

1 SB126
2 188075-1
3 By Senator Whatley
4 RFD: Judiciary
5 First Read: 09-JAN-18

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8 SYNOPSIS: Under existing law, the district attorney of
9 any judicial circuit may establish a pretrial
10 diversion program in that judicial circuit or in
11 any county in that judicial circuit. Under existing
12 law, a county pretrial diversion program is under
13 the direct supervision and control of the district
14 attorney, and the district attorney may contract
15 with sanctioned community corrections programs,
16 certified mental health and drug treatment
17 programs, and related programs that provide
18 services related to the pretrial diversion program.
19 Under existing law, a municipality may also
20 establish a pretrial diversion program for
21 qualified cases in the municipal court.

22 This bill would authorize the presiding
23 judge of a circuit court in any county that offers
24 a pretrial diversion program to establish a process
25 by which a municipal court in the county could
26 voluntarily transfer jurisdiction over certain
27 cases in the municipal court to the district court

1 in jurisdictions where the municipality has no
2 pretrial diversion program. This bill would specify
3 that any transfer of cases would be subject to the
4 terms, conditions, and procedures deemed advisable
5 by the presiding circuit court judge after
6 consultation with the district attorney. This bill
7 would also provide that the municipality or the
8 defendant could object to the transfer.

9
10 A BILL
11 TO BE ENTITLED
12 AN ACT
13

14 To authorize a presiding judge of the circuit court
15 to provide for the voluntary transfer of certain municipal
16 court cases to the jurisdiction of the district court; to
17 provide for the conditions of the transfer; and to provide
18 that the municipality or the defendant could object to the
19 transfer.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. In any county in which the district or
22 circuit court offers a pretrial diversion program, the
23 presiding judge of the circuit court may provide for the
24 voluntary transfer of municipal court cases to the district
25 court if the municipal court from which the case is being
26 transferred does not offer a pretrial diversion program for
27 the type of case being transferred. The transfer shall be

1 subject to the terms, conditions, and procedures deemed
2 advisable by the presiding judge of the circuit court upon
3 consultation with the district attorney. The district courts
4 shall have exclusive jurisdiction over the case upon transfer
5 from the municipality, and the offense charged shall be
6 prosecuted under the state law charged by the municipality
7 without regard to and without the necessity of proving any
8 enabling ordinance of the municipality adopting the state law
9 as a violation of the municipal ordinance. The municipal court
10 and the defendant may object to the transfer of any case to
11 the district court, and in such instances, the case shall not
12 be transferred.

13 Section 2. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.