at least three consecutive years.

The Act creates two new criminal offenses: (1) Any defendant, or other individual who provides false information to the court or to the surety on any bail bond forms or contracts, shall be guilty of a Class A misdemeanor; and (2) Any surety who exchanges sexual services in exchange for bail bond services shall be guilty of a Class C felony.

Effective: September 1, 2023

FIREARMS

School Property

Act 2023-370

House Bill 34

Sponsor Representative Estes

The Act amends § 13A-11-61.1 to prohibit the discharging of a firearm on school property. If the discharge is during school hours or afterhours school activities, it shall be a Class B felony. If it is not during school hours or during afterhours school activities, it shall be a Class C felony. There are exclusions for self-defense or if the discharge is part of an organized or authorized competition or event that is sanctioned by the school. Also, this does not include school property that is “sixteenth section land or school lands pursuant to § 16-20-1” that are held in trust for the benefit for the school district, that do not have any school buildings and that is not actively used for providing educational or recreational activities for students.

Effective: September 1, 2023

Certain Persons Forbidden

Act 2023-487

House Bill 64

Sponsor Representative Bolton

The Act amends § 13A-11-72, certain persons forbidden from possessing firearms, to now include a person who is an alien and is illegally or unlawfully in the United States, or is in the United States under a nonimmigrant visa, among those prohibited from owning or possessing a pistol or firearm or have one under their control. A violation of this newly created subsection is a Class C felony.

Effective: September 1, 2023

Firearm Database

Act 2023-472

Senate Bill 158

Sponsor Senator Elliott

This Act would require the judge of probate to notify ALEA when an individual is involuntarily committed for entry into the prohibited persons database and NCIC. This Act would also require ALEA to enter the order for involuntary commitment into the state

firearms prohibited person database and ensure that the notice is viewable by law enforcement officers and other authorized persons through the Law Enforcement Tactical System.

Effective: September 1, 2023

CONTROLLED SUBSTANCES & ALCOHOL

Trafficking Fentanyl

Act 2023-4

House Bill 1

Sponsor Representative Simpson

The Act amends § 13A-12-231(13) (trafficking fentanyl, as a single component) to provide for mandatory minimum sentences and incarceration in addition to the existing mandatory fines. The minimum sentence incarceration requirements mirror other subdivisions of the trafficking statute and are progressive and increasing as the amount in possession, etc., increase. The weight requirements, mandatory minimum sentences and fines are:

1. 1g up to 2g – three (3) calendar years, minimum fine of \$50,000;
2. 2g up to 4g – ten (10) calendar years, minimum fine of \$100,000;
3. 4g up to 8g – twenty-five (25) calendar years, minimum fine of \$500,000;
4. 8g or more - life in prison, minimum fine of \$750,000.

Also, the Act requires additional penalties for subsequent convictions. Second conviction of this subdivision requires an additional term of imprisonment of five (5) calendar years and third or subsequent convictions of this subdivision requires an additional term of imprisonment of ten (10) calendar years. Both of these enhancements are mandatory, and neither is subject so suspension or probation.

This Act does not amend § 13A-12-231(3) (fentanyl trafficking involving a mixture).

Effective: July 1, 2023

Manslaughter Fentanyl*

Act 2023-387

House Bill 82

Sponsor Representative Pringle

The Act amends § 13A-6-3, manslaughter, to now include if someone knowingly sells, furnishes, gives away, delivers or distributes a controlled substance [that contains fentanyl, any mixture containing fentanyl, any synthetic controlled substance fentanyl or any synthetic controlled substance fentanyl analogue] in violation of § 13A-12-211, and the person to whom the controlled substance is distributed, dies as a proximate result of the use of the controlled substance, it would be manslaughter. There is an exemption for doctors, dentist and pharmacists who are practicing their respective specialty.

**Due to an incorrect version of this bill being inadvertently transmitted and signed by the Governor, this Act will NOT be effective law and will require new legislation.*

Chemical Endangerment of a First Responder

Act 2023-386

House Bill 230

Sponsor Representative Simpson

The Act creates § 13A-6-30, chemical endangerment of a first responder. If a person knowingly, recklessly, or intentionally causes or permits a first responder, defined in § 11-98-1, a coroner or deputy coroner to be exposed to, to ingest or inhale or to have contact with a Schedule I controlled substance in § 20-2-23 or chemical substance defined in § 26-15-2, or any mixture or combination thereof, while the first responder is performing his duties. For the purposes of this offense serious physical injury also includes ingestion, inhalation or contact with fentanyl, any mixture containing fentanyl, any synthetic controlled substance fentanyl or any synthetic controlled substance fentanyl analogue. Chemical endangerment of a first responder with physical injury is a Class C felony, with serious physical injury is a Class B felony and with death is a Class A felony.

Effective: September 1, 2023

Psychoactive Cannabinoids

Act 2023-169

Senate Bill 66

Sponsor Senator Melson

This Act prohibits psychoactive cannabinoids derived from or found in hemp, including, but not limited to, delta-8-tetrahydrocannabinol and delta-10-tetrahydrocannabinol, from being sold, distributed, marketed to, or possessed by an individual who is under 21 years of age.

(Except as provided in Chapter 2A of Title 20 – Medical Cannabis) A violation is a Class B misdemeanor. A person under 21 in possession of psychoactive cannabinoids shall be issued a citation with a fine of \$50 - \$200 for each violation or community service in an amount equal to the fine. On a 3rd or subsequent conviction, the fine is \$400.

Effective: August 1, 2023

We often hear the term "sine die" [SIGH-nee DIE-ee or SI-nay DEE-ay] used in reference to the last day of the legislative session. If you are in or around the Alabama Statehouse on the last night of the legislative session, you may hear it shouted with glee by staff members and others in attendance. A Latin term meaning "without day", it is often used to signify the final adjournment of a session of a legislative body. A legislative body adjourns "sine die" when it adjourns without appointing a day upon which to reappear or reassemble.

CRIMES AGAINST CHILDREN

Child Abuse

Act 2023-466

Senate Bill 83

Sponsor Senator Weaver

This Act amends the child abuse statute, § 26-15-3, to include willfully mistreat, which is any intentional behavior that inflicts unnecessary or unjustifiable pain or suffering on a child without causing physical injury to the child.

Effective: September 1, 2023

Transmitting Obscene Material to a Child, Incest, and Distribution of a Private Image

Act 2023-464

Senate Bill 224

Sponsor Senator Figures

This Act amends the statute of transmitting obscene material to a child to define a child as a person under 17. This Act also amends distribution of a private image to allow jurisdiction to prosecute in an any county where any of the crime occurred, in the county of residence of

the victim or defendant, or in any county where the image is received. It removes the language that the distribution must be “with the intent to harass, threaten, coerce, or intimidate the person depicted.” Lastly, this Act increases the crime of Incest by increasing penalty to a Class A felony when the victim is under 17.

Effective: September 1, 2023

DOMESTIC VIOLENCE

Addition of Grandparents/Grandchildren

Act 2023-494

House Bill 76

Sponsor Representative Simpson

The Act amends domestic violence first, second and third degrees (§§ 13A-6-130 through 13A-6-132), domestic violence by suffocation or strangulation (§ 13A-6-138) and protective orders (§ 30-5-2) to add grandparents, step-grandparents, grandchild and step grandchild to the list of qualifying relationships.

