

1 HB614  
2 199278-1  
3 By Representative Hill  
4 RFD: Ways and Means General Fund  
5 First Read: 14-MAY-19

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8 SYNOPSIS: Under existing law, judicial circuits are  
9 authorized to establish a drug court program.

10 This bill would require every judicial  
11 circuit to establish a drug court program.

12 Under existing law, counties or nonprofit  
13 entities may establish community punishment and  
14 corrections programs.

15 This bill would require every judicial  
16 circuit to establish a community punishment and  
17 corrections program in at least one county in the  
18 circuit.

19 This bill would also require every judicial  
20 circuit to establish a mental health court in at  
21 least one county in the circuit.

22 This bill would also provide for technical  
23 revisions.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2           Relating to drug court programs; to amend Sections  
3 12-23A-4, 12-23A-9, and 12-23A-12, Code of Alabama 1975, to  
4 require every judicial circuit to establish a drug court  
5 program; to amend Sections 15-18-172 and 15-18-176, Code of  
6 Alabama 1975, relating to community punishment and corrections  
7 programs, to require each judicial circuit to establish a  
8 community punishment and corrections program in at least one  
9 county in the circuit; to add Section 15-18-187 to the Code of  
10 Alabama 1975, to provide for the implementation of a community  
11 punishment and corrections program in each circuit; and to  
12 require each judicial circuit to establish a mental health  
13 court program in at least one county in the circuit.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15           Section 1. Sections 12-23A-4, 12-23A-9, and  
16 12-23A-12, Code of Alabama 1975, are amended to read as  
17 follows:

18           "§12-23A-4.

19           "(a) (1) The presiding judge of each judicial  
20 circuit, ~~with the consent of~~ and the district attorney of that  
21 judicial circuit, ~~may~~ shall establish a drug court or courts,  
22 under which drug offenders shall be processed, to  
23 appropriately address the identified substance abuse problem  
24 of the drug offender as a condition of pretrial release,  
25 pretrial diversion, probation, jail, prison, parole, community  
26 corrections, or other release or diversion from a correctional  
27 facility. The structure, method, and operation of each drug

1 court may differ and should be based upon the specific needs  
2 of and resources available to the judicial district or circuit  
3 where the drug court is located, but shall be created and  
4 operate pursuant to this chapter and in compliance with rules  
5 ~~promulgated~~ adopted by the Alabama Supreme Court.

6 "(2) Nothing in this chapter shall affect the  
7 authority of the district attorney to establish a deferred  
8 prosecution program or a pretrial diversion program within his  
9 or her judicial circuit or affect his or her ability to nolle  
10 prosequere a particular case. Notwithstanding the foregoing, all  
11 drug courts shall comply with this chapter and rules  
12 ~~promulgated~~ adopted by the Alabama Supreme Court.

13 "(b) Participation in drug court shall require the  
14 consent of the district attorney and the court and shall be  
15 pursuant to a written agreement. A drug offender may  
16 participate in a pre-adjudication, post-adjudication, reentry,  
17 probation violation, or combination program.

18 "(c) The court may grant reasonable incentives under  
19 the written agreement if the court finds that the drug  
20 offender:

21 "(1) Is performing satisfactorily in drug court.

22 "(2) Is benefiting from education, treatment, and  
23 rehabilitation.

24 "(3) Has not engaged in criminal conduct.

25 "(4) Has not violated the terms and conditions of  
26 the agreement.

1           "(d) The court may impose reasonable sanctions under  
2 the written agreement or may incarcerate or expel the offender  
3 from the program if the court finds that the drug offender:

4           "(1) Is not performing satisfactorily in drug court.

5           "(2) Is not benefiting from education, treatment, or  
6 rehabilitation.

7           "(3) Has engaged in conduct rendering him or her  
8 unsuitable for the program.

9           "(4) Has otherwise violated the terms and conditions  
10 of the agreement.

11           "(5) Is for any reason unable to participate.

12           "(e) Upon successful completion of drug court, a  
13 drug offender's case shall be disposed of by the judge in the  
14 manner prescribed by the agreement and by the applicable  
15 policies and procedures adopted by the drug court. This may  
16 include, but is not limited to, withholding criminal charges,  
17 nolle prosee of charges recommended by the district attorney,  
18 probation, deferred sentencing, suspended sentencing, split  
19 sentencing, or a reduced period of incarceration. Records of  
20 all such dispositions shall be maintained and be available to  
21 judges and prosecutors statewide. This provision shall not  
22 authorize the disclosure of youthful offender or juvenile  
23 records to the general public.

