

1 HB414
2 96160-1
3 By Representative Black
4 RFD: Judiciary
5 First Read: 14-FEB-08

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8 SYNOPSIS: Under existing law, defendants convicted
9 for the sale of a controlled substance, which
10 includes the sale, furnishing, giving away, or
11 delivery of a controlled substance, are excluded
12 from participating in a community corrections
13 program.

14 This bill would remove the exclusion.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To amend Section 15-18-171, Code of Alabama 1975, to
21 authorize defendants convicted of the sale of a controlled
22 substance to be considered for participation in a community
23 corrections program.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 15-18-171, Code of Alabama 1975,
26 is amended to read as follows:

27 "§15-18-171.

1 "As used in this article, the following terms shall
2 have the following meanings, respectively, unless the context
3 otherwise requires:

4 "(1) APPLICATION PROCESS AND PROCEDURES. The
5 criteria and guidelines developed by the Department of
6 Corrections for the establishment of community punishment and
7 corrections programs, the granting of funds for programs
8 authorized herein, and the monitoring, evaluation, and review
9 of programs funded herein.

10 "(2) BOARD. The Board of Directors of the authority.

11 "(3) COMMISSIONER. The Commissioner of the
12 Department of Corrections.

13 "(4) COMMUNITY. The county or counties comprising
14 one or more judicial circuits.

15 "(5) COMMUNITY PUNISHMENT AND CORRECTIONS AUTHORITY.
16 A public corporation organized pursuant to the provisions of
17 this article.

18 "(6) COMMUNITY PUNISHMENT AND CORRECTIONS PROGRAM.
19 Any program designed as an alternative to incarceration and
20 maintained by a county commission or an authority or nonprofit
21 entity for the purpose of punishing and for correcting a
22 person convicted of a felony or misdemeanor or adjudicated a
23 youthful offender and which may be imposed as part of a
24 sanction, including, but not limited to confinement, work
25 release, day reporting, home detention, restitution programs,
26 community service, education and intervention programs, and
27 substance abuse programs.

1 "(7) COMMUNITY PUNISHMENT AND CORRECTIONS PLAN. A
2 document prepared by the county commission or an authority, or
3 nonprofit entity, and submitted to the Department of
4 Corrections in accordance with the requirements set forth in
5 the application process and procedure, which identifies
6 proposed community-based programs to be implemented within the
7 county in accordance with the terms of this article and
8 justifies the funding of such programs with regard to local
9 need and community support.

10 "(8) COUNTY COMMISSION CHAIRPERSON. The chair of the
11 county commission or his or her representative.

12 "(9) COUNTY INMATE. A person convicted of a
13 misdemeanor.

14 "(10) COURT. The trial judge exercising sentencing
15 jurisdiction over an eligible offender under this article and
16 includes any successor of the trial judge.

17 "(11) DEPARTMENT. The Department of Corrections.

18 "(12) DIVISION. The Community Corrections Division
19 within the department that is the state administrative agency
20 responsible for administering this article and assisting in
21 establishing and maintaining community based punishment
22 programs.

23 "(13) ELIGIBLE. A person who has committed an
24 offense not excluded by subdivision (14) and who meets the
25 criteria of Section 15-18-175.

26 "(14) EXCLUDED FELONY OFFENDERS. One who is
27 convicted of any of the following felony offenses: murder,

1 kidnapping in the first degree, rape in the first degree,
2 sodomy in the first degree, arson in the first degree, ~~selling~~
3 ~~or~~ trafficking in controlled substances, robbery in the first
4 degree, sexual abuse in the first degree, forcible sex crimes,
5 lewd and lascivious acts upon a child, or assault in the first
6 degree if the assault leaves the victim permanently disfigured
7 or disabled.

8 "(15) GOVERNING BODY. With respect to a county, its
9 county commission or other like governing body exercising the
10 legislative functions of a county.

11 "(16) INCORPORATORS. The persons forming a public
12 corporation pursuant to this article.

13 "(17) NONPROFIT ENTITY. Any not-for-profit
14 organization, agency, or other entity other than a community
15 punishment and corrections authority that provides treatment,
16 guidance, training, or other rehabilitation services to
17 individuals, families, or groups in such areas as health,
18 education, vocational training, special education, social
19 services, psychological counseling, and alcohol and drug
20 treatment.

21 "(18) PLAN. The community punishment and corrections
22 plan defined in subdivision (7).

23 "(19) RECIPIENT. Any entity receiving directly or
24 indirectly any financial grant or contractual remuneration
25 under this article.

26 "(20) RENOVATION. The repair, remodeling,
27 alteration, or expansion of existing buildings or structures

1 to make them habitable or suitable for community punishment
2 and corrections program operations, and includes the
3 acquisition and installation of necessary equipment.

4 "(21) RESTITUTION. Payment to the victim who has
5 suffered financial losses as a result of a crime. Restitution
6 shall include, but not be limited to, payment in cash or in
7 kind for the value of stolen or damaged property; for medical
8 expenses due to physical, emotional or psychological trauma;
9 wages lost as a result of time absent from work; and value of
10 property lost or transferred through theft or exercise of
11 control by deception or fraud.

12 "(22) STATE INMATE. A person convicted of a felony.

13 "(23) USER FEES. Fees assessed against an offender
14 under a community punishment and corrections program to help
15 defray the costs of such programs.

16 "(24) VICTIM SERVICE OFFICER. A person employed to
17 directly assist crime victims and their families with court
18 attendance, restitution, compensation, property return, victim
19 impact statements, and other needs expressed.

20 "(25) YOUTHFUL OFFENDER. A person adjudicated as a
21 youthful offender."

22 Section 2. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.