

DRAFT DOCUMENT: NOT OFFICIAL LEGISLATION

SYNOPSIS:

Under existing law, when a defendant is charged with an enumerated offense under Aniah's Law, the defendant is not eligible for bail until he or she receives a pretrial detention hearing where the court will determine whether to grant the defendant bail. If the prosecuting authority does not request the defendant be denied bail, the court may waive the hearing and grant the defendant bail.

This bill would provide that if the defendant is charged with a Class A felony that resulted in the death of any individual, the prosecuting authority is required to request that the defendant be denied bail and the court may not waive the pretrial detention hearing.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

29 Relating to bail; to amend Section 15-13-3, Code of
30 Alabama 1975, to require a pretrial detention hearing without
31 exception if the defendant is charged with a Class A felony
32 resulting in death; and to make nonsubstantive, technical
33 revisions to update the existing code language to current
34 style.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. Section 15-13-3, Code of Alabama 1975, is
37 amended to read as follows:

38 "§15-13-3

39 (a) A defendant is not eligible for bail when he or she
40 is charged with capital murder pursuant to Section 13A-5-40,
41 if the court is of the opinion, on the evidence adduced, that
42 he or she is guilty of the offense.

43 (b) ~~(1) The court, after~~ After a pretrial detention
44 hearing as provided in ~~this~~ subsection (d) for an offense
45 enumerated in this subsection and, ~~after~~ the presentment of an
46 indictment or a showing of probable cause in the charged
47 offense, ~~and if~~ the court may deny a defendant bail if both of
48 the following apply:

49 (1) The prosecuting attorney proves by clear and
50 convincing evidence that no condition or combination of
51 conditions of release will reasonably ensure the defendant's
52 appearance in court or protect the safety of the community or
53 any person, ~~may deny a defendant's bail, if he or she.~~

54 (2) The defendant is charged with any of the following
55 offenses:

56 a. Murder, as provided in Section 13A-6-2.

b. Kidnapping in the first degree, as provided in Section 13A-6-43.

c. Rape in the first degree, as provided in Section 13A-6-61.

d. Sodomy in the first degree, as provided in Section 13A-6-63.

e. Sexual torture, as provided in Section 13A-6-65.1.

f. Domestic violence in the first degree, as provided in Section 13A-6-130.

g. Human trafficking in the first degree, as provided in Section 13A-6-152.

h. Burglary in the first degree, as provided in Section 13A-7-5.

i. Arson in the first degree, as provided in Section 13A-7-41.

j. Robbery in the first degree, as provided in Section 13A-8-41.

k. Terrorism, as provided in subdivision (b)(2) of Section 13A-10-152.

l. Aggravated child abuse, as provided in subsection (b) of Section 26-15-3.1.

~~(2)~~ (c) A court shall order that a defendant charged with an offense listed in ~~this~~ subsection (b) be held without bail prior to a pretrial detention hearing.

~~(3)~~ (d) (1) The court shall hold a pretrial detention hearing immediately upon the defendant's first appearance before the court, unless the prosecuting attorney or the defendant requests a continuance. Except for good cause, a

85 continuance on a motion of the defendant may not exceed five
86 days, excluding Saturdays, Sundays, and state holidays, and a
87 continuance on motion by the prosecuting attorney may not
88 exceed three days, excluding Saturdays, Sundays, and state
89 holidays. The defendant shall be detained during any
90 continuance.

91 (2) Notwithstanding any other provision of law to the
92 contrary, when the defendant is charged with a Class A felony
93 resulting in the death of any individual, both of the
94 following apply:

95 a. The prosecuting attorney shall without exception
96 request that the defendant be denied bail.

97 b. The court may not waive the pretrial detention
98 hearing.

99 ~~(4)~~a. (e) (1) A defendant shall have all of the following
100 rights at a pretrial detention hearing:

101 ~~1.~~a. To be represented by counsel. If the defendant is
102 financially unable to obtain counsel, he or she shall have
103 counsel appointed.

104 ~~2.~~b. To testify.

105 ~~3.~~c. To present witnesses.

106 ~~4.~~d. To present evidence.

107 ~~5.~~e. To cross-examine witnesses.

108 ~~b.~~ (2) The judge shall have discretion as to who the
109 defendant may call as a witness as provided in this
110 subdivision at the pretrial detention hearing.

111 ~~(5)~~ (f) In considering whether there are any conditions
112 or combination of conditions that would reasonably ensure the

defendant's appearance in court or protect the safety of the community and of any person, the court shall consider all of the following factors:

~~a.~~ (1) The nature and circumstances of the offenses charged.

~~b.~~ (2) The weight of the evidence against the defendant.

~~c.~~ (3) The history and characteristics of the defendant, including, but not limited to the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings, and whether, at the time of the current offense, the defendant was on probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense.

~~d.~~ (4) The nature and seriousness of the danger to any person or the community if the defendant is released.

~~(6)~~ (g) At any pretrial detention hearing, the rules governing admissibility of evidence in criminal trials shall not apply, and the court shall receive all relevant evidence. All evidence shall be recorded. The testimony of a defendant may not be admissible in any other criminal proceeding against the defendant, except if being used for perjury based on the testimony or for the purpose of impeachment in any subsequent proceeding.

~~(7)a.~~ (h) (1) A prosecuting attorney may file a motion for a pretrial detention hearing at any time.

141 ~~b.~~ (2) A pretrial detention hearing may be reopened,
142 before or after a determination by the court, at any time
143 prior to trial if the court finds that information exists that
144 was not known by the movant at the time of the pretrial
145 detention hearing.

146 ~~(8)~~ (i) In an order denying bail, the judge shall make
147 written findings or state for the record findings of fact and
148 a statement of the reasons for denying bail. The judge shall
149 enter an order denying bail within 48 hours of the hearing."

150 Section 2. If Section 4 of Act 2025-273, which amends
151 Section 15-13-3, Code of Alabama 1975, becomes effective
152 pursuant to the ratification of the constitutional amendment
153 proposed by Act 2025-227, the Code Commissioner shall give
154 effect to both this act and Section 4 of Act 2025-273 to the
155 extent that the language is not in substantive conflict and in
156 a manner that will make the code section intelligible.

157 Section 3. This act shall become effective on June 1,
158 2026.