Effective: September 1, 2023

TRAFFIC OFFENSES AND MARITIME

Use of Wireless Telecommunications While Driving

Act 2023-478

Senate Bill 301

Sponsor Senator Waggoner

This Act repeals § 32-5A-350, creates a new code, § 32-5A-350.1, and amends § 32-5A-351. Section 32-5A-350.1 creates the new offense of using a wireless telecommunications device or stand-alone electronic device while operating a motor vehicle. This Act does not prohibit the use of a radio, citizens band radio, commercial two-way radio communication device, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, safety, or remote diagnostics system. A person violates this Act if he or she is observed crossing in and out of a traffic lane without using a turn signal, swerving, or otherwise operating the vehicle in an impaired manner while doing any of the following:

1. Physically holding or supporting with any part of their body a wireless telecommunications device or stand-alone electronic device.
2. Write, send, or read any text-based communication, including but not limited to a text message, instant message, e-mail, or Internet data on a wireless telecommunications device or stand-alone electronic device.
3. Watch a video or movie on a wireless telecommunications device or stand-alone electronic device.
4. Record or broadcast a video on a wireless telecommunications device or stand-alone electronic device.
5. Use more than a single button or swipe of a finger on a wireless telecommunications device to initiate or terminate a voice communication.
6. Reach for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to no longer be in a seated driving position properly restrained by a safety belt.

However, a driver may utilize Bluetooth devices while operating the motor vehicle.

A violation of this Act is considered a Class C misdemeanor; however, violations are viewed with a 2-year lookback. A first conviction carries a fine of up to \$50 and 1-point is charged to the driver's license. If it is a true first offense for physically holding a wireless telecommunications device, the driver can provide proof that they purchased a Bluetooth device that would have allowed them to act within accordance of the law and affirm that they have not previously utilized this section. If these two requirements are met, the case shall be dismissed. A second conviction within 2 years carries a fine of up to \$100 and 2-points are charged to the driver's license. Any subsequent conviction within the lookback period carries a fine of up to \$150 and 3-points are charged to the driver's license. No court costs are applied in these cases.

This Act does not apply in the following scenarios:

1. Use of a wireless telecommunications device to obtain emergency services.
2. Use of a wireless telecommunications device while the motor vehicle is parked on the shoulder of the roadway.
3. Use of a wireless telecommunications device by an employee or contractor of a utility services provider while responding to a utility emergency or performing other critical utility services.
4. Use of a wireless telecommunications device by a law enforcement officer, emergency medical services personnel, ambulance operator, firefighter, volunteer firefighter, or other public safety first responder during the performance of his or her official duties.
5. Use of an ignition interlock device.
6. Use of a wireless telecommunications device by a licensed physician while responding to an emergency medical situation.

The present texting and driving law is repealed in totality.

Effective: June 14, 2023

Drag Racing

Act 2023-174

House Bill 29

Sponsor Representative Treadaway

This Act would define and prohibit certain motor vehicle speed contests, motor vehicle exhibitions of speed, motor vehicle sideshows, and other reckless driving maneuver. All the prohibited actions are specifically defined within the Act. Private motor speedways or other areas of private land where racing or stunt driving activities are authorized to be performed by the owner are exempted from this Act.

The first violation of the Act is a Class C misdemeanor, and any subsequent conviction is a Class B misdemeanor. If the driver commits one of the prescribed acts listed and proximately causes bodily injury to another individual or the offense proximately causes damage to any property, the driver shall be guilty of a Class A misdemeanor. The judge may also suspend the driver's license of the operator of a motor vehicle for any of these misdemeanor offenses for up to six months.

If the driver commits one of the prescribed acts listed and proximately causes serious physical injury to a person other than the driver, the driver shall be guilty of a Class C felony. If the driver commits one of the prescribed acts listed and proximately causes the death of any person, the driver shall be guilty of a Class B felony. The judge may also suspend the driver's license of the operator of a motor vehicle for either of these felony offenses for up to two years.

The Act also allows for the vehicle to be towed and held for at least 48 hours at the time of arrest of the offender or seizure of a vehicle involved in the commission of the listed offenses. The cost of this impoundment is placed upon the registered owner of the motor vehicle. The Act sets out the procedures to contest any impoundment and the process through which the registered owner must go through to retain possession of the vehicle. Upon three convictions under this Act, a vehicle can be seized deemed contraband, and forfeited under § 20-2-93.

Effective: August 1, 2023

Smoking/Vaping in Vehicle with Child Under 14

Act 2023-93

House Bill 3

Sponsor Representative Hollis

This Act creates a secondary traffic violation that would make it unlawful for a person to smoke any tobacco product or to vape in a motor vehicle, whether in motion or at rest, in

which a child aged 14 years or under is present in the vehicle. The penalty is a fine only, up to \$100.

Effective: August 1, 2023

Speed Limits

Act 2023-110

Senate Bill 33

Sponsor Senator Livingston

The Act provides that a municipality cannot set speed limits on county-maintained streets within the municipality's corporate limits unless the municipality conducts an engineering & traffic investigation and receives written approval from the county engineer to fix the speed based on the results of that investigation.

Effective: August 1, 2023

Boating Violations

Act 2023-363

House Bill 358

Sponsor Representative Shaver

This Act renames the Marine Police Division to the Marine Patrol Division and reclassifies those officers as state troopers. This Act amends a substantial portion of the Title 33 to correctly reference ALEA as the administrative agency charged with administering and enforcing the boating safety laws of the state.

This Act establishes a new classification of a criminal offense as a "boating violation", which is defined in the Act to be an offense committed on the waters of this state that amounts to a violation under **§ 13A-5-3(d)** and would reclassify various misdemeanor boating offenses as boating violations. This does not affect Boating Under the Influence (BUI). Penalties for a boating violation include a fine of no more than \$200 and jail time of no more than 30 days. The Act changes the reporting time requirement of boating crashes from 10 days to 24 hours. Next, it amends the authorized hours of operation of a vessel towing a person for recreational purposes (skiing, aquaplane, etc.) to between sunrise and sunset. Another change is the increase in age of operators of personal watercraft, from 12 to 14. This Act deletes the language not in conformity with federal law and implements Coast Guard standards.

The Act would establish the uniform boating traffic ticket and provide for its issuance and usage. This Act would further provide for the administration of a point system to administer and enforce the suspension or revocation of boater safety certifications. It also provides that

the district court will have exclusive, original jurisdiction over boating violations and would provide for the court costs, docket fees, and other fees that would be assessed upon conviction.

Effective: January 1, 2024

Wakeboarding

Act 2023-459

House Bill 422

Sponsor Representative Wadsworth

This Act only impacts three waters of the State of Alabama: Lewis Smith Lake, Lake Wedoee/R. L. Harris Reservoir, and Shoals Creek (north of Hwy 72). The Act prohibits a person from engaging in wakeboarding or wake surfing under the following conditions:

- (1) Between sunset and sunrise;
- (2) On any portion of the impounded waters where the width of the portion is less than 400 feet;
- (3) Within 200 feet from any shoreline, dock, pier, boathouse, or other structure located on the impounded waters; or
- (4) When not wearing a personal flotation device approved by the United States Coast Guard.

