

STATE OF ALABAMA  
IN THE TWENTY-THIRD JUDICIAL CIRCUIT  
Amendment to All Previous Administrative Orders re: Bail

This matter coming on before the Court on the 1<sup>st</sup> day of December, 2022, based on the Court's own motion; the Court having received and reviewed the release of the "CANVASS OF RESULTS OF THE 2022 GENERAL ELECTION AND GOVERNOR KAY IVEY'S PROCLAMATION" dated November 28, 2022, the amendments to Section 16 of the Constitution of Alabama 1901 as proposed by enabling legislation (Act 2021-201) became effective November 28, 2022.

Accordingly, pursuant to Ala. Code 15-13-3(b)(2), it is hereby ORDERED that any Defendant charged with an offense listed hereinafter below shall be held without bail upon arrest prior to a pretrial detention hearing to be conducted immediately upon the Defendant's first appearance before the Court (commonly referred to as a "72-Hour Hearing") unless a continuance is granted pursuant to Ala. Code 15-13-3(b)(3). The Defendant shall be detained during any such continuance.

Pursuant to Ala. Code 12-17-24, it is hereby ORDERED that the Clerk of Court confirm that "NO BAIL" be affixed to any warrant issued for, or writ of arrest issued upon indictment for any offense listed herein as specified in Ala. Code 15-13-104 and Ala. Code 15-13-7, as follows:

- |   |            |
|---|------------|
| a. Murder                                   | 13A-6-2    |
| b. Kidnapping 1 <sup>st</sup> Degree        | 13A-6-43   |
| c. Rape 1 <sup>st</sup> Degree              | 13A-6-61   |
| d. Sodomy 1 <sup>st</sup> Degree            | 13A-6-63   |
| e. Sexual Torture                           | 13A-6-65.1 |
| f. Domestic Violence 1 <sup>st</sup> Degree | 13A-6-130  |
| g. Human Trafficking 1 <sup>st</sup> Degree | 13A-6-152  |
| h. Burglary 1 <sup>st</sup> Degree          | 13A-7-5    |
| i. Arson 1 <sup>st</sup> Degree             | 13A-7-41   |
| j. Robbery 1 <sup>st</sup> Degree           | 13A-8-41   |

- |                           |            |
|---------------------------|------------|
| k. Terrorism              | 13A-10-152 |
| l. Aggravated Child Abuse | 26-15-3.1  |

Based upon the foregoing, the Court shall hold a Pre-Trial Detention Hearing immediately upon the Defendant's first appearance before the Court (i.e. 72-Hour Hearing), unless the prosecuting attorney or the Defendant requests a continuance. Except for good cause, a continuance on a motion of the Defendant may not exceed 5 days, excluding Saturdays, Sundays and state holidays; and a continuance on motion by the prosecuting attorney may not exceed 3 days, excluding Saturdays, Sundays and state holidays. The Defendant shall be detained during any continuance.

At the Pre-Trial Detention Hearing, the Defendant shall have all of the following rights at said hearing:

- a. To be represented by counsel. If the Defendant is financially unable to obtain counsel, he or she shall have counsel appointed.
- b. To testify.
- c. To present witnesses.
- d. To cross-examine witnesses.

The Judge shall have discretion as to who the Defendant may call as a witness at the Pre-Trial Detention Hearing. In considering whether there are any conditions 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. The nature and circumstance of the offenses charged.
- b. The weight of the evidence against the Defendant.
- c. 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 any other releases pending trial, sentencing, appeal or completion of sentence for an offense.

- d. The nature and seriousness of the danger to any person or the community if the Defendant is released.

At the Pre-Trial 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.

A prosecuting attorney may file a motion for a Pre-Trial Detention Hearing at any time. A Pre-Trial 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 Pre-Trial Detention Hearing.

In any order denying bail, the Judge shall make written findings or state for the record findings of fact and a statement for the reasons denying bail. The Judge shall enter an order denying bail within 48 hours of the Pre-Trial Detention Hearing.

It is ORDERED that the Circuit Court Clerk shall provide the Alabama Administrative Office of Courts with a copy of this Administrative Order.

Done this the 1<sup>st</sup> day of December 2022.

/s/ Alison S. Austin

Alison S. Austin

Presiding Circuit Judge

23<sup>rd</sup> Judicial Circuit

State of Alabama

cc: All Judges

Administrative Office of Courts

Circuit Court Clerk, Debra Kizer

Court Administrator, Kim McKoy

Hsv-Madison County Bar Director, Cindy Seeley