

1 HB125  
2 126285-1  
3 By Representative Merrill  
4 RFD: Judiciary  
5 First Read: 01-MAR-11

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8 SYNOPSIS: Under existing law, the sheriff is granted  
9 sovereign immunity as a constitutional officer of  
10 the state. Generally, the courts have granted  
11 deputies and other persons acting as agents of the  
12 sheriff the same protection.

13 This bill would specify that persons  
14 employed by the sheriff when acting for and under  
15 the direction and supervision of the sheriff would  
16 have the same sovereign immunity as the sheriff.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 To amend Sections 14-6-1 and 36-22-3 of the Code of  
23 Alabama 1975, to specify the sovereign immunity protections  
24 granted to persons employed by the sheriff when acting for and  
25 under the direction and supervision of the sheriff.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Sections 14-6-1 and 36-22-3, Code of  
2 Alabama 1975, are amended to read as follows:

3                   "§14-6-1.

4                   "The sheriff has the legal custody and charge of the  
5 jail in his or her county and all prisoners committed thereto,  
6 except in cases otherwise provided by law, ~~and~~. The sheriff  
7 may ~~appoint a jailer~~ employ persons to carry out the duties of  
8 the sheriff related to the operation of the jail and  
9 supervision of inmates housed therein for whose acts he or she  
10 is civilly responsible. The persons employed by the sheriff  
11 shall be acting for and under the direction and supervision of  
12 the sheriff and shall be entitled to the same immunities and  
13 legal protections granted to the sheriff under the general  
14 laws and the Constitution of Alabama of 1901.

15                   "§36-22-3.

16                   "(a) It shall be the duty of the sheriff:

17                   "(1) To execute and return the process and orders of  
18 the courts of record of this state and of officers of  
19 competent authority with due diligence when delivered to him  
20 or her for that purpose, according to law.

21                   "(2) To attend upon the circuit courts and district  
22 courts held in his or her county when in session and the  
23 courts of probate, when required by the judge of probate, and  
24 to obey the lawful orders and directions of such courts.

25                   (3) ~~The sheriff of each county must~~ To, three days  
26 before each session of the circuit court in his or her county,  
27 render to the county treasury or custodian of county funds a

1 statement in writing and on oath of the moneys received by him  
2 or her for the county, specifying the amount received in each  
3 case, from whom and pay the amount to the county treasurer or  
4 custodian of county funds.

5 (4) ~~It shall be the duty of sheriffs in their~~  
6 ~~respective counties, by themselves or~~ To, with the assistance  
7 of deputies as necessary, to ferret out crime, ~~to~~ apprehend  
8 and arrest criminals and, insofar as within their power, ~~to~~  
9 secure evidence of crimes in their counties and ~~to~~ present a  
10 report of the evidence so secured to the district attorney or  
11 assistant district attorney for the county.

12 (5) To perform such other duties as are or may be  
13 imposed by law.

14 "(b) Any of the duties of the sheriff set out in  
15 subsection (a) or as otherwise provided by law may be carried  
16 out by deputies, jailers, corrections officers, or other  
17 employees or agents of the sheriff as determined appropriate  
18 by the sheriff in accordance with state law. A person  
19 undertaking any duties for and under the direction and  
20 supervision of the sheriff shall be entitled to the same  
21 immunities and legal protections granted to the sheriff under  
22 the general laws and the Constitution of Alabama of 1901."

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