First offense would be punishable by a fine of no less than \$100. Any subsequent offense during a single calendar year shall be fined no less than \$200. They may also, at the discretion of the court, be subject to the revocation or suspension of his or her boater safety certification or vessel operator's certification or vessel operating privileges upon the waters of this state for the duration of the calendar year. During the first year after enactment, only warnings shall be issued to violators.

Effective: September 1, 2023

DUI

There were no House or Senate bills passed during the 2023 legislative session that directly impacted the DUI statute (§ 32-5A-191); however, that does not mean that DUI law will not change this year. In 2018, the Alabama Legislature passed a revision of the ignition interlock provisions of the DUI code. In order to do this, they had to agree to a 5-year sunset (i.e., self-repeal) of one subsection and delay the enactment of another subsection. On July 1, 2023, the following two changes will take effect:

1. There will no longer be an ignition interlock requirement for a pretrial diversion case.
2. A judge may require an offender to install and use a certified ignition interlock device as a condition of bond. Any suspension or revocation of the defendant's license will

be stayed while under this added bond condition. It should also be noted, the period of time the defendant has the ignition interlock device installed as a condition of bond shall not be credited to any requirement to have an ignition interlock device upon conviction.

If you have any questions about these changes, please feel free to contact Bill Lindsey, Alabama TSRP.

SENTENCING

Class D Felonies

Act 2023-461

Senate Bill 198

Sponsor Senator Orr

This Act removes the “probation only” potential sentence for Class D felonies and provides judges with the discretion to sentence Class D felonies to incarceration.

The Act removes the mandatory split sentence from both Class C and Class D Felonies.

The Act also allows for the revocation of a sentence if the defendant fails to successfully complete a court supervised evidence-based treatment program, a court ordered faith-based program or any other court ordered rehabilitation program.

This Act corrects an omission from the 2015 Justice Reinvestment Act. It makes the attempt, solicitation, and conspiracy of a Class C Felony a Class D Felony and Solicitation of a Class D Felony a Class A misdemeanor.

Effective: July 1, 2023

Correctional Incentive Time

Act 2023-22

Senate Bill 1

Sponsor Senator Weaver

The *Deputy Brad Johnson Act* applies prospectively and amends § 14-9-41 and reduces the amount of correctional incentive time for Class 1 – Class 3 classifications:

Class 1 reduced from 75 days 30 days for each 30 days actually served.

Class 2 reduced from 40 days 15 days for each 30 days actually served.

Class 3 reduced from 20 days to 5 days for each 30 days actually served.
Class 4 does not earn correctional incentive time.

This Act requires each inmate to remain at each classification for a longer period of time before moving up to the next Class. A Class 4 inmate shall remain for a minimum of 3 months instead of 30 days; a Class 3 inmate shall remain 6 months instead of 3 months; and a Class 2 inmate shall remain 12 months instead 6 months. It also adds violent Class B felonies to the list of inmates prohibited from receiving Class 1 status, provided this limitation is provided on the sentencing transcript.

Those inmates who, during their term of imprisonment, commit or attempt to commit the following crimes forfeit their correctional incentive time and are prohibited from receiving future correctional incentive time: homicide, escape, assault with serious physical injury, taking or holding a hostage, sexual assault, inciting a riot, rioting, fighting with a weapon resulting in serious physical injury or arson

Lastly, this Act requires the Department of Corrections to submit annual reports to the Governor, Legislature and the Attorney General on correctional incentive time and its application.

Effective: April 14, 2023

PROBATION AND PAROLE

Pretrial Supervision

Act 2023-474

Senate Bill 153

Sponsor Senator Barfoot

This Act provides that a judge may order a defendant charged with any offense found in § 15-13-3 (both capital offenses and *Aniah's Law* enumerated offenses), who has been released on bond, to be supervised by the Board of Pardons and Paroles as a condition of bond. This act shall be operative upon certification by the Director of Finance that sufficient funds have been appropriated to the Board of Pardons and Paroles to implement this act.

Effective: September 1, 2023

Presentence Reports

Act 2023-364

House Bill 72

Sponsor Representative Starnes

The Act amends §§ 15-22-51 and 15-22-53 related to presentence reports. The Act will allow for a probation officer or a specialist to conduct an investigation using a validated risk and needs assessment and provide a written report to the court.

Effective: September 1, 2023

Parole

Act 2023-367

House Bill 131

Sponsor Representative Kitchens

The Act amends § 15-22-28 and prevents an inmate from being eligible for parole if they have been charged with a new federal, state or local offense, that is punishable by a term of imprisonment exceeding twelve months (a felony), shall not be considered for parole until the charge has been disposed of by trial or other means. The Alabama Department of Corrections shall immediately notify the prisoner of any new charges that have been filed that would delay parole consideration.

Effective: September 1, 2023

Parole Violator

Act 2023-475

Senate Bill 157

Sponsor Senator Elliott

This Act would provide that a law enforcement officer with the power of arrest may arrest a parolee/probationer without a warrant if the parolee/probationer violates conditions of probation/parole in the presence of the arresting officer. The arresting officer, or his or her agency, as soon as practicable, but no later than 24 hours following the arrest, shall notify the Board of Pardons and Paroles of the arrest of the parolee/probationer.

This Act would require Pardons and Paroles to report to the ALEA a parolee's/probationer's conditions of parole. ALEA shall ensure that the conditions may be viewed by law enforcement officers through the Law Enforcement Tactical System. If a parolee is arrested for a new offense, before he or she may bond out on the new offense, the Board of Pardons and Paroles shall be notified of the parolee's arrest. The parolee may be held as long as

necessary, but no longer than four hours after arrest, to give the Board the opportunity to subject the parolee to the electronic monitoring required pursuant to § 15-22-29.

Effective: September 1, 2023

JUVENILE

Contraband

Act 2023-336

Senate Bill 120

Sponsor Senator Coleman-Madison

This Act allows detention facilities to further define the term “contraband” for purposes of banning certain items from detention facilities. The Act also specifically adds juveniles to the crimes of promoting prison contraband 1st, 2nd, and 3rd.

Effective: September 1, 2023

CRIMINAL PROCEDURE

Child Hearsay

Act 2023-462

Senate Bill 223

Sponsor Senator Figures

This Act expands the definition of a “physical offense, sexual offense, or violent offense” to include witnesses under 12 for the purposes of child hearsay.

Effective: September 1, 2023

Ethics

Act 2023-543

Senate Bill 103

Sponsor Senator Orr

This Act would require a lawyer or prosecutor assigned to or employed by the Ethics Commission to provide the respondent with the complaint and any statement, evidence, or information received from the complainant, witness, or other individual prior to any hearing or issuance of an order for administrative resolution of a violation. The information provided shall be kept confidential by the respondent until the conclusion of the proceedings before the commission or any resulting prosecution. Upon referral to the Attorney General or a District Attorney, all information in the possession of the Commission shall be provided. The Act also clarifies the employees' protections related to making complaints or cooperating with investigations of potential ethics violations.

Effective: September 1, 2023

Driver License

Act 2023-337

Senate Bill 154

Sponsor Senator Barfoot

This Act provides that a judge may only order an individual's driver license or driving privilege be suspended for failing to appear in court when either individual violates his or her written bond to appear or otherwise failing to appear for any pre-adjudication court date, or for failing to appear in court on more than one occasion when the court appearance is based on a court's post adjudication compliance review of conditions ordered by the court for a traffic violation. Any individual whose driving privilege is suspended for failure to appear shall be reinstated upon compliance with the notice to appear and the payment of the reinstatement fee.

