

1 169742-2 : n : 05/21/2015 : WILLIAMS / vr

2
3 SINGLETON SUBSTITUTE NO. 2 FOR HB47, AS ENGROSSED

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8 SYNOPSIS: This act would substantially revise various
9 provisions relating to the use, possession, and
10 ownership of firearms.

11 This bill would allow a person under the age
12 of 18 to receive, possess, and own a pistol if he
13 or she has the consent of a parent or legal
14 guardian who is not prohibited from possessing a
15 firearm under state or federal law and if the minor
16 satisfies additional criteria and would make
17 conforming changes.

18 This bill would provide that a minor may
19 receive title to a pistol, bowie knife, or other
20 knife of like kind by inheritance.

21 Existing law prohibits the possession of a
22 firearm in certain secure buildings or facilities.
23 This act specifies that a person may possess a
24 firearm or ammunition in an employee's
25 privately-owned vehicle while parked or operated in

1 a public or private parking area for the building
2 or facility.

3 This act would preclude a person convicted
4 of a misdemeanor offense of domestic violence, a
5 violent offense, a person of unsound mind, or a
6 person who is subject to a valid protection order
7 from owning or possessing a firearm, unless he or
8 she has had his or her rights restored, and would
9 also prohibit the delivery of a firearm to these
10 persons.

11 This bill would eliminate certain
12 record-keeping and administrative requirements
13 relating to sales of pistols and would require that
14 these records be permanently removed and destroyed
15 without reproduction within 180 days, excluding any
16 record necessary for an active investigation or
17 ongoing prosecution.

18 This bill would further provide for the
19 entry of certain mental health information into the
20 National Instant Criminal Background Check System
21 (NICS) and would allow a person who has been found
22 insane, mentally incompetent, or not guilty by
23 reason of mental disease or defect to petition for
24 the removal of applicable firearm prohibitions.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the

1 Official Recompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. However,
15 the bill does not require approval of a local
16 governmental entity or enactment by a 2/3 vote to
17 become effective because it comes within one of the
18 specified exceptions contained in the amendment.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 Relating to firearms; to amend Sections 13A-11-57,
25 13A-11-61.2, 13A-11-72, 13A-11-76, 13A-11-79, 22-52-10.8,
26 40-12-143, Code of Alabama 1975, to allow a person under the

1 age of 18 to receive or possess a pistol under certain
2 conditions; provide that a minor may receive title to a
3 pistol, bowie knife, or other knife of like kind by
4 inheritance; to specify that a person may possess a firearm or
5 ammunition in an employee's privately owned vehicle while
6 parked or operated in a public or private parking area at a
7 secure building where firearms are otherwise prohibited; to
8 further provide for the entry of certain mental health
9 information into the National Instant Criminal Background
10 Check System (NICS); to allow a person who has been found
11 insane, mentally incompetent, or not guilty by reason of
12 mental disease or defect to petition for the removal of
13 applicable firearm prohibitions; to eliminate certain
14 record-keeping and administrative requirements relating to
15 firearm sales; to require that certain firearm sales records
16 be permanently removed and destroyed within a certain
17 timeframe; to provide an exception; and in connection
18 therewith would have as its purpose or effect the requirement
19 of a new or increased expenditure of local funds within the
20 meaning of Amendment 621 of the Constitution of Alabama of
21 1901, now appearing as Section 111.05 of the Official
22 Recompilation of the Constitution of Alabama of 1901, as
23 amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 13A-11-57, 13A-11-61.2,
2 13A-11-72, 13A-11-76, 13A-11-79, 13A-11-84, 22-52-10.8, and
3 40-12-143, are amended to read as follows:

4 "§13A-11-57.

5 "(a) Any person who sells, gives or lends to any
6 minor any pistol ~~or~~, except under the circumstances provided
7 in Section 13A-11-72, bowie knife, or other knife of like kind
8 or description, shall, on conviction, be fined not less than
9 ~~\$50.00~~ fifty dollars (\$50) nor more than ~~\$500.00~~ five hundred
10 dollars (\$500).

