

1 HB490  
2 52900-5  
3 By Representative Black (M)  
4 RFD: Judiciary  
5 First Read: 03-APR-03

ACT No. 2003- 353

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ENROLLED, An Act,  
Relating to the Community Punishment and Corrections Act; to amend Sections 15-18-170, 15-18-171, 15-18-172, 15-18-174, 15-18-175, 15-18-176, 15-18-178, 15-18-179, 15-18-180, 15-18-182, and 15-18-183, Code of Alabama 1975, to further provide for the operation by a county or group of counties of community punishment and corrections programs for state and county inmates or youthful offenders; to establish a Community Corrections Division in the Department of Corrections to administer this act; to further provide for a county program or an authority or other nonprofit entity to apply for financial contracts or grants; and to establish a "State-County Community Corrections Partnership Fund" to be used to establish or expand community-based punishment programs for eligible felony offenders.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 15-18-170, 15-18-171, 15-18-172, 15-18-174, 15-18-175, 15-18-176, 15-18-178, 15-18-179, 15-18-180, 15-18-182, and 15-18-183, Code of Alabama 1975, are amended to read as follows:

"§15-18-170.

"This article shall be known as the "Alabama Community Punishment and Corrections Act ~~of 1991~~."

"§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 ~~plans~~  
7 punishment and corrections programs, the granting of funds for  
8 programs authorized herein, and the monitoring, evaluation and  
9 review of programs funded herein.

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

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

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

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

19           "(6) COMMUNITY PUNISHMENT AND CORRECTIONS PROGRAM.  
20 Any program designed as an alternative to incarceration and  
21 maintained by a county commission or an authority or nonprofit  
22 entity for the purpose of punishing and for correcting a  
23 person convicted of a felony or misdemeanor or adjudicated a  
24 youthful offender and which may be imposed as part of a  
25 sanction, including, but not limited to confinement, work

1 release, day reporting, home detention, restitution programs,  
 2 community service, education and intervention programs, and  
 3 substance abuse programs~~7~~.

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

13 "(8) COUNTY COMMISSION CHAIRPERSON. The ~~chairman~~  
 14 chair of the county commission or his~~7~~ or her representative~~7~~.

15 "(9) COUNTY INMATE. A person convicted of a  
 16 misdemeanor~~7~~.

17 "(10) COURT. The trial judge exercising sentencing  
 18 jurisdiction over an eligible offender under this article and  
 19 includes any successor of ~~such~~ the trial judge~~7~~.

20 "(11) DEPARTMENT. The Department of Corrections~~7~~.

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

1           "~~(12)~~(13) ELIGIBLE. A person who has committed an  
2 offense not excluded by subdivision ~~(13)~~ (14) and who meets  
3 the criteria of Section 15-18-175~~7~~.

4           "~~(13)~~(14) EXCLUDED FELONY OFFENDERS. One who is  
5 convicted of any of the following felony offenses: murder,  
6 kidnapping in the first degree, rape in the first degree,  
7 sodomy in the first degree, arson in the first degree, selling  
8 or trafficking in controlled substances, robbery in the first  
9 degree, sexual abuse in the first degree, forcible sex crimes,  
10 lewd and lascivious acts upon a child, or assault in the first  
11 degree if ~~said~~ the assault leaves the victim permanently  
12 disfigured or disabled~~7~~.

13           "~~(14)~~(15) GOVERNING BODY. With respect to a county,  
14 its county commission or other like governing body exercising  
15 the legislative functions of a county~~7~~.

16           "~~(15)~~(16) INCORPORATORS. The persons forming a  
17 public corporation pursuant to ~~the provisions of~~ this  
18 article~~7~~.

19           "~~(16)~~(17) NONPROFIT ENTITY. Any not-for-profit  
20 organization, agency~~4~~ or other entity other than a community  
21 punishment and corrections authority that provides treatment,  
22 guidance, training~~4~~ or other rehabilitation services to  
23 individuals, families~~4~~ or groups in such areas as health,  
24 education, vocational training, special education, social

1 services, psychological counseling, and alcohol and drug  
2 treatment~~7~~.

3 "~~(17)~~(18) PLAN. The community punishment and  
4 corrections plan defined in subdivision (7)~~7~~.

5 "~~(18)~~(19) RECIPIENT. Any entity receiving directly  
6 or indirectly any financial grant or contractual remuneration  
7 under this article~~7~~.

8 "~~(19)~~(20) RENOVATION. The repair, remodeling,  
9 alteration, or expansion of existing buildings or structures  
10 to make them habitable or suitable for community punishment  
11 and corrections program operations, and includes the  
12 acquisition and installation of necessary equipment~~7~~.

13 "~~(20)~~(21) RESTITUTION. Payment to the victim who has  
14 suffered financial losses as a result of a crime. Restitution  
15 shall include, but not be limited to, payment in cash or in  
16 kind for the value of stolen or damaged property; for medical  
17 expenses due to physical, emotional ~~and/or~~ or psychological  
18 trauma; wages lost as a result of time absent from work; and  
19 value of property lost or transferred through theft or  
20 exercise of control by deception or fraud~~7~~.

21 "~~(21)~~(22) STATE INMATE. A person convicted of a  
22 felony~~7~~.

23 "~~(22)~~(23) USER FEES. Fees assessed against an  
24 offender under a community punishment and corrections program  
25 to help defray the costs of such programs~~7~~.

## HB490

1           "~~(23)~~ (24) VICTIM SERVICE OFFICER. A person employed  
2 to directly assist crime victims and their families with court  
3 attendance, restitution, compensation, property return, victim  
4 impact statements, and other needs expressed, and.

5           "~~(24)~~ (25) YOUTHFUL OFFENDER. A person adjudicated as  
6 a youthful offender.

7           "§15-18-172.

