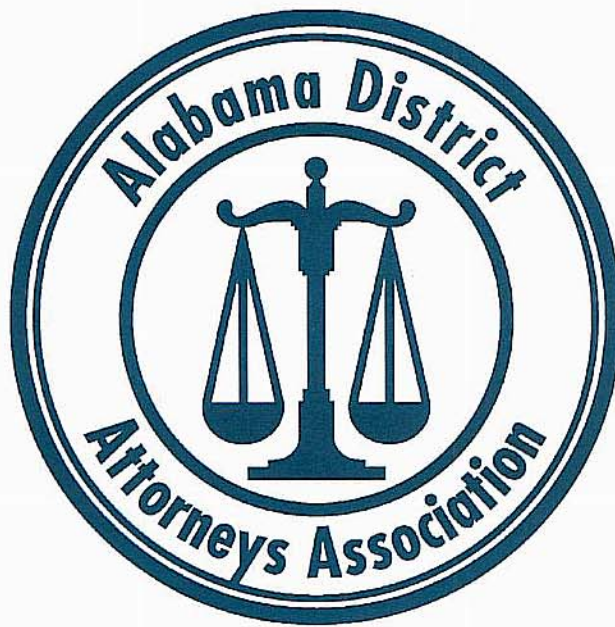


Sine Die Report

A Publication of the Alabama District Attorneys Association (ADAA) and the Office of Prosecution Services (OPS)



From the Director

A statement from Randy Hillman detailing the events of the 2012 Session.

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House Bills

Briefs of the House Bills that were signed into law during the 2012 Session.

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Senate Bills

Briefs of the Senate Bills that were signed into law during the 2012 Session.

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Alabama District
Attorneys Association



2012

FACTS

- There were over 1400 bills introduced in the legislature this session.
- Less than 20% of bills introduced this session received final passage.
- No bill can become an act until it has been read on three separate days in each house
- A local bill must be advertised 4 consecutive weeks in a publication of general circulation.

The 2012 Session – From the Trenches

As each of you know from experience, the rigors of a capital murder trial is taxing and consuming to you and your entire office. Although the legislative session is definitely not a capital trial; it can be life or death to the viability of our office staff and to the prosecutors that toil in the court room each and every day. The legislative session is far from the only function of OPS but I can dare say it is the most important and intense four months we endure. Although sometimes the grind of a session can be overwhelming, we do this willingly and with passion because we know at the end of the day we are saving someone's livelihood and hopefully saving a life and protecting others from becoming victims with the legislation we foster.

You may be surprised to hear that over 1400 bills were filed this session; each needing review, briefing and assessment of impact to our DA's. We take those evaluations and briefs and compose a "tracking" sheet of impact bills that you all receive each week during the session. From the SPICE/Synthetic

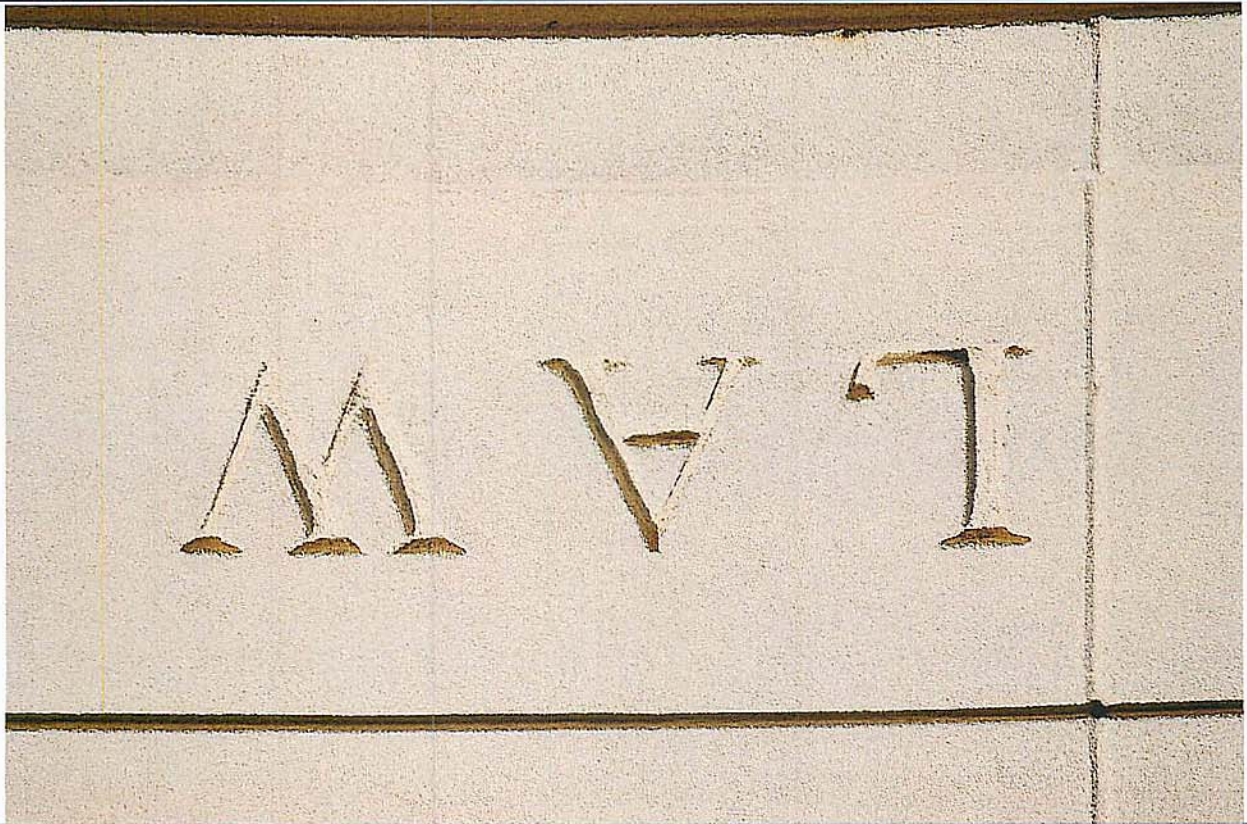
marijuana bill to changes in the DUI law and Pseudoephedrine to a complete overhaul of Alabama's antiquated Computer Crime Act we have been incredibly successful in our efforts on behalf of the DAs. Although we have enjoyed these and many other achievements in this legislative session, none proved more crucial than the passage of the Bail Bond Bill. In an environment where revenue bills were receiving little attention we were able to negotiate its passage 8 minutes before the end of the session. I feel that the passage of this bill is a watershed moment for the continued funding of our team. I refer to us as a team because it took all of you working with OPS to make this happen.

