

1 HB23
2 207605-3
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 10/29/2020

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to crimes and offenses; to amend Section
9 15-18-8, as last amended by Act 2019-344, 2019 Regular
10 Session, Code of Alabama 1975, to provide that a judge may use
11 discretion in the length of sentence a defendant must serve if
12 his or her probation is revoked; and to make nonsubstantive,
13 technical revisions to update the exiting code language to
14 current style.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 15-18-8, as last amended by Act
17 2019-344, 2019 Regular Session, Code of Alabama 1975, is
18 amended to read as follows:

19 "§15-18-8.

20 "(a) When a defendant is convicted of an ~~a Class A~~
21 ~~or Class B felony~~ offense, other than a sex offense involving
22 a child as defined in Section 15-20A-4, that constitutes a
23 Class A or Class B felony offense, and receives a sentence of
24 20 years or less in any court having jurisdiction to try
25 offenses against the State of Alabama, ~~and~~ the judge presiding
26 over the case ~~is satisfied that the ends of justice and the~~

1 ~~best interests of the public as well as the defendant will be~~
2 ~~served thereby, he or she may order either of the following:~~

3 "(1) That a defendant convicted of a Class A or
4 Class B felony be confined in a prison, jail-type institution,
5 or treatment institution for a period not exceeding three
6 years in cases where the imposed sentence is not more than 15
7 years, and that the execution of the remainder of the sentence
8 be suspended notwithstanding any provision of the law to the
9 contrary and that the defendant be placed on probation for
10 ~~such~~ a period and upon ~~such~~ terms as the court deems best.

11 "(2) That a defendant convicted of a Class A, Class
12 B, or Class C felony with an imposed sentence of greater than
13 15 years but not more than 20 years be confined in a prison,
14 jail-type institution, or treatment institution for a period
15 of three to five years for Class A or Class B felony
16 convictions and for a period of three years for Class C felony
17 convictions, ~~during which the offender shall not be eligible~~
18 ~~for parole or release because of deduction from sentence for~~
19 ~~good behavior under the Alabama Correctional Incentive Time~~
20 ~~Act,~~ and that the remainder of the sentence be suspended
21 notwithstanding any provision of the law to the contrary and
22 that the defendant be placed on probation for the period upon
23 the terms as the court deems best.

24 ~~"This subsection shall not be construed to impose~~
25 ~~the responsibility for offenders sentenced to a Department of~~
26 ~~Corrections facility upon a local confinement facility not~~
27 ~~operated by the Department of Corrections.~~

1 "(b) Unless a defendant is sentenced to probation,
2 drug court, or a pretrial diversion program, when a defendant
3 is convicted of ~~an offense that constitutes~~ a Class C or Class
4 D felony offense and receives a sentence of not more than 15
5 years, the judge presiding over the case shall order that the
6 convicted defendant be confined in a prison, jail-type
7 institution, treatment institution, or community corrections
8 program for a Class C felony offense or in a consenting
9 community corrections program for a Class D felony offense,
10 except as provided in subsection (e), for a period not
11 exceeding two years ~~in cases where the imposed sentence is not~~
12 ~~more than 15 years~~, and that the execution of the remainder of
13 the sentence be suspended notwithstanding any provision of the
14 law to the contrary and that the defendant be placed on
15 probation for a period not exceeding three years and upon ~~such~~
16 terms as the court deems best. In all cases when it is shown
17 that a defendant has been previously convicted of any three or
18 more felonies or has been previously convicted of any two or
19 more felonies that are Class A or Class B felonies, and after
20 ~~such~~ the convictions has committed a Class D felony, upon
21 conviction, he or she ~~must~~ shall be punished for a Class C
22 felony. ~~This subsection shall not be construed to impose the~~
23 ~~responsibility for offenders sentenced to a Department of~~
24 ~~Corrections facility upon a local confinement facility not~~
25 ~~operated by the Department of Corrections.~~

26 "(c) Nothing in this section shall be construed as
27 superseding the sentencing requirements set forth and adopted

1 by the Legislature as prescribed by the Alabama Sentencing
2 Commission's Sentencing Standards.