8           "(a) ~~There is hereby authorized in each A county or~~  
9 group of counties ~~of the state, may establish~~ a community  
10 punishment and corrections program for state and county  
11 inmates or youthful offenders in custody of the county. ~~Such~~  
12 The program may shall be established by a county by resolution  
13 adopted by the county commission or by such community  
14 punishment and corrections authorities or other nonprofit  
15 entities as provided herein. The program shall establish the  
16 maximum number of offenders who may participate in the program  
17 and participation shall be limited to space availability. No  
18 offenders may be sentenced or assigned to the program in  
19 excess of the maximum number established for the program. No  
20 county is obligated to fund any activities of a community  
21 corrections program established under this article without an  
22 affirmative vote of the affected county commission.

23           "(b) The department ~~is authorized to may~~ contract  
24 with such counties, authorities, or other nonprofit entities  
25 as provided herein concerning start-up costs and the costs of

## HB490

1 maintenance, including medical expenses, of state inmates  
2 participating in any program authorized under this article or  
3 under any county program functioning pursuant to any state or  
4 local act.

5 "(c) The department shall promulgate rules and  
6 regulations pursuant to the Alabama Administrative Procedure  
7 Act establishing conditions for state inmates' participation  
8 in the community punishment and corrections program, the  
9 observance of which may be a condition to such participation.

10 "(d) A state inmate incarcerated in a state facility  
11 may be approved by the department for participation in a  
12 community punishment and corrections program established under  
13 this article and be assigned to a program in ~~such~~ the county  
14 from which ~~he~~ the inmate was sentenced if a community  
15 punishment and corrections program under this article has been  
16 established in ~~such~~ that county and if the sentencing judge of  
17 ~~such~~ the county authorizes the inmate to participate in the  
18 program. An inmate may be assigned to a community punishment  
19 and corrections program in another county if the presiding  
20 judge of the other county and the sentencing judge agree to  
21 ~~such~~ the assignment and if the county has agreed in the  
22 contract to accept inmates originally sentenced in other  
23 counties. In the event the sentencing judge is unavailable due  
24 to death, retirement, or any other reason, the presiding judge  
25 from the sentencing circuit shall act in the sentencing



## HB490

1 judge's stead. An inmate assigned to a community punishment  
2 and corrections program pursuant to this article shall not be  
3 eligible for parole consideration.

4 "§15-18-174.

5 "In addition to those otherwise provided by law, the  
6 department shall have the following powers, duties, and  
7 authority:

8 "(1) Monitor the community punishment and  
9 corrections ~~plan~~ program within the goals and mandates  
10 established herein~~;~~.

11 "(2) Conduct statewide public education programs  
12 concerning the purposes and goals as established herein and  
13 make ~~a~~ an annual report to the prison oversight committee of  
14 the Legislature and the Alabama Sentencing Commission  
15 regarding the effectiveness of diversion of offenders from  
16 state and local correctional institutions~~;~~. This annual report  
17 should also include data showing the impact of diversion of  
18 offenders by race, gender, and location of the offender.

19 "(3) Provide technical assistance to local  
20 governments, authorities and other nonprofit entities and  
21 agencies, and local community punishment and corrections  
22 advisory boards regarding development of a community  
23 punishment and corrections ~~plan~~ program.

## HB490

1           "(4) Develop minimum standards, policies, and  
2 administrative rules for the statewide implementation of this  
3 article~~7.~~

4           "(5) Develop and implement by rule an application  
5 process and procedure~~7.~~

6           "(6) Review community punishment and corrections  
7 plans and award contracts or grants~~7 and.~~

8           "(7) Conduct an audit and annual program evaluation  
9 of programs receiving contracts or grants to ensure program  
10 accountability.

11           "§15-18-175.

12           "(a) An offender who meets one of the following  
13 minimum criteria shall be considered eligible for punishment  
14 in the community under ~~the provisions of~~ this article:

15           "(1) Persons who, without this option, would be  
16 incarcerated in a correctional institution or who are  
17 currently incarcerated in a correctional institution~~7 and.~~

18           "(2) Persons who are convicted of misdemeanors.

19           "(b) The following offenders are excluded from  
20 consideration for punishment in the community:

21           "(1) Persons who are convicted of offenses as listed  
22 in subdivision ~~(13)~~ (14) of Section 15-18-171~~7 and.~~

23           "(2) Persons who demonstrate a pattern of violent  
24 behavior. In reaching this determination, the court may  
25 consider prior convictions and other acts not resulting in

## HB490

1 conviction or criminal charges, and the offender's behavior  
2 while in state or county confinement.

3 "(c) The eligibility criteria established in this  
4 section shall be interpreted as guidelines for the benefit of  
5 the court in making a determination of eligibility of  
6 offenders and assessment of funds under this article.

7 "(d) (1) ~~Notwithstanding any other provision of the~~  
8 ~~law to the contrary~~ Except as provided in Section  
9 15-18-172(a), the court is authorized to may sentence an  
10 eligible offender as defined in this section directly to any  
11 appropriate community-based alternative provided, either as a  
12 part of or in conjunction with a split sentence as provided  
13 for in Section 15-18-8, or otherwise as an alternative to  
14 prison; or as a condition for a defendant to meet in  
15 conjunction with probation; and under such additional terms  
16 and conditions as the court may prescribe. ~~Provided, however,~~  
17 ~~a court cannot sentence an eligible offender to any community~~  
18 ~~punishment and corrections program if such sentencing would~~  
19 ~~cause the offender participation level to exceed the maximum~~  
20 ~~participation level established for that program in its~~  
21 ~~community punishment and corrections plan.~~ Notwithstanding the  
22 foregoing, a defendant may only be sentenced to participate in  
23 community punishment and corrections programs when adequate  
24 space and staff are available. No program shall be required to

HB490

1 operate beyond its staffing and design capabilities as  
2 provided in Section 15-18-172.