24           "(f) Drug courts shall include all of the following  
25 ten key components, as defined by the United States Department  
26 of Justice, and the drug court team shall act to ensure  
27 compliance with each of the components:

1           "(1) Integration of drug, alcohol, and other drug  
2 treatment or educational services with justice system case  
3 processing.

4           "(2) Use of a non-adversarial approach, with  
5 prosecution and defense counsel promoting public safety while  
6 protecting the due process rights of drug offenders  
7 participating in the program.

8           "(3) Early identification of drug offenders eligible  
9 to participate and prompt placement in the drug court program.

10          "(4) Access to a continuum of alcohol, drug, and  
11 other related treatment and rehabilitation services.

12          "(5) Monitoring of abstinence by frequent alcohol  
13 and other drug testing.

14          "(6) Adoption and implementation of a coordinated  
15 strategy which governs drug court responses to the compliance  
16 of drug offenders participating in the program.

17          "(7) Ongoing judicial interaction with each drug  
18 court of drug offenders participating in the program.

19          "(8) Monitoring and evaluation to measure the  
20 achievement of program goals and gauge effectiveness.

21          "(9) Continuing interdisciplinary education to  
22 promote effective drug court planning, implementation, and  
23 operations.

24          "(10) Forging partnerships among drug courts, public  
25 agencies, and community-based organizations to generate local  
26 support and enhance drug court effectiveness.

1           "(g) Cases handled pursuant to this chapter shall be  
2 calendared on dedicated dockets, set aside from other criminal  
3 cases.

4           "~~(h) Each local jurisdiction that intends to~~  
5 ~~establish a drug court, or continue the operation of an~~  
6 ~~existing drug court,~~ shall establish a local drug court team  
7 and may also establish a local drug court advisory committee.

8           "(i) The drug court team, when practicable, shall  
9 conduct a staff meeting prior to each drug court session to  
10 discuss and provide updated information regarding drug  
11 offenders. After determining their progress, or lack thereof,  
12 the drug court team shall agree on the appropriate incentive  
13 or sanction to be applied. If the drug court team cannot agree  
14 on the appropriate action, the court shall make the decision  
15 based on information presented in the staff meeting. Nothing  
16 in this chapter shall prohibit the authority of the district  
17 attorney to file a petition to remove the drug offender from  
18 the drug court program for good cause shown.

19           "(j) Nothing contained in this chapter shall confer  
20 a right, or an expectation of a right, to participate in drug  
21 court, nor does it obligate the drug court to accept every  
22 drug offender. Neither the establishment of any drug court nor  
23 anything in this chapter shall be construed as limiting the  
24 discretion of the district attorney. Each drug court judge may  
25 establish rules and may make special orders and rules, as  
26 necessary, that do not conflict with this chapter or rules  
27 ~~promulgated~~ adopted by the Alabama Supreme Court.

1           "(k) A drug court coordinator shall be responsible  
2 for the general administration of drug court.

3           "(l) Any agency charged with supervising a drug  
4 offender under drug court jurisdiction shall timely forward  
5 information to the drug court concerning the progress and  
6 compliance of the drug offender with any court imposed terms  
7 and conditions.

8           "§12-23A-9.

9           "(a) The Administrative Office of Courts,  
10 hereinafter AOC, shall assist in the planning, implementation,  
11 and development of drug courts statewide. AOC shall make  
12 recommendations to the Alabama Supreme Court and the Chief  
13 Justice concerning the legal, policy, and procedural issues  
14 confronting the drug courts in the state. Nothing in this  
15 section shall impede the constitutional authority of the  
16 district attorney.

17           "(b) AOC shall provide state-level coordination and  
18 support for drug court judges and their programs and operate  
19 as a liaison between drug court judges and other state-level  
20 agencies providing services to or benefitting from drug court  
21 programs.

22           "(c) The Administrative Director of Courts shall  
23 make recommendations to the Chief Justice of the Alabama  
24 Supreme Court concerning criteria for eligibility, the  
25 ~~promulgation~~ adoption of procedural rules, the establishment  
26 of guidelines for operation, and adoption of standards and  
27 protocols for the various drug courts of this state. All



1 rules, guidelines, standards, and protocols shall periodically  
2 be reviewed and revised.

3 "(d) AOC shall identify existing resources for  
4 assessment and treatment and make recommendations for the  
5 allocation of those resources; explore grants and funds  
6 necessary to support drug courts; promote and provide annual  
7 training and technical assistance for all drug court judges  
8 and criminal justice personnel involved in drug courts, as  
9 well as education for the public about the effectiveness of  
10 drug court; and establish evaluation criteria and procedures,  
11 including tracking the status of drug offenders after  
12 concluding drug court. The critical performance measures to be  
13 collected shall include those set forth in subsection (a) of  
14 Section 12-23A-10.