In closing, we have created a comprehensive report of impact bills that passed this year for your review. If you need further explanation or a copy of any bill in this report please do not hesitate to call.

Thanks for your continued support!!

~Randy Hillman

Director



House Bills

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HB 2 – Motor Vehicle; Prohibit

Texting; Penalties

Act 2012-291

This Act makes it a crime to operate

a motor vehicle on a public

roadway while using a wireless

telecommunications device to write,

send or read a text-based

communication. A violation of this

Act is a primary offense with regard

to a traffic stop.

A conviction results in a fine only

with 2 points being added to the

offender's driver license.

HB 17 – Falsely Filing an Instrument Against a Public Official
Prohibited

Act 2012-209

This Act enhances criminalization of the false removal of an instrument from recording and falsely filing an instrument against a public official.

This Act amends 13A-9-12 to establish the crimes of falsely removing a recording and offering a false instrument for recording against a public servant. Previously, offering a false instrument for recording was a class A misdemeanor. Under the new law, if that same false instrument is filed against a public servant, the penalty is a class C felony. In the event a false instrument/lien is recorded against a public servant, this Act provides a process by which the false or fraudulent lien or instrument can be nullified and expunged.

This Act became effective immediately upon the passage and approval by the governor.

HB 46 – Property Owner Defending Personal Property; Limited
Immunity

Act 2012-502

This Act provides a property owner limited immunity from civil liability in defense of himself, others or their property, and against any person who unlawfully enters or attempts to enter upon property of another for the purposes of engaging in criminal conduct.

The owner of the property and his or her agents shall be immune from civil liability due to the reasonable and proportionate acts of the owner or his or her agents in resisting the commission of the criminal conduct.

This does not apply to the creation of hidden hazardous or hidden dangerous conditions on the property designed to prevent criminal conduct or cause injury to a person engaging in criminal conduct.

HB 75 – Stalking Expanded

Act 2012-380

This Act redefines the crime of stalking as 'stalking in the first degree' and the crime of aggravated stalking as 'aggravated stalking in the first degree'.

This Act also removes the word “credible” before threat, such that the prosecutor now only has to prove that there was a threat made in addition to the other elements of the offense.

HB 81 – Trace Data Authorized for Emergency Situations; Missing Persons

Act 2012-503

This Act provides that any procedures adopted regarding access to stored wire and electronic communications and transactional location records and the installation or use of pen registers or trap and trace devices should be coextensive with the provisions of federal law regarding the same devices.

This Act would provide procedures for installing or using emergency pen registers, transactional location records, and trap and trace devices and would provide guidelines for the use of the devices when an emergency is declared relating to a missing persons report.

HB 99 – Impersonating Judicial or Law Enforcement Officer Prohibited (Sovereign Citizen Act)

Act 2012-382

This Act makes it a crime to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process. This Act would also make it a crime to act as a judge, magistrate, hearing officer, juror, clerk of court, or any other official without authority.