Secondly, the Act provides that a court may not suspend an individual's driver license for failure to pay a fine, fee, or court cost because of a traffic violation unless the individual fails to make three or more of the required payments after the court's order requiring the payment of fines, fees, or court costs as part of a payment plan.

Nothing in this Act applies to CDL holders.

Effective: October 1, 2023



LAW ENFORCEMENT PROCEDURE

Missing & Endangered Persons

Act 2023-348

Senate Bill 132

Sponsor Senator Smitherman

This Act amends the Missing and Endangered Persons Alert Act to include those that ALEA has verified to be abducted and ALEA has a reasonable belief that are at risk of bodily harm or death.

Effective: September 1, 2023

Bodycam

Act 2023-507

House Bill 289

Sponsor Representative Givan

The Act creates a process for the disclosure of bodycam and dash-cam recordings by law enforcement. Section 1 defines the terms and the definitions for both dashboard camera and body worn cameras to include video as well as audio recordings. The term “disclosure” means to make the recording available for viewing or listening at a time and location chosen by the custodial law enforcement agency and explicitly states it does not include the release of the recording. However, it also includes a definition for the release of the recording. Section 2 states the recordings are not personnel records of any individual employed as a law enforcement officer.

Section 3 provides recordings in the custody of a law enforcement agency shall be “disclosed” pursuant to this act. The requesting party must make a written request to the head of the custodial law enforcement agency and describe the video with reasonable particularity so that the agency can identify the recordings related to the request. The act specifically states this act does not limit or restrict the application of the Alabama Rules of Civil Procedure (Rule 45) nor Chapter 21 of Title 12.

A custodial law enforcement agency may only “disclose” recordings to the following whose image or voice is the subject of the recording (1) an individual; (2) personal representative if the individual; (3) personal representative of a minor; (4) personal representative of an

adult who is under a guardianship; (5) personal representative of an incapacitated adult; (6) personal representative of a deceased person. The disclosure shall be limited to the portions

of the recording relevant to the request and the recipient shall not record or copy the recording.

Section 4 required the custodial law enforcement agency to “disclose” the recording as promptly as possible upon receipt of the written request. The agency must either (1) disclose the portion relevant to the request, or (2) notify the requestor the agency’s decision to not disclose, if the disclosure would negatively affect an ongoing active law enforcement investigation. The disclosing agency may also charge a reasonable fee for redacting and editing the recording.

Effective: September 1, 2023

Law Enforcement Reports

Act 2023-197

House Bill 21

Sponsor Representative Brown

The Act creates a new code section that requires all “law enforcement agencies” as defined in § 15-5-62 (includes “prosecutorial entities”), and the Alabama Department of Forensic Sciences (ADFS) to report by April 1 of each year, to the Alabama State Law Enforcement Agency (ALEA) the number reported cases of “sexual assault” as defined in § 15-23-121. ALEA shall compile the data and by May 1 of each year, report the results to the Chairs of the House and Senate Judiciary Committees.

The reports by “law enforcement agencies” shall include (1) the number of new sexual assault cases reported, (2) the number of new sexual assault cases reported where evidence from a medical forensic examination was submitted for forensic analysis, (3) the number of sexual assault cases reported where evidence from a medical forensic examination was not submitted for forensic analysis and the reason it was not submitted, and (4) the number of sexual assault cases that were closed due to judicial or investigative reasons and the reasons the cases were closed.

The reports by ADFS shall include: (1) the number of sexual assault cases received, (2) the number of sexual assault cases completed. (3) the number of sexual assault cases in progress as of December 31 of the prior calendar year.

The report submitted by ALEA shall include all of the above information as well as the name and contact information of any entity that failed to comply with these subsections.

Effective: August 1, 2023

Sheriffs

Act 2023-164

House Bill 276

Sponsor Representative Bolton

The Act repeals §§ 11-5-5, 11-5-6, 11-5-7, 11-5-8 and 11-5-9 related to county coroner serving as sheriff if the sheriff's office is vacant until the successor is qualified. This would apply when a sheriff's office is vacant, the sheriff is imprisoned or incompetent to act, when the sheriff is a party in a criminal proceeding involving the discharge of their duties or in any case when directed by the judge of probate. The highest-ranking deputy sheriff in the effected office shall discharge the duties of sheriff under these circumstances.

Effective: August 1, 2023

Campus Police

Act 2023-495

House Bill 152

Sponsor Representative Treadaway

The Act creates § 16-22-1.1 to authorize public institutions of higher education that employ campus police officers to also employ reserve campus police officers. The new code section outlines the duties a reserve officer would be able to perform and limits arrest powers unless the reserve officer is APOST certified. Additionally, reserve officers may only carry firearms if the president or CEO of the employing institution has approved the reserve officer's use of the firearm and subject to the policies of the institution.

Effective: September 1, 2023

Law Enforcement Support

Act 2023-318

Senate Bill 225

Sponsor Senator Weaver

This Act allows any Department of Corrections officer certified by the Alabama Peace Officers' Standards and Training Commission, including a K-9 handler, to use a police animal or search and rescue animal to assist any law enforcement agency with public safety.

Effective: May 30, 2023

GOVERNMENTAL PROCEDURE

Notaries

Act 2023-548

Senate Bill 322

Sponsor Senator Givhan

This Act increases the fee for notaries from \$10 to \$100 and places prohibitions on who may become a notary. Notaries who apply after enactment must complete a training program within 30 days after submitting an application, unless extended by the judge of probate. Attorneys are not required to complete the training. This Act increases the bond for notaries from \$25,000 to \$50,000. A notary commissioned pursuant to this article is permitted a reasonable fee, not to exceed ten dollars (\$10), for each notarial act performed. No fee may be charged by a state, county, or municipal employee for a notarial act performed during, and as a part of, his or her public service, unless otherwise provided by law.

An individual who commits any of the following is guilty of a Class C misdemeanor: (1) Holding themselves out to the public as a notary without being commissioned. (2) Performing a notarial act with an expired, suspended, or restricted commission. (3) Performing a notarial act before taking an oath of office. (4) Charging a fee for a notarial act in excess of the maximum fee allowed by this article. (5) Taking an acknowledgment or administering an oath or affirmation without the principal appearing in person before the notary or following the procedures for remote notarization set out in this article. (6) Taking an acknowledgment or administering an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal. (7) Taking a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness.

A notary is guilty of a Class D felony if he or she does any of the following with the intent to commit fraud or to intentionally assist in the commission of a fraudulent act: (1) Takes an acknowledgment, or a verification or proof, or administers an oath or affirmation he or she knows or reasonably believes to be false. (2) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary, or without following the procedures for remote notarization set out in this article. (3) Takes a verification or proof without the subscribing witness appearing in person before the notary, or without following the procedures for remote notarization set out in this article. (4) Performs notarial acts in this state with the knowledge that he or she is not properly commissioned under this chapter.

Any individual who knowingly solicits, coerces, or in any material way influences a notary to commit official misconduct is guilty as an aider and abettor and is subject to the same level of punishment as the notary.

