

1 SB570
2 115694-2
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 25-MAR-10

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 15-18-171 and 15-18-184, Code of
12 Alabama 1975, of the Community Punishment and Corrections Act;
13 to broaden the scope of certain provisions to include
14 nonprofit entities; to delete the exclusion of offenders
15 convicted of selling controlled substances from participation
16 in programs; and to further authorize county commissions to
17 provide liability insurance to authorities and nonprofit
18 entities.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

22 "§15-18-171.

23 "As used in this article, the following terms shall
24 have the following meanings, respectively, unless the context
25 otherwise requires:

26 "(1) APPLICATION PROCESS AND PROCEDURES. The
27 criteria and guidelines developed by the Department of

1 Corrections for the establishment of community punishment and
2 corrections programs, the granting of funds for programs
3 authorized herein, and the monitoring, evaluation, and review
4 of programs funded herein.

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

7 "(3) COMMISSIONER. The Commissioner of the
8 Department of Corrections.

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

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

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

24 "(7) COMMUNITY PUNISHMENT AND CORRECTIONS PLAN. A
25 document prepared by the county commission or an authority, or
26 nonprofit entity, and submitted to the Department of
27 Corrections in accordance with the requirements set forth in

1 the application process and procedure, which identifies
2 proposed community-based programs to be implemented within the
3 county in accordance with the terms of this article and
4 justifies the funding of such programs with regard to local
5 need and community support.

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

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

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

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

14 "(12) DIVISION. The Community Corrections Division
15 ~~within of the department that is the state administrative~~
16 ~~agency responsible for administering this article and~~
17 ~~assisting in establishing and maintaining community based~~
18 ~~punishment programs.~~

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

22 "(14) EXCLUDED FELONY OFFENDERS. One who is
23 convicted of any of the following felony offenses: Murder,
24 kidnapping in the first degree, rape in the first degree,
25 sodomy in the first degree, arson in the first degree, selling
26 or trafficking in controlled substances, robbery in the first
27 degree, sexual abuse in the first degree, forcible sex crimes,

1 lewd and lascivious acts upon a child, or assault in the first
2 degree if the assault leaves the victim permanently disfigured
3 or disabled.

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

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

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

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

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

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

1 "(21) RESTITUTION. Payment to the victim who has
2 suffered financial losses as a result of a crime. Restitution
3 shall include, but not be limited to, payment in cash or in
4 kind for the value of stolen or damaged property; for medical
5 expenses due to physical, emotional or psychological trauma;
6 wages lost as a result of time absent from work; and value of
7 property lost or transferred through theft or exercise of
8 control by deception or fraud.

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

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

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

17 "(25) YOUTHFUL OFFENDER. A person adjudicated as a
18 youthful offender.

19 "§15-18-184.

20 "An authority or nonprofit entity contracting with
21 the department under this article shall maintain ~~general~~
22 appropriate liability insurance in an amount sufficient to
23 insure against loss resulting from bodily injury, death or
24 property damage, subject to the limitations on recovery of
25 damages contained in this article and any other immunities
26 from civil liability or defenses established under the
27 Constitution of Alabama or any other section of the code or

1 common law, to which said entities might be entitled. The
2 insurance may be obtained through any source available to an
3 approving county commission."

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

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Senate

Read for the first time and referred to the Senate
committee on Judiciary 25-MAR-10

Read for the second time and placed on the calen-
dar 01-APR-10

Read for the third time and passed as amended ... 06-APR-10

Yeas 22
Nays 2

McDowell Lee
Secretary