

Split Sentence Amendments Cont'd

- ◇ provide for participation in substance abuse treatment or a community corrections program as an intermediate sanction upon revocation of probation.
- ◇ specify that neither Alabama Correctional Incentive Time or consideration for parole eligibility is to be prohibited once a defendant has served the minimum period of incarceration.
- ◇ amend § 15-22-54 to specify that in addition to continuing, extending or terminating the period of probation or suspension of a sentence, the court may amend or modify the sentence while the defendant is serving any portion of the sentence.
- ◇ amend §15-22-54(d)(2)(a) to provide that in addition to imposing a suspended sentence or a lesser sentence, upon revocation of probation, a court may order the defendant to participate in substance abuse treatment or a community corrections program, including residential facilities operated by the Board of Pardons and Paroles.
- ◇ §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. Community Corrections Act Amendments **HB 397 **SB 266****

While several amendments are made for clarification, the major amendment to this Act is the deletion of 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.

ALABAMA SENTENCING COMMISSION

Recommending an Effective, Fair and Efficient Sentencing System with an Emphasis on Public Safety.

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Alabama Sentencing Commission

2009 Regular Session Legislative Package

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Alabama Sentencing Commission's 2009 Legislative Package

1. Modification of Initial Standards to Include Attempts, Conspiracies and Solicitations **HB 395 SB 267**

Based on recommendations from judges and prosecutors, the Sentencing Commission reevaluated the existing worksheets and standards and determined that these should be modified to include attempts, conspiracies and solicitations to commit murder and controlled substances crimes, since the statutory punishment is the same as for the substantive offense. The controlled substances worksheet offenses that were amended to include attempts, conspiracies and solicitations are: possession of marijuana; unlawful possession of a controlled substance (other than to a minor); sale/distribution of marijuana (other than to a minor); and sale/distribution of schedule I-V (other than to a minor).

In addition, modifications to the worksheets and instructions were made to further clarify the use of the worksheets and the sentence length tables of the initial voluntary sentencing standards.



2. Truth-in-Sentencing Standards

HB 396 SB 97

This bill amends sections 12-25-32 and 12-25-34 of the *Code of Alabama* 1975, to postpone development and implementation of the voluntary truth-in-sentencing standards until 2011.

Although the Alabama Sentencing Commission originally planned to develop the second set of sentencing standards based on “time served” data and implement truth-in-sentencing in 2009, several obstacles require delay until at least 2011, foremost of which include the availability of alternative sentencing options for nonviolent offenders, the effectiveness of the initial standards, and funding for data analysis, standards development, and training.

The bill further amends § 12-25-36 to clarify that the provisions in § 12-25-36, § 12-25-37 and § 12-25-38 relating to truth-in-sentencing standards are *proposals* for future implementation only, that they do *not* apply to the existing sentencing standards, and require legislative approval for implementation.

Because the initial sentencing standards were not approved until the third year they were presented to the Legislature, the entire sentencing reform timetable had to be recalculated to ensure that the “time imposed” standards are being used effectively and are addressing the established objectives. In addition to delaying Phase II of sentencing reform until the success

of the first standards has been gauged and an adequate alternative sentencing infrastructure has been established, the bill amends § 12-25-32 relating to the definition of “active incarceration” to exclude reference to SIR and work release and to reference these programs under the definition of “intermediate punishment”.

3. Amendments to Split Sentence and Probation Revocation Statutes

HB 394 SB 268

This bill amends Alabama’s split sentencing statute, § 15-18-8, to expressly prohibit the imposition of consecutive split sentences or “the stacking” of split sentences, which require a defendant to serve more than the minimum imprisonment portion of a split sentence without the possibility of parole or good time credit. In addition, amendments are proposed to:

- ◇ clarify that a split sentence is not authorized for a Class A or B child sex offense as defined in § 15-20-21(5).
- ◇ specify that a defendant may be confined in a “rehabilitation or reentry facility,” as part of the imprisonment or probation portion of a split sentence.
- ◇ impose the same limit on the probation portion of a split sentence as in any other sentence (5 years for a felony and 2 years for a misdemeanor).
- ◇ provide that upon revocation of the probation portion of split, the court can impose any of the sanctions authorized in § 15-22-54, including revoking the probation and incarcerating the defendant for any portion of his suspended sentence.