

1 HB442  
2 115694-1  
3 By Representative Black  
4 RFD: Judiciary  
5 First Read: 26-JAN-10

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8 SYNOPSIS: Under existing law, the Community  
9 Punishment and Corrections Act authorizes the  
10 establishment of community punishment and  
11 corrections programs as an alternative to  
12 imprisonment for misdemeanor and felony offenders.  
13 Nonprofit entities are included in the act, but not  
14 in the definition of "board."

15 This bill would include the boards of  
16 nonprofit entities in the definition of board under  
17 the act. The bill would also authorize county  
18 commissions to provide liability coverage to  
19 authorities and nonprofit entities under the act.

20 Under existing law, persons convicted of  
21 selling drugs are excluded from participation in  
22 the programs.

23 The bill would delete the exclusion of  
24 persons convicted of selling drugs from  
25 participation in the programs.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 To amend Sections 15-18-171 and 15-18-184, Code of  
5 Alabama 1975, of the Community Punishment and Corrections Act;  
6 to broaden the scope of certain provisions to include  
7 nonprofit entities; to delete the exclusion of offenders  
8 convicted of selling controlled substances from participation  
9 in programs; and to further authorize county commissions to  
10 provide liability insurance to authorities and nonprofit  
11 entities.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 15-18-171 and 15-18-184, Code of  
14 Alabama 1975, are amended to read as follows:

15 "§15-18-171.

16 "As used in this article, the following terms shall  
17 have the following meanings, respectively, unless the context  
18 otherwise requires:

19 "(1) APPLICATION PROCESS AND PROCEDURES. The  
20 criteria and guidelines developed by the Department of  
21 Corrections for the establishment of community punishment and  
22 corrections programs, the granting of funds for programs  
23 authorized herein, and the monitoring, evaluation, and review  
24 of programs funded herein.

25 "(2) BOARD. The Board of Directors of the authority  
26 or the board of directors of a nonprofit entity.

1           "(3) COMMISSIONER. The Commissioner of the  
2 Department of Corrections.

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

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

8           "(6) COMMUNITY PUNISHMENT AND CORRECTIONS PROGRAM.  
9 Any program designed as an alternative to incarceration and  
10 maintained by a county commission or an authority or nonprofit  
11 entity for the purpose of punishing and for correcting a  
12 person convicted of a felony or misdemeanor or adjudicated a  
13 youthful offender and which may be imposed as part of a  
14 sanction, including, but not limited to confinement, work  
15 release, day reporting, home detention, restitution programs,  
16 community service, education and intervention programs, and  
17 substance abuse programs.

18           "(7) COMMUNITY PUNISHMENT AND CORRECTIONS PLAN. A  
19 document prepared by the county commission or an authority, or  
20 nonprofit entity, and submitted to the Department of  
21 Corrections in accordance with the requirements set forth in  
22 the application process and procedure, which identifies  
23 proposed community-based programs to be implemented within the  
24 county in accordance with the terms of this article and  
25 justifies the funding of such programs with regard to local  
26 need and community support.

1           "(8) COUNTY COMMISSION CHAIRPERSON. The chair of the  
2 county commission or his or her representative.

3           "(9) COUNTY INMATE. A person convicted of a  
4 misdemeanor.

5           "(10) COURT. The trial judge exercising sentencing  
6 jurisdiction over an eligible offender under this article and  
7 includes any successor of the trial judge.

8           "(11) DEPARTMENT. The Department of Corrections.

9           "(12) DIVISION. The Community Corrections Division  
10 ~~within of the department that is the state administrative~~  
11 ~~agency responsible for administering this article and~~  
12 ~~assisting in establishing and maintaining community based~~  
13 ~~punishment programs.~~

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

17           "(14) EXCLUDED FELONY OFFENDERS. One who is  
18 convicted of any of the following felony offenses: Murder,  
19 kidnapping in the first degree, rape in the first degree,  
20 sodomy in the first degree, arson in the first degree, ~~selling~~  
21 ~~or~~ trafficking in controlled substances, robbery in the first  
22 degree, sexual abuse in the first degree, forcible sex crimes,  
23 lewd and lascivious acts upon a child, or assault in the first  
24 degree if the assault leaves the victim permanently disfigured  
25 or disabled.

1           "(15) GOVERNING BODY. With respect to a county, its  
2 county commission or other like governing body exercising the  
3 legislative functions of a county.

4           "(16) INCORPORATORS. The persons forming a public  
5 corporation pursuant to this article.

6           "(17) NONPROFIT ENTITY. Any not-for-profit  
7 organization, agency, or other entity other than a community  
8 punishment and corrections authority that provides treatment,  
9 guidance, training, or other rehabilitation services to  
10 individuals, families, or groups in such areas as health,  
11 education, vocational training, special education, social  
12 services, psychological counseling, and alcohol and drug  
13 treatment.

14           "(18) PLAN. The community punishment and corrections  
15 plan defined in subdivision (7).

16           "(19) RECIPIENT. Any entity receiving directly or  
17 indirectly any financial grant or contractual remuneration  
18 under this article.

19           "(20) RENOVATION. The repair, remodeling,  
20 alteration, or expansion of existing buildings or structures  
21 to make them habitable or suitable for community punishment  
22 and corrections program operations, and includes the  
23 acquisition and installation of necessary equipment.

24           "(21) RESTITUTION. Payment to the victim who has  
25 suffered financial losses as a result of a crime. Restitution  
26 shall include, but not be limited to, payment in cash or in  
27 kind for the value of stolen or damaged property; for medical

1 expenses due to physical, emotional or psychological trauma;  
2 wages lost as a result of time absent from work; and value of  
3 property lost or transferred through theft or exercise of  
4 control by deception or fraud.

5 "(22) STATE INMATE. A person convicted of a felony.

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

9 "(24) VICTIM SERVICE OFFICER. A person employed to  
10 directly assist crime victims and their families with court  
11 attendance, restitution, compensation, property return, victim  
12 impact statements, and other needs expressed.

13 "(25) YOUTHFUL OFFENDER. A person adjudicated as a  
14 youthful offender.

15 "§15-18-184.

16 "An authority or nonprofit entity contracting with  
17 the department under this article shall maintain ~~general~~  
18 appropriate liability insurance in an amount sufficient to  
19 insure against loss resulting from bodily injury, death or  
20 property damage, subject to the limitations on recovery of  
21 damages contained in this article and any other immunities  
22 from civil liability or defenses established under the  
23 Constitution of Alabama or any other section of the code or  
24 common law, to which said entities might be entitled. The  
25 insurance may be obtained through any source available to an  
26 approving county commission."

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