Effective: September 1, 2023

Posting of Notices

Act 2023-529

Senate Bill 71

Sponsor Senator Williams

This Act allows any notice required to be posted by the county at the county courthouse or other county building to be posted on any official website maintained by the county or municipality or on an electronic display within the county courthouse or other building containing county offices, in an area frequented by the public, such as a lobby, principal point of entry, or main corridor.

Effective: September 1, 2023

Nonprofit Personal Information

Act 2023-128

Senate Bill 59

Sponsor Senator Smitherman

The *Personal Privacy Protection Act* prevents a nonprofit organization from disclosing personal information including any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support to any nonprofit organization, except warrant or lawful discovery request. A violation is a Class C misdemeanor and there are also civil violations.

Effective: August 1, 2023

Release of Data

Act 2023-365

House Bill 109

Sponsor Representative Collins

The Act creates the *Alabama Credential Quality and Transparency Act* § 41-29-350, et. seq., the *Alabama Administrative Procedures Act*, § 41-29-360, et. seq., the *Alabama College and*

Career Readiness Act, § 41-29-298, et. seq. As part of the *Alabama Administrative Procedures Act, § 41-29-363(f)*, creates a new Class C felony for any person who knowingly releases data collected under §§ 41-29-360 through 41-29-365 , Division 10, Article 3, Chapter 29, Title 41, to any other person not authorized by law to receive the data. There are no other criminal provisions in any of these three acts.

Effective: September 1, 2023

Disclosure of Personal Information

Act 2023-506

House Bill 286

Sponsor Representative Stringer

The Act creates § 41-13-7.1 to prohibit the disclosure of personal identifying information of any law enforcement officers or employees at the request of the officer or employee. Identifying information is defined in § 41-13-7 and includes the same items as found in the identity theft statute (§ 13A-8-191), but adds home address and phone number but excludes the officer or employee's name. Law enforcement officer or employee is defined in section (a)(2) and includes judges, district attorneys, deputy and assistant district attorneys, district attorney investigators as well as law enforcement officers and deputies.

Section (b) requires the redaction of any personal identifying information of any law enforcement officer or employee, prior to disclosure, from any document of a state, county, municipal or other subdivision of government. Request forms shall be made available online, by each department or agency of the state, county, or municipality, so that the law enforcement officer or employee can request redaction before disclosure of any documents.

Effective: September 1, 2023

Currency

Act 2023-561

Senate Bill 330

Sponsor Senator Roberts

This Act prohibits any state or local governmental agency from accepting central bank digital currency as a form of payment and prohibits any governmental agency from participating in testing the use of central bank digital currency by any Federal Reserve branch.

Effective: September 1, 2023

Microchips

Act 2023-396

House Bill 4

Sponsor Representative Chestnut

The Act prevents employers from requiring employees to be implanted with a microchip or other permanent identification marker. The term “microchip” is defined in section **(a)** of this subdivision as a “device subcutaneously implanted in an individual that is passively or actively capable of transmitting personal information to another device using radio frequency technology.”

Subdivision **(b)** makes it unlawful for an employer to require a “microchip” type implant as a condition of employment. Further, it specifically prohibits officers and employees of the state or a political subdivision, individuals licensed to sell or provide insurance pursuant to Title 27 or any person licensed to participate in business related to bail pursuant to §§ 15-13-200, et. seq., from being required to be implanted with a “microchip.” Anyone can volunteer to have a “microchip” implanted but it cannot be required as above. Violations are a Class D felony.

Effective: September 1, 2023



COURTS

Protection from Abuse

Act 2023-321

Senate Bill 14

Sponsor Senator Chambliss

This Act prohibits court costs or fees from being assessed against the petitioner for the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, issuance of witness

subpoenas or service of a protection order or a petition for a protection order. Costs and fees may be assessed against the defendant.

Effective: August 1, 2023

Jurors

Act 2023-403

Senate Bill 99

Sponsor Senator Givhan

This Act allows the Alabama Supreme Court, by order or rule, to establish the amount of expense allowance and mileage to be paid to each juror. Under the current code section, jurors receive \$.05 per mile and \$10 expense allowance for each day's service. This Act removes these specified amounts and allows the Alabama Supreme Court to set the amounts by order or rule.

Effective: September 1, 2023

Additional Judgeships

Act 2023-315

Senate Bill 39

Sponsor Senator Givhan

This Act creates the following additional judgeships to be filled at the 2024 General Election: Circuit judge for 11th Circuit (Lauderdale); Circuit judge for 19th Circuit (Autauga, Chilton, Elmore) to be assigned to Domestic Relations; Circuit judge for 23rd Circuit (Madison); Circuit judge for 28th Circuit (Baldwin); District judge in Baldwin; District judge in DeKalb; and District judge in Mobile.

This Act creates the following additional judgeships to be filled at the 2026 General Election: Circuit judge for 6th Circuit (Tuscaloosa); Circuit judge for 19th Circuit (Autauga, Chilton, Elmore); Circuit judge for 28th Circuit (Baldwin); Circuit judge for 37th Circuit (Lee); District judge in Madison; and District judge in Shelby

Each year AOC shall provide the following stats by circuit each FY to the House Speaker, Senate President Pro Tempore, chair of Senate Finance and Taxation and General Fund, chair of House General Fund, chair of Senate Judiciary, chair of House Judiciary, and Legislative Fiscal Officer, chair and vice chair of the Legislative Council, Senate Minority Leader, and House Minority Leader:

(1) Number of civil cases filed broken down by category.

(2) Number of civil cases resolved via a motion to dismiss or voluntary dismissal.

- (3) Number of civil cases resolved via a motion for summary judgment.
- (4) Number of civil cases in which a jury is empaneled.
- (5) Number of civil cases tried to a jury verdict.
- (6) Number of criminal cases filed broken down by category.
- (7) Number of total criminal counts filed broken down by category.
- (8) Number of criminal cases resolved via dismissal.
- (9) Number of criminal cases resolved via plea agreement.
- (10) Number of criminal cases resolved via some form of pre-trial diversion or alternative resolution program.
- (11) Number of criminal cases in which a jury is empaneled.
- (12) Number of criminal cases tried to a jury verdict.
- (13) Number of juvenile cases filed broken down by dependency and delinquency.
- (14) Number of juvenile cases resolved.
- (15) Number of domestic cases filed broken down by category.
- (16) Number of domestic cases resolved.
- (17) Number of probate cases appealed to the circuit court.
- (18) Any other information or data deemed relevant by the Alabama Supreme Court.

Effective: May 30, 2023

FUNDING

Cost of Living

Act 2023-380

House Bill 154

Sponsor Representative Bracy

The Act provides for a 2% cost of living increase for state employees.

Effective: June 1, 2023

While the Legislature considered and passed many bills and resolutions during the 2023 session, they only have two constitutional obligations that they must do: pass the General Fund Budget (GF) and the pass the Education Trust Fund (ETF) budget.

PROCUREMENT

Procurement

Act 2023-542

Senate Bill 100

Sponsor Senator Orr

This Act amends the procurement statute by specifically removing the district attorneys and sheriffs and placing the procurement of any supplies, services, or professional services by a district attorney or sheriff solely under Article 3, commencing with **§ 41-16-50**, et. seq.

Effective: June 14, 2023

Purchasing

Act 2023-544

Senate Bill 291

Sponsor Senator Coleman

This Act amends **§ 41-16-51** and excludes purchases of computer programs and software applications from competitive bidding. Additionally, the article would not apply to the purchase of equipment and services to aid in the prevention and detection of criminal activity by law enforcement agencies and community-oriented policing programs.

