

Sine Die Report

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



From the Director

A statement from Barry Matson detailing the 2021 Session

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House and Senate Bills

Briefs of the House Bills and Senate Bills that were signed into law during the 2021 Session.

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Office of Prosecution Services, OPS

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The 2021 Session – From the Director

Sine Die. These sweet words are uttered if not shouted at the end of each Alabama Legislative session. Latin for “without day”, sine die signifies the end of each legislative regular or special session. No matter when the end comes, it is always welcomed, as each session brings its own unique challenges and stresses. This year, with Covid access restrictions and the magnitude of the legislation, it was more difficult than normal to be a constructive part of the legislative process.

In this year’s legislative session there were 405 Senate bills filed and 648 bill filed by the House of Representatives. The Office of Prosecution Services (OPS) is a relatively small state agency with a huge responsibility in the legislative process. We carefully read and brief every bill filed in each session, creating a master list of “impact bills”. These impact bills are bills that we believe will have a negative, positive, or consequential unintended impact upon the Alabama Criminal Justice System and public safety. Once we have identified such a bill, we contact the bill’s sponsor to discuss our issues. Most of the time, sponsors are grateful to receive our input on their legislation. We work with sponsors and the Legislative Reference Service to amend impactful legislation which could lead to our support or ultimate opposition to legislation. Our stock and trade is an open and transparent opinion and honest answer to all inquiries of the legislature, judicial, and executive branches of government, regardless of consequence.

In the current climate, our small team has a daunting challenge with agenda-driven national media, well-funded special interest, charitable non-profits and social justice entities pushing incorrect narratives about the role of law enforcement, courts, and prosecution in our state. While we support and have been a force for reform in many areas, the tsunami of national and state groups that propose criminal justice reform is massive.

Because district attorneys (DA), their employees and retired DAs are prohibited from service in the Alabama Legislature, our mission is critical. Our years of practical law enforcement and prosecution experience is vital to our goal of helping the Alabama Legislature produce meaningful criminal justice laws that keep the public safe, hold the guilty accountable, and protect the innocent.

It is our hope that you find this sine die report helpful and easy to follow. While hundreds of bills are filed and considered, this report contains only the bills that received final passage by the legislature and were signed into law by our Governor. I am grateful to each member of my staff at OPS. We have many responsibilities other than the legislative process and our team always accomplishes their task in a timely and professional manner. I am honored to work for each of Alabama’s local district attorneys and to work with our OPS team. If you have any questions about this sine die report, please do not hesitate to call upon our office at any time.

With every good wish, I am,

Sincerely,

Barry D. Matson



The Alabama State House, Montgomery Alabama

IMPACT LEGISLATION

CRIMINAL PROCEDURE

Bail – Aniah’s Law

Act 2021-201

House Bill 131

Sponsor Representative Brown

This Act is known as Aniah’s Law and would propose an amendment to the Constitution of Alabama of 1901, that would require reasonable bail in all cases, except for capital murder, murder, kidnapping 1st, rape 1st, sodomy 1st, sexual torture, DV 1st, human trafficking 1st, burglary 1st, arson 1st, robbery 1st, terrorism or aggravated child abuse.

Bail – Aniah’s Law – Constitutional Amendment

Act 2021-267

House Bill 130

Sponsor Representative Brown

This Act creates a constitutional amendment that would provide additional offenses where a judge may deny bail and would provide for a pretrial detention hearing. Those additional

offenses may be denied bail after indictment or a showing of probable cause, and if the prosecutor proves by clear and convincing evidence that no condition or combination of conditions of release will reasonably ensure the defendant's appearance in court or protect the safety of the community or any person. Those additional crimes are as follows: Murder, Kidnapping 1st, Rape 1st, Sodomy 1st, Sexual Torture, DV 1st, Human Trafficking 1st, Burglary 1st, Arson 1st, Robbery 1st, Terrorism, and Aggravated Child Abuse.