11 "(b) This section does not apply to a transfer by
12 inheritance of title to, but not possession of, a pistol,
13 bowie knife, or other knife of like kind or description to a
14 minor.

15 "§13A-11-61.2.

16 "(a) In addition to any other place limited or
17 prohibited by state or federal law, a person, including a
18 person with a permit issued under Section 13A-11-75(a) (1) or
19 recognized under Section 13A-11-85, may not knowingly possess
20 or carry a firearm in any of the following places without the
21 express permission of a person or entity with authority over
22 the premises:

23 "(1) Inside the building of a police, sheriff, or
24 highway patrol station.

25 "(2) Inside or on the premises of a prison, jail,
26 halfway house, community corrections facility, or other

1 detention facility for those who have been charged with or
2 convicted of a criminal or juvenile offense.

3 "(3) Inside ~~or on the premises of~~ a facility which
4 provides inpatient or custodial care of those with
5 psychiatric, mental, or emotional disorders.

6 "(4) Inside a courthouse, courthouse annex, a
7 building in which a District Attorney's office is located, or
8 a building in which a county commission or city council is
9 currently having a regularly scheduled or specially called
10 meeting.

11 "(5) Inside any facility hosting an athletic event
12 not related to or involving firearms which is sponsored by a
13 private or public elementary or secondary school or any
14 private or public institution of postsecondary education,
15 unless the person has a permit issued under Section
16 13A-11-75(a)(1) or recognized under Section 13A-11-85.

17 "(6) Inside any facility hosting a professional
18 athletic event not related to or involving firearms, unless
19 the person has a permit issued under Section 13A-11-75(a)(1)
20 or recognized under Section 13A-11-85.

21 "(b) Notwithstanding the provisions of subsection
22 (a), a person, including a person with a permit issued under
23 Section 13A-11-75(a)(1) or recognized under Section 13A-11-85,
24 may not, without the express permission of a person or entity
25 with authority over the premises, knowingly possess or carry a
26 firearm inside any building or facility to which access of

1 unauthorized persons and prohibited articles is limited during
2 normal hours of operation by the continuous posting of guards
3 and the use of other security features, including, but not
4 limited to, magnetometers, key cards, biometric screening
5 devices, or turnstiles or other physical barriers. Nothing in
6 this subsection otherwise restricts the possession,
7 transportation, or storage of a lawfully possessed firearm or
8 ammunition in an employee's privately-owned motor vehicle
9 while parked or operated in a public or private parking area
10 provided the employee complies with the requirements of
11 Section 13A-11-90.

12 "(c) The person or entity with authority over the
13 premises set forth in subsections (a)(1)-(6) and subsection
14 (b) shall place a notice at the public entrances of such
15 premises or buildings alerting those entering that firearms
16 are prohibited.

17 "(d) Except as provided in subsections (a)(5) and
18 (a)(6), any firearm on the premises of any facility set forth
19 in subsection (a)(1), or subsections (a)(4)-(6), or subsection
20 (b) must be kept from ordinary observation and locked within a
21 compartment or in the interior of the person's motor vehicle
22 or in a compartment or container securely affixed to the motor
23 vehicle.

24 "(e) A violation of subsections (a), (b), or (d) is
25 a Class C misdemeanor.

1 "(f) This section shall not prohibit any person from
2 possessing a firearm within the person's residence or during
3 ingress or egress thereto.

4 "(g) Prohibitions regarding the carrying of a
5 firearm under this section shall not apply to law enforcement
6 officers engaged in the lawful execution of their official
7 duties.

8 "(h) Nothing in this section shall be construed to
9 authorize the carrying or possession of a firearm where
10 prohibited by federal law.

11 "§13A-11-72.

12 "(a) No person who has been convicted in this state
13 or elsewhere of committing or attempting to commit a crime of
14 violence, misdemeanor offense of domestic violence, violent
15 offense as listed in Section 12-25-32(14), anyone who is
16 subject to a valid protection order for domestic abuse, or
17 anyone of unsound mind shall own a ~~pistol~~ firearm or have one
18 in his or her possession or under his or her control.