It is a Class B misdemeanor to impersonate a state or local official, employee or a police officer in connection with a sham legal process. If the person falsely asserts that authority it is a Class A misdemeanor.

It is a Class A misdemeanor if a person knowingly acts as a judge, magistrate, hearing officer, juror, clerk of court or any other official without authority.

It is a Class C felony if the person falsely asserts authority of law to intimidate or hinder a state or local official or employee, or a law enforcement officer in his official duties.

HB 100 – Juvenile Court Jurisdiction; Child Adoption; Child Support

Act 2012-383

This Act provides that a juvenile court has jurisdiction over proceedings for the

adoption of child when the proceedings have been transferred from probate court as provided by law.

This Act also provides that a juvenile court generally retains jurisdiction to enforce or modify previous orders issued by the juvenile court in any case in which it has jurisdiction.

This Act further provides that a court of this state that has determined parentage, or established, modified or enforced support generally retains jurisdiction to enforce or modify previous orders issued by the court.

HB 198 – (Local Act) Limestone Co.; Pretrial Diversion Program

Act 2012-360

Local Act for Limestone Co. creating a District Attorneys PTD program for Limestone County.

HB 218 – (Local Act) Madison Co.; Pretrial Diversion Program's; Fees

Act 2012-361

Relating to the Twenty-third Judicial Circuit in Madison County. This Act amends Section 7 of Act 94-392 of the 1994 Regular Session (Acts 1994, p. 645), and provides for the assessment, payment, and allocation of fees related to the pretrial diversion program.

HB 225 – Grand Jury; Inspect Jail at Least Once Per Year

Act 2012-390

This Act amended the current Grand Jury statute and reduces the number of personal inspections that Grand Jury has to conduct of the jail to one time annually instead of every time the Grand Jury meets.

HB 238 - Disrupting Funeral; Increase Distance

Act 2012-303

This Act increases the distance where one can protest a funeral from 500 feet to 1,000 feet.

HB 258 – Prohibit Inmates; Social Networking Sites

Act 2012-514

No inmate in the custody of the Department of Corrections or city or county jail shall establish or maintain an account on any Internet-based social networking website. This is a misdemeanor offense punishable by fine not to exceed \$500.

HB 278 – Secondary Metal Recyclers

Act 2012-426

Prior to this Act, Alabama's law stated that a secondary metal recycler was required to maintain certain information regarding purchases of metal property.

This Act requires secondary metal recyclers, upon request of the sheriff or chief of police, to provide notice and identifying information to law enforcement of the municipality or county in which a transaction is conducted and maintain certain records and additional information with regard to purchases of metal property

This Act also prohibits certain metal property from being sold to or purchased by a secondary metals recycler unless written documentation is provided that the seller is the owner of the metal property or is authorized to sell the metal property on behalf of the owner

This Act prohibits a secondary metals recycler from purchasing metal property from a person younger than age 18.

This Act requires that the secondary recycler pay by check for certain purchases regulated by this act.

HB 318 – Removal of Timber by Deception

Act 2012-428

This Act specifies that the removal of timber or forest products by deception is unlawful and punished as a Class A misdemeanor.

HB 323 – Insurance Fraud; Investigation, Penalties

Act 2012-429

This Act provides civil penalties up to \$5,000 per violation or suspension of license or certificate of authority for Insurance Fraud. This Act provides for civil

and criminal penalties in addition to restitution to the aggrieved party of the fraud and limits the filing of a cause of action to six years.

This Act creates the Insurance Fraud Unit within the Department of Insurance to investigate suspected insurance fraud and provides powers and remedies in enforcing this Act.

HB 340 – Looting During Declared Emergency

Act 2012-316

This Act creates the crime of Looting in Alabama. It provides when a “state of emergency” is declared, and a person enters and removes, takes or removes property of another from a building (specifically defined) it will be the crime of looting.

A violation is a Class C felony.

HB 363 – Regulation of Over the Counter Sale of Ephedrine / Pseudoephedrine

Act 2012-237

For many years, Alabama’s Legislature and law enforcement agencies have wrestled with how to regulate ephedrine or whether ephedrine based products with the main question being whether to make them prescription-based medication. Several years ago the “paper logging system” was enacted and soon proved to be ineffective in reducing the purchasing of ephedrine products by “smurfers” for manufacturing purposes. More recently the debate moved to more strict regulations. The industry agreed to provide to merchants and law enforcement, a universal computer tracking system. This system is currently utilized in nearly 30 states. The intent of that system is to limit the purchasing of ephedrine by “smurfers” and to provide LE a database of real-time purchases of the product. Although many in LE use the system effectively, it proved again to be inadequate when Mississippi moved all ephedrine products to prescription only. Southwest and northwest Alabama saw larger numbers of people coming into Alabama to purchase ephedrine products.