15 "(e) The local drug court team or advisory  
16 committee, or both, shall ensure the provision of a full  
17 continuum of care for drug offenders.

18 "(f) The presiding judge of each circuit shall  
19 report to AOC by the fifteenth day of January of each year.  
20 The report shall include all of the following:

21 "(1) A description of the drug court operating  
22 within the jurisdiction.

23 "(2) The name of the participating judge or judges.

24 "(3) Community involvement.

25 "(4) Education and training.

26 "(5) Use of existing resources.

27 "(6) Collaborative efforts.

1           "(7) An evaluation of the critical data elements  
2 required by subsection (a) of Section 12-23A-10.

3           "(g) The Administrative Director of Courts shall  
4 provide a statewide report each year during the regular  
5 legislative session to the Alabama Supreme Court, Legislature,  
6 and Governor regarding the need for, and implementation of,  
7 this chapter. The report shall include a synopsis of such  
8 information or data necessary to determine the impact,  
9 utility, and cost-effectiveness of its implementation and  
10 ongoing operation.

11           "§12-23A-12.

12           "~~Nothing~~ Provided each judicial circuit has a drug  
13 court program in operation in the circuit as required in  
14 Section 12-23A-4, nothing in this chapter shall be construed  
15 to require a county commission or any county employee to  
16 participate in or fund in whole or in part the development or  
17 operation of a drug court program authorized in this chapter."

18           Section 2. Sections 15-18-172 and 15-18-176, Code of  
19 Alabama 1975, are amended to read as follows:

20           "§15-18-172.

21           "(a) A county or group of counties may establish a  
22 community punishment and corrections program for state and  
23 county inmates or youthful offenders in custody of the county.  
24 The program shall be established by a county by resolution  
25 adopted by the county commission or by community punishment  
26 and corrections authorities or other nonprofit entities as  
27 provided herein. The program shall establish the maximum

1 number of offenders who may participate in the program and  
2 participation shall be limited to space availability. No  
3 offenders may be sentenced or assigned to the program in  
4 excess of the maximum number established for the program. No  
5 county is obligated to fund any activities of a community  
6 corrections program established under this article without an  
7 affirmative vote of the affected county commission.

8 "(b) The department may contract with ~~such~~ the  
9 counties, authorities, or other nonprofit entities as provided  
10 herein concerning start-up costs and the costs of maintenance,  
11 including medical expenses, of state inmates participating in  
12 any program authorized under this article or under any county  
13 program functioning pursuant to any state or local act.

14 "(c) The department shall ~~promulgate~~ adopt rules and  
15 ~~regulations~~ pursuant to the Alabama Administrative Procedure  
16 Act establishing conditions for state inmates' participation  
17 in the community punishment and corrections program, the  
18 observance of which may be a condition to ~~such~~ the  
19 participation.

20 "(d) A state inmate incarcerated in a state facility  
21 may be approved by the department for participation in a  
22 community punishment and corrections program established under  
23 this article ~~and~~. A state inmate may be assigned to a program  
24 in the county from which the inmate was sentenced if a  
25 community punishment and corrections program under this  
26 article has been established in that county and if the  
27 sentencing judge of the county authorizes the inmate to

1 participate in the program. If no program exists in the county  
2 where the inmate was sentenced, he or she may be assigned to a  
3 community punishment and corrections program located in the  
4 judicial circuit, if the sentencing judge of the county  
5 authorizes an inmate to participate in the program. An inmate  
6 may be assigned to a community punishment and corrections  
7 program in another county if the presiding judge of the other  
8 county and the sentencing judge agree to the assignment and if  
9 the county has agreed in the contract to accept inmates  
10 originally sentenced in other counties. In the event the  
11 sentencing judge is unavailable due to death, retirement, or  
12 any other reason, the presiding judge from the sentencing  
13 circuit shall act in the sentencing judge's stead. An inmate  
14 assigned to a community punishment and corrections program  
15 pursuant to this article shall not be eligible for parole  
16 consideration.

17 "(e) The department shall annually identify  
18 alternatives to community punishment and corrections programs  
19 for those counties which have not established a community  
20 punishment and corrections program under this article. The  
21 department shall publish a list of such alternatives on its  
22 website and shall provide a list of such alternatives to each  
23 district and circuit court annually. The department shall  
24 include a list of referral services available for veterans and  
25 servicemen, and, when available and appropriate, shall include  
26 any Veterans Treatment Court in operation in the appropriate  
27 county or circuit as an alternative.

1           "§15-18-176.