A pretrial detention hearing shall be held immediately upon the defendant's first appearance before the court unless the prosecutor or defendant requests a continuance. Unless for good cause, a continuance for the defendant may not exceed 5 days, and for the State may not exceed 3 days. The defendant's rights at that hearing are also outlined within the bill. A pretrial detention hearing may be reopened, before or after a determination by the court, at any time prior to trial if the court finds that information exists that was not known by the movant at the time of the pretrial detention hearing. At the detention hearing, the defendant may present witnesses at the discretion of the court. A defendant's testimony is not admissible in any other criminal proceeding unless it is being used for perjury or impeachment.

If a defendant is charged with an offense that may be denied bail, the defendant may not be released on bail prior to an initial appearance.

Expungement

Act 2021-286

Senate Bill 117

Sponsor Senator Coleman-Madison

This Act amends the expungement statutes relating to misdemeanors. For charged misdemeanors, violations, traffic violations, or municipal ordinances it adds when a charge has been nolle prossed without conditions and more than 90 days have passed and the charge has not been refiled; when the indictment has been quashed and the statute of limitations has run or the prosecuting attorney confirms that the charges will not be refiled; 1 year after the charges are dismissed after completion of a diversion program; and expungement may be condition of diversion. The Act reduces the time from 2 years to 1 year after charges have been dismissed without prejudice and no other crimes have been committed. The Act adds convictions for misdemeanor offenses, violations, traffic violations or municipal ordinances if all probation or parole requirements have been completed including restitution and 3 years have passed from conviction. The Act excludes operating a commercial vehicle, serious traffic offenses, violent offenses, sex offenses, offenses involving moral turpitude. However, a person can seek an expungement if the moral turpitude crime was classified as a felony at the time of conviction and is now a misdemeanor pursuant to 2015-185 "prison reform" and the person has not been rearrested in the last 15 years. Lastly, the Act adds the language "[s]ubject to the provisions of §15-27-16, records related to offenses and convictions may be disclosed to a criminal justice agency, a district attorney, or

a prosecuting authority for criminal investigation purposes as provided in §15-27-7, to a utility and its agents and affiliates, or to any entities or services providing information to banking, insurance, and other financial institutions as required for various requirements as provided in state and federal law.

This Act also amends expungements relating to felonies. For charged felonies, it removes the exception for violent offenses when a person has been found not guilty, charges have been nolle prossed without conditions, or when the indictment has been quashed and the statute of limitations has run or the prosecutor confirms the charges will not be refiled. This Act adds convictions for felony offenses if the person received a pardon, all civil and political rights were restored, 180 days have passed from the issuance of the pardon, except for those trafficked, the offense was not a violent offense, sex offense, offense of moral turpitude (can expunge if moral turpitude crime was classified as a felony at the time of conviction and is now a misdemeanor pursuant to 2015-185 “prison reform” and not rearrested in last 15 years), or serious traffic offense. Lastly, the Act adds the language “[s]ubject to the provisions of §15-27-16, records related to offenses and convictions may be disclosed to a criminal justice agency, a district attorney, or a prosecuting authority for criminal investigation purposes as provided in §15-27-7, to a utility and its agents and affiliates, or to any entities or services providing information to banking, insurance, and other financial institutions as required for various requirements as provided in state and federal law.”

This Act increases the filing fee from \$300 to \$500 with \$100 going to the State General Fund, \$50 to the Education Trust Fund, and \$50 to the Fair Trial Tax Fund. If a person seeking an expungement has multiple charges from 1 arrest, only 1 filing fee shall be paid. An additional filing fee shall be paid for each arrest. If a person is indigent, the court shall waive the filing fee.

The Act states that if no objection is filed by the district attorney or victim, the court shall grant the expungement. The Act limits the number of expungements that a person may receive. A person may get unlimited expungements of “charged” misdemeanors and felonies (doesn’t include diversion); one expungement of a felony that has been pardoned; and two expungements for misdemeanor diversions/convictions and felony diversion. One expungement includes all charges from same arrest or incident.

A certified record of an expungement is admissible in a criminal trial, subject to the Alabama Rules of Criminal Procedure and the Alabama Rules of Evidence. Prior to the introduction of an expungement by any party, the court shall conduct an in-camera hearing to determine its admissibility.

What is Sine Die?

