

1 SB147  
2 126256-1  
3 By Senators Whatley and Ward  
4 RFD: Judiciary  
5 First Read: 03-MAR-11

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8 SYNOPSIS: This bill would require probation and parole  
9 officers to provide probationers with periodic  
10 compliance incentive status updates to afford  
11 probationers with the opportunity to understand  
12 their compliance status.

13 This bill would also allow a probationer  
14 serving a probationary sentence of greater than one  
15 year to receive an automatic compliance incentive  
16 review upon completing two-thirds of the probation  
17 period or suspension of sentence.

18 This bill would allow probationers to be  
19 transferred to unsupervised probation if in  
20 satisfactory compliance with the terms and  
21 conditions of probation, including the payment of  
22 court-ordered fines and costs, as well as  
23 restitution.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2 To amend Section 15-22-54, as amended by Act  
3 2010-753 of the 2010 Regular Session (Acts 2010, p. 1905),  
4 Code of Alabama 1975; to provide for periodic compliance  
5 incentive status updates to encourage certain probationers to  
6 comply with the terms and conditions of probation; to provide  
7 that, after completing two-thirds of the probation term or  
8 suspended sentence, a probationer in compliance with the terms  
9 and conditions of probation will be recommended for  
10 unsupervised status.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 15-22-54, as amended by Act  
13 2010-753 of the 2010 Regular Session (Acts 2010, p. 1905),  
14 Code of Alabama 1975, is amended to read as follows:

15 "§15-22-54.

16 "(a) The period of probation or suspension of  
17 execution of sentence shall be determined by the court, and  
18 the period of probation or suspension may be continued,  
19 extended, or terminated. However, in no case shall the maximum  
20 probation period of a defendant guilty of a misdemeanor exceed  
21 two years, nor shall the maximum probation period of a  
22 defendant guilty of a felony exceed five years. When the  
23 conditions of probation or suspension of sentence are  
24 fulfilled, the court shall, by order duly entered on its  
25 minutes, discharge the defendant.

26 "(b) The court granting probation may, at anytime,  
27 upon the recommendation of the officer supervising the

1 probationer, terminate all authority and supervision over the  
2 probationer under the jurisdiction of the Alabama Board of  
3 Pardons and Paroles, prior to the declared date of completion  
4 of probation upon showing a continued satisfactory compliance  
5 with the conditions of probation over a sufficient portion of  
6 the period of the probation.

7 "(1) Probation and parole officers shall provide all  
8 probationers under their supervision with periodic compliance  
9 incentive status updates for the duration of each  
10 probationer's period of probation or suspension of sentence.  
11 Periodic updates shall afford the probationer the opportunity  
12 to understand his or her compliance status at the time of the  
13 update, identify specific goals for the probationer to  
14 accomplish within a specified period of time in order to  
15 obtain compliance, and serve as a reminder to the probationer  
16 of the potential benefits of compliance.

17 "(2) A probationer serving a probationary sentence  
18 of greater than one year shall be entitled to an automatic  
19 compliance incentive review upon completing two-thirds of his  
20 or her period of probation or suspension of sentence by the  
21 officer supervising the probationer.

22 "a. In conducting the automatic compliance incentive  
23 review, the supervising officer shall determine whether the  
24 probationer has satisfactorily complied with those terms and  
25 conditions of probation provided in Section 15-22-52 in a  
26 manner that demonstrates the goals of supervision have been  
27 achieved. Satisfactory compliance includes being current on

1 the payment of court-ordered fines and costs, as well as  
2 restitution.

3 "b. After conducting an automatic compliance  
4 incentive review, if the supervising officer determines an  
5 eligible probationer has satisfactorily complied, the officer  
6 shall submit a formal compliance incentive report to the court  
7 granting probation. After conducting the automatic compliance  
8 incentive review, if the supervising officer finds that the  
9 probationer has not satisfactorily complied, the probationer  
10 shall continue serving his or her period of probation or  
11 suspension of sentence until completed or until the  
12 probationer has otherwise fulfilled the terms and conditions  
13 of his or her probation as determined by the court granting  
14 probation.

15 "c. Anytime after conducting an automatic compliance  
16 incentive review, if the supervising officer determines an  
17 eligible probationer has not achieved substantial compliance  
18 upon completing two-thirds of his or her period of probation  
19 or suspension of sentence, and that probationer becomes  
20 compliant at a later time, the probationer shall be entitled  
21 to have his or her supervising officer automatically submit a  
22 formal compliance incentive report to the court granting  
23 probation.