2           "(a) A community punishment and corrections plan  
3 shall be developed and submitted to the department which  
4 sufficiently documents the local need and support for the  
5 proposed program. The community punishment and corrections  
6 plan shall have the approval of the county commission in the  
7 affected counties prior to submission to the department. Any  
8 plan shall specifically state the maximum number of inmates  
9 eligible to participate in the program.

10           "(b) The format for any community punishment and  
11 corrections plan shall be specified by the division in its  
12 application process and procedures. Funding and grant  
13 evaluation criteria shall be outlined in the application  
14 process and procedures to be developed by the division in  
15 order that each applicant may know the basis upon which funds  
16 will be granted. The department shall adopt rules pursuant to  
17 the Administrative Procedure Act outlining the application  
18 process and procedures.

19           "(c) The application process and procedures should  
20 include a performance-based reimbursement funding plan,  
21 developed by the department, for funding community punishment  
22 and corrections plans that utilize evidence-based practices as  
23 defined in Section 12-25-32 in the treatment and supervision  
24 of community punishment and corrections program participants  
25 and that meet specified treatment and supervision targets as  
26 outlined in the application. The performance-based  
27 reimbursement plan outlined in the application process and

1 procedures should also include higher reimbursement rates for  
2 community punishment and corrections plans that include  
3 behavioral health assessment and treatment referral, to  
4 include behavioral and substance abuse treatment, for  
5 community punishment and corrections program participants, as  
6 well as for local probationers and parolees under the  
7 supervision of the Board of Pardons and Paroles. The  
8 Department of Corrections, along with the Board of Pardons and  
9 Paroles, the Department of Veterans Affairs, the Department of  
10 Public Health, and the Department of Mental Health, shall  
11 collaborate with the Office of the Governor to implement the  
12 provisions of this subsection relating to behavioral health  
13 treatment and substance abuse treatment services. The Office  
14 of the Governor shall ensure that treatment services that  
15 receive funding from the state or through court-ordered monies  
16 utilize such funding and monies for programs reasonably  
17 expected to reduce recidivism among community corrections  
18 offenders.

19 "(d) The application process and procedures should  
20 include a requirement that each community punishment and  
21 corrections plan establish guidelines to ensure that the  
22 supervision and treatment of offenders participating in a  
23 community punishment and corrections program is, to the extent  
24 practicable, individualized based on the offender's risk of  
25 reoffending, as determined through a validated risk and needs  
26 assessment as defined in Section 12-25-32, administered by the  
27 community punishment and corrections program, and that

1 treatment and supervision resources, as well as behavioral  
2 health assessment and treatment referral services, are, within  
3 the resources available, prioritized based on those offenders  
4 who have the highest risk of reoffending. The plan shall  
5 include a list of services available for veterans and,  
6 servicemen, and, when appropriate, shall include any Veterans  
7 Treatment Court in operation in the appropriate county or  
8 circuit as a possible alternative for mentoring and  
9 supervision.

10 "(e) ~~Participation~~ Provided each judicial circuit  
11 has a community punishment and corrections program in  
12 operation in the circuit as required in Section 15-18-187,  
13 participation in the programs set forth in this article is  
14 voluntary. Any participating authority, county commission, or  
15 other nonprofit entity may notify the director of the division  
16 of its intention to withdraw from participation in the  
17 community punishment and corrections program contract. The  
18 withdrawal will become effective on the last day of the grant  
19 year."

20 Section 3. Section 15-18-187 is added to the Code of  
21 Alabama 1975, to read as follows:

22 §15-18-187.

23 (a) Notwithstanding any other provision in this  
24 article, beginning January 1, 2020, there shall be a community  
25 punishment and corrections program in each judicial circuit in  
26 this state.

1 (b) Notwithstanding the requirements in this article  
2 regarding adoption of a resolution by the county commissions  
3 for the formation of a community punishment and corrections  
4 program, if a judicial circuit does not have a community  
5 punishment and corrections program on the effective date of  
6 the act adding this amendatory language, the presiding judge,  
7 in consultation with the county commission or commissions in  
8 the circuit, shall select a county for the establishment of a  
9 community punishment and corrections program. This subsection  
10 does not preclude the establishment of a community punishment  
11 and corrections program by a nonprofit entity as provided in  
12 Section 15-18-178.

13 (c) Nothing in this section may be construed to  
14 authorize the termination of any community punishment and  
15 corrections program in operation pursuant to this article  
16 prior to the effective date of the act adding this amendatory  
17 language. Any community punishment and corrections program  
18 formed prior to the effective date of the act adding this  
19 amendatory language may satisfy the requirement for a  
20 community punishment and corrections program in each judicial  
21 circuit as required in this section.

22 (d) Except as expressly provided otherwise by this  
23 section, community punishment and corrections programs formed  
24 pursuant to this section shall comply with all the provision  
25 of this article.