Sine Die [Latin, Without day.] Without day; without assigning a day for a further meeting or hearing. A legislative body adjourns sine die when it adjourns without appointing a day on which to appear or assemble again.

Retaining Organs for Additional Testing

Act 2021-168

Senate Bill 22

Sponsor Senator Coleman-Madison

This Act provides that unless directed otherwise by the Governor, the Attorney General, a district attorney, or an order of a circuit court judge, a medical examiner shall notify the next of kin, through the appropriate law enforcement agency, when retaining a deceased person's entire organ(s) for additional testing required to determine identification or the cause or manner of death. This Act also prohibits a medical examiner from retaining an organ for research without approval of next of kin.

Revocations

Act 2021-249

House Bill 110

Sponsor Representative Hill

This Act amends §15-22-29, §15-22-32, §15-22-52 and §15-22-54 to modify the “dips and dunks” provisions of the Justice Reinvestment Act (2015). Under §15-22-29, it specifies that a parolee may not buy, own, or possess a firearm.

Under §15-22-32 and §15-22-54, it states the Board “shall revoke” probation or parole for someone with an underlying offense that is a Class A, violent felony, sex offense defined in §15-20A-5 or Aggravated Theft by Deception. For other offenses, a parolee/probationer that is in violation for a new offense or absconding their parole/probation “may be revoked.” Technical violations remain under the “dip and dunk” system.

This Act also defines and creates “consenting county jails” and “residential transition centers” for the placement of parolees/probationers serving a sanction.

Summons and Complaint in Lieu of Arrest

Act 2021-495

Senate Bill 59

Sponsor Senator Melson

This Act provides that a municipality, by ordinance, may authorize a law enforcement officer to issue a summons and complaint in lieu of a custodial arrest for misdemeanors and violations except when the person is charged with committing a crime involving violence, threat of violence, or domestic violence; use or possession of alcohol or a controlled substance and, in the opinion of the law enforcement officer, is a risk to public safety; the victim of the crime is a minor; the person is charged with DUI; the person is charged with a crime that would require restitution to the victim; the person is charged with identity theft; or the person is charged with theft of property in the fourth degree. The bail bond filing fee in §12-19-311(a)(1)a. applies to each summons and complaint in lieu of arrest.

Videotaped Depositions

Act 2021-373

House Bill 330

Sponsor Representative Baker

This Act removes and updates outdated references to “videotape” from statutory requirements for the recording of video depositions in criminal prosecutions for physical or sexual abuse of children under the age of 16.

LAW ENFORCEMENT PROCEDURES

Law Enforcement Database

Act 2021-268

House Bill 411

Sponsor Representative McCampbell

This Act requires APOSTC to create a Law Enforcement Officer Employment Database by October 1, 2023. Each law enforcement agency is required to report complaints, disciplinary actions, and background information of the law enforcement officer to APOSTC. The information would be confidential and only disclosed by court order. Any unauthorized disclosures of information are a Class A misdemeanor.

This Act also requires former employers of a law enforcement officer to give full disclosure of an officer's employment history if another law enforcement agency in this state requests

the information. Prior to employment, law enforcement agencies must complete and submit a full background check on LE officers to APOSTC.

The Act provides for immunity for disclosures made in good faith. However, unauthorized disclosures of information would be a Class A misdemeanor.

The Act also requires APOSTC to audit LE agencies' compliance with the reporting requirements. APOSTC would be authorized to assess \$1,000 for each violation and \$100 each day until the entry is made.

GOVERNMENTAL PROCEDURE

Employee Benefits

Act 2021-226

House Bill 408

Sponsor Representative Kitchens

This Act would require employers or state agencies to determine eligibility for employee benefits and protections relating to employment, unemployment, and tax liability for employees and employers: (1) Use the test enumerated by the IRS in Rev. Rul. 87-41, 1987-1 C.B. 296, as amended or replaced from time to time, in making its determination; and (2) Apply the safe harbor provided in Section 530 of the Revenue Act of 1978, Public Law 95-600, as amended and extended by subsequent acts of Congress. The Act has no application to workers comp.