3 "(2) In sentencing an eligible offender to any  
4 community-based alternative to incarceration, the court shall  
5 possess the authority to set the duration of the sentence for  
6 the offense committed to any period of time up to the maximum  
7 sentence within the appropriate sentence range for the  
8 particular offense. A court may not sentence an eligible  
9 offender to any community punishment and corrections program  
10 if the sentencing would cause the offender participation level  
11 to exceed the maximum participation level established for that  
12 program in its community punishment and corrections plan as  
13 provided in Section 15-18-172.

14 "(3) ~~The~~ After a hearing on the violation, the court  
15 may alter the sentence imposed for a violation of the  
16 conditions imposed by the court; ~~after a hearing, the court~~  
17 may, as follows:

18 "a. If the defendant violates a condition of the  
19 sentence at any time prior to the expiration or termination of  
20 the term of the sentence, the court may implement one or more  
21 of the following options:

22 "1. Continue the offender on the existing sentence; 1  
23 "2. Issue a formal or informal warning to the  
24 offender that further violations may result in revocation of  
25 the sentence; 1

## HB490

1           "3. Conduct a formal or informal warning to  
2 reemphasize the necessity of compliance with the conditions of  
3 the sentence~~7.~~

4           "4. Modify the conditions of serving the sentence,  
5 possibly including the inclusion of short periods of  
6 confinement in local facilities for time for which supervision  
7 of sentence was formerly given~~7 or.~~

8           "5. Revoke the sentence as listed in paragraph b  
9 below.

10           "In lieu of a formal hearing, the court may issue a  
11 standing court order authorizing program administrators to  
12 impose the disciplinary sanctions listed in subparagraphs 1,  
13 2, and 3 above or any preapproved sanction that does not  
14 include a period of confinement. All instances of  
15 noncompliance and disciplinary actions shall be immediately  
16 reported to the court.

17           ~~"b. If the court revokes the sentence, it may A~~  
18 revocation hearing shall be conducted before the court prior  
19 to revocation of the community corrections sentence. The court  
20 shall apply the same due process safeguards as a probation  
21 revocation proceeding and may modify or revoke the community  
22 punishment sentence and impose the sentence that was suspended  
23 at the original hearing or any lesser sentence, including any  
24 option listed in subdivision subsection (d) (1). If the  
25 ~~sentence is revoked or modified and the court orders the~~

## HB490

1 ~~offender to serve any period of confinement, an offender~~  
2 ~~originally convicted of a misdemeanor shall serve such~~  
3 ~~confinement in the county jail and an offender originally~~  
4 ~~convicted of a felony shall serve such confinement in a state~~  
5 ~~correctional facility.~~

6 "c. If revocation results in a sentence of  
7 confinement, credit shall be given for all time spent in  
8 custody prior to revocation. Full credit shall be awarded for  
9 full-time confinement in facilities such as city ~~or~~ county  
10 jails, state prisons, and boot camps. ~~Credit for other~~  
11 ~~penalties, such as work release programs, intermittent~~  
12 ~~confinement, and home detention, shall be left to the~~  
13 ~~discretion of the court, with the presumption that time spent~~  
14 ~~subject to such other penalties will receive half credit. The~~  
15 ~~court shall also give significant weight to time spent in~~  
16 ~~confinement so that total credited time spent in confinement~~  
17 ~~may not exceed the term of confinement of the original~~  
18 ~~sentence.~~

19 "d. The court shall not revoke the sentence and  
20 order the confinement to prison of the offender unless the  
21 court finds, on the basis of the original offense and the  
22 offender's intervening conduct, that either of the following  
23 apply:

## HB490

1 "1. No measure short of confinement will adequately  
2 protect the community from further criminal activity by the  
3 offender, ~~or,~~

4 "2. No measure short of confinement will avoid  
5 depreciating the seriousness of the violation.

6 "e. The willful failure of an inmate to remain  
7 within the extended limits of his or her confinement or to  
8 return to the place of confinement within the time prescribed  
9 shall be deemed an escape from a state penal institution in  
10 the case of a state inmate and an escape from the custody of  
11 the sheriff in the case of a county inmate and shall be  
12 punishable accordingly.

13 "f. The victim will be notified in accordance with  
14 procedures established in the community punishment and  
15 corrections plan prior to sentencing under this article.

16 "g. Restitution, when appropriate, shall be ordered  
17 by the court as a condition for a community-based sentence  
18 under this article in addition to any mandatory victim  
19 assessment fees.

20 "1. Nothing herein shall prevent a court from  
21 sentencing an eligible defendant to community-based punishment  
22 in conjunction with a suspended sentence confinement pursuant  
23 to the split sentences or probation.

24 "2. The State of Alabama and any county or  
25 municipality ~~are hereby authorized to~~ may become employers of

## HB490

1 community punishment and corrections inmates under this  
2 article, and as such, may employ inmates to perform any state  
3 or county or municipal job available, including, but not  
4 limited to, road or bridge work, garbage collection, and  
5 public grounds maintenance. Inmates so employed shall not be  
6 eligible to participate in group health, accident, and life  
7 insurance programs, or retirement programs provided regular  
8 state or county or municipal employees. Worker's compensation  
9 benefits may be provided ~~such~~ the inmates at the discretion of  
10 the state or employing county or municipality.

11 "3. Inmates employed under this section shall be  
12 paid at least the federally established minimum wage.

13 "4. Counties ~~are hereby authorized to~~ may utilize  
14 inmates or others required by a court of competent  
15 jurisdiction to perform community service in county work,  
16 including, but not limited to, removal of debris or trash from  
17 roads and rights-of-way, road or bridge work, garbage  
18 collection, and public grounds maintenance.

19 "5. State and county inmates performing community  
20 service shall not be entitled to any compensation.