26 Section 4. As used in this section, the following  
27 words shall have the following meanings:



1                   (1) ADVISORY COMMITTEE. A local committee which may  
2 consist of the following members or their designees:

3                   a. The mental health court judge, who shall serve as  
4 chair.

5                   b. The district attorney.

6                   c. The public defender or a member of the criminal  
7 defense bar.

8                   d. The mental health court coordinator.

9                   e. The court clerk.

10                  f. A community corrections or court referral  
11 officer, or both.

12                  g. A pretrial services provider.

13                  h. A law enforcement officer.

14                  i. A substance abuse treatment provider.

15                  j. A mental health provider.

16                  k. Any other person the chair deems appropriate.

17                  (2) ASSESSMENT. A diagnostic evaluation for  
18 placement in a treatment program which shall be performed in  
19 accordance with criteria certified by the Department of Mental  
20 Health.

21                  (3) CONTINUUM OF CARE. A seamless and coordinated  
22 course of substance abuse education and treatment designed to  
23 meet the needs of offenders as they move through the criminal  
24 justice system and beyond, maximizing self-sufficiency.

25                  (4) DRUG. Includes all of the following:

1           a. A controlled substance, drug, or other substance  
2 for which a medical prescription or other legal authorization  
3 is required for purchase or possession.

4           b. A drug whose manufacture, sale, use, or  
5 possession is forbidden by law.

6           c. Other harmful substance, a misused substance  
7 otherwise legal to possess, including alcohol.

8           (5) MENTAL HEALTH COURT. A judicial intervention  
9 program for offenders in the criminal division of the circuit  
10 or district court whose mental health issues may have been a  
11 significant factor in the commission of the offense.

12           (6) MENTAL HEALTH COURT COORDINATOR. An individual  
13 who is responsible for coordinating the establishment,  
14 staffing, operation, evaluation, and integrity of the mental  
15 health court.

16           (7) MENTAL HEALTH COURT TEAM. Consists of all of the  
17 following members who are assigned to the mental health court:

18           a. The mental health court judge.

19           b. The district attorney or his or her designee.

20           c. The public defender or a member of the criminal  
21 defense bar.

22           d. A law enforcement officer.

23           e. The mental health court coordinator.

24           f. A representative from community corrections,  
25 court referral program, or the Board of Pardons and Paroles.

26           g. Any other persons selected by the mental health  
27 court team.

1 (8) OFFENDER. A person charged with or convicted of  
2 an offense when the person's mental health may have been a  
3 significant factor in the commission of the offense and who  
4 has applied for or been accepted to participate in a mental  
5 health court program for offenders in the criminal division of  
6 the circuit or district court.

7 (9) RECIDIVISM. A subsequent conviction or plea of  
8 nolo contendere in this or any other state or federal court of  
9 the United States within three years of successful completion  
10 of, or termination from, mental health court for any offense  
11 carrying a sentence of one year or more.

12 (10) SCREENING. The process of gathering basic  
13 information to determine whether the offender meets  
14 established mental health court eligibility criteria and shall  
15 include, but is not limited to, the current charge, a  
16 substance abuse evaluation, a brief questionnaire to determine  
17 if a risk or needs assessment is needed, and drug testing, and  
18 may include, but is not limited to, a substance abuse  
19 evaluation, risk assessment, or needs assessment.

20 (11) SUBSTANCE. Drug as defined in subdivision (4).

21 (12) SUBSTANCE ABUSE. The illegal or improper  
22 consumption of a drug.

23 (13) VIOLENT CRIMINAL CHARGE. An offense as defined  
24 in Section 12-25-32, Code of Alabama 1975.

25 Section 5. (a) (1) The presiding judge of each  
26 judicial circuit shall establish a mental health court within  
27 that judicial circuit or any county within that judicial

1 circuit. The structure, method, and operation of each mental  
2 health court may differ and should be based upon the specific  
3 needs of and resources available to the judicial circuit where  
4 the mental health court is located.

5 (2) Nothing in this section shall affect the  
6 authority of the district attorney to establish a deferred  
7 prosecution program or a pretrial diversion program within his  
8 or her judicial circuit or his or her ability to nolle prosequere  
9 a particular case. Notwithstanding the foregoing, all mental  
10 health courts shall comply with this section and rules adopted  
11 by the Alabama Supreme Court.

12 (b) A mental health court established under  
13 subsection (a) shall be under the direct supervision of the  
14 presiding judge of that judicial circuit. The presiding judge  
15 may contract with any agency, person, or corporation,  
16 including, but not limited to, certified community punishment  
17 and corrections programs, certified mental health programs,  
18 certified drug treatment programs, family service programs, or  
19 any certified not-for-profit programs for services related to  
20 this section.