19 "(b) No person who is a minor, except under the
20 circumstances provided in this section, a drug addict, or an
21 habitual drunkard shall own a pistol or have one in his or her
22 possession or under his or her control.

23 "(c) Subject to the exceptions provided by Section
24 13A-11-74, no person shall knowingly with intent to do bodily
25 harm carry or possess a deadly weapon on the premises of a
26 public school.

1 "(d) Possession of a deadly weapon with the intent
2 to do bodily harm on the premises of a public school in
3 violation of subsection (c) of this section is a Class C
4 felony.

5 "(e) School security personnel and school resource
6 officers qualified under subsection (a) of Section 16-1-44.1,
7 employed by a local board of education, and authorized by the
8 employing local board of education to carry a deadly weapon
9 while on duty are exempt from subsection (c) of this section.
10 Law enforcement officers are exempt from this section, and
11 persons with pistol permits issued pursuant to Section
12 13A-11-75, are exempt from subsection (c) of this section.

13 "(f) A person shall not be in violation of Section
14 13A-11-57 or 13A-11-76 and a minor shall not be in violation
15 of this section if the minor has permission to possess a
16 pistol from a parent or legal guardian who is not prohibited
17 from possessing a firearm under state or federal law, and any
18 of the following are satisfied:

19 "(1) The minor is attending a hunter education
20 course or a firearms safety course under the supervision of an
21 adult who is not prohibited from possessing a firearm under
22 state or federal law.

23 "(2) The minor is engaging in practice in the use of
24 a firearm or target shooting at an established range under the
25 supervision of an adult who is not prohibited from possessing
26 a firearm under state or federal law.

1 "(3) The minor is engaging in an organized
2 competition involving the use of a firearm or participating in
3 or practicing for a performance by an organized group under 26
4 U.S.C. § 501(c) (3) which uses firearms as part of the
5 performance.

6 "(4) The minor is hunting or fishing pursuant to a
7 valid license, if required, and the person has the license in
8 his or her possession; has written permission of the owner or
9 legal possessor of the land on which the activities are being
10 conducted; and the pistol, when loaded, is carried only in a
11 manner discernible by ordinary observation.

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

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

16 "(7) The minor is traveling by motor vehicle to any
17 of the locations or activities listed in subdivisions (1)
18 through (6), has written permission to possess the pistol by
19 his or her parent or legal guardian, and the pistol is
20 unloaded, locked in a compartment or container that is in or
21 affixed securely to the motor vehicle and is out of reach of
22 the driver and any passenger in the motor vehicle.

23 "(g) This section does not apply to a minor who uses
24 a pistol while acting in self-defense of himself or herself or
25 other persons against an intruder into the residence of the
26 minor or a residence in which the minor is an invited guest.

1 ~~"(f)"~~ (h) The term "school resource officer" as used
2 in this section means an Alabama Peace Officers' Standards and
3 Training Commissioner-certified law enforcement officer
4 employed by a law enforcement agency who is specifically
5 selected and specially trained for the school setting.

6 ~~"(g)"~~ (i) The term "public school" as used in this
7 section applies only to a school composed of grades K-12 and
8 shall include a school bus used for grades K-12.

9 ~~"(h)"~~ (j) The term "deadly weapon" as used in this
10 section means a firearm or anything manifestly designed, made,
11 or adapted for the purposes of inflicting death or serious
12 physical injury, and such term includes, but is not limited
13 to, a bazooka, hand grenade, missile, or explosive or
14 incendiary device; a pistol, rifle, or shotgun; or a
15 switch-blade knife, gravity knife, stiletto, sword, or dagger;
16 or any club, baton, billy, black-jack, bludgeon, or metal
17 knuckles.

18 "(k) (1) The term "convicted" as used in this section
19 requires that the person was represented by counsel in the
20 case, or knowingly and intelligently waived the right to
21 counsel in the case if required by law, and either the case
22 was tried before a judge, tried by a jury, or the person
23 knowingly and intelligently waived the right to have the case
24 tried, by guilty plea or otherwise.