21 "\$15-18-176.

22 "(a) A community punishment and corrections plan  
23 shall be developed and submitted to the department which  
24 sufficiently documents the local need and support for the  
25 proposed program. The community punishment and corrections



## HB490

1 plan shall have the approval of the county commissioner~~s~~ in  
2 the affected counties prior to submission to the department.  
3 Any ~~such~~ plan shall specifically state the maximum number of  
4 inmates eligible to participate in ~~any such~~ the program.

5 "(b) The format for any community punishment and  
6 corrections plan shall be specified by the division ~~Department~~  
7 ~~of Corrections~~ in its application process and procedures.  
8 Funding and grant evaluation criteria shall be outlined in the  
9 application process and procedures to be developed by the  
10 ~~department~~ division in order that each applicant may know the  
11 basis upon which funds will be granted. The department shall  
12 adopt rules pursuant to the Administrative Procedure Act  
13 outlining the application process and procedures.

14 "(c) Participation in the programs set forth in this  
15 article is voluntary. Any participating authority, county  
16 commission, or other nonprofit entity may notify the  
17 ~~commissioner~~ director of the division of its intention to  
18 withdraw from participation in the community punishment and  
19 corrections program contract. The withdrawal will become  
20 effective on the last day of the grant year.

21 "\$15-18-178.

22 "(a) ~~Should an~~ Any county program or authority be  
23 formed by one or more counties under this article, ~~such~~  
24 ~~authority~~ shall be eligible to apply for direct and continuing  
25 financial contracts ~~and~~ and grants under the article.

1           "(b) A nonprofit entity other than a community  
2 punishment and corrections authority may be eligible under the  
3 provisions of this article to receive grants or contracts ~~so~~  
4 ~~as~~ to carry out the provisions and purposes of this article  
5 only in a county ~~which~~ that has not established a local  
6 community punishment and corrections authority ~~and only after~~  
7 ~~a county commission in such a county has received notice that~~  
8 ~~such nonprofit entity desires to seek a grant to carry out the~~  
9 ~~provisions of this article and said county fails to establish~~  
10 ~~a community punishment and corrections authority within 30~~  
11 ~~days after such notification. Under such circumstances, the or~~  
12 which does not intend to apply for funding directly. The  
13 county commission may elect to endorse the community  
14 punishment and corrections plan submitted by ~~such the~~  
15 nonprofit entity after the commission has received notice that  
16 the nonprofit entity desires to seek a grant to carry out this  
17 article and the county does not establish a community  
18 punishment and corrections authority or pass a resolution that  
19 it will apply for grant funding within 60 days after the  
20 notification. In such the event, such the nonprofit entity  
21 shall perform the same duties, obligations, and functions as a  
22 community punishment and corrections planning authority  
23 together with performing the other corrections functions  
24 provided for in this article. Nothing in this article shall  
25 prohibit a nonprofit entity from receiving funds indirectly

1 for such a program ~~nor shall; however,~~ a nonprofit entity  
 2 shall have ~~the~~ no authority to obligate county funds.

3 "(c) Nothing in this article shall prevent an entity  
 4 eligible for funding under this article to utilize common  
 5 facilities or personnel and to share other overhead costs with  
 6 county correctional or work release programs.

7 "§15-18-179.

8 "(a) A public corporation may be organized as a  
 9 community punishment and corrections authority pursuant to ~~the~~  
 10 ~~provisions of~~ this article in any county or group of counties  
 11 located in one or more judicial circuits. In order to  
 12 incorporate ~~such a~~ the public corporation, any number of  
 13 natural persons, not less than three, who are duly qualified  
 14 electors of a proposed county~~(s)~~ or counties shall first file  
 15 a written application with the county commission or any two or  
 16 more thereof, ~~and such applications.~~ The application shall  
 17 contain all of the following:

18 "(1) ~~Recite the~~ The names of each county commission  
 19 with which ~~such~~ the application is filed~~7.~~

20 "(2) ~~Contain a~~ A statement that the applicants  
 21 propose to incorporate an authority pursuant to ~~the provisions~~  
 22 ~~of~~ this article~~7.~~

23 "(3) ~~State the~~ The proposed location of the  
 24 principal office of the authority~~7.~~

1           "(4) ~~State~~ A statement that each of the applicants  
2 is a duly qualified elector of the county, or if there is more  
3 than one, at least one thereof, ~~and.~~

4           "(5) ~~Request~~ A request that the governing body of  
5 ~~such the~~ determining subdivision adopt a resolution declaring  
6 that it is wise, expedient, and necessary that the proposed  
7 authority be formed, approving its certificate of  
8 incorporation, and authorizing the applicants to proceed to  
9 form the proposed authority by the filing for record of a  
10 certificate of incorporation in accordance with ~~the provisions~~  
11 ~~of~~ this article. Every ~~such~~ application shall be accompanied  
12 by a form of certification of incorporation of the proposed  
13 authority and by ~~such any~~ other supporting documents or  
14 evidence as the applicants may consider appropriate.

15           "As promptly as may be practicable after the filing  
16 of the application with ~~it~~ the county commission in accordance  
17 with ~~the provisions of~~ this section, the county ~~commissioners~~  
18 ~~of the county~~ commission with which the application was filed  
19 shall review the contents of the application, and the  
20 accompanying form of certificate of incorporation ~~and shall.~~  
21 The county commission shall thereafter adopt a resolution  
22 either denying the application or declaring that it is wise,  
23 expedient, and necessary ~~and~~ that the proposed authority be  
24 formed, and that a community punishment and corrections  
25 program be established in such jurisdiction, approving the

1 form of its certificate of incorporation, and authorizing the  
 2 applicants to proceed to form the proposed authority by the  
 3 filing for record of ~~such~~ a certificate of incorporation in  
 4 accordance with this article. While it shall not be necessary  
 5 that ~~any such~~ the resolution be published in a newspaper or  
 6 posted, each governing body with which the application is  
 7 filed shall also cause a copy of the application to be spread  
 8 upon or otherwise made a part of the minutes of the meeting of  
 9 ~~such~~ the governing body at which final action upon ~~said~~ the  
 10 application is taken.

