HB208

148248-1

By Representatives Poole and England

RFD: Judiciary

First Read: 07-FEB-13
SYNOPSIS: Under existing law, a law enforcement officer may arrest a person without a warrant in various specified instances.

This bill would authorize a law enforcement officer to arrest a person without a warrant under certain conditions for trespassing on the property of an educational institution.

A BILL TO BE ENTITLED
AN ACT

To amend Sections 13A-7-1 and 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. Sections 13A-7-1 and 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) PREMISES. Such term includes any "building," as herein defined, and any real property.

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

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

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

§15-10-3.

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

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

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

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

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

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

(7) When the officer has reasonable cause to believe that a felony or misdemeanor has been committed by the person arrested in violation of a protection order issued by a court of competent jurisdiction.

(8) When an offense involves domestic violence as defined by this section, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.

(9) When the officer has reasonable cause to believe that a person has committed a trespass on the premises of an educational institution.

(b) For the purpose of this section, the following terms have the following meanings:

(1) ABUSE. Any offense under Sections 13A-6-60 to 13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4, inclusive.
"(2) ASSAULT. Any offense under Sections 13A-6-20 to 13A-6-25, inclusive.

"(3) FAMILY, HOUSEHOLD, OR DATING OR ENGAGEMENT RELATIONSHIP MEMBERS. Includes a spouse, former spouse, parent, child, or any other person related by marriage or common law marriage, a person with whom the victim has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship.

"(4) DOMESTIC VIOLENCE. Any incident resulting in the abuse, assault, harassment, or the attempt or threats thereof, between family, household, or dating or engagement relationship members.

"(5) EDUCATIONAL INSTITUTION. A public or private college, university, graduate school, professional school, junior college, trade school, elementary school, secondary school, and every institution for education and training of the deaf, blind, or individuals with developmental disabilities.

"(5)-(6) HARASSMENT. Any offense under Section 13A-11-8.

"(7) PREMISES. As defined in Section 13A-7-1.

"(c) When a law enforcement officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case."
Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.