25 "(2) A person may not be considered to have been
26 convicted for the purposes of this section if the person is

1 not considered to have been convicted in the jurisdiction in
2 which the proceedings were held or the conviction has been
3 expunged, set aside, or is of an offense for which the person
4 has been pardoned or has had civil rights restored, unless the
5 pardon, expungement, or restoration of civil rights expressly
6 provides that the person may not ship, transport, possess, or
7 receive firearms.

8 "(l) The term "misdemeanor offense of domestic
9 violence" as used in this section means a misdemeanor offense
10 that has, as its elements, the use or attempted use of
11 physical force or the threatened use of a dangerous instrument
12 or deadly weapon, and the victim is a current or former
13 spouse, parent, child, person with whom the defendant has a
14 child in common, or a present or former household member.

15 "(m) The term "valid protection order" as used in
16 this section means an order issued after a hearing of which
17 the person received actual notice, and at which the person had
18 an opportunity to participate, that does any of the following:

19 "(1) Restrains the person from harassing, stalking,
20 or threatening a qualified individual or child of the
21 qualified individual or person or engaging in other conduct
22 that would place a qualified individual in reasonable fear of
23 bodily injury to the individual or child and that includes a
24 finding that the person represents a credible threat to the
25 physical safety of the qualified individual or child.

1 "(2) By its terms, explicitly prohibits the use,
2 attempted use, or threatened use of physical force against the
3 qualified individual or child that would reasonably be
4 expected to cause bodily injury.

5 "(n) The term "qualified individual" as used in
6 subsection (k), means a spouse or former spouse of the person,
7 an individual who is a parent of a child of the person, or an
8 individual who cohabitates or has cohabited with the person.

9 "(o) The term "unsound mind" as used in this section
10 includes any person who is subject to any of the findings
11 listed below, and who has not had his or her rights to possess
12 a firearm reinstated by operation of law or legal process:

13 "(1) Found by a court, board, commission, or other
14 lawful authority that, as a result of marked subnormal
15 intelligence, mental illness, incompetency, condition, or
16 disease, is a danger to himself or herself or others or lacks
17 the mental capacity to contract or manage his or her own
18 affairs.

19 "(2) Found to be insane, not guilty by reason of
20 mental disease or defect, found mentally incompetent to stand
21 trial, or found not guilty by a reason of lack of mental
22 responsibility by a court in a criminal case, to include
23 state, federal and military courts.

24 "(3) Involuntarily committed for a final commitment
25 for inpatient treatment to the Department of Mental Health or

1 a Veterans' Administration hospital by a court after a
2 hearing.

3 "§13A-11-76.

4 "(a) No Except as provided in subsection (b), no
5 person shall deliver a pistol to any person under the age of
6 18 or to one who he or she has reasonable cause to believe has
7 been convicted of a crime of violence or is a minor, except
8 under the circumstances provided in Section 13A-11-72, a drug
9 addict, an habitual drunkard, or a person of unsound mind, has
10 been convicted in this state or elsewhere of committing or
11 attempting to commit a crime of violence, misdemeanor offense
12 of domestic violence, a violent offense as listed in Section
13 12-25-32(14), or anyone who is subject to a valid protection
14 order for domestic abuse, or anyone of unsound mind.

15 "(b) A person may deliver a pistol to a person
16 otherwise prohibited from receiving a pistol under subsection
17 (a), if the person has had his or her firearm rights restored
18 by operation of law or legal process.

19 "(c) For the purposes of this subsection, the terms
20 "convicted," "misdemeanor offense of domestic violence,"
21 "valid protection order," and "unsound mind" shall have the
22 same meanings as provided in Section 13A-11-72.

23 "§13A-11-79.