11 "(b) Within 40 days following the adoption of an  
 12 authorizing resolution, or if there is more than one, the last  
 13 adopted thereof, the applicants shall proceed to incorporate  
 14 an authority by filing for record in the office of the judge  
 15 of probate of the county in which the principal office of the  
 16 authority is to be located, a certificate of incorporation  
 17 which shall comply in form and substance with the requirements  
 18 of this section and which shall be in the form and executed in  
 19 the manner as provided in this article and ~~shall also be in~~  
 20 ~~the form theretofore~~ as approved by the governing body of each  
 21 determining subdivision.

22 "(c) The certificate of incorporation of the  
 23 authority shall state all of the following:

1           "(1) The names of the persons forming the authority,  
2 and that each of them is a duly qualified elector of the  
3 county, or if there is more than one, at least one thereof~~;~~.

4           "(2) The name of the authority~~,~~ (which may be a name  
5 indicating in a general way the area proposed to be served by  
6 the authority and shall include the words "...Community  
7 Punishment and Corrections Authority," or "The Community  
8 Punishment and Corrections Authority of ...," the blank spaces  
9 to be filled in with the name of one or more of the counties  
10 or other geographically descriptive word or words, such  
11 descriptive word or words not, however, to preclude the  
12 authority from exercising its powers in other geographical  
13 areas~~;~~ unless the Secretary of State shall determine that  
14 ~~such~~ the name is identical to the name of any other  
15 corporation organized under the laws of the state or so nearly  
16 similar thereto as to lead to confusion and uncertainty~~,~~ in  
17 which case the incorporators may insert additional identifying  
18 words so as to eliminate ~~said~~ duplication or similarity~~;~~.

19           "(3) The period for duration of the authority; if  
20 the duration is to be perpetual, subject to ~~the provisions of~~  
21 subsection (i)~~,~~ that fact shall be stated~~;~~.

22           "(4) The name of each county together with the date  
23 on which the governing body ~~thereof~~ adopted an authorizing  
24 resolution~~;~~.

1           "(5) The location of the principal office of the  
2 authority, which shall be within the boundaries of the county,  
3 or if more than one, at least one thereof~~;~~.

4           "(6) That the authority is organized pursuant to ~~the~~  
5 ~~provisions of this article~~~~;~~.

6           "(7) The number of members of the board of directors  
7 of the authority, which shall be an odd number not less than  
8 ~~three~~, five; the duration of their respective terms of office,  
9 which shall not be in excess of six years; and subject to the  
10 provisions of subsection (g), the manner of their election or  
11 appointment~~;~~.

12           "(8) Any provisions, not inconsistent with  
13 subsection (i), relating to the vesting of title to its  
14 properties upon its dissolution~~;~~.

15           "(9) Any other related matters relating to the  
16 authority that the incorporators may choose to insert and that  
17 are not inconsistent with this article or with the laws of the  
18 state~~;~~~~and~~.

19           "(10) The certificate of incorporation shall be  
20 signed and acknowledged by the incorporators before an officer  
21 authorized by the laws of the state to take acknowledgments to  
22 deeds. When the certificate of incorporation is filed for  
23 record, there shall be attached to it:

1            "a. A copy of the application as filed with the  
 2 county commission~~(s)~~ or county commissions in accordance with  
 3 ~~the provisions of~~ subsection (a)~~7~~.

4            "b. A certified copy of the authorizing resolution  
 5 adopted by the county commission~~(s)~~; and or county  
 6 commissions.

7            "c. A certificate by the Secretary of State that the  
 8 name proposed for the authority is not identical to that of  
 9 any other corporation organized under the laws of the state or  
 10 so nearly similar thereto as to lead to confusion and  
 11 uncertainty.

12            "(d) Upon the filing for record of the ~~said~~  
 13 certificate of incorporation and the documents required by the  
 14 preceding sentence to be attached thereto, the authority shall  
 15 come into existence and shall constitute a public corporation  
 16 under the name set forth in ~~said~~ the certificate of  
 17 incorporation. The judge of probate shall thereupon send a  
 18 notice to the Secretary of State that the certificate of  
 19 incorporation of the authority has been filed for record.

20            "(e) The certificate of incorporation of any  
 21 authority incorporated under ~~the provisions of~~ this article  
 22 may ~~at any time and from time to time~~ be amended at any time  
 23 in the manner provided in this section. The board shall first  
 24 adopt a resolution proposing an amendment to the certificate  
 25 of incorporation which shall be set forth in full in the ~~said~~



1 resolution and ~~which amendment~~ may include any matters which  
2 might have been included in the original certificate of  
3 incorporation.

4 "After ~~the~~ adoption by the board of a resolution  
5 proposing an amendment to the certificate of incorporation of  
6 the authority, the ~~chairman~~ chair of the board and the  
7 secretary of the authority shall sign and file a written  
8 application in the name of and on behalf of the authority,  
9 under its seal, with the governing body of the county  
10 commission~~(s)~~ or county commissions, requesting ~~such the~~  
11 county commission~~(s)~~ or county commissions to adopt a  
12 resolution approving the proposed amendment, and accompanied  
13 by a certified copy of the ~~said~~ resolution adopted by the  
14 board proposing the ~~said~~ amendments to the certificate of  
15 incorporation, together with such documents in support of the  
16 application as the ~~said chairman~~ chair of the board may  
17 consider appropriate. As promptly as may be practicable after  
18 the filing of the ~~said~~ application pursuant to the foregoing  
19 provisions of this section, the county commission~~(s)~~ or county  
20 commissions shall review the ~~said~~ application and shall adopt  
21 a resolution either denying the ~~said~~ application or  
22 authorizing the proposed amendment. While it shall not be  
23 necessary that any ~~such the~~ resolution be published in a  
24 newspaper or posted, the county commission~~(s)~~ or county  
25 commissions with which ~~such the~~ application is filed shall

1 also cause a copy of the ~~said~~ application and all accompanying  
2 documents to be spread upon or otherwise made a part of the  
3 minutes of the meeting of ~~said governing body~~ the county  
4 commission at which final action upon the ~~said~~ application is  
5 taken. The certificate of incorporation of an authority may be  
6 amended only after the filing of ~~such~~ an application ~~therefore~~  
7 for amendment and ~~the~~ adoption by the county commission of  
8 each county of an approving resolution.