Effective: September 1, 2023

Procurement

Act 2023-409

Senate Bill 261

Sponsor Senator Roberts

This Act provides that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that the company, without violating controlling law or regulation, does not and will not, during the term of the contract, engage in economic boycotts. The following are excluded: contracts related to the issuance, incurrence, or management of debt obligations, to the deposit, custody, management, borrowing, or investment of funds, or to the procurement of insurance or other financial products, or financial advisory services, or a contract that would

prevent the governmental entity from obtaining the supplies or services to be provided in an economically practicable manner.

If a governmental entity is unable to comply with this section without significantly increasing costs limiting the quality of options or services available, or both, the governmental entity may waive the requirements upon a finding, posted on the governmental entity's publicly available website that: (1) The governmental entity has made reasonable and good faith efforts to obtain services meeting the requirements of this section and has included the requirements in the governmental entity's minimum selection criteria; (2) Based on objective information available to the governmental entity, the cost appears significantly higher than the services available to similarly oriented governmental entities not subject to similar requirements, or the quality of services or options appears significantly lower than the quality of services available to similarly oriented governmental entities not subject to similar requirements, or both; and (3) The governmental entity determines that a waiver is clearly in the best interest of the public.

Effective: September 1, 2023, and shall only apply to contracts entered on or after October 1, 2023

Competitive Bidding

Act 2023-135

Senate Bill 108

Sponsor Senator Coleman-Madison

This Act amends §§ 41-16-50, 41-16-51, 41-16-52, 41-16-53, 41-16-54 and 41-16-54, to increase various threshold dollar amounts for which competitive bidding is generally required from \$15,000 to \$30,000 and would authorize those dollar amounts to be further increased based on increases in the Consumer Price Index on October 1, 2027, and every 3 years thereafter. If no bids or only one bid is received at the time stated in the advertisement for bids, the awarding authority may advertise for and seek other competitive bids, or the awarding authority may negotiate through the receipt of informal bids not subject to the requirements of this article. Where only one responsible and responsive bid has been received, any negotiation for the work shall be for a price lower than that bid. If both or all bids exceed the awarding authority's anticipated budget, the awarding authority may negotiate with the lowest responsible and responsive bidder, provided the negotiated price is lower than the bid price.

Effective: August 1, 2023

Department of Finance

Act 2023-500

House Bill 337

Sponsor Representative South

The Act amends §§ 41-4-3 and 41-4-50 to allow the Department of Finance to charge reasonable fees to provide services required under these code sections. Also, to allow for payment to vendors in prior fiscal years with approval by the Director of Finance.

Effective: September 1, 2023

LICENSING

Private Investigators

Act 2023-397

House Bill 75

Sponsor Representative Mooney

The Act amends several statutes related to the Alabama Private Investigation Board and the requirements for licensing private investigators. Section 34-25B-2 provides definitions for the Act and adds new definitions for the “board,” “private investigation agency” and “private investigator apprentice.” Section 34-25B-3 establishes the licensing requirement for private investigators and adds “private investigator apprentice” to the requirement to have a license in order to conduct or hold themselves out as a private investigator or apprentice. Section 34-25B-4 establishes the “board” and outlines the requirements for membership and duties of the board. The Attorney General and Alabama State Bar both appoint one member each. Section 34-25B-7 governs the Alabama Private Investigator Board Fund and outlines the requirements for it. Section 34-25B-10 contains the criminal violations for acting as a private investigator or private investigator apprentice without a license and remains a Class A misdemeanor with a fine of up to \$6,000. Except for amending this section to specify the fine and include apprentices, there is no change to this code section.

Sections 34-25B-11, 34-25B-12, 34-25B-13, 34-25B-14, 34-25B-17, 34-25B-18 and 34-25B-21 all govern the application process and operating regulations for private investigators, apprentices, agencies and the board. Section 34-25B-22 contains a Class A misdemeanor for private investigators, apprentices and agencies. The elements of this offense have not changed except it was amended to add apprentices, agencies and employers as additional parties who can violate this section.

Sections 34-25B-50 through 34-25B-54 are created and outline the requirements for private investigator agencies. A new Class A misdemeanor offense is created in § 34-25B-

50 that prohibits business entities and its agents that employ private investigators or contract with them to advertise and hold themselves out as a private investigation agency unless they have been licensed by the board.

Effective: September 1, 2023

Pharmacy Services

Act 2023-60

Senate Bill 16

Sponsor Senator Butler

This Act provides that an entity, rather than a person, providing pharmacy services to residents of this state be required to have a permit issued by the board. A violation is a misdemeanor.

Effective: July 1, 2023

Pharmacy

Act 2023-119

House Bill 79

Sponsor Representative Rigsby

The Act amends § 34-23-32 to require all entities (every manufacturer, bottler, packager, re-packager, third party logistic provider, wholesale drug distributor, private label distributor, outsourcing facility, or pharmacy business identified in the supply chain of drugs, medicines, chemicals, or poisons for medicinal purposes) that are required permit holders with the Board of Pharmacy, to register a designated representative who shall also have a separate permit and pay a separate fee for that permit. Violations for this provision remain an unspecified misdemeanor.

Effective: August 1, 2023

Physical Therapy Licensure Compact

Act 2023-480

House Bill 110

Sponsor Representative P. Moore

The Act amends several code sections, generally found in §§ 34-24-191, et. seq., the Physical Therapy Licensure Compact, to give the Board of Physical Therapy jurisdiction over physical therapist and assistants licensed in other states who have compact privileges to practice in

Alabama. The licensing requirements are outlined in § 34-24-210 and the penalties for violations of § 34-24-210 are contained in § 34-24-196 and with these amendments now include those with compact privileges as well as those licensed in the state of Alabama. The penalties remain an unclassified misdemeanor with a sentencing range of not less than 30 but not more than 90 days imprisonment and fines between \$100 to \$500.

Effective: September 1, 2023

Alabama Electric Security Board of Licensure

Act 2023-278

House Bill 260

Sponsor Representative Sells

The Act amends several code sections related to the Alabama Electronic Security Board of Licensure. These amendments would allow for administrative fines and disciplinary actions and cease and desist orders. Violations for anyone or any entity to engage in business regulated by this chapter and applicable rules remain unchanged and are Class A misdemeanors and can be found in § 34-1A-7.

Effective: August 1, 2023

Dentistry

Act 2023-362

House Bill 285

Sponsor Representative Lipscomb

The Act amends several statutes related to dentistry and dental hygiene and licenses for each. The amendments outline the requirements and duties of the Board of Dentistry and for obtaining a license. The Act requires licenses to be issued to anyone who practices dentistry in Alabama. Definitions for this chapter are contained in § 34-9-1. The criminal violation for a person who engages in the practice of dentistry without first obtaining a license from the Board has been amended from a Class A misdemeanor to a Class C felony and are found in § 34-9-5. Violations for practicing as a dental hygienist without a license is an unclassified misdemeanor and remains unchanged and found in § 34-9-26(f).

Effective: September 1, 2023

OTHER

Residency of Assistant District Attorneys

Act 2023-515

House Bill 501

Sponsor Representative Ingram

The Act amends § 12-17-220 to state district attorneys' employment of personnel shall not be limited by the residency of any current or potential personnel.