Notaries

Act 2021-319

Senate Bill 275

Sponsor Senator Givhan

This Act would allow someone to appear before a notary by audio-video communication. The notary is required to be physically present in Alabama and keep the recording for 7 years. The official date and time of the notarization is the date and time the notary witnessed the signature, including the date and time the signature was witnessed via two-way audio-video communication technology. All documents used during the two-way audio-video communication shall be provided to the notary for his or her authentication and original signature. A violation of the statute is a Class C misdemeanor.

CONTROLLED SUBSTANCES & ALCOHOL

Alcohol Delivery

Act 2021-188

Senate Bill 126

Sponsor Senator Waggoner

This Act creates a delivery service license issued by the ABC Board that would allow the delivery of beer, wine, and spirits directly to individuals who are at least 21 years old for personal use. Violating the delivery provisions is a Class B misdemeanor on a first conviction and a Class A misdemeanor on a second or subsequent conviction.

Civil Asset Forfeiture

Act 2021-497

Senate Bill 210

Sponsor Senator Orr

This Act amends §20-2-93, the civil asset forfeiture statute related to controlled substances. It adds defined terms and places minimum limits on the value of currency and vehicles that can be seized and forfeited. The Act clarifies and amends the process for filing a condemnation action. The action remains a civil in rem action, governed by the Rules of Civil procedure with some procedural amendments to place additional safeguards into the system.

DID YOU KNOW?

This year a total of 1053 Senate and House Bills were introduced. 211 of the House Bills passed and 150 of the Senate Bills passed.

Prior to the commencement of a condemnation action, a seizing agency shall obtain a seizure order in which a judge in the circuit finds probable cause that the seizure is valid. The agency can present this along with the forfeiture application to the District Attorney for approval. If the District Attorney also finds it to be a valid seizure, the forfeiture action can be filed in civil circuit court. The timeliness requirements from existing caselaw have been codified into the statute through this Act. Also, it provides for automatic return of the property if not filed on within ninety days or an order extending the time for filing by a court.

Seizing agencies will now have to provide a seizure inventory (similar to property seized as part of a search warrant) to any present when the property is seized. This inventory also acts as prima facie evidence of notice of the seizure to anyone who receives a copy.

The Act bars any extrajudicial condemnation by any agency.

The Act incorporates the process found in §15-5-63 to allow for a more expedient return of property to innocent owners. Also, it provides that any conviction shall be prima facie evidence that the property seized is contraband, proceeds, or instrumentalities and is due to be forfeited. The Act clarifies and outlines the process for default judgements and codifies factors for the court to consider related to proportionality. The Act requires state or local law enforcement agencies to choose between state or federal forfeiture actions and cannot maintain both simultaneously.

Controlled Substances

Act 2021-325

House Bill 2

Sponsor Representative Holmes

This Act amends §20-2-25 to add both Tianeptine and Phenibut as well as any compound which is substantially chemically equivalent or identical to Schedule II of the controlled substance list. It also adds a legislative findings section related to “new synthetic substances” that are not controlled under the provision of existing law and have potential for abuse. Under the legislative findings it names these substances as “synthetic controlled substances or synthetic controlled substances analogues” and can be designed to produce a pharmacological effect and evade controlling statutory provisions. It recognizes there is a need for a speedy determination of their proper classification under existing law. It is therefore necessary to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances controlled under existing state law.

These controlled substances listed in this section are included in Schedule I and also includes a number of opiates, hallucinogenic substances; also including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation are included. The synthetic controlled substance enumerated in this Act also include a number of chemical compounds, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation or compound. There is also a catchall provision to include substances that meet outlined criteria.

Once a substance is identified by the Department of Forensic Sciences (DFS) to be a synthetic controlled substance analogue, DFS shall notify the Alabama Department of Public Health with information relevant to scheduling as provided in §20-2-20.

Direct Shipping Permit

Act 2021-419

House Bill 437

Sponsor Representative Collins

This Act would allow a licensed wine manufacturer to obtain a wine direct shipper permit from the ABC Board to ship twelve (12) cases of wine (not exceeding nine (9) liters) annually directly to Alabama residents who are at least 21 years old for personal use and adds reporting requirements. The Act also makes it a Class C misdemeanor for a person to ship wine directly to a resident without a permit.