24 "(a) The duly constituted licensing authorities of
25 any city, town or political subdivision of this state may
26 grant licenses in forms prescribed by the secretary of state,

1 effective for not more than one year from date of issue,
2 permitting the licensee to sell pistols at retail within this
3 state subject to the following conditions,~~in addition to~~
4 ~~those specified in Section 13A-11-77,~~ for breach of any of
5 which the license shall be forfeited and the licensee subject
6 to punishment as provided in this division. The business shall
7 be carried on only in the building designated in the license.
8 The license or a copy thereof, certified by the issuing
9 authority, shall be displayed on the premises where it can
10 easily be read. ~~No pistol shall be sold in violation of any~~
11 ~~provisions of this division, nor shall a pistol be sold under~~
12 ~~any circumstances unless the purchaser is personally known to~~
13 ~~the seller or shall present clear evidence of his identity. A~~
14 ~~true record in triplicate shall be made of every pistol sold,~~
15 ~~in a book kept for the purpose, the form of which may be~~
16 ~~prescribed by the Secretary of State and shall be personally~~
17 ~~signed by the purchaser and by the person effecting the sale,~~
18 ~~the caliber, make, model and manufacturer's number of the~~
19 ~~weapon, the name, address, occupation, color and place of~~
20 ~~birth of purchaser and a statement signed by the purchaser~~
21 ~~that he has never been convicted in this state or elsewhere of~~
22 ~~a crime of violence. One copy shall be sent within six hours~~
23 ~~by registered or certified mail to the chief of police of the~~
24 ~~municipality or the sheriff of the county of which the dealer~~
25 ~~is a resident; the dealer shall within seven days send the~~
26 ~~duplicate to the Secretary of State; and the dealer shall~~

1 ~~retain the triplicate for six years. No pistol or imitation~~
2 ~~thereof or placard advertising the sale thereof shall be~~
3 ~~displayed in any part of any premises where it can readily be~~
4 ~~seen from the outside.~~ The fee for issuing ~~said~~ the license
5 shall be \$.50, which fee shall be paid into the State
6 Treasury.

7 "(b) All records of pistol, revolver, or maxim
8 silencer sales that are maintained or in the custody of
9 dealers, the chief of police, the sheriff, or the Secretary of
10 State pursuant to Section 13A-11-79 or Section 40-12-143,
11 including any records or databases compiled as a result of or
12 based on the records or information so maintained or received,
13 shall be permanently removed and destroyed without
14 reproduction of the removed documents no later than 180 days
15 of the effective date of the act adding this subsection. This
16 section does not apply to any record necessary for an active
17 investigation or ongoing prosecution.

18 "§13A-11-84.

19 "(a) Every violation of subsection (a) of Section
20 13A-11-72 or ~~of Sections~~ Section 13A-11-81 ~~or 13A-11-82~~ shall
21 be ~~punishable by imprisonment for not more than five years a~~
22 Class C felony. Every violation of subsection (b) of Section
23 13A-11-72 or ~~of Sections~~ 13A-11-73, 13A-11-74, 13A-11-76, and
24 13A-11-77 through 13A-11-80 shall be ~~punishable by~~
25 ~~imprisonment for any term less than one year or by a fine of~~
26 ~~not more than \$500.00, or both~~ a Class A misdemeanor. The

1 punishment for violating Section 13A-11-78 or 13A-11-79 may
2 include revocation of license.

3 (b) It shall be the duty of any sheriff, policeman,
4 or other peace officer of the State of Alabama, arresting any
5 person charged with violating Sections 13A-11-71 through
6 13A-11-73, or any one or more of ~~said~~ those sections, to seize
7 the pistol or pistols in the possession or under the control
8 of the person or persons charged with violating ~~said~~ the
9 section or sections, and to deliver ~~said~~ the pistol or pistols
10 to one of the following named persons: if a municipal officer
11 makes the arrest, to the city clerk or custodian of stolen
12 property of the municipality employing the arresting officer;
13 if a county, state, or other peace officer makes the arrest,
14 to the sheriff of the county in which the arrest is made. The
15 person receiving the pistol or pistols from the arresting
16 officer shall keep it in a safe place in as good condition as
17 received until disposed of as hereinafter provided. Within
18 five days after the final conviction of any person arrested
19 for violating any of the above-numbered sections, the person
20 receiving possession of the pistol or pistols, seized as
21 ~~aforsaid~~ provided in this section, shall report the seizure
22 and detention of ~~said~~ the pistol or pistols to the district
23 attorney within the county where the pistol or pistols are
24 seized, giving a full description thereof, the number, make
25 and model thereof, the name of the person in whose possession
26 it was found when seized, the person making claim to same or