Effective: June 14, 2023, Upon Signature

Adoption

Act 2023-92

House Bill 101

Sponsor Representative Shaver

The Act repeals the Alabama Adoption Code and replaces it with the Alabama Minor Adoption Code and the Alabama Adult Adoption Code.

Section 1 of the Act creates Chapter 10E of Title 26, beginning with § 26-10E-1 through 26-10E-37, known as the Alabama Minor Adoption Code, that applies to those 18 years or younger and jurisdiction is with the probate court. However, the case may be removed to juvenile or circuit court on motion of either party or by the probate court. The statute outlines the process for adoptions of minors.

Section 26-10E-22(a), prohibits any individual, organization, group, agency or any legal entity from accepting any fee for bringing any petitioner together with the adoptee or parents of the adoptee. First violation of this provision is a Class A misdemeanor and second or subsequent convictions are Class C felonies. Sections 26-10E-22(b) through (d) outline the process and method for any allowable payments and specifies that payment or receipt of money in violation of this section shall be punished as set forth in § 26-10E-33.

Section 26-10E-32 creates a Class A misdemeanor for any other person (who is not deemed to be in the business of placing minors for adoption) who places or facilitates the placement of a minor for adoption and a Class C felony for subsequent convictions.

Section 26-10E-33 creates a Class A misdemeanor for any individual or agency to offer to pay money or anything of value to a parent for placement, consent, or cooperation in the completion of an adoption of their minor child. If there is an actual payment or receipt of any money or thing of value, it shall be a Class C felony.

Section **26-10E-35** creates a Class A misdemeanor for any individual, organization, group, agency or any legal entity to advertise by word of mouth, print, electronic media, social media, telephonically or otherwise that they will adopt or assist in the adoption of minors in violation of this chapter, place or assist in the placement of minors in foster, group homes or institutions in violation of this chapter or pay or offer money or anything of value to the parents of a minor in violation of §§ **26-10E-32** or **26-10E-33**.

Section 2 of the Act creates the Alabama Adult Adoption Code, § **26-10F-1**, et. seq., and adopts the definitions in the Alabama Minor Adoption Code, found in § **26-10E-2** but does not create any criminal offenses.

Effective: January 1, 2024

Surrender of Infants

Act 2023-508

House Bill 473

Sponsor Representative Givens

The Act amends §§ **26-25-1**, **26-25-2**, **26-25-3**, and **26-25-5** and adds §§ **26-25-1.1** and **26-25-1.2** related to the surrendering of infants to emergency medical service providers or hospitals. Also, § **26-25-1** related to “emergency medical service providers” is repealed.

Section **26-25-1** contains the definitions for this section and adds definitions for “baby safety device” that is installed at a medical service provider to allow parents to anonymously surrender an infant. It also provides a definition for “emergency medical services provider” and “infant.” The definition of “infant” replaces “child” in this act and extends the age of the infant from 72 hours old to 45 days old or younger. This section also allows the use of “baby safety devices” as well as delivering an infant to an emergency medical services provider. The parent may not be required to or asked for any information related to their identity and if known to the provider, shall keep their identity confidential. Emergency medical providers are required to provide medical services to the infant without the requirement of a court order.

Section **26-25-2** contains the requirements of the emergency medical provider under this section related to contacting DHR and their responsibilities under the act. This section is also updated to include the new definitions of infant and emergency medical services provider. Added is the requirement that DHR contact law enforcement to determine if the infant is a missing child from this or another state.

Under § **26-25-3** a parent voluntarily delivering an infant to an emergency medical service provider or a baby safety device under this chapter remains an affirmative defense to charges under §§ **13A-13-4** (nonsupport), **13A-13-5** (abandonment of a child) and **13A-13-**

6 (endangering the welfare of a child). *However, there is added a provision that nothing in this section shall prohibit the investigation or prosecution of any allegations of abuse or neglect of a surrendered infant.*

Section **26-25-5** contains the immunity from liability provisions for emergency medical service providers and their employees and agents, etc., except as provided in **§ 36-1-12**.

Section **26-25-1.1** is created and contains the process for a woman who is admitted to the hospital for labor and delivery who wishes to surrender their newborn while at the hospital.

Section **26-25-1.2** contains the provisions and requirements for the “baby safety devices” how they are to be constructed, designed and the like. While not creating a new criminal offense, this section specifies the damaging a baby safety device may constitute the crime of criminal mischief.

Effective: September 1, 2023

Peace Officer Memorial Day

Act 2023-118

Senate Bill 12

Sponsor Senator Barfoot

This Act designates the first Friday in May as Alabama Peace Officers’ Memorial Day.

Effective: August 1, 2023

LOCAL LAWS

Act 2023-71 (Autauga County)

House Bill 223

Sponsor Representative Starnes

The Act authorized the Autauga County Commission to authorize the sale of beer in Autauga County.

Effective: July 1, 2023

Office of Prosecution Services, OPS

Contact Information

Barry Matson

Director

ADAA/OPS

Barry.Matson@AlabamaDA.gov

Trisha Mellberg Cater

Deputy Director

SORNA Resource Prosecutor

Trisha.Mellberg@AlabamaDA.gov

Jeff Bradley

General Counsel

Jeff.Bradley@AlabamaDA.gov

Bill Lindsey

Traffic Safety Resource

Prosecutor, (TSRP)

William.Lindsey@AlabamaDA.gov

Gabrielle Helix

Domestic Violence Resource

Prosecutor

G.Helix@AlabamaDA.gov

Larry Smith

Legislative Liaison

Larry.Smith@AlabamaDA.gov

**515 South Perry Street
Montgomery, AL 36104
334-242-4191**

Act 2023-306 (Baldwin County)

House Bill 359

Sponsor Representative Simpson

The Act amends § 45-2-80.130 related to the management of the Baldwin County Mental Health Court fund. The presiding circuit judge shall manage the fund in consultation with both the judge assigned to the mental health diversionary program and district attorney. The presiding judge shall distribute the proceeds of the fund to the circuit court and district attorney for the creation, implementation, and continuing administration of a mental health court.

Effective: August 1, 2023

Act 2023-458 (Baldwin County)

House Bill 483

Sponsor Representative Givens

The Act amends § 45-2-244.134 to create a sexual assault nurse examiner program and provide funding for the program to the District Attorney's Office in Baldwin County.

Effective: June 1, 2023

Act 2023-115 (Blount County)

House Bill 245

Sponsor Representative Standridge

The Act proposes a new court cost fee to pay sheriff's office employees who perform hazardous duties and setting a public voter referendum for approval.

Effective: May 4, 2023

Act 2023-328 (Cherokee County)

Senate Bill 259

Sponsor Senator Jones

This Act would provide a vehicle and registration fee of \$3.75, of which \$1.50 goes to the district attorney to be used for law enforcement purposes.

Effective: August 1, 2023

Act 2023-351 (Coffee & Pickens Counties)

House Bill 446

Sponsor Representative Marques

The Act amends § 45-16-82.27 to increase fees for the pretrial diversion program in Coffee and Pike Counties.

Effective: September 1, 2023

Act 2023-386 (Covington County)

House Bill 476

Sponsor Representative Hammett

The Act amends § 45-20-232 related to pistol permit fees in Covington County.