ELDER ABUSE

Elder Abuse

Act 2021-77

Senate Bill 85

Sponsor Senator Smitherman

This Act amends the Elder Abuse Protection Order and Enforcement Act to require the redaction of sensitive information including the address and phone numbers for an elder abuse plaintiff from court documents made available to the public. This Act also clarifies that an elderly person possessing the physical or mental capacity to seek protection for himself or herself may either represent himself or herself or may choose to hire legal counsel for representation.

Elderly and Vulnerable Adult Financial Protection Act

Act 2021-78

Senate Bill 181

Sponsor Senator Shelnett

This Act creates the Elderly and Vulnerable Adult Financial Protection Act. It allows a financial institution to refuse or delay a transaction on an account of an elderly or vulnerable adult, on an account in which they are a beneficiary, or on an account of a person suspected of perpetrating financial exploitation when an institution has reasonable cause to suspect that financial exploitation may have occurred, may have been attempted, or is being attempted.

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This Act also allows a financial institution to offer to an elderly or vulnerable adult the opportunity to submit and periodically update a list of persons that may be contacted when the financial institution has reasonable cause to suspect that financial exploitation may have occurred, may have been attempted, or is being attempted.

SEX OFFENSES

Elderly and Vulnerable Adult Financial Protection Act **Act 2021-538**

Senate Bill 181

Sponsor Representative Shaver

This Act amends §13A-6-82.1 to make it a Class A misdemeanor for a teacher to solicit a student to transmit obscene matter to any person.

FIREARMS

Concealed Carry **Act 2021-246**

Senate Bill 308

Sponsor Senator Price

This creates the Uniform Concealed Carry Permit Act and requires ALEA to create and maintain a firearms prohibited person database. The database would enable municipal, probate, district, and circuit courts to report convictions and orders that affect a person's ability to possess a firearm under state or federal law.

The Act allows those who are 19 or older or service members or retired or honorably discharged military veterans who are 18 or older to apply for a 1 or 5 year permit. The Act also creates an avenue for those who have had a valid concealed carry permit to apply for a lifetime permit. If a lifetime permit is issued, the sheriff must do a background check at least once every 5 years to insure the person is still eligible for the permit.

It is a Class C misdemeanor to knowingly or intentionally make a false statement while applying for a permit or appealing the denial, revocation, or database listing.

TRAFFIC

Driver License Suspension

Act 2021-101

House Joint Resolution 31

Sponsor Representative Pringle

This resolution expresses opposition to the federal requirement that a driver's license suspension/revocation be required for any drug-related offense. The resolution urges the governor to submit to the United States Secretary of Transportation a written certification that she is opposed to the enactment or enforcement of this federal requirement.

DUI

Act 2021-387

Senate Bill 195

Sponsor Senator Givhan

This act revises the administrative suspension periods for certain driving offenses to mirror the changes in the DUI code as it relates to the 10-year lookback.

Electric Bicycles

Act 2021-134

House Bill 99

Sponsor Representative Gray

This act provides for the operation and regulation of electric bicycles on public roadways. The Act creates three classifications of electric bicycles and excludes them from being treated as motorcycles or any other off-road vehicle; however, they will still be treated as a vehicle for DUI purposes. Electric bicycles are to be regulated by the same laws that bicycles must follow. Bicycles in this third classification must also have a speedometer and the operator of these electric bicycles, which can travel in excess of 28 m.p.h., must be at least 16 years of age and wear a helmet. Yet, the failure to wear a helmet may not be used as evidence of negligence.

Implied Consent

Act 2021-498

Senate Bill 258

Sponsor Senator Orr

Currently, any person who operates a motor vehicle on the public highways of this state is deemed to have given consent to a chemical test of his or her blood, breath, or urine to determine the alcoholic content of his or her blood. This Act provides that a chemical test (breath, blood, and/or oral fluid) may be used to determine whether a person was driving under the influence of any impairing substance or substances. Under current law, only a physician, a registered nurse, or other qualifying person may withdraw blood for a chemical test of a person's blood. This bill would provide additional persons who would be allowed to withdraw blood for a chemical test of a person's blood. (paramedics & phlebotomists) This bill would provide that a witness may give testimony solely on the issue of a driver's impairment based on the results of a horizontal gaze nystagmus test.