21 (c) Participation in mental health court shall  
22 require the consent of the district attorney and the court and  
23 shall be pursuant to a written agreement. An offender may  
24 participate in a pre-adjudication, post-adjudication, reentry,  
25 probation violation, or a combination program.

26 (d) The court may grant reasonable incentives under  
27 the written agreement if the court finds any of the following:

1           (1) The offender is performing satisfactorily in  
2 mental health court.

3           (2) The offender is benefiting from education,  
4 treatment, and rehabilitation.

5           (3) The offender has not engaged in criminal  
6 conduct.

7           (4) The offender has not violated the terms and  
8 conditions of the agreement.

9           (e) The court may impose reasonable sanctions under  
10 the written agreement or may incarcerate or expel the offender  
11 from the program if the court finds any of the following:

12           (1) The offender is not performing satisfactorily in  
13 mental health court.

14           (2) The offender is not benefiting from education,  
15 treatment, or rehabilitation.

16           (3) The offender has engaged in conduct rendering  
17 him or her unsuitable for the program.

18           (4) The offender has otherwise violated the terms  
19 and conditions of the agreement.

20           (5) The offender is unable to participate for any  
21 other reason.

22           (f) Upon successful completion of mental health  
23 court, an offender's case shall be disposed of by the judge in  
24 the manner prescribed by the agreement and by the applicable  
25 policies and procedures adopted by the mental health court.  
26 This may include, but is not limited to, withholding criminal  
27 charges, nolle prosequere of charges recommended by the district

1 attorney, probation, deferred sentencing, suspended  
2 sentencing, split sentencing, or a reduced period of  
3 incarceration. Records of all dispositions shall be maintained  
4 and be available to judges and prosecutors statewide. This  
5 subsection does not authorize the disclosure of youthful  
6 offender or juvenile records to the general public.

7 (g) Each local jurisdiction shall establish a local  
8 mental health court team and may also establish a local mental  
9 health court advisory committee.

10 (h) The mental health court team, when practicable,  
11 shall conduct a staff meeting prior to each mental health  
12 court session to discuss and provide updated information  
13 regarding offenders. After determining their progress, or lack  
14 thereof, the mental health court team shall agree on the  
15 appropriate incentive or sanction to be applied. If the mental  
16 health court team cannot agree on the appropriate action, the  
17 court shall make the decision based on information presented  
18 in the staff meeting. Nothing in this section shall prohibit  
19 the authority of the district attorney to file a petition to  
20 remove the offender from the mental health court program for  
21 good cause shown.

22 (i) Nothing contained in this section shall confer a  
23 right, or an expectation of a right, to participate in mental  
24 health court, nor does it obligate the mental health court to  
25 accept every offender. Neither the establishment of any mental  
26 health court nor anything in this section shall be construed  
27 as limiting the discretion of the district attorney. Each

1 mental health court judge may establish rules and may make  
2 special orders and rules, as necessary, that do not conflict  
3 with this section or rules adopted by the Alabama Supreme  
4 Court.

5 (j) A mental health court coordinator shall be  
6 responsible for the general administration of mental health  
7 court.

8 (k) Any agency charged with supervising a mental  
9 health court offender under mental health court jurisdiction  
10 shall timely forward information to the mental health court  
11 concerning the progress and compliance of the offender with  
12 any court imposed terms and conditions.

13 Section 6. (a) An offender is not eligible for  
14 admission into a mental health court program if any of the  
15 following applies:

16 (1) The offender has a pending violent criminal  
17 charge against him or her or any felony charge in which a  
18 firearm or deadly weapon or dangerous instrument was used.

19 (2) The offender has been convicted of a violent  
20 felony offense or any felony in which a firearm or deadly  
21 weapon or dangerous instrument was used or adjudicated as a  
22 youthful offender or delinquent as a juvenile of a violent  
23 felony offense or any felony in which a firearm or deadly  
24 weapon or dangerous instrument was used.

25 (3) The offender is required to register as a sex  
26 offender or currently is charged with a felony sex offense.

1 (4) Eligible offenses may be further restricted by  
2 the rules of a specific local mental health court program.

3 (b) The Commissioner of the Department of  
4 Corrections shall develop criteria regarding the evaluation  
5 and eligibility of an inmate for early release into a reentry  
6 mental health court program consistent with the requirements  
7 of subsection (a).

8 Section 7. (a) All applicants for mental health  
9 court shall be required to participate in an assessment  
10 approved by the Department of Mental Health prior to being  
11 approved for the mental health court program.