At the beginning of the session we informed the industry and retail entities that we were supportive of a prescription only ephedrine law. Where it might seem simple to just pass a law to make it a prescription, in reality it is far more difficult. It was very apparent that such a change was not going to happen this year. We

could not wait another year to find some mechanism that would help LE and prosecutors in the fight against methamphetamine.

We decided to take a multi-faceted and omnibus approach to pseudoephedrine as well as addressing many different areas of the current law pertaining to illegal drug enforcement. These are set out below:

- 1) **FRAUD, DECEIT OR FORGERY TO OBTAIN EPHEDRINE, FELONY;** The proposals to make ephedrine a "prescription" medication were inadequate because they did not amend the classic 'forged script' statutes. So any "smurfer" with a fist full of blank scripts could have his way and we would only be left with the regular forged instrument act. The Act as passed amends 13A-12-212 and 20-2-72 by making it a crime of UPCS if a person [in summary] obtains by fraud, deceit, misrepresentation, forgery, subterfuge or by the alteration of a prescription or written order or by the concealment of a material fact or by the use of a false name or giving a false address, a controlled substance enumerated in Schedules I through V or a precursor chemical enumerated in Section 20-2-181.
- 2) **FELONY DRUG PARAPHERNALIA;** This Act amends the drug paraphernalia statute to say that if the paraphernalia at issue is used for the manufacturing of a controlled substance then the punishment is a class C felony (as opposed to a class A misdemeanor for a first offense). If a firearm is present at the time of the offense, then the offense is a class B felony.
- 3) **BROADER ANTI-SMURFING LANGUAGE;** This Act also enhances the crime of "smurfing" which is the act of soliciting or attempting to solicit an individual or individuals to acquire pre-cursor chemicals, namely ephedrine, pseudoephedrine, etc. for the purpose of manufacturing a controlled substance. It purposefully contains the words, "controlled substances" and not "methamphetamine".
- 4) **SOLD IN PHARMACIES ONLY;** This Act limits where ephedrine can be sold and under what conditions. It may only be sold from a pharmacy, and can only be sold only by a licensed pharmacist, a licensed pharmacy technician or a person under the direct supervision of a pharmacist. The products are also now required to only be kept behind the counter in the pharmacy area.
- 5) **STRONGER IDENTIFICATION REQUIREMENTS;** This Act further clarifies what can be used as identification when purchasing ephedrine.

Prior to this Act, the law simply required government photo identification. Under this Act, the photo ID must be (among other things) both valid **and** current. A person who sells ephedrine and fails to collect the proper information or fails to require the proper identification to be shown shall be guilty of a class A misdemeanor upon a first offense and a class C felony for second and subsequent offenses.

- 6) **PRESCRIPTION ONLY FOR RESIDENTS OF STATES THAT REQUIRE PRESCRIPTION;** The selling of ephedrine in Alabama does not require a prescription unless the person seeking to buy the ephedrine resides in a state (currently Mississippi and Oregon) whose law requires a valid prescription to buy the ephedrine there. In other words, if you have to have a prescription in your home state, you now must have one in Alabama.
- 7) **DRUG ABUSE TASK FORCE;** The duties of the Alabama Drug Abuse Task Force, ADATF are expanded in this Act and the Act adds additional members to the ADATF.
- 8) **RESTITUTION FOR LAW ENFORCEMENT AND PROSECUTORS FOR COST OF INVESTIGATION AND PROSECUTION;** For the first time, we have an avenue to collect restitution for costs incurred in the investigation or prosecution of crimes is created in this Act, including the costs of lab clean-up.
- 9) **RESTITUTION FOR LAND OWNERS FOR COST OF CLEAN -UP AFTER DISCOVERY OF A METH LAB;** Any innocent land owner may petition the court, through the prosecutor, for reimbursement of the cost of a meth lab clean-up on his or her property.
- 10) **DRUG OFFENDER DATABASE SYSTEM;** This Act mandates the creation of a Drug Offender Tracking System to catalogue all criminal convictions in this state of persons convicted of felonies or misdemeanors involving the possession, distribution, manufacture, or trafficking of controlled substances. Persons with a paraphernalia or possession conviction will be barred from purchasing ephedrine for 7 years and a distribution, manufacturing or trafficking conviction would create a 10 year ban on purchases.

This act became effective immediately upon the passage and approval by the governor. The exception is Section 3 which does not become effective until August 1, 2012.

HB 376– Possess Controlled Substance / Intent to Distribute

Act 2012-393

This Act creates the crime of UPCS with the ‘intent to distribute’ and makes it a Class B felony.