School Speed Zones

Act 2021-305

House Bill 280

Sponsor Representative Faulkner

This Act would clarify that the reduced speed school zones include every public and private school in the state. It also mandates that the signs will be placed and maintained along the municipality and maintained by the municipality.

JUVENILE

Juvenile Confidentiality

Act 2021-388

Senate Bill 206

Sponsor Senator Barfoot

This Act provides that, except for use in legal proceedings, photographs, likeness, and personal identifying information contained in law enforcement records of a juvenile charged pursuant to §12-15-204 is not a public record and may not be published in any printed or electronic media nor open to public inspection prior to conviction, unless the district court or circuit court with jurisdiction over the case orders the records be released in the interest of the person charged, in the interest of public safety, or in the interest of national security.

ELECTIONS

Absentee Ballots

Act 2021-364

House Bill 538

Sponsor Representative Baker

This Act amends when absentee ballots must be received from five days prior to election to ten days prior to the election. Applications returned by mail must be received not less than seven days prior the election and hand deliveries not less than five days prior to the election. The Act removes these deadlines for absentee ballots for service members on active duty.

The absentee election manager shall deliver the sealed absentee ballots to the election officials beginning at 7:00 a.m. on the day of the election.

Campaign Finance Reports

Act 2021-314

House Bill 154

Sponsor Representative Whitt

This Act would require all campaign finance reports to be filed electronically with the Secretary of State even if receiving less than \$5,000. Electronic filings shall be available to the public on a searchable database maintained on the Secretary of State's public website.

Runoff Elections

Act 2021-164

Senate Bill 31

Sponsor Senator Roberts

This Act provides that special primary elections, held at the expense of the state or counties, shall be held following the issuance of a proclamation by the Governor or as otherwise provided by law. When necessary, a second or runoff special primary election shall be held on the fourth Tuesday following the special primary election. Any second special primary election shall be held by the same election officers who held the first special primary election and be held at the same places as the first special primary election. No special primary election shall be held by any political party, except as already provided by law. Special primary elections shall be held at the regular polling places established for the purpose of holding general elections.



Voting – Redaction of Personal Information of Prosecutors

Act 2021-335

House Bill 123

Sponsor Representative Faulkner

This Act permits a registered voter, or his/her spouse, who is a federal or state prosecutor, federal, state, probate, or municipal judge, or law enforcement officer, to submit a signed written affidavit requesting the Secretary of State to omit all information except their names.

Voting

Act 2021-446

House Bill 116

Sponsor Representative Standridge

This Act would create the Alabama Voter Confidence Pilot Act and allow the Secretary of State to apply to the local presiding Circuit Judge to conduct a limited, one-time post-election audit of the November 8, 2022 election. The audits shall be conducted between November 30, 2022 and January 31, 2023 and within three selected counties, to determine the accuracy of election outcomes. The audit will be for three local offices and one state-wide office.

Voting

Act 2021-448

House Bill 167

Sponsor Representative Blackshear

This Act would prohibit an Alabama voter from voting or attempting to vote in this state multiple times. Additionally, the Act prohibits anyone from voting in this state and in another state during the same election. Voting in more than one or the equivalent election in another state or territory is a Class A misdemeanor for the first conviction, second or subsequent convictions are a Class C felony.