24 "(3) Upon receipt of a formal compliance report from  
25 an eligible probationer's supervising officer, the court shall  
26 automatically issue an order transferring the probationer from  
27 supervised probation under the jurisdiction of the Alabama

1 Board of Pardons and Paroles to unsupervised probation with  
2 the court. If a probationer is transferred to unsupervised  
3 probation status, the court granting probation shall retain  
4 and exercise its original jurisdiction over the probationer,  
5 including jurisdiction to revoke probation, transfer a  
6 probationer back to supervised probation status, or terminate  
7 the probation term or suspension of sentence early. A  
8 probationer on unsupervised probation status shall work toward  
9 completing payment of all court fines and costs, as well as  
10 restitution owed, if any, while remaining compliant with the  
11 other terms and conditions of probation.

12 "(c) At any time during the period of probation or  
13 suspension of execution of sentence, the court may issue a  
14 warrant and cause the defendant to be arrested for violating  
15 any of the conditions of probation or suspension of sentence.

16 "(d) Except as provided in Chapter 15 of Title 12,  
17 any probation officer, police officer, or other officer with  
18 power of arrest, when requested by the probation officer, may  
19 arrest a probationer without a warrant. In case of an arrest  
20 without a warrant, the arresting officer shall have a written  
21 statement by the probation officer setting forth that the  
22 probationer has, in his or her judgment, violated the  
23 conditions of probation, and the statement shall be sufficient  
24 warrant for the detention of the probationer in the county  
25 jail or other appropriate place of detention until the  
26 probationer is brought before the court. The probation officer  
27 shall forthwith report the arrest and detention to the court

1 and submit in writing a report showing in what manner the  
2 probationer has violated probation.

3 "(1) If the defendant violates a condition of  
4 probation or suspension of execution of sentence, the court,  
5 after a hearing, may implement one or more of the following  
6 options:

7 "a. Continue the existing probation and suspension  
8 of execution of sentence.

9 "b. Issue a formal or informal warning to the  
10 probationer that further violations may, subject to paragraph  
11 f., result in revocation of probation or suspension of  
12 execution of sentence.

13 "c. Conduct a formal or informal conference with the  
14 probationer to reemphasize the necessity of compliance with  
15 the conditions of probation.

16 "d. Modify the conditions of probation or suspension  
17 of execution of sentence, which conditions may include the  
18 addition of short periods of confinement.

19 "e. If the violation of probation is the commission  
20 of a new offense, revoke the probation or suspension of  
21 execution of sentence. If the court revokes probation, it may,  
22 after a hearing, impose the sentence that was suspended at the  
23 original hearing or any lesser sentence.

24 "f. If the probation violation is a technical  
25 violation, defined as a violation of a condition of probation  
26 other than the commission of a new offense, an eligible  
27 offender may be required to serve a term of not more than 90

1 days imprisonment in a Department of Corrections facility,  
2 which may include participation in the restart program,  
3 LIFETech program, or a technical violator program or, if no  
4 space is available in a Department of Corrections facility,  
5 not more than 90 days in the county jail.

6 "(2) a. An eligible offender subject to paragraph f.  
7 of subdivision (1) is a nonviolent felon serving a  
8 probationary sentence who has violated a condition or  
9 conditions of probation other than by the commission of a new  
10 offense and who has performed the conditions of probation,  
11 including remaining current on payment of court ordered money,  
12 for a consecutive six-month period.

13 "b. Technical violations of conditions of probation  
14 shall be subject to the options provided in paragraphs a., b.,  
15 c., d., and f. of subdivision (1); provided, however, the  
16 court may also continue the existing probation and suspension  
17 of execution of sentence with the additional condition that  
18 the probationer does any of the following:

19 "1. Participates in a community corrections program.

20 "2. Participates in a county work release program.

21 "3. Performs community service.

22 "4. Undergoes intensive probation supervision.

23 "5. Participates in a residential or outpatient drug  
24 or alcohol treatment program.

25 "6. Participates and completes a Life Skills  
26 Influenced by Freedom and Education Tech (LIFETech)  
27 residential program.



1           "(3) If revocation results in a sentence of  
2 confinement, credit shall be given for all time spent in  
3 custody prior to revocation. Full credit shall be awarded for  
4 full-time confinement in facilities such as county jail, state  
5 prison, state technical violator programs, and boot camp.  
6 Credit for other penalties, such as work release programs,  
7 intermittent confinement, and home detention, shall be left to  
8 the discretion of the court, with the presumption that time  
9 spent subject to these penalties will receive half credit. The  
10 court shall also give significant weight to the time spent on  
11 probation in substantial compliance with the conditions  
12 thereof. The total time spent in confinement may not exceed  
13 the term of confinement of the original sentence.

14           "(4) The court shall not revoke probation and order  
15 the confinement of the probationer for violations of the  
16 conditions of probation unless the court finds on the basis of  
17 the original offense and the probationer's intervening  
18 conduct, either of the following:

19           "a. No measure short of confinement will adequately  
20 protect the community from further criminal activity by the  
21 probationer.

22           "b. No measure short of confinement will avoid  
23 depreciating the seriousness of the violation."

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