HB 400 – AL Digital Crime Act

Act 2012-432

Prior to this Act, Alabama’s computer crime statute was over 25 years old. It included in the definitions of terms such as “floppy disk” which have been obsolete for years. We addressed all manner of issues within this new Act to ensure it will be easier to investigate and prosecute computer related crime. It is one of the most comprehensive and strongest computer crime statutes in the country. Below is a detailed synopsis of each section of the “Alabama Digital Crime Act” passed by the Legislature.

Section 2. Definitions. This section updated and expanded the definitions of terms used in the act.

Section 3. Computer tampering. This section includes all 3 categories of the existing Alabama Computer Crime Act (accessing a computer, taking or destroying data, and damaging computer equipment), expands it and makes it more detailed. It covers all aspects of accessing or damaging data or computers (including systems and networks). Addressed in this section are viruses, disruption of services, and hacking as well as giving password or identifying information to another. Jurisdiction for criminal actions would be in the county where the victim’s computer is located, or the county where the defendant committed the offense.

This section allows for an increase in punishment from a class A misdemeanor to a felony offense based on intent or monetary amount of damage caused.

Section 4. Encoded data fraud. This section makes it a crime to possess or use “skimming” devices. These devices are used to steal information from a credit card magnetic stripe, and also are used to re-encode the information onto a card to be used by the criminal. This section makes the punishment the same whether the device is used or simply possessed.

The section also allows for law enforcement to seize and destroy the devices. The penalty is a class C felony.

Section 5. Phishing. This section makes it a crime to “phish”, which is the use of the internet to induce a person, by deception, to provide identifying information. This section would also allow for a civil penalty to be brought against a person violating this section by the Attorney General or district attorney. If a person sent 100 “phishing” emails, there would be one violation of the section, but there could be a civil penalty of up to \$25,000 per “phish”. The crime is committed in any county in which any part of the crime took place, regardless of whether the defendant was ever actually present in that county, or in the county of residence of the person who is the subject of the identification documents or identifying information.

The victim of this section can also be the business or entity that had their web site or email “spoofed”. The penalty is a class C felony.

Section 6. Electronic communication long arm statute, This section allows law enforcement via subpoena and search warrant (issued by a state judge) to obtain stored wire or electronic communication from out of state service providers such as Facebook, MySpace, AT&T, etc. Intentional violation or non-compliance is punishable as contempt.

Section 7. Electronic communications out of state warrants. This section requires Alabama providers of electronic communication services or remote computing services to the general public to honor warrants issued by other states. This is a reciprocal statute that benefits state law enforcement of the entire country. Many other states have this law which benefits Alabama law enforcement. This section gives Alabama judges the statutory authority to issue out of state warrants, but only to these specialized companies.

Section 8. Computer forfeiture. This section allows for the procedure of forfeiture and condemnation by law enforcement for any computer equipment or software used in the commission of any criminal offense. The forfeited property can be sold or used for law enforcement purposes.

Section 11. Repeal, This section repeals the Alabama Computer Crime Act (13A-8-100, 13A-8-101, 13A-8-102 and 13A-8-103).

Agencies and individuals consulted:

***Los Angeles County District Attorney's Office,** High Tech Crimes Unit

***America Online (AOL),** Abigail Abraham

***Alabama Computer Forensics Labs, (ACFL)**

***United States Attorney's Office** (Northern District of Alabama), Jim Phillips

***University of Alabama-Birmingham**, Gary Warner, Director of Research in Computer Forensics

***National Computer Forensics Institute (NCFI)**

***Alabama District Attorney's Association**,

***Tony Whitley**, retired as director of the IRS Criminal Investigation Division's national computer forensics program

***Connecticut State's Attorney Office**, Richard Colangelo

***Alabama State Bar**, Criminal Code Committee

***State of Alabama Office of Attorney General**

***Verizon Wireless**, Walter White

***Yahoo**, Act Ashworth

***United States Secret Service Electronic Crimes Task Force**, Birmingham Field Office

***Alabama Power Company**, Greg Butrus (*Balch and Bingham*)

HB 466 – Ethics Deminis Gift defined <\$25

Act 2012-433

This Act amends Section 36-25-1, as last amended by Act 2010-764, relating to ethics; to define the term "de minimis" as a gift of less than \$25 and an aggregate value of \$50 or less in a calendar year from a single provider. This amount may be adjusted every four years for purposes of cost of living.

HB 474 – (Local Act) Lee Co., Court Costs; Circuit Clerk/DA

Act 2012-439

This Act provides for an additional court cost in cases in the circuit and district courts, and provides for the distribution of the proceeds of the additional court costs for the operation of the offices of the circuit clerk, district attorney and for the operation of the courts.

HB 573 – (Local Act) Russell Co., Pre Trial Diversion

Act 2012-364

This local Act provides for the establishment of a pretrial diversion program in the 26th Judicial Circuit in Russell County, sets basic operating standards for the program, and provides for program fees and their distribution.