12 (b) As part of the assessment, each jurisdiction  
13 shall establish a system to ensure that offenders are placed  
14 in a treatment program approved by the Department of Mental  
15 Health. To accomplish this, each entity conducting the  
16 assessment may make specific recommendations to the mental  
17 health court team regarding the level of treatment program and  
18 duration necessary so that the individual needs of the  
19 offender may be addressed. These assessments and resulting  
20 recommendations shall be performed by a certified or licensed  
21 professional in accordance with the criteria certified by the  
22 Department of Mental Health. Treatment recommendations  
23 accepted by the court, pursuant to this section, shall be  
24 deemed to be reasonable and necessary.

25 (c) An adequate continuum of care for offenders  
26 shall be established in response to this section.



1 (d) The mental health court, when practicable, shall  
2 ensure that no agency provide both assessment and treatment  
3 services for mental health court to avoid potential conflicts  
4 of interest or the appearance that a given assessment agency  
5 might benefit by determining that an offender is in need of a  
6 particular form of treatment that the assessor provides.

7 (e) Any referral for treatment by the mental health  
8 court shall refer the offender to a program that is certified  
9 by the Department of Mental Health.

10 (f) The mental health court shall determine which  
11 treatment programs are authorized to provide the recommended  
12 treatment to an offender. The relationship between the  
13 treatment program and the court should be governed by a  
14 memorandum of understanding, which should include the timely  
15 reporting of the progress or lack thereof of the offender to  
16 the mental health court.

17 (g) Appropriate services for mental health treatment  
18 should be made available by the Department of Mental Health,  
19 where practicable.

20 Section 8. Any mental health court in this state may  
21 transfer to or accept transfer from any other mental health  
22 court in this state, or any mental health court in any other  
23 state which is part of the Interstate Compact for Adult  
24 Offender Supervision. All terms and conditions of the transfer  
25 and supervision shall be clearly stated, in writing, and shall  
26 not be valid unless agreed to, in writing by all of the  
27 following:

1 (1) The offender.

2 (2) The defense attorney.

3 (3) The judge and prosecutor of the transferring  
4 mental health court.

5 (4) The judge and prosecutor of the receiving mental  
6 health court.

7 Section 9. (a) The Administrative Office of Courts  
8 (AOC), shall assist in the planning, implementation, and  
9 development of mental health courts statewide. The AOC shall  
10 make recommendations to the Alabama Supreme Court and the  
11 Chief Justice concerning the legal, policy, and procedural  
12 issues confronting the mental health courts in the state.  
13 Nothing in this section shall impede the constitutional  
14 authority of the district attorney.

15 (b) The AOC shall provide state-level coordination  
16 and support for mental health court judges and their programs  
17 and operate as a liaison between mental health court judges  
18 and other state-level agencies providing services to or  
19 benefitting from mental health court programs.

20 (c) The Administrative Director of Courts shall make  
21 recommendations to the Chief Justice of the Alabama Supreme  
22 Court concerning criteria for eligibility, the adoption of  
23 procedural rules, the establishment of guidelines for  
24 operation, and adoption of standards and protocols for the  
25 various mental health courts of this state. All rules,  
26 guidelines, standards, and protocols shall periodically be  
27 reviewed and revised.

1 (d) The AOC shall identify existing resources for  
2 assessment and treatment and make recommendations for the  
3 allocation of those resources; explore grants and funds  
4 necessary to support mental health courts; promote and provide  
5 annual training and technical assistance for all mental health  
6 court judges and criminal justice personnel involved in mental  
7 health courts, as well as education for the public about the  
8 effectiveness of mental health court; and establish evaluation  
9 criteria and procedures, including tracking the status of  
10 offender after concluding mental health court. The critical  
11 performance measures to be collected shall include those set  
12 forth in subsection (a) of Section 10.

13 (e) The local mental health court team or advisory  
14 committee, or both, shall ensure the provision of a full  
15 continuum of care for offenders.

16 (f) The presiding judge of each circuit shall report  
17 to AOC by the fifteenth day of January of each year. The  
18 report shall include all of the following:

19 (1) A description of the mental health court  
20 operating within the jurisdiction.

21 (2) The name of the participating judge or judges.

22 (3) Community involvement.

23 (4) Education and training.

24 (5) Use of existing resources.

25 (6) Collaborative efforts.

26 (7) An evaluation of the critical data elements  
27 required by subsection (a) of Section 10.

1 (g) The Administrative Director of Courts shall  
2 provide a statewide report each year during the regular  
3 legislative session to the Alabama Supreme Court, Legislature,  
4 and Governor regarding the need for, and implementation of,  
5 this section. The report shall include a synopsis of  
6 information or data necessary to determine the impact,  
7 utility, and cost-effectiveness of its implementation and  
8 ongoing operation.

