

1 HB71
2 207650-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 11/30/2020

SYNOPSIS: Under existing law, a district attorney in a judicial circuit may establish a pretrial diversion program and the presiding judge of a judicial circuit, with the approval of the district attorney, may establish a drug court.

This bill would establish the Accountability Court Commission and provide for the duties of the commission, including the development, coordination, and dissemination of evidence based best practices regarding the participation and requirements of diversion programs.

A BILL
TO BE ENTITLED
AN ACT

Relating to diversion programs; to add a new Chapter 23B to Title 12, Code of Alabama 1975; to create the Accountability Court Commission within the judicial branch of government; to provide the duties of the commission; to

1 provide for the appointment and terms of its members; and to
2 provide for the reporting of information relating to diversion
3 programs.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Chapter 23B, commencing with Section
6 12-23B-1, is added to Title 12, Code of Alabama 1975, to read
7 as follows:

8 Chapter 23B.

9 §12-23B-1.

10 As used in this chapter, the term "diversion
11 program" includes a drug court, mental health court, veterans
12 court, pretrial diversion program, or any other specialty
13 court that uses an evidence based immediate and highly
14 structured intervention process for eligible defendants or
15 juveniles that incorporates mental health professionals,
16 substance abuse professionals, local social programs, and
17 intensive judicial monitoring.

18 §12-23B-2.

19 (a) There is created within the judicial branch as
20 an agency of the Supreme Court of Alabama the Accountability
21 Court Commission.

22 (b) The commission shall be responsible for all of
23 the following duties:

24 (1) To develop and update statewide evaluation plans
25 and models for establishing and monitoring all critical
26 aspects of diversion programs.

1 (2) To develop, coordinate, and disseminate evidence
2 based best practices regarding the participation and
3 requirements of diversion programs. The evidence based best
4 practices shall periodically be reviewed and revised by the
5 commission.

6 (3) To make recommendations to improve diversion
7 programs.

8 (4) To establish a plan to increase participation in
9 diversion programs while maintaining the voluntary nature.

10 (5) To develop and maintain a diversion program
11 database.

12 (6) To monitor the diversion programs according to
13 the evidence based best practices established by the
14 commission.

15 §12-23B-3.

16 (a) The commission shall consist of the following
17 voting members:

18 (1) A judge of the court of criminal appeals, active
19 or retired, appointed by the Chief Justice of the Supreme
20 Court, who shall serve as the chair.

21 (2) Two circuit judges, active or retired, appointed
22 by the President of the Alabama Association of Circuit Court
23 Judges. One circuit judge shall be from a judicial circuit
24 that primarily includes a large urban area and one circuit
25 judge shall be from a judicial circuit that primarily includes
26 rural areas.

1 (3) Two district judges, active or retired,
2 appointed by the President of the Alabama Association of
3 District Courts Judges. One district judge shall be from a
4 judicial circuit that primarily includes a large urban area
5 and one district judge shall be from a judicial circuit that
6 primarily includes rural areas.

7 (4) The Attorney General, or his or her designee.

8 (5) Two district attorneys appointed by the
9 President of the Alabama District Attorneys' Association. One
10 district attorney shall be from a judicial circuit that
11 primarily includes a large urban area and one district
12 attorney shall be from a judicial circuit that primarily
13 includes rural areas.

14 (6) Three members of the Alabama State Bar,
15 appointed by the President of the Alabama State Bar.

16 (7) The Commissioner of the Department of Mental
17 Health, or his or her designee.

18 (8) The Commissioner of the Department of Veterans
19 Affairs, or his or her designee.

20 (9) One attorney licensed to practice in this state,
21 appointed by the Chair of the House Judiciary Committee.

22 (10) One attorney licensed to practice in this
23 state, appointed by the Chair of the Senate Judiciary
24 Committee.

25 (11) One attorney licensed to practice in this
26 state, appointed by the President of the Alabama Criminal
27 Defense Lawyers Association.

1 (12) The Chief Justice of the Supreme Court, or his
2 or her designee.

3 (13) The Director of Pardons and Paroles, or his or
4 her designee.

5 (14) The Executive Director of the Alabama
6 Sentencing Commission, or his or her designee.

7 (b) (1) Appointed members of the commission shall
8 serve terms of four years and may be reappointed for a second
9 term. Members of the commission who serve because of their
10 public office or position shall serve only as long as they
11 hold the office or position.