MISCELLANEOUS OFFENSES

Consumer Protection

Act 2021-272

Senate Bill 39

Sponsor Senator Price

This Act is named the Alabama State of Emergency Consumer Protection Act. It creates the crime of aggravated home repair fraud when a person enters into an agreement or contract for the repair of a residential structure that was damaged as a result of an event which was declared a state of emergency by the Governor and knowingly does one or more of the following: (1) misrepresents a material fact relating to the terms of a contract, agreement, or condition of the property; (2) creates or confirms another person's impression which is false; (3) promises performance that is not intended to be, or will be, performed; (4) uses deception, false pretense, false promises to induce, encourage, or solicit a person to enter into a contract or agreement; (5) misrepresents or conceals the person's name, business name or business address; (6) uses deception, coercion, or force to obtain consent to modify the terms of the original contract or agreement; (7) violates §34-14A-14, §34-31-32, §34-36-16 or §34-37-17 after a previous violation of one of those sections; or (8) violates §34-14A-14, §34-31-32, §34-36-16 or §34-37-17 by misrepresenting or concealing noncompliance with a state occupational license requirement. A violation also occurs when a person knowingly damages the property of another with the intent to enter into an agreement or contract for home repair or misrepresents as being an employee or agent of federal, state or municipal government, or public utility to cause a person to enter into a contract or agreement for home repair. A violation is a Class C felony.

Hunting Feral Swine/Coyotes

Act 2021-277

Senate Bill 264

Sponsor Senator Chesteen

This Act would provide that existing law prohibiting the taking, capturing, or killing of animals would not apply to feral swine or coyotes hunted on privately owned or leased lands at nighttime during specified nighttime hunting season dates, provided the hunter has purchased an appropriate nighttime hunting license.

Student Athletes

Act 2021-227

House Bill 404

Sponsor Representative South

This Act allows student athletes to earn compensation for the use of their name, image, or likeness. It would provide that a postsecondary educational institution may not prevent or unduly restrict the receipt of compensation by a student athlete for use of their name, image, or likeness. It would require each postsecondary institution to conduct a financial literacy and life skills workshop for student athletes.

This Act establishes the Alabama Collegiate Athletics Commission to provide rules and recommendations on matters related to name, image, and likeness issues. Violating the rules of the commission would be a civil penalty of a fine up to \$1,000.

The Act also has criminal penalties. An individual other than a student, who violates the below or who causes a student athlete to violate the below would be guilty of a Class C Felony.

Compensation for a student athlete's name, image, or likeness may not be conditioned on athletic performance or attendance at a particular educational institution.

Compensation for the use of a student athlete's name, image, or likeness may be provided only by a third party not owned or operating under the authority of the student athlete's educational institution.

An educational institution, an entity with the purpose of supporting or benefitting the institution or its intercollegiate sports, or any officer, director, or employee of the institution or entity may not compensate or cause compensation to be directed to a student athlete or the family of a student athlete for use of their name, image, or likeness.

Tobacco & Nicotine

Act 2021-453

House Bill 273

Sponsor Representative Drummond

This Act raises the minimum age for an individual to purchase tobacco or tobacco products and other nicotine delivery systems to 21 years old. The Act includes e-cigarettes and other electronic nicotine delivery systems as well as defining these terms. It includes distribution of these products in vending machines unless the machine meets the requirements of the Act. Punishment for individuals under the age of 21 who violate this Act shall be a fine not less than \$10 and not more than \$50 for each violation and no other court costs or fees shall be assessed. Violations remain in the jurisdiction of the municipal or district court and not juvenile court.

Specialty retailers of nicotine products are limited in their advertising for these products. Violations carry a fine of \$100 for the first violation and \$500 for second or subsequent violations. Further, the Act requires labeling for these products.

LOCAL LAWS

Act 2021- 154 (Baldwin County)

House Bill 166

Sponsor Representative Simpson

This is a local Act for Baldwin County in order to provide for the assessment and collection of additional court costs in all criminal and traffic cases in circuit and district courts (excluding juvenile cases) for the creation, implementation, and continued administration of a mental health diversionary program.

Act 2021-144 (Elmore County)

Senate Bill 251

Sponsor Senator Barfoot

This Act authorizes draft or keg beer to be sold in Elmore Co.

Act 2021-148 (Elmore County)

Senate Bill 250

Sponsor Senator Barfoot

This Act abolishes the office of constable in Elmore County at the end of the current term of office.

Act 2021- 142 (Escambia County)

House Bill 464

Sponsor Representative Baker

This is a local Act for Escambia County. It would allow the Sheriff to sell abandoned, stolen and unclaimed property. If the property is perishable and reasonable attempts have been made to locate

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the owner, the Sheriff may sell but must retain proceeds for six (6) months. If an owner does not claim, funds may be paid to the Sheriff's office.