1 any interest therein, if the name can be ascertained or is
2 known, and the date of the seizure. Upon receipt of the report
3 from the person receiving possession of the pistol or pistols
4 ~~as aforesaid~~, it shall be the duty of the district attorney
5 within the county wherein the pistol or pistols were seized to
6 forthwith file a complaint in the circuit court of the proper
7 county, praying that ~~such~~ the seized pistol or pistols be
8 declared contraband, be forfeited to the state and be
9 destroyed. Any person, firm or corporation or association of
10 persons in whose possession said pistol or pistols may be
11 seized or who claim to own the same or any interest therein
12 shall be made a party defendant to ~~said~~ the complaint, and
13 thereupon ~~such~~ the matter shall proceed and be determined in
14 the circuit court of the proper county in the same form and
15 manner, as near as may be, as in the forfeiture and
16 destruction of gaming devices, except as ~~herein~~ otherwise
17 provided. When any judgment of condemnation and forfeiture is
18 made in any case filed under ~~the provisions of~~ this section,
19 the judge making ~~such~~ the judgment shall direct ~~therein~~ the
20 destruction of the pistol or pistols by the person receiving
21 possession of ~~said~~ the pistol or pistols from the arresting
22 officer in the presence of the clerk or register of the court,
23 unless the judge is of the opinion that the nondestruction
24 thereof is necessary or proper in the ends of justice, in
25 which event and upon recommendation of the district attorney,
26 the judge shall award the pistol or pistols to the sheriff of

1 the county or to the chief of police of the municipality to be
2 used exclusively by the sheriff or the chief of police in the
3 enforcement of law, and the sheriff of the county and the
4 chiefs of police of the municipalities shall keep a permanent
5 record of all pistols awarded to them as provided for ~~herein~~
6 in this section, to be accounted for as other public property,
7 and ~~said the~~ order, in the event that no appeal is taken
8 within 15 days from the rendition thereof, shall be carried
9 out and executed before the expiration of 20 days from the
10 date of the judgment. The court, ~~at its discretion, shall~~ may
11 direct in ~~said the~~ judgment that the costs of the proceedings
12 be paid by the person in whose possession ~~said the~~ pistol or
13 pistols were found when seized, or by any party or parties who
14 claim to own ~~said the~~ pistol or pistols, or any interest
15 therein, and who contested the condemnation and forfeiture
16 thereof.

17 "§22-52-10.8.

18 "(a) When the judge of probate of a county enters an
19 order for the involuntary commitment of a person pursuant to
20 Section 22-52-10.1, and the order is for a final commitment
21 for inpatient treatment to the Department of Mental Health or
22 a Veterans' Administration hospital, or as otherwise provided
23 by law, ~~and the order is based on evidence produced in court~~
24 ~~that the committed person has shown a history of the~~
25 ~~inappropriate use of firearms or other dangerous instrument or~~
26 ~~deadly weapons as defined in Section 13A-1-2 or has threatened~~

1 ~~to use firearms or other dangerous weapons or poses a threat~~
2 ~~to use firearms or other dangerous weapons inappropriately,~~
3 the judge shall immediately forward the order to the ~~Criminal~~
4 ~~Justice Information Center~~ Alabama Law Enforcement Agency and
5 the order shall be entered in its information systems. The
6 order shall be forwarded to the ~~Criminal Justice Information~~
7 ~~Center~~ Alabama Law Enforcement Agency in the manner as the
8 Criminal Justice Information Center Commission shall provide.
9 The ~~Criminal Justice Information Center~~ Alabama Law
10 Enforcement Agency shall as soon as possible thereafter enter
11 the order in the National Instant Criminal Background Check
12 System (NICS) and the information shall be entered into the
13 NICS Index Denied Persons File. The records maintained
14 pursuant to this section shall only be used for purposes of
15 determining eligibility to purchase or transfer a firearm.
16 Information furnished shall not include confidential medical
17 or treatment records, confidential tax or financial data,
18 library records, or other personal information.