3 "(d) In counties or jurisdictions where no community
4 corrections program exists or resources from a community
5 investment are not complete, a county or jurisdiction may
6 enter into a compact or contract with another county or other
7 counties to create a multi-jurisdiction community corrections
8 facility that meets the needs and resources of each county or
9 jurisdiction or enter into a compact or contract with a county
10 or jurisdiction that has a community corrections program to
11 provide services, ~~as provided in~~ and pursuant to Article 9 of
12 this chapter.

13 "(e) If no community corrections program exists
14 within a county or jurisdiction and no alternative program
15 options are available under subsection (e) of Section
16 15-18-172, a defendant convicted of ~~an~~ a Class D felony
17 offense ~~that constitutes a Class D felony~~ may be sentenced to
18 high-intensity probation under the supervision of the Board of
19 Pardons and Paroles in lieu of community corrections.

20 "(f) Probation may not be granted for a sex offense
21 involving a child as defined in Section 15-20A-4, which
22 constitutes a Class A or B felony. Otherwise, probation may be
23 granted whether the offense is punishable by fine or
24 imprisonment or both. If an offense is punishable by both fine
25 and imprisonment, the court may impose a fine and place the
26 defendant on probation as to imprisonment. Probation may be
27 limited to one or more counts or indictments, but, in the

1 absence of express limitation, shall extend to the entire
2 sentence and judgment.

3 "(g) (1) Regardless of whether the defendant has
4 begun serving the minimum period of confinement ordered under
5 the provisions of ~~subsections~~ subsection (a) ~~or~~, (b), or (1),
6 if the imposed sentence is not more than 20 years, the court
7 shall retain jurisdiction and authority throughout that period
8 to suspend that portion of the minimum sentence that remains
9 and place the defendant on probation, notwithstanding any
10 provision of the law to the contrary, and the court may revoke
11 or modify any condition of probation or may change the period
12 of probation.

13 "(2) If a defendant's probation is revoked, and the
14 defendant was sentenced pursuant to subsection (a), (b), or
15 (1), the sentencing judge shall have the discretion to
16 determine the length of the revocation sentence which shall
17 not exceed the length of the time remaining on the original
18 sentence.

19 "(h) While incarcerated or on probation and among
20 the conditions thereof ~~of probation~~, the defendant may be
21 required to do any of the following:

22 "(1) To pay a fine in one or several sums, ~~and~~.

23 "(2) To make restitution or reparation to aggrieved
24 parties for actual damages or loss caused by the offense for
25 which conviction was had, ~~and~~.

26 "(3) To provide for the support of any persons for
27 whose support he or she is legally responsible.

1 "(i) Except as otherwise provided pursuant to
2 Section 15-18-64, the defendant's liability for any fine or
3 other punishment imposed as to which probation is granted
4 shall be fully discharged by the fulfillment of the terms and
5 conditions of probation.

6 "(j) During any term of probation, the defendant
7 shall report to the probation authorities at ~~such~~ the time and
8 place as directed by the judge imposing sentence.

9 "(k) No defendant serving a minimum period of
10 confinement ordered under subsection (a) or (b) shall be
11 entitled to parole or to deductions from his or her sentence
12 under the Alabama Correctional Incentive Time Act, during the
13 minimum period of confinement so ordered; provided, however,
14 that this subsection ~~shall~~ may not be construed to prohibit
15 application of the Alabama Correctional Incentive Time Act to
16 any period of confinement which may be required after the
17 defendant has served ~~such~~ the minimum period.

18 "(l) When a defendant is convicted of a misdemeanor
19 or convicted of a municipal ordinance, the judge presiding
20 over the case may impose a sentence in accordance with Section
21 13A-5-7. The court may order a portion of the sentence to be
22 suspended and the defendant be placed on probation for ~~such~~ a
23 period not exceeding two years and upon ~~such~~ terms as the
24 court deems best.

25 "(m) Nothing in this section shall be construed to
26 impose the responsibility for offenders sentenced to a

1 Department of Corrections facility upon a local confinement
2 facility not operated by the Department of Corrections."

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 02-FEB-21

Read for the second time and placed
on the calendar..... 04-FEB-21

Read for the third time and passed
as amended..... 23-FEB-21

Yeas 84, Nays 18, Abstains 0

Jeff Woodard
Clerk