9 Section 10. (a) A mental health court shall collect  
10 and maintain the following information for each offender that  
11 is considered for admission or admitted into mental health  
12 court:

13 (1) Prior criminal history.

14 (2) Prior substance abuse treatment history,  
15 including information on the success or failure of the  
16 offender in those programs.

17 (3) Employment, education, and income histories.

18 (4) Gender, race, ethnicity, marital and family  
19 status, and any child custody and support obligations.

20 (5)a. Instances of recidivism occurring after  
21 successful completion of mental health court. Recidivism shall  
22 be measured at a period of three years after successful  
23 graduation.

24 b. Instances of recidivism occurring after an  
25 offender's termination in mental health court for a period of  
26 three years from release into the community.

1           (6) If applicable, the drug of choice and the  
2 estimated daily financial cost to the offender at the time of  
3 entry into the program.

4           (7) The number of offenders screened for  
5 eligibility, the number of eligible offenders who were and  
6 were not admitted into mental health court, the reasons for  
7 non-admission for those offenders not admitted into mental  
8 health court, and the case disposition for each offender  
9 admitted into mental health court.

10          (8) The cost of operation and sources of funding for  
11 each mental health court.

12          (b) An offender subject to this section may be  
13 required, as a condition of pretrial release, probation,  
14 diversion, parole, or community corrections to provide the  
15 information in subsection (a). The collection and maintenance  
16 of this information shall be collected in a standardized  
17 format according to applicable guidelines.

18          (c) To protect the privacy of an offender in  
19 accordance with federal and state confidentiality laws,  
20 treatment records shall be kept in a secure environment,  
21 separated from the court records to which the public has  
22 access.

23          (d) All mental health court personnel shall be  
24 trained in accordance with subsection (d) of Section 9.

25          (e) Evaluations shall be conducted in accordance  
26 with subsection (a).

1 (f) The offender shall be responsible for all fees,  
2 court costs, and restitution associated with the terms of  
3 release of the offender, supervision, treatment, and  
4 successful completion in mental health court, unless the  
5 offender is determined to be indigent, in which event such  
6 fees may be waived in whole or in part. Determination of  
7 indigency shall be subject to continuing review by the court.  
8 All fees, which do not include regular court costs normally  
9 collected by the clerk of court, shall be collected and  
10 accounted for by the mental health court or other entity  
11 designated by the mental health court team, in accordance with  
12 generally accepted uniform accounting principles, which shall  
13 be subject to approval by the Chief Examiner of the Department  
14 of Examiners of Public Accounts. Mental health courts shall  
15 establish and maintain a uniform accounting system.

16 (g) The annual reports and all records of accounts  
17 and financial records of all funds received from fees or by  
18 grant, contract, or otherwise from state, local, or federal  
19 sources, shall be subject to audit annually by the Chief  
20 Examiner of the Department of Examiners of Public Accounts.  
21 The audit may be performed by a licensed independent certified  
22 public accountant approved by the Chief Examiner of the  
23 Department of Examiners of Public Accounts.

24 (h) All audits shall be completed as soon as  
25 practicable after the end of the fiscal year. One copy of each  
26 audit shall be furnished to the presiding circuit judge, the  
27 district attorney, the Administrative Director of Courts, and

1 the Chief Examiner of the Department of Examiners of Public  
2 Accounts. Copies of each audit shall also be made available to  
3 the press.

4 Section 11. (a) Absent negligence, wantonness,  
5 recklessness, or deliberate misconduct, any individual who, in  
6 good faith, provides services through a mental health court,  
7 is not liable in any civil action. The grant of immunity  
8 provided for in this subsection shall extend to all employees,  
9 administrative personnel, and mental health court team  
10 members, as well as volunteers.

11 (b) Any qualified person who obtains, in a medically  
12 accepted manner, a specimen of breath, blood, urine, or other  
13 bodily substance pursuant to a mental health court action is  
14 not liable in any civil action.

15 Section 12. Provided each judicial circuit has a  
16 mental health court program in operation in the circuit as  
17 required in Section 6, nothing in this section shall be  
18 construed to require a county commission or any county  
19 employee to participate in or fund in whole or in part the  
20 development or operation of a mental health court program  
21 authorized in this act.

22 Section 13. Any monies needed for the initial  
23 implementation of the programs provided for by this act shall  
24 be funded by any available funds appropriated to the  
25 Department of Corrections.

26 Section 14. Sections 3 through 12, inclusive,  
27 requiring each judicial circuit to establish a community

1 punishment and corrections program and a mental health court  
2 program shall become effective January 1, 2020; the remainder  
3 of this act shall become effective on the first day of the  
4 third month following its passage and approval by the  
5 Governor, or its otherwise becoming law.