Effective: September 1, 2023

Act 2023-299 (Cullman County)

House Bill 481

Sponsor Representative Harbison

The Act amends § 45-22-81.01 to create additional court cost fees to fund school SRO program in Cullman County.

Effective: May 30, 2023

Act 2023-281 (Geneva County)

House Bill 413

Sponsor Representative Sorrells

The Act allows the city counsel for the City of Samson in Geneva County to allow the sale of draft or keg beer by retail licensees of the ABC.

Effective: August 1, 2023

Act 2023-171 (Jefferson County)

House Bill 107

Sponsor Representative Givan

This Act would define and prohibit certain motor vehicle speed contests, motor vehicle exhibitions of speed, and motor vehicle sideshows. All the prohibited actions are specifically defined within the Act. The district court is given jurisdiction over these civil violations. Jefferson County Commission is given the authority to “prosecute” these civil violations. Traffic cameras are also specifically allowed to be used to identify violators.

A motor vehicle used in violation of this Act would be towed and impounded at the registered owner's expense as follows:

- (1) On a first violation, for a period of 10 days.
- (2) On a second violation, for a period of 20 days.
- (3) On a third or subsequent violation, for a period of 30 days.

A person who is adjudicated to have not committed a violation of this Act shall not be required to pay any towing and storage fees for the services of the towing company. The governing body, which employs the traffic enforcement officer directing the motor vehicle to be towed, will be responsible for these fees.

The Act outlines the administration and enforcement procedures for the civil hearing and the appeals process to circuit court.

Effective: August 1, 2023

Act 2023-297 (Jefferson County)

House Bill 344

Sponsor Representative Treadaway

The Act amends two acts from 1951 and 1967 related to zoning regulations of county commissions for unincorporated areas of all counties with populations of 400,000 or more. The amendments change the unspecified misdemeanor for a violation of the zoning regulation to now be a Class B misdemeanor. The remainder of the changes are technical in nature.

Effective: May 30, 2023

Act 2023-399 (Lamar County)

House Bill 474

Sponsor Representative Estes

The Act creates a service of process fee in the amount of \$50, the sheriff may charge, for civil divisions of the district and circuit courts in Lamar County.

Effective: September 1, 2023

Act 2023-172 (Limestone County)

House Bill 113

Sponsor Representative Crawford

The Act creates a service of process, fingerprinting and background check fees for the Limestone County Sheriff's Office. The district attorney, law enforcement, grand juries and Limestone County are exempt from these fees.

Effective: August 1, 2023

Act 2023-385 (Morgan County)

House Bill 341

Sponsor Representative P. Moore

The Act amends § 45-52-233.02 and adds §§ 45-52-233.04 through 45-52-233.09 related to the Sheriff of Morgan County and the disposal of abandoned or stolen property.

Effective: September 1, 2023

Act 2023-294 (Pickens County)

House Bill 305

Sponsor Representative Bolton

The Act creates a \$25 process fee for the Sheriff of Pickens County to pay for the costs of serving court documents.

Effective: August 1, 2023

Act 2023-284 (Shelby County)

House Bill 444

Sponsor Representative Ellis

The Act creates a new civil service of process fee of \$50 for documents requiring personal service by the sheriff in Shelby County.

Effective: August 1, 2023

Act 2023-82 (St. Clair County)

House Bill 148

Sponsor Representative Hill

The Act would create a new \$2 license tag fee to be collected by the judge of probate and deposited into the Sheriff's Law Enforcement Fund for law enforcement purposes in the county upon requisition.

Effective: August 1, 2023

Act 2023-331 (Talladega County)

House Bill 332

Sponsor Representative Boyd

The Act abolishes the office of constable in Talladega County.

Effective: August 1, 2023

Act 2023-163 (Tuscaloosa County)

House Bill 232

Sponsor Representative Almond

The Act amends section 8 of Act 2011-660 to provide for crime prevention programs and disbursement of application fees from pretrial diversion programs.

Effective: August 1, 2023

Act 2023-221 (Tuscaloosa County)

House Bill 275

Sponsor Representative Bolton

The Act allows for the City of Northport in Tuscaloosa County to impose a warrant recall fee for municipal judges or magistrates.

Effective: August 1, 2023

DID YOU KNOW?

This year a total of 882 Senate and House Bills were introduced. 246 of the House Bills passed and 154 of the Senate Bills passed.

The Alabama House of Representatives has 105 members, with 31 being new representatives this quadrennium. Alabama is one of 5 states where Representatives are elected to a 4-year term, and each represents approximately 47,905 residents. The House has 24 standing committees on various topic areas, including the general fund and education budgets.

The Speaker of the House is Nathaniel Ledbetter, previously the Majority Leader. Representative Rex Reynolds is the Chair of the General Fund Budget. Representative Danny Garrett is continuing in his role of Chairman of the Education Trust Fund Budget.

Representative Joe Lovvorn is the Chair of the House Rules Committee, which decides which bills make it to the House floor to be voted on by the full House of Representatives.

The Republican Party was led by Majority Leader Scott Stadhagen and the Democratic Party was led by Minority Leader Anthony Daniels.

The Alabama Senate has 35 members, with 6 being new senators this quadrennium. Each Senator serves a 4-year term, and each represents approximately 143,716 residents.

The Senate President Pro Tempore is Senator Greg Reed. The Lieutenant Governor Will Ainsworth is the president and presiding officer of the Senate. Senator Greg Albritton is continuing in his role of Chairman of the Senate General Fund Budget. Senator Arthur Orr is continuing in his role as Chairman of the Education Trust Fund Budget. Senator Jabo Waggoner serves as the Senate Rules Committee Chairman. Senator Clay Scofield serves as Majority leader of the Republican Party and Senator Bobby Singleton serves as Minority leader of the Democratic Party.

Office of Prosecution Services, OPS

Mission Statement

To improve the criminal justice system of Alabama by promoting professionalism through education, legislation, fiscal services, and information; and to be advocates for the administration of justice; to be persons of honor, courage, and humility; to be firm and uncompromising in our principles, with fairness and honesty as our standard.



FINAL THOUGHT

The Office of Prosecution Services and the Alabama District Attorneys Association are fortunate to work with dedicated partners in the criminal justice arena. We at the ADAA and OPS cherish our professional relationships within each branch of state and federal government as well as other advocacy groups and professional associations. These valued partners work with us to engage in the process with the sole motivation being to keep Alabama's criminal justice system fair, just, and effective.

We hope this Sine Die report for District Attorneys, prosecutors, law enforcement and other criminal justice professionals provides a helpful guide for the legislation that passed in the 2023 Alabama Legislature.

TO OBTAIN A COPY OF A LEGISLATIVE ACT

If you would like a copy of any Act of the Legislature from the 2023 legislative session or from a prior year, please follow these directions.

To view a PDF of the actual legislation that is signed by the Governor, go to the Alabama Secretary of State's web site at <http://www.sos.alabama.gov>. Across the top of the screen is a tab labeled "Records". Click "Records" and you will be provided a drop down selection. Press the link for "Legislative Act" and when that screen opens, enter the Act number provided with each summary.

If you have any difficulty in accessing an Act of Alabama or need any assistance in obtaining an Act referenced in this Sine Die Report, please do not hesitate to call the Office of Prosecution Services at 334-242-4191.