12 (2) A member appointed to fill a vacancy on the
13 commission which occurs before the expiration of the term for
14 which his or her predecessor was appointed shall only serve
15 the remainder of the term.

16 (3) The commission may elect a vice chair and other
17 officers as necessary from its membership.

18 (4) The commission shall hold an initial
19 organizational meeting within 120 days of the effective date
20 of the act adding this chapter and shall meet quarterly
21 thereafter. Additional meetings may be called by the chair or
22 by a majority vote of its members.

23 (5) Members of the commission may participate in a
24 meeting by means of telephone conference, video conference, or
25 similar communications equipment, if all persons participating
26 in the meeting may hear each other at the same time.
27 Participation by these means shall constitute presence at the

1 meeting for all purposes, including the establishment of a
2 quorum.

3 (6)a. The commission may appoint an executive
4 director and other staff to implement and administer the
5 duties and responsibilities of the commission.

6 b. The executive director and other staff shall
7 receive compensation and benefits in an amount established by
8 the commission, payable in the same manner as is provided for
9 other state employees.

10 (c) The appointing authorities of the commission
11 shall coordinate their appointments to assure the commission
12 membership is inclusive and reflects the racial, gender,
13 geographic, urban/rural, and economic diversity of the state.

14 §12-23B-4.

15 (a) Members of the commission shall serve without
16 compensation.

17 (b) Members of the commission are entitled to
18 reimbursement for expenses while on official business of the
19 commission or attending its meetings. Expenses shall be paid
20 as follows:

21 (1) The expenses of the members representing state
22 or local government departments or agencies may be paid out of
23 any funds available for travel in their respective departments
24 or agencies.

25 (2) The expenses of the other members may be paid
26 out of funds available to the commission for travel and shall

1 be reimbursed in accordance with Sections 36-7-20 to 36-7-22,
2 inclusive.

3 §12-23B-5.

4 (a) Each diversion program shall collect and
5 maintain all of the following general information relating to
6 participants:

7 (1) Total number of participants at the beginning of
8 each month.

9 (2) Total number of participants at the end of each
10 month.

11 (3) Total number of participants who began the
12 program in the month.

13 (4) Total number of participants who successfully
14 completed the diversion program in the month.

15 (5) Total number of participants who left the
16 program prior to completion, including the reason why the
17 participant left the program.

18 (6) Total number of participants who were arrested
19 for a new criminal offense, excluding minor traffic
20 infractions, while in the diversion program.

21 (7) Total number of participants who were convicted
22 for a new criminal offense while in the diversion program.

23 (8) Total number of participants who committed at
24 least one violation while in the diversion program and any
25 resulting sanctions.

1 (b) Each diversion program shall collect and
2 maintain all of the following information for each
3 participant:

4 (1) Name of the participant.

5 (2) Participant's date of birth.

6 (3) Criminal statute or municipal ordinance
7 violated.

8 (4) Prior criminal history.

9 (5) Prior treatment history, including information
10 on the success or failure of the offender in those programs.

11 (6) Employment, education, and income histories.

12 (7) Gender, race, ethnicity, marital and family
13 status, and any child custody and support obligations.

14 (8) Cost of the program to the participant,
15 including, but not limited to, all of the following:

16 a. Application fee.

17 b. Evaluation fees.

18 c. Participation or administration fee.

19 d. Drug or alcohol testing.

20 e. Supervision fee.

21 f. Counseling or class fees.

22 g. Court cost or attorneys' fees assessed.

23 h. Any other fees paid by the offender while
24 participating in a diversion program.

25 (9) Any additional information as required by the
26 commission.

1 (c) Each diversion program shall submit the
2 information in subsections (a) and (b) to the commission by
3 the 15th of each month.

4 (d) The commission shall report the information
5 collected pursuant to subsection (a) annually to the House
6 Judiciary Committee, the Senate Judiciary Committee, and the
7 Administrative Director of Courts.

8 §12-23B-6.

9 By January 1, 2022, the commission shall adopt a
10 plan for the transition of each diversion program to evidence
11 based best practices established by the commission. All
12 pretrial diversion programs in existence on the effective date
13 of the act adding this code section and created under Section
14 12-17-226.1 or a local law, shall continue unabated, and the
15 reporting requirements of the programs under Section 12-23B-5
16 shall transition to the commission.

17 §12-23B-7.

18 The Administrative Office of Courts, in consultation
19 with the commission, shall adopt rules as are necessary to
20 implement and administer this chapter.

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