

- Amend §15-22-54(d)(3) to provide that upon successful completion of a certified residential treatment program full credit toward incarceration shall be awarded upon successful completion.

4. Amendments to Community Punishment and Corrections Act

HB 397

SB 266

This bill amends Alabama’s Community Punishment and Corrections Act to include reference to community corrections programs operating as nonprofit entities throughout the bill, i.e., in defining “Board of Directors,” in requiring offenders to perform community service in the county, requiring liability insurance, and authorizing such insurance to be obtained through the county commissions. The bill further amends § 15-18-171 defining eligible offenders, to delete the absolute statutory prohibition of offenders convicted for selling controlled substances from participating in a community corrections program, leaving this decision within the discretion of the sentencing judge.

The other major provisions include:

- Amendment of § 15-18-171 to define “offender” as: “any person convicted of a felony or misdemeanor or municipal ordinance violation who is sentenced to participate in a community corrections program.”
- Amendment of the Community Corrections Act throughout to consistently refer to participants as offenders rather than inmates.
- Amendment of §15-18-175 (d)(1) to provide that a sentence to community corrections must be pursuant to a suspended sentence of confinement. (This is to ensure that there is an underlying sentence to invoke upon revocation).
- Amendment of §15-18-183 regarding the limit on civil liability (\$100,000 for BI or death one person and one occurrence; \$300,000 two or more claims; \$100,000 property loss, single occurrence) to include county commissions and nonprofit entities, as well as authorities.
- Amendment of § 15-18-185 to include nonprofit entities (now limited to authorities) in requirement to maintain general liability insurance and to propose language to refer to all types of insurance and authorize county commissions to provide such insurance coverage to authorities and nonprofit entities.

Unified Judicial System Bill Supported by the Sentencing Commission

Alabama Drug Offender Accountability Act of 2009

Although not among the bills included in the Sentencing Commission's 2009 Legislative Package, the Commission voted to provide support for the UJS Drug Court bill that was drafted by the Chief Justice's Drug Court Task Force. Members of the Commission staff worked closely with the Task Force and its Chair, Judge Orson (Pete) Johnson in the drafting and review of the bill's provisions. The bill's major provisions include:

- Authority of the presiding judge of each judicial circuit to establish a drug court or courts to address the drug offender's identified substance abuse problem as a condition of pretrial release, pretrial diversion, probation, jail, prison, parole, community corrections, or other release from a correctional facility.
 - Does not affect the authority of the district attorney to establish a deferred prosecution program or a pretrial diversion program or to nolle prosequere a particular case, but does require all drug courts to comply with the Act and any rules promulgated by the Supreme Court for Drug Courts.
- Defines "drug offender" as any person charged with or convicted of a drug related offense or an offense where substance abuse is determined to have been a significant factor in the commission of the offense, and has applied for or been accepted to participate in a drug court program.
- Details the goal of the act is to:
 - Enhance community safety and quality of life for citizens.
 - Reduce recidivism.
 - Reduce substance abuse.
 - Increase the personal, familial and societal accountability of drug offenders.
 - Restore drug offenders to productive, law-abiding, and taxpaying citizens.
 - Promote effective interaction and use of resources among criminal justice and community agencies.
 - Reduce the costs of incarceration.
 - Improve the efficiency of the criminal justice system by enacting an effective methodology.
- Allows the drug court to grant reasonable incentives or sanctions in accordance with a written agreement.
- Requires disposition of the offender upon successful completion to be as per the written agreement and in accordance with the drug court policies and

- procedures, which may include, withholding criminal charges, nolle prosequere of charges recommended by the district attorney, probation, deferred sentencing, suspended sentencing, split sentencing or reduced incarceration.
- Provides that records of disposition are to be maintained and made available to judges and prosecutors statewide, noting juvenile or youthful offender records are not to be released to the general public.
 - Requires drug courts to include the ten key components defined by the U.S. Department of Justice. .
 - Provides that the act does not create a right or expectation of a right to participate in drug court, nor does it obligate the drug court to accept every drug offender. Each drug court judge may establish rules and make special orders provided they do not conflict with the act or the Rules promulgated by the Alabama Supreme Court.
 - Provides for screening of drug offenders, treatment, support services, and drug testing and referrals to programs certified by the Department of Mental Health and Mental Retardation for indicated treatment.
 - Provides that a court may order the drug offender to participate when the offender is screened as a substance abuser, there is reason to believe that participation will be beneficial and the prosecution consents.
 - Stipulates a drug offender shall not be eligible for admission if the drug offender:
 - has a pending violent criminal charge or any felony charge involving a firearm or deadly weapon or dangerous instrument,
 - has been convicted of a violent felony offense or any felony charge involving a firearm or deadly weapon or dangerous instrument,
 - is required to register as a sex offender or currently charged with a sex offense,
 - is charged with manufacturing, or trafficking of a controlled substance.
 - Allows the local drug court program to further restrict eligibility.
 - Requires, the Commissioner of the Department of Corrections to develop criteria for eligibility and evaluation for early release into reentry drug court programs.
 - Requires the drug court to ensure fair, accurate and reliable drug testing procedures.
 - Allows the transfer of drug offenders between drug courts within the state and any drug court in any state which is part of the Interstate Compact for Adult Offender Supervision.

- Requires the Administrative Office of Courts to assist in the planning, implementing, and developing drug courts. Including recommendations concerning the legal, policy, and procedural issues confronting drug courts.
 - Under existing law, the Administrative Office of Courts administers programs for drug courts in this state.
- Requires the presiding judge of each circuit court to report to AOC each year, from which AOC is to compile a statewide report each year for the Alabama Supreme Court, Legislature and Governor regarding the need for and the implementation of the act.
- Provides for the collection and maintenance of information for each drug offender, including instances of recidivism, the number of drug offenders screened, and the cost of the operation. Records are to be kept in accordance with federal and state confidentiality laws.
- Requires the drug offender to pay all fees associated with the drug court, unless the offender is determined to be indigent. .
- Provides for civil immunity for any individual who, in good faith, provides a service or for any qualified person who obtains a specimen pursuant to the act.