HB 613 – (Local Act) Shelby Co., Personal Service Fees

Act 2012-444

This local Act for Shelby County, relating to circuit and district court defendant service fees, increases the service fee in circuit and district court civil cases in Shelby County that is collected for each defendant in excess of one when personal service is required, and provides for distribution of the fees to the District Attorney, Community Corrections and Judges.

HB 658 – Immigration Act

Act 2012-491

This Act revised the Beason-Hammon Alabama Taxpayer and Citizen Protection Act;

Section 5: In particular, Section 5(d) now passes all potential litigation for “failure to follow” through the DA or the AG by means of sworn petition (not a simple phone call to the PD, etc.). If the DA/AG does not find merit in the citizen’s petition they must publicly declare why no action was taken or take action within 90 days (giving the offender a 30 day notice). There is no declared method of “publicly” informing why no action is taken. Section 5(h), which originally required that all legal fees be born by the defending official, has been deleted.

Section 6: Section 6(d) reads the same as 5(d) with “pass through” petitions. Section 6(f), which made it a Class A misdemeanor (Obstruction of Governmental Operations) if a person had “reasonable cause to believe” a violation was occurring (such as “lack of enforcement”) has been replaced with a “direct knowledge” requirement. You may recall that Section 6 inexplicably never had “pay your own way for litigation” clause.

Section 9: This section deals with non-compliant contractors/subs in state/government contracts. Essentially, the requirements are laid out more

smoothly, contractors are not liable for the failures of subs and there is an added "third strike" (instead of the harsher version where a second violation suspended the permits/licenses/etc.).

Section 10: This section was the first one enjoined. This takes away the State's burden to have to present a custodian of records showing a person is an illegal alien for purposes of authenticity and hearsay exceptions.

Section 12: This section is stripped of the "stop, detention or arrest" language and substitutes simply "any lawful arrest." One of the problems law enforcement had with this section was their inability to move on from a legal stop wherein no PC existed for an arrest (especially if Section 10 is enjoined).

Section 13: Independent sections of this section prohibiting encouraging an illegal alien to move to Alabama and renting to an illegal immigrant is no longer a Class A misdemeanor have been deleted.

Section 14: This is the "fake ID" section. It adds the element of "in furtherance of violation of this Act" as an element in order to get a Class C felony.

Section 15: Very similar to Section 9's changes. This section relates to employment by contractors/subcontractors performing work within Alabama...not just government contracts.

Section 16: This section is deleted. This section prohibited counting labor costs as employment expenses for tax purposes when those expenses consisted of the hiring of illegal aliens. Section 16 was challenged and temporarily enjoined by both Federal courts.

Section 17: Originally enjoined, the new language adds some depth to the proof requirements for suing an employer for hiring an illegal immigrant over an Alabama citizen. Filing a false claim is now a Class C misdemeanor

Section 18: This section requires determination of citizenship for Driving Without a Drivers License. It no longer requires transfer to the "nearest magistrate" for determination but gives law enforcement a "reasonable time/no later than 48 hours" window. Also, the "flight risk/no bond" language is deleted.

NOTE: Sections 19, 20, 21, 24, 27, 28, 29, and 30 were completely retooled and renumbered. Apparently at least portions of 18 and 19 were combined.

Section 18 (original 19): The "flight risk/no bond" language was also deleted and law enforcement "reasonable time/no later than 48 hours" window was added.

Section 20 (original 21): Parents and guardians of a minor victim or critical "State's

witnesses" are entitled to a stay of proceedings under this law.

Sections 22, 23 & 24 (original 23, 24 & 25): Alabama DHS has broader scope of authority/annual reporting requirements.

Section 26 (original 27): The appointment or retention of legal counsel is no longer an invalid contract. This was specifically carved out in new language.

Section 27 (original 28): Replaced language that required schools to identify illegal immigrants (and subsequently get them deported). This section requires a report by the school board of how many illegal immigrants are in public schools for the purposes of "financial impact" analysis.

Section 29 (original 30): This section defines business transaction and now excludes the "renewal" portion of the application process. In other words, if you were illegal when you got a license you can continue to renew that license (of most any kind).

HB 688 – Bail Bond Act

Act 2012-535

This Act increased the docket fees in certain civil and criminal cases in the circuit, district, and municipal courts in this state, provided for distribution of the revenue, provided for bail bond fees in certain amounts, exempted bonds for certain traffic violations from the fees, required the defendant to pay the fees, provided for the clerks of the various courts to collect the fees, and provided for distribution of the fees.

(1) In civil cases in the circuit and district courts, except child support cases and as further provided for small claims cases, an additional docket fee of forty-five dollars (\$45) and in small claims cases an additional docket fee of fifteen dollars (\$15).

