

1 HB559
2 200532-2
3 By Representatives Simpson and England
4 RFD: Judiciary
5 First Read: 02-MAY-19

1 or treatment institution for a period not exceeding three
2 years in cases where the imposed sentence is not more than 15
3 years, and that the execution of the remainder of the sentence
4 be suspended notwithstanding any provision of the law to the
5 contrary and that the defendant be placed on probation for
6 such period and upon such terms as the court deems best.

7 "(2) That a defendant convicted of a Class A, Class
8 B, or Class C felony with an imposed sentence of greater than
9 15 years but not more than 20 years be confined in a prison,
10 jail-type institution, or treatment institution for a period
11 of three to five years for Class A or Class B felony
12 convictions and for a period of three years for Class C felony
13 convictions, during which the offender shall not be eligible
14 for parole or release because of deduction from sentence for
15 good behavior under the Alabama Correctional Incentive Time
16 Act, and that the remainder of the sentence be suspended
17 notwithstanding any provision of the law to the contrary and
18 that the defendant be placed on probation for the period upon
19 the terms as the court deems best.

20 "This subsection shall not be construed to impose
21 the responsibility for offenders sentenced to a Department of
22 Corrections facility upon a local confinement facility not
23 operated by the Department of Corrections.

24 "(b) Unless a defendant is sentenced to probation,
25 drug court, or a pretrial diversion program, when a defendant
26 is convicted of an offense that constitutes a Class C or D
27 felony offense and receives a sentence of not more than 15

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

22 "(c) Nothing in this section shall be construed as
23 superseding the sentencing requirements set forth and adopted
24 by the Legislature as prescribed by the Alabama Sentencing
25 Commission's Sentencing Standards.

26 "(d) In counties or jurisdictions where no community
27 corrections program exists or resources from a community

1 investment are not complete, a county or jurisdiction may
2 enter into a compact or contract with another county or other
3 counties to create a multi-jurisdiction community corrections
4 facility that meets the needs and resources of each county or
5 jurisdiction or enter into a compact or contract with a county
6 or jurisdiction that has a community corrections program to
7 provide services, as provided in and pursuant to Article 9 of
8 this chapter.

9 "(e) If no community corrections program exists
10 within a county or jurisdiction and no alternative program
11 options are available under subsection (e) of Section
12 15-18-172, a defendant convicted of an offense that
13 constitutes a Class D felony may be sentenced to
14 high-intensity probation under the supervision of the Board of
15 Pardons and Paroles in lieu of community corrections.

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

26 "(g) Regardless of whether the defendant has begun
27 serving the minimum period of confinement ordered under the

1 provisions of subsections (a) or (b), if the imposed sentence
2 is not more than 20 years, the court shall retain jurisdiction
3 and authority throughout that period to suspend that portion
4 of the minimum sentence that remains and place the defendant
5 on probation, notwithstanding any provision of the law to the
6 contrary and the court may revoke or modify any condition of
7 probation or may change the period of probation.

8 "(h) While incarcerated or on probation and among
9 the conditions thereof, the defendant may be required:

10 "(1) To pay a fine in one or several sums;

11 "(2) To make restitution or reparation to aggrieved
12 parties for actual damages or loss caused by the offense for
13 which conviction was had; and

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

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

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

24 "(k) No defendant serving a minimum period of
25 confinement ordered under the provisions of subsections (a) or
26 (b) shall be entitled to parole or to deductions from his or
27 her sentence under the Alabama Correctional Incentive Time

1 Act, during the minimum period of confinement so ordered;
2 provided, however, that this subsection shall not be construed
3 to prohibit application of the Alabama Correctional Incentive
4 Time Act to any period of confinement which may be required
5 after the defendant has served such minimum period.

6 "(1) When a defendant is convicted of a misdemeanor
7 or convicted of a municipal ordinance, the judge presiding
8 over the case may impose a sentence in accordance with Section
9 13A-5-7. The court may order a portion of the sentence to be
10 suspended and the defendant be placed on probation for such a
11 period not exceeding two years and upon such terms as the
12 court deems best."

13 Section 2. This act shall become effective ~~on the~~
14 ~~first day of the third month following its passage~~ immediately
15 following its passage and approval by the Governor, or its
16 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-MAY-19

Read for the second time and placed
on the calendar 1 amendment 08-MAY-19

Read for the third time and passed
as amended..... 15-MAY-19

Yeas 102, Nays 0, Abstains 0

Jeff Woodard
Clerk