19 "(b) Any person who has been adjudicated mentally
20 deficient or committed to a mental institution and who is
21 subject to the firearm disabilities of 18 U.S.C. Section 922
22 (d) (4) and (g) (4), and who is subject to the firearm
23 disabilities of Sections 13A-11-72 and 13A-11-75, because he
24 or she has been determined by law or legal process to be of
25 unsound mind, may petition the district court for a civil
26 review of the person's mental capacity to purchase a firearm.

1 The petitioner may present evidence and witnesses at the
2 hearing on the petition. The district court shall make written
3 findings of fact and conclusions of law on the issues before
4 it and issue a final order. The district court shall grant the
5 relief requested in the petition if the judge finds, based on
6 a preponderance of the evidence presented with respect to the
7 petitioner's reputation, the petitioner's mental health record
8 and, if applicable, certified criminal history record from the
9 Alabama Law Enforcement Agency, the circumstances surrounding
10 the petitioner's firearm disability, and any other evidence in
11 the record, that the petitioner will not be likely to act in a
12 manner that is dangerous to public safety and that granting
13 the relief would not be contrary to the public interest. If
14 the final order grants relief, a copy of the order shall be
15 forwarded to the ~~Criminal Justice Information Center~~ Alabama
16 Law Enforcement Agency directing that the prior order be
17 removed from its information systems. Thereafter, ~~the Criminal~~
18 ~~Justice Information Center~~ Alabama Law Enforcement Agency
19 shall, as soon as possible, redact the prior order from the
20 National Instant Criminal Background Check System (NICS) or
21 shall request that the redaction be done and shall notify the
22 United States Attorney General that the basis for the record
23 being made available no longer applies. The petitioner may
24 appeal a final order denying relief within 42 days of the
25 order to the circuit court for the county in which the

1 commitment or adjudication was entered. The circuit court's
2 review shall be conducted de novo.

3 ~~"(c) For purposes of this section, inappropriate~~
4 ~~means unlawful or with reckless disregard for human life.~~

5 ~~"(d)~~ (c) To the extent allowed by the Alabama
6 Criminal Justice Information Center Commission, ACJIC may
7 provide a judge of probate access to ACJIC information systems
8 for the purpose of involuntary commitment hearings, petitions
9 to change names, and other official functions of the judge of
10 probate.

11 "§40-12-143.

12 "Persons dealing in pistols, revolvers, maxim
13 silencers, bowie knives, dirk knives, brass knucks or knucks
14 of like kind, whether principal stock in trade or not shall
15 pay the following license tax: In cities and towns of 35,000
16 inhabitants and over, \$150; and in all other places, \$100. The
17 required license amounts shall be paid for each place of
18 business from which sales of such items are made. In addition
19 to any other required licenses, a person may organize and
20 conduct a gun and knife show of no more than seven days, by
21 paying the maximum license tax prescribed in this section, as
22 well as the maximum license taxes provided in Sections
23 40-12-158 and 40-12-174(d), for each such show. Participants
24 shall not be required to pay the license taxes provided in
25 this section, nor in Section 40-12-158 or 40-12-174 for
26 participating in such shows, provided the organizer has paid

1 the license taxes prescribed in this section prior to the
2 commencement of the event. It shall be the duty of the
3 organizer of such show to determine if each participant is
4 licensed under the sales tax laws of this state as well as the
5 particular county and municipality in which the show is
6 conducted. The organizer shall be responsible for providing a
7 list of participants to the county and municipality in which
8 the gun show is held and for collecting and remitting all
9 state and local sales taxes for any participant not licensed
10 under state or local sales tax laws. In the event the
11 organizer does not provide the information required herein or
12 pay the license taxes prescribed in this section, prior to the
13 commencement of the event, each participant shall be
14 responsible for his or her applicable licenses. The organizer
15 and all participants shall abide by applicable federal, state,
16 and local laws and regulations. ~~All persons dealing in~~
17 ~~pistols, revolvers, and maxim silencers shall be required to~~
18 ~~keep a permanent record of the sale of every pistol, revolver,~~
19 ~~or maxim silencer, showing the date of sale, serial number, or~~
20 ~~other identification marks, manufacturer's name, caliber and~~
21 ~~type, and also the name and address of the purchaser. The~~
22 ~~records shall always be open for inspection by any peace~~
23 ~~officer of the State of Alabama or any municipality thereof.~~
24 ~~The failure to keep such record shall subject such person to~~
25 ~~having his or her license revoked by the probate judge of the~~