(2) In criminal cases in the circuit, district, and municipal courts, except juvenile cases and as further provided for traffic cases, an additional docket fee of forty dollars (\$40) and in traffic cases, but excluding parking violations, an additional docket fee of twenty-six dollars (\$26).

Bail Bond Portion

a. A filing fee in the amount of thirty-five dollars(\$35) on each bond executed. (up-front administrative cost paid by surety)

b. For a misdemeanor offense, a bail bond fee in the amount of 3.5 percent of the total face value of the bail bond or one hundred dollars (\$100), whichever is

greater, but not to exceed four hundred fifty dollars (\$450). For a felony offense, a bail bond fee of 3.5 percent of the total face value of the bail bond or one hundred fifty dollars (\$150), whichever is greater, but not to exceed seven hundred fifty dollars (\$750). Except that if a person is released on a judicial public bail, recognizance, or signature bond, including a bond on electronic traffic and nontraffic citations, the fee shall be affixed at twenty-five dollars (\$25). The fee shall be assessed at the issuance, reissuance, or reinstatement of the bond.

HB 770 – (Local Act) Cleburne Co., Additional Court Cost

Act 2012- 548

This local Act for Cleburne County provides for the assessment and collection of a drug and violent crime reduction fee payable to the Cleburne County Sheriff's Office and the Cleburne County Office of the Circuit Clerk in all criminal cases. It also provides for the disbursement of the funds to the Sheriff and the Clerk. The Sheriff's Portion may be used for the Cleburne/Calhoun Drug Task Force operation.

HB 772 – (Local Act) City of Moody; Warrant Recall Fee Act 2012-458

This local Act provides for a warrant recall fee for the City of Moody, Alabama, in St. Clair County. The warrant recall fee shall be one hundred dollars (\$100) and is to be paid by the defendant at the time the warrant is recalled.





Senate Bills

SB 11 – Fraudulent Misrepresentation of a Candidate Prohibited

Act 2012-461

This Act relating to the use of automated call phone banks as used in campaigns. It is unlawful for an automated telephone dialing service to fraudulently misrepresent himself or herself or any other person or organization with which he or she is affiliated as speaking for or on behalf of any candidate, principal campaign committee, political action committee,

or political party or agent or employee in a manner which is damaging or is intended to be damaging to such other candidate, principal campaign committee, political action committee, or political party.

The Attorney General of the State of Alabama shall have full power to investigate and enforce violations of this section and any owner, employer, agent or representative of any phone bank and/or automated dialing service found to be in violation of this section shall be guilty upon conviction of a Class A misdemeanor.

SB 16 – Identity Theft

Act 2012-368

This Act made the crime of identity theft a Class B felony. It also expanded the definition of identity theft to include obtaining the identity of another for the purpose of gaining employment.

This shall not apply when a person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.

SB 80 – Alabama Move Over Act; Amended

Act 2012-409

This Act amended the Alabama Move Over Act, to include utility services vehicles in the type of vehicles on the roadside which the driver of another motor vehicle is required to move over or slow down when approaching.

SB 90 – (Local Act) Colbert Co., Pretrial Diversion

Act 2012-085

This local added additional provisions to the existing local Pre Trial Diversion statute.

SB 91 – Disarming Law Enforcement / Corrections Officer

Act 2012-369

This Act creates an offense for disarming a law enforcement or corrections officer making it a Class C Felony.

SB 101 – Inmates; Prohibit Possession of Certain Items Illegal

Act 2012-464

This Act provides that it shall be unlawful for an inmate to possess, or for a person to possess with the intent to deliver to an inmate, a cellular telephone, wireless communication device, or computer that allows input, output, examination, or transfer of computer programs from one computer to another person. A violation is a Class A misdemeanor.

This Act also provides that a person visiting an inmate who brings in a cellular telephone, wireless communication device, or computer that allows input, output, examination, or transfer of computer programs from one computer to another person shall subject that device to confiscation.

SB 138 – Supreme Court Authorized to Appoint Private Judges

Act 2012-266

This Act authorized the appointment of former or retired judges to serve as private judges in certain district or circuit court cases and allow them to receive compensation for their service.

SB 148 – Criminal Surveillance

Act 2012-230

This Act created the crime of aggravated criminal surveillance if a person engages in surveillance, without the consent of the individual being observed, where the individual has a reasonable expectation of privacy.

A first offense is a Class A Misdemeanor and a second offense is a Class C Felony.

SB 180- Create Blue Alert System; Death/Injury of a Peace Officer

Act 2012-178

This Act would create the Blue Alert system, which is a system for notifying certain participants in the system when a suspect of a crime involving the death or serious injury of a peace officer has not been apprehended and law enforcement personnel have determined that the suspect may be a serious threat to the public or when a peace officer becomes missing while in the line of duty under circumstances warranting concern for the safety of the peace officer.