9 "Within 40 days following the adoption by the county  
10 commission of a resolution approving the proposed amendment,  
11 or if there is more than one, the last adopted of ~~such~~ the  
12 approving resolutions, the chairman of the board of the  
13 authority and the secretary of the authority shall sign and  
14 file for record in the office of the judge of probate with  
15 which the certificate of incorporation of the authority was  
16 originally filed, a certificate in the name of and in behalf  
17 of the authority, ~~under its seal,~~ reciting the adoption of  
18 ~~said~~ the respective resolutions by the board and by the county  
19 commission(s) or county commissions and setting forth the ~~said~~  
20 proposed amendment. The judge of probate ~~for such county~~ shall  
21 thereupon record ~~said~~ the certificate in an appropriate book  
22 in his or her office. When ~~such~~ the certificate has been ~~so~~  
23 filed and recorded, ~~such~~ the amendment shall become effective,  
24 and the certificate of incorporation shall thereupon be  
25 amended to the extent provided in the amendment. No

1 certificate of incorporation of an authority shall be amended  
2 except in the manner provided in this section.

3 "(1) Each authority shall have a board of directors  
4 composed of the number of directors provided in the  
5 certificate of incorporation, ~~provided, however, that~~ except  
6 the board shall consist of at least five directors who shall  
7 be appointed by the county commission~~(s)~~ or county commissions  
8 of the counties involved. Unless provided to the contrary in  
9 its certificate of incorporation, all powers of the authority  
10 shall be exercised, and the authority shall be governed by the  
11 board or pursuant to its authorization. The directors or  
12 persons shall serve ~~such~~ the terms of office as shall be  
13 specified in the certificate of incorporation of the  
14 authority. Any county commissioner or other county officer or  
15 employee shall be eligible for appointment to the board.

16 "(2) If, at the expiration of any term of office of  
17 any director, a successor thereto shall not have been elected  
18 or appointed, then the director whose term of office shall  
19 have expired shall continue to hold office until ~~his~~ a  
20 successor shall be so elected or appointed. If at any time  
21 there should be a vacancy on the board, whether by death,  
22 resignation, incapacity, disqualification, or otherwise, a  
23 successor director to serve for the unexpired term applicable  
24 to ~~such~~ the vacancy shall be elected or appointed by ~~one~~  
25 ~~county commission(s) of the counties involved~~ the entity which

1 appointed the member whose absence has created the vacancy.

2 Each election or appointment of a director, whether for a full  
3 term or to complete an unexpired term, shall be made not  
4 earlier than 30 days prior to the date on which ~~such the~~  
5 director is to take office. Any director, irrespective of ~~by~~  
6 ~~whom~~ how elected or appointed, shall be eligible for  
7 reelection or reappointment.

8 "(3) Each director shall serve ~~as such~~ without  
9 compensation but may be reimbursed for expenses actually  
10 incurred ~~by him~~ in and about the performance of his or her  
11 duties. A majority of the directors shall constitute a quorum  
12 for the transaction of business, but any meeting of the board  
13 may be adjourned from time to time by a majority of the  
14 directors present or may be so adjourned by a single director  
15 if ~~such the~~ director is the only director present at ~~such the~~  
16 meeting. No vacancy in the membership of the board shall  
17 impair the right of a quorum to exercise all the powers and  
18 perform all the duties of the board. The board shall hold  
19 regular meetings at ~~such the~~ times as may be provided in the  
20 bylaws of the authority~~7~~. The board may hold other meetings at  
21 any time ~~and from time to time~~ upon ~~such providing~~ notice as  
22 ~~may be~~ required by the bylaws of the authority, and ~~must~~, upon  
23 call of the ~~chairman~~ chair of the authority or a majority of  
24 the total number of directors, shall hold a special meeting~~7~~  
25 ~~none of which~~. The meetings of the authority shall not be

1 subject to the provisions of Section 13A-14-2, or other  
2 similar law.

3 "(f) Every authority shall have all of the powers  
4 necessary and convenient to carry out and effectuate the  
5 purposes and provisions of this article, including, without  
6 limiting the generality of the foregoing, the powers granted  
7 nonprofit corporations under the Alabama Nonprofit Corporation  
8 Act.

9 "(g) A board may adopt a resolution, which shall be  
10 duly entered upon its minutes, declaring that the authority  
11 shall be dissolved. Notwithstanding the foregoing, provided,  
12 ~~however, that~~ an authority may not dissolve if there are any  
13 offenders participating in a community punishment and  
14 corrections program under its supervision. Upon filing for  
15 record of a certified copy of the ~~said~~ resolution in the  
16 office of the judge of probate with which the authority's  
17 certificate of incorporation is filed, the authority shall  
18 thereupon stand dissolved and in the event it owned any  
19 property at the time of its dissolution, the title to all its  
20 properties shall thereupon pass to the authorizing counties.

