

1 HB71  
2 181447-2  
3 By Representative Poole  
4 RFD: Public Safety and Homeland Security  
5 First Read: 07-FEB-17  
6 PFD: 01/27/2017

ENGROSSED

A BILL  
TO BE ENTITLED  
AN ACT

To amend Section 13A-7-1, Code of Alabama 1975, as last amended by Act 2016-402, 2016 Regular Session, and Section 15-10-3, Code of Alabama 1975, relating to warrantless arrests, to authorize a law enforcement officer to arrest a person without a warrant under certain conditions for trespassing on the property of an educational institution and to further provide for the definition of "building".

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-7-1, Code of Alabama 1975, as last amended by Act 2016-402, 2016 Regular Session, and Section 15-10-3, Code of Alabama 1975, are amended to read as follows:

"§13A-7-1.

"The following definitions are applicable to this article:

"(1) BUILDING. Any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, and such term includes any vehicle, aircraft or watercraft used for the lodging of persons or carrying on business therein, and such term includes any

1 railroad box car or other rail equipment or trailer or tractor  
2 trailer or combination thereof. The term also includes any  
3 structure used for any purpose by an educational institution,  
4 as defined in Section 15-10-3. Where a building consists of  
5 two or more units separately occupied or secure, each shall be  
6 deemed both a separate building and a part of the main  
7 building.

8 "(2) DWELLING. A building which is used or normally  
9 used by a person for sleeping, living or lodging therein.

10 "(3) ENTER OR REMAIN UNLAWFULLY. A person "enters or  
11 remains unlawfully" in or upon premises when he is not  
12 licensed, invited or privileged to do so. A person who,  
13 regardless of his intent, enters or remains in or upon  
14 premises which are at the time open to the public does so with  
15 license and privilege unless he defies a lawful order not to  
16 enter or remain, personally communicated to him by the owner  
17 of such premises or other authorized person. A license or  
18 privilege to enter or remain in a building which is partly  
19 open to the public is not a license or privilege to enter or  
20 remain in that part of the building which is not open to the  
21 public. A person who enters or remains upon unimproved and  
22 apparently unused land, which is neither fenced nor otherwise  
23 enclosed in a manner designed to exclude intruders, does so  
24 with license and privileges unless notice against trespass is  
25 personally communicated to him by the owner of such land or  
26 other authorized person, or unless such notice is given by  
27 posting in a conspicuous manner.

1           "(4) POSTING IN A CONSPICUOUS MANNER. A sign or  
2 signs posted on the property, reasonably likely to come to the  
3 attention of intruders, indicating that entry is forbidden or  
4 the placement of identifying purple paint marks on trees or  
5 posts on the property, provided that the marks satisfy all of  
6 the following:

7           "a. Are vertical lines of not less than eight inches  
8 in length and not less than one inch in width.

9           "b. Are placed so that the bottom of the mark is not  
10 less than three feet from the ground or more than five feet  
11 from the ground.

12           "c. Are placed at locations that are readily visible  
13 to any person approaching the property and are no more than  
14 100 feet apart on forest land or 1,000 feet apart on land  
15 other than forest land.

16           "(5) PREMISES. Such term includes any "building," as  
17 herein defined, and any real property.

18           "§15-10-3.

19           "(a) An officer may arrest a person without a  
20 warrant, on any day and at any time in any of the following  
21 instances:

22           "(1) If a public offense has been committed or a  
23 breach of the peace threatened in the presence of the officer.

24           "(2) When a felony has been committed, though not in  
25 the presence of the officer, by the person arrested.

1           "(3) When a felony has been committed and the  
2 officer has reasonable cause to believe that the person  
3 arrested committed the felony.

4           "(4) When the officer has reasonable cause to  
5 believe that the person arrested has committed a felony,  
6 although it may afterwards appear that a felony had not in  
7 fact been committed.

8           "(5) When a charge has been made, upon reasonable  
9 cause, that the person arrested has committed a felony.

10           "(6) When the officer has actual knowledge that a  
11 warrant for the person's arrest for the commission of a felony  
12 or misdemeanor has been issued, provided the warrant was  
13 issued in accordance with this chapter. However, upon request  
14 the officer shall show the warrant to the arrested person as  
15 soon as possible. If the officer does not have the warrant in  
16 his or her possession at the time of arrest the officer shall  
17 inform the defendant of the offense charged and of the fact  
18 that a warrant has been issued.

19           "(7) When the officer has reasonable cause to  
20 believe that a felony or misdemeanor has been committed by the  
21 person arrested in violation of a protection order, including  
22 a domestic violence protection order, issued by a court of  
23 competent jurisdiction.

24           "(8) When an offense involves domestic violence as  
25 defined in Section 13A-6-139.1, and the arrest is based on  
26 probable cause, regardless of whether the offense is a felony  
27 or misdemeanor.

1           "(9) a. When the officer has reasonable cause to  
2 believe that a person has committed a trespass on the  
3 premises, as defined in Section 13A-7-1, of an educational  
4 institution.

5           "b. For the purposes of this subdivision, the term  
6 "educational institution" means a public or private college,  
7 university, graduate school, professional school, ~~junior~~  
8 community college, trade school, elementary school, secondary  
9 school, and every institution for education and training of  
10 the deaf, blind, or individuals with developmental  
11 disabilities.

12           "(b) When a law enforcement officer investigates an  
13 allegation of domestic violence, whether or not an arrest is  
14 made, the officer shall make a written report of the alleged  
15 incident, including a statement of the complaint, and the  
16 disposition of the case.

17           "(c) If the defendant is arrested under this section  
18 for committing an act of domestic violence in violation of a  
19 protection order, the defendant shall be held in custody until  
20 brought before the court as expeditiously as possible for the  
21 purpose of enforcing the protection order and for  
22 consideration of bail in accordance with Section 15-13-190 and  
23 the applicable rules of criminal procedure, pending a  
24 hearing."

25           Section 2. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Public Safety  
and Homeland Security..... . . . . 07-FEB-17

Read for the second time and placed  
on the calendar..... . . . . 16-FEB-17

Read for the third time and passed  
as amended..... . . . . 02-MAR-17

Yeas 94, Nays 1, Abstains 1

Jeff Woodard  
Clerk