1 ~~county where such license was issued on motion of any district~~
2 ~~attorney of the State of Alabama".~~

3 Section 2. (a) (1) Upon any finding that a defendant
4 is insane, mentally incompetent, or not guilty by reason of
5 mental disease or defect pursuant to Chapter 16, Title 15,
6 Code of Alabama 1975, or the Alabama Rules of Criminal
7 Procedure, the judge shall immediately forward the order of
8 the finding to the Alabama Law Enforcement Agency and the
9 order shall be entered in its information systems. The order
10 shall be forwarded to the Alabama Law Enforcement Agency in
11 the manner as the Criminal Justice Information Center
12 Commission shall provide.

13 (2) The Alabama Law Enforcement Agency, as soon as
14 possible thereafter, shall enter the order in the National
15 Instant Criminal Background Check System (NICS) and the
16 information shall be entered into the NICS Index Denied
17 Persons File.

18 (3) The records maintained pursuant to this section
19 shall only be used for purposes of determining eligibility to
20 receive, ship, transport, or possess a firearm. Information
21 furnished shall not include confidential medical or treatment
22 records.

23 (b) (1) Any person who is subject to the firearm
24 disabilities of 18 U.S.C. Section 922(d) (4) and (g) (4), and
25 who is subject to the firearm disabilities of Sections
26 13A-11-72 and 13A-11-75, Code of Alabama 1975, because he or

1 she has been determined by law or legal process to be of
2 unsound mind, may petition the district court in the
3 jurisdiction where such a finding was made, for a civil review
4 of the person's mental capacity to receive, ship, transport,
5 or possess a firearm.

6 (2) The district attorney or the Attorney General,
7 whoever prosecuted the underlying case, and victim or victim
8 representative, if applicable, shall be served a copy of the
9 petition by certified mail. The petitioner may present
10 evidence and witnesses at the hearing on the petition. The
11 district attorney or Attorney General shall be allowed to
12 speak and make recommendations to the court. The victim or
13 victim representative, if applicable, shall be allowed to
14 speak to the court. The district court shall make written
15 findings of fact and conclusions of law on the issues before
16 it and issue a final order.

17 (3) The district court shall grant the relief
18 requested in the petition if the judge finds, based on a
19 preponderance of the evidence presented with respect to the
20 petitioner's reputation, the petitioner's mental health record
21 and, if applicable, certified criminal history record obtained
22 from the Alabama Law Enforcement Agency, the circumstances
23 surrounding the petitioner's firearm disability, and any other
24 evidence in the record, that the petitioner will not be likely
25 to act in a manner that is dangerous to public safety and that

1 granting the relief would not be contrary to the public
2 interest.

3 (4) If the final order grants relief, a copy of the
4 order shall be forwarded to the Alabama Law Enforcement Agency
5 directing that the prior order be removed from its information
6 systems. Thereafter, the Alabama Law Enforcement Agency, as
7 soon as possible, shall redact the prior order from the
8 National Instant Criminal Background Check System (NICS) or
9 shall request that the redaction be done and shall notify the
10 United States Attorney General that the basis for the record
11 being made available no longer applies.

12 (5) The petitioner may appeal a final order denying
13 relief within 42 days of the order to the circuit court for
14 the county in which the commitment or adjudication was
15 entered. The circuit court's review shall be conducted de
16 novo.

17 Section 3. Although this bill would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds, the bill is excluded from further
20 requirements and application under Amendment 621, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

25 Section 4. The provisions of this act are severable.
26 If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 which remains.

3 Section 5. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.