SB 208 – Spice / Synthetic Cannabinoids/Analogues

Act 2012-267

- Health Officer issued an emergency order adding MDPV and mephedrone to Schedule I of the Controlled Substances list after law enforcement expressed concerns about bath salts and after the DEA provided information indicating that these chemicals were analogs of cathinone and methcathinone. *It is actually in the Methamphetamine type family of drugs.*

This year, with consultation with the Alabama Department of Forensic Sciences, the Alabama Department of Public Health, ADAA, Attorney General's Office, prosecutors and law enforcement, ADAA/OPS created a bill that ultimately passed this session. It lists all known (at that time) recipes of 'Synthetic cannabinoids' and 'Bath Salts' as Scheduled I drugs and repealed the older statute putting them in the Marijuana statute.

The bill also creates an Analog Statute, which mirrors the federal statute, and is an effort to criminalize synthetic "mimic" drugs that are manufactured and sold to cause the same effect upon the central nervous system as the actual drug.

This bill also creates the crime of trafficking in controlled substance analogs and these were added to schedule I.

PLEASE CONTACT US IMMEDIATELY IF YOU HAVE ANY QUESTIONS OR ISSUES. We have research and resources available.

<http://www.foxnews.com/health/2012/03/05/wyoming-kidney-failure-outbreak-linked-to-spice-drug/>

http://www.cbsnews.com/8301-504763_162-57407060-10391704/synthetic-marijuana-sales-banned-in-n.y-amid-health-concerns/

<http://whatsupatupstate.wordpress.com/2012/03/26/deaths-hospitalizations-underscore-dangers-of-synthetic-marijuana/>

SB 213- Felony Conviction; Termination of Retirement Benefit

Act 2012-412

This Act provides that any person who is a member of the Employees' Retirement System, the Teachers' Retirement System, or the Judicial Retirement Fund, either an active or inactive member who has an accrued retirement benefit or a retired member, under certain circumstances, forfeit the right to retirement benefits, and shall be entitled to a refund of his or her retirement contributions plus applicable interest upon a guilty plea, a plea of no contest, or a final conviction of a felony offense related to the person's public position. A retired member receiving benefits shall have his or her benefits suspended and receive a partial refund of contributions and interest upon such a plea or a final conviction.

SB 262 – Create Interagency Council to Prevent Elder Abuse

Act 2012-495

This Act creates the Alabama Interagency Council for the Prevention of Elder Abuse, it provides for the membership and duties of the council (OPS is a member) and allows the council to adopt rules for its internal operations, and establish a lead agency for the council.

SB 266 – Youthful Offender Act; Notify Victim of Hearing

Act 2012-465

This bill amends the Youthful Offender Act and provided that when the defendant intentionally inflicted serious physical injury or intentionally killed the victim in the commission of the crime that the court shall give notice to the victim, and the victim's immediate family member if the victim is under 21, deceased or hospitalized before conducting the hearing.

SB 386 – Sentencing Commission; Membership; Delay "Truth in Sentencing"

Act 2012-473

This Act expands the current sentencing commission. At our request, the number of district attorneys, law enforcement and victim spots were increased.

On October 1, 2013 the voluntary sentencing standards shall become presumptive. Any deviation must be based on certain mitigating or aggravating standards to be developed by the new commission. These sentencing standards only apply to statutory non-violent offenses. Any future recommendations by the commission must be reported to the legislature and if the legislature fails to enact legislation to the contrary, the recommendations become law.

SB 497 – Campaign Finance Disclosure

Act 2012-477

This Act Relates to the periodic filing of campaign finance disclosure reports, eliminates duplicative and multiple filings of the same information covered in certain prior reports, specifys that daily reports include all activity occurring since the most recent prior report, to specify that weekly and monthly filing requirements shall cover the entire preceding week or month, and provides

that the monetary balance of each committee reporting shall begin at the same monetary balance reported in the most recent prior report.

SB 523 – Tuscaloosa County Coroner

Act 2012-479

This Act authorizes the county commission to abolish the position of medical examiner and reestablish the office of coroner, provide for the appointment of a person to serve as coroner until the election of the coroner, provides for the election of a coroner, provides for the duties of the coroner; and repeals Act 86-373, 1986 Regular Session (Acts 1986, p. 555).

SB 536 – (Local Act) Lauderdale Co., Elder Abuse

Act 2012-420

This Act creates the Lauderdale County Council for the Prevention of Elder Abuse, provides for the membership and duties of the council, and allows the council to adopt rules for its internal operations. Membership includes the District Attorney of Lauderdale County.

SB 581 – (Local Act) Etowah Co., Constitutional Amendment

Act 2012-485

This local act for Etowah County; amends the Constitution of Alabama of 1901, to authorize the Legislature to fix, alter, and regulate court costs in the county and to ratify and confirm any local law authorizing any additional court costs enacted prior to the adoption of this amendment.