21 "(h) Where a group of counties combine and approve  
22 the creation of an authority as provided herein, or otherwise  
23 establish a community punishment and corrections program, the  
24 application for funding to the department shall contain a  
25 cooperative agreement indicating the willingness of each

1 county to collaborate on the proposed program and to meet  
 2 specific objectives. In addition, ~~such~~ multi-jurisdictional  
 3 applications shall provide for appointment of one fiscal agent  
 4 to coordinate the financial activities of the grant.

5 "(i) ~~The provisions of~~ Articles 2 and 3 of Chapter  
 6 16 of Title 41, or other similar laws, shall not apply to an  
 7 authority organized under this article, its directors, or any  
 8 of its officers, agents, or employees in their capacities as  
 9 such.

10 "§15-18-180.

11 "(a) Community punishment and corrections funds may  
 12 be used to develop or expand the range of community  
 13 punishments and services at the local level. Community-based  
 14 programs options may include, but are not limited to, the  
 15 following:

16 "(1) Community service supervision; victim  
 17 restitution, community detention and restitution centers; day  
 18 reporting centers; victim-offender reconciliation programs;  
 19 home confinement/curfew; electronic surveillance; intensive  
 20 supervision probation; alcohol/drug outpatient treatment and  
 21 psychiatric counseling.

22 "(2) Short-term community residential treatment  
 23 options ~~which~~ that involve close supervision in a residential  
 24 setting may include, but are not limited to, the following  
 25 options: detoxification centers; community detention centers

1 for special needs offenders, and probation and parole  
2 violators; and inpatient drug/alcohol treatment.

3 "(3) Residential in-house drug and alcohol treatment  
4 for detoxification and residential and nonresidential drug and  
5 alcohol counseling.

6 "(4) Individualized services which provide  
7 evaluation and treatment for special needs of the population  
8 served under this article. ~~Such~~ The services may include the  
9 purchase of psychological, medical, educational, vocational,  
10 drug and alcohol urine screening, and client specific plan  
11 diagnostic evaluations. Other services which may be pursued on  
12 an individualized basis may include, but shall not be limited  
13 to, job training, alcohol and drug counseling, individual and  
14 family counseling, educational programs leading to a GED  
15 certificate, or transportation subsidies.

16 "(b) Community punishment and corrections funds may  
17 also be used to acquire, renovate, and operate community  
18 facilities established to provide the options and services set  
19 forth in subsection (a).

20 "(c) Counties, authorities, and other nonprofit  
21 entities receiving funding herein may provide or contract with  
22 qualified proprietary, nonprofit, or governmental entities for  
23 the provision of services under this article.

24 "(d) Any options or services established under this  
25 article may serve offenders from ~~the entire~~ any county in the

1 judicial circuit ~~in which the county is located~~ has  
2 established a program.

3 "(e) As a part of a community punishment and  
4 corrections plan, user fees may be assessed to help defray the  
5 cost of the plan. User fees paid by an offender participating  
6 in any option or service established under this article shall  
7 not diminish the payment of restitution by the offender to the  
8 victim of the crime for which he or she was sentenced and  
9 shall not diminish fines, court costs, or other court fees  
10 unless expressly reduced or remitted by the court.

11 "(f) ~~The~~ In the event a defendant is assigned to a  
12 work release or other residential punishment program operated  
13 by a community corrections provider authorized under this  
14 article, the defendant's employer of an inmate involved in a  
15 community punishment and corrections program pursuant to this  
16 article shall send the inmate's wages directly to the county  
17 or its designated agent community corrections provider  
18 responsible for housing the defendant. Of ~~each~~ the inmate's  
19 earnings, 25 percent of ~~his~~ the gross wages shall be applied  
20 to costs incident to the inmate's confinement, upkeep, and a  
21 minimum of an additional 20 percent shall be applied, 10  
22 percent to payment of court costs, fines, court-ordered  
23 attorney fees, and other court-ordered fees or assessments,  
24 and 10 percent to restitution. The remainder of the inmate's  
25 wages may be credited to ~~his~~ an account established for the



1 defendant with the county community corrections provider and  
2 may be paid out for dependent care, savings, and spending  
3 money. Modes of accounting and disbursement of these funds  
4 shall be addressed in the community punishment and corrections  
5 plan. Upon release from a residential program, any balance  
6 remaining in the defendant's account shall be returned to the  
7 defendant, and the defendant shall remain responsible for  
8 paying for any court-ordered monies owed. If the defendant  
9 remains under community corrections supervision after his or  
10 her release from a residential program, the community  
11 corrections provider shall verify that the defendant is paying  
12 any remaining court-ordered payments owed.

13 "§15-18-182.

14 "(a) In order to remain eligible for continued grant  
15 funding, a recipient must substantially comply with the  
16 standards and administrative regulations of the department  
17 promulgated pursuant to the Administrative Procedure Act  
18 defining program effectiveness. Each recipient will  
19 participate in an evaluation to determine local and state  
20 program effectiveness. The form of this evaluation will be  
21 determined by the director of the division department. The  
22 standards, regulations, and evaluations of the department are  
23 public records and shall be made available for inspection and  
24 copying upon request.

1           "(b) Continued grant funding shall be based on  
 2 demonstrated effectiveness in reducing the number of  
 3 commitments of eligible offenders to state penal institutions  
 4 or local jails which would likely have occurred without the  
 5 programs funded under this article.

6           "(c) Subject to funding availability, each county,  
 7 participating authority, or other nonprofit entity is eligible  
 8 to receive additional incentive funding for extending programs  
 9 if such programs exceed the objectives of the approved  
 10 community punishment and corrections plan based upon criteria  
 11 developed by the division and promulgated under its rules  
 12 pursuant to the Administrative Procedure Act.