For abandoned or stolen firearms or personal property, the Sheriff must make reasonable efforts to locate the owner, including notifying Sheriff's offices of the surrounding counties. Sheriff must retain for six (6) months. After six (6) months, it would allow the Sheriff to sell or destroy them. This bill would also allow the Sheriff to sell abandoned, stolen and unclaimed property, excluding firearms, at auction.

Act 2021-309 (Geneva County)

House Bill 561

Sponsor Representative Sorrells

This Act will allow Geneva County to authorize law enforcement officers from a designated law enforcement agency to take a person into protective custody if the officer believes the person has a mental illness under certain conditions. The law enforcement agency shall be designated by the Geneva County sheriff under this Act. Designated agency officers may take someone into custody they have reasonable cause to believe is mentally ill and is an immediate danger to himself or others. Law enforcement shall transport person to the hospital who treat mental illness or another designated treatment facility. Reasonable force is authorized to transport the person.

Person shall be released within 72 hours, excluding weekends and legal holidays unless probate judge orders further inpatient or outpatient treatment. If the attending physician, nurse practitioner or physician assistant at the facility finds the person is not mentally ill or a danger to self or others, he/she shall promptly communicate this to the law enforcement officer and the officer shall coordinate immediate release and transport the person to their residence. Protective custody under this statute is not considered an arrest for any purpose.

Act 2021-242 (Jackson County)

Senate Bill 312

Sponsor Senator Livingston

This Act alters, rearranges and extends the corporate limits of the municipality of Hytop in Jackson County.

Act 2021- 192 (Lauderdale County)

House Bill 277

Sponsor Representative Pettus

This Act allows the Sheriff of Lauderdale County to collect a fee for administrative services, including, but not limited to, fees for fingerprinting, reports, copies of various requested records, and photo identification cards. The sheriff may not charge the fee to either: (1) A law enforcement agency requesting a service for law enforcement purposes or a person requesting a service on behalf of a law enforcement agency for law enforcement purposes; or (2) An individual applying for a pistol permit.

Act 2021- 141 (Marshall County)

House Bill 422

Sponsor Representative Rich

This Act creates a new fee of \$10 in each case in CC or DC. The fees would go to the Marshall County Law Library, Judicial Technology, and Judicial Administration Fund. Any court costs for the law library purposes in the county assessed and paid pursuant to any local act are superseded by this section.

RESOLUTIONS

Fingerprint Technology

Act 2021-102

House Joint Resolution 30

Sponsor Representative Rowe

This Act recognizes touchless fingerprinting technology as a viable biometric security solution. The benefits of touchless fingerprint matching systems are as numerous as the potential applications, including enhanced security through increased accuracy, storage of fingerprint data, ease of collaboration between law enforcement or regulatory agencies due to the ease of fingerprint data transfer, and ease of access to all persons by replacing, in some cases, the need for separate physical identification cards.

Study Commission on Pre-Trial Services and Alternative Courts

Act 2021-85

Senate Joint Resolution 46

Sponsor Senator Singleton

This resolution creates a Study Commission on Pre-Trial Services and Alternative Courts to study the process of gaining entrance into pre-trial diversion and other alternative courts and to seek methods for making these services more uniform and accessible. Some of the members include a District Attorney appointed by the District Attorneys Association, the Executive Director of the Office of Prosecution Services, and a representative of a legal research organization appointed by the Executive Director of the Office of Prosecution Services.

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.



Meet the staff

OPS

Debbie Wright

Executive Assistant and Conference Coordinator

Melissa Gargus

Fiscal Officer

Debs Montesano

Payroll Officer

Chris Sustarich

Administrative Assistant

Candice Persky

Grant Administrator

Tamara Martin

Facility Dog Handler

Mason Helix

Director of Multimedia

NCFI

Barry Page

Deputy Director

Alicia Holcombe

Administrative Assistant



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 2010 Alabama Legislature.

TO OBTAIN A COPY OF A LEGISLATIVE ACT

If you would like a copy of any Act of the Legislature from the 2021 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.