13           "(d) If the ~~commissioner~~ director of the division  
 14 determines that there are reasonable grounds to believe that a  
 15 participating county, authority, or other nonprofit entity is  
 16 not complying with its plan, or the minimum standards, the  
 17 ~~commissioner~~ director shall give 30 days written notice to the  
 18 participating entity, as well as to the county commission in  
 19 the affected county. If the ~~commissioner~~ director finds that  
 20 such a participating entity is not complying with its plan or  
 21 the minimum standards established in this article, the  
 22 ~~commissioner~~ director shall require the entity to provide a  
 23 letter of intent as to how and when specific deficiencies  
 24 identified by the ~~commissioner~~ director will be corrected. If  
 25 no ~~such~~ letter is submitted to the ~~commissioner~~ director

1 within the time limit specified, or if ~~such~~ the deficiencies  
2 are not corrected within 45 days after ~~such~~ a letter has been  
3 submitted to the entity ~~by the commissioner~~, the ~~commissioner~~  
4 may director, with the approval of the commissioner, may  
5 suspend any part or all of the funding until compliance is  
6 achieved.

7 "\$15-18-183.

8 "The recovery of damages under any judgment or  
9 judgments against an authority established under this section  
10 shall be limited to ~~\$100,000.00~~ one hundred thousand dollars  
11 (\$100,000) for bodily injury or death for one person in any  
12 single occurrence. Recovery of damages under any judgment or  
13 judgments against an authority shall be limited to ~~\$300,000.00~~  
14 three hundred thousand dollars (\$300,000) in the aggregate  
15 where more than two persons have claims or judgments on  
16 account of bodily injury or death arising out of any single  
17 occurrence. Recovery of damages under any judgment or  
18 judgments against an authority shall be limited to ~~\$100,000.00~~  
19 one hundred thousand dollars (\$100,000) damages or loss of  
20 property arising out of any single occurrence. ~~In the event~~  
21 ~~that more than one county combines to create a single~~  
22 ~~authority under this article, the aforementioned limitations~~  
23 ~~shall be multiplied by the number of participating counties.~~  
24 Counties shall be exempt from civil liability for any injury  
25 or loss to any person resulting from the operation of a

1 community punishment and corrections program established ~~by an~~  
 2 ~~authority~~ under this article. This section ~~does not affect,~~  
 3 ~~and~~ shall not be construed as limiting ~~or otherwise affecting,~~  
 4 any other immunities from civil liability or defenses  
 5 established under the Constitution of Alabama or any other  
 6 section of the code or common law, to which ~~said~~ counties,  
 7 authorities, state departments, agencies, courts, or nonprofit  
 8 entities might be entitled."

9 Section 2. The Community Corrections Division is  
 10 created in the Department of Corrections. The division shall  
 11 be responsible for implementing and administering this act and  
 12 any provisions of law relating to the operation and management  
 13 of a community-based sentencing program. The division shall  
 14 employ an executive management staff consisting of a director  
 15 and such other necessary employees for which funds are  
 16 available. The director of the division and staff shall be  
 17 Merit System employees of the state and the director shall  
 18 report directly to the Commissioner of the Department of  
 19 Corrections.

20 Section 3. (a) There is created the "State-County  
 21 Community Corrections Partnership Fund" in the State Treasury,  
 22 which shall consist of all monies paid into the State Treasury  
 23 to the credit of the fund by legislative appropriation, grant,  
 24 gift, or otherwise for the development, implementation, and  
 25 maintenance of community-based punishment programs established

1 or operating pursuant to this act. All monies in the fund  
2 shall be subject to withdrawal by the Department of  
3 Corrections, utilized for the implementation and operation of  
4 the community-based punishment programs, and shall be used to  
5 award grants to establish or expand community-based punishment  
6 programs for eligible felony offenders. The funds shall not be  
7 used for the operating costs, construction, or any other costs  
8 associated with local jail confinement, or for any purpose  
9 other than the development and operation of community-based  
10 punishment programs. Revenue appropriated to the division to  
11 fund community-based punishment programs shall not revert to  
12 the General Fund at the end of the fiscal year, but shall  
13 remain in the account for expenditures in the following fiscal  
14 year. No funds shall be withdrawn or expended except as  
15 budgeted and allotted according to sections 41-4-80 to 41-4-96  
16 and 41-19-1 to 41-19-12, Code of Alabama, 1975 and only in  
17 amounts as stipulated in The General Appropriations Act or  
18 other appropriation Acts.

19 ~~(b) There is appropriated for the fiscal year~~  
20 ~~commencing on October 1, 2003, five and one-half million~~  
21 ~~dollars (\$5,500,000) from the State General Fund of the State~~  
22 ~~of Alabama to the State County Community Corrections~~  
23 ~~Partnership Fund to be expended as provided in this act.~~

24 ε (b) The provisions of this act requiring the  
25 creation and maintenance of a community corrections division

1 within the Department of Corrections for the purpose of  
2 carrying out the responsibilities under this act shall be  
3 effective only in those years in which the legislature  
4 provides an annual appropriation in the minimum amount of \$5.5  
5 million to the "State-County Community Corrections Partnership  
6 Fund" established in Section 3 . In any year in which the  
7 appropriation to the fund falls below \$5.5 million, the duties  
8 and responsibilities of the division or its director shall  
9 may be carried out by employees of the Department of  
10 Correction as determined by the Commissioner.

11           Section 4. All laws or parts of laws which conflict  
12 with this act are repealed.

13           Section 5. This act shall become effective 30 days  
14 following its passage and approval by the Governor, or its  
15 otherwise becoming law.

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*Robert H. Hensley*

Speaker of the House of Representatives

*Lucy Baxley*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 29-APR-03, as amended.

Greg Pappas  
Clerk

Senate

16-JUN-03

Passed

APPROVED 6-30-03

TIME 2:53 PM

*B. B. R. L.*

GOVERNOR  
Alabama Secretary Of State

Act Num....: 2003-353  
Bill Num....: H-490