

1 HB185
2 202695-1
3 By Representative Hill
4 RFD: Judiciary
5 First Read: 06-FEB-20

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

This bill would establish the Accountability Court Commission and provide for the duties of the commission, including the establishment and implementation of Administrative Office of Courts in each judicial circuit to replace existing drug court, mental health court, veterans court, pretrial diversion programs, or any other type of speciality court.

This bill would require the Administrative Office of Courts to assist the commission in adopting rules and would repeal state general laws regarding pretrial diversion programs and drug court programs.

A BILL
TO BE ENTITLED

1 AN ACT

2
3 Relating to accountability courts; to add a new
4 Chapter 23B to Title 12, Code of Alabama 1975; to create the
5 Accountability Court Commission within the judicial branch of
6 government; to provide the duties of the commission; to
7 provide for the appointment and terms of its members; to
8 require each judicial circuit to establish an accountability
9 court; and to require the Administrative Office of Courts to
10 assist the commission in adopting rules relating to pretrial
11 diversion programs and the Alabama Drug Offender
12 Accountability Act; and to repeal Division 5 of Article 6 of
13 Chapter 17 of Title 12 and Chapter 23A of Title 12, Code of
14 Alabama 1975.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Chapter 23B, commencing with Section
17 12-23B-1, is added to Title 12, Code of Alabama 1975, to read
18 as follows:

19 §12-23B-1.

20 This chapter shall be known and may be cited as the
21 Alabama Accountability Court Act.

22 §12-23B-2.

23 As used in this chapter, the term "accountability
24 court" includes a drug court, mental health court, veterans
25 court, pretrial diversion program, or any other specialty
26 court that uses an immediate and highly structured
27 intervention process for eligible defendants or juveniles that

1 incorporates mental health professionals, substance abuse
2 professionals, local social programs, and intensive judicial
3 monitoring. An accountability court may be used at any of the
4 following times:

5 (1) Pre-adjudication. An offender is ordered to
6 participate in an accountability court before the acceptance
7 of a plea or guilt or prior to the taking of admissions in
8 juvenile court.

9 (2) Post adjudication. An offender is ordered to
10 participate in an accountability court after entering a plea
11 of guilty, having been found guilty, making admission, or
12 having been adjudicated delinquent.

13 (3) Reentry. An offender is ordered to participate
14 in an accountability court upon release from a sentence of
15 incarceration.

16 (4) Combination program. An offender may be ordered
17 to participate in an accountability court upon
18 pre-adjudication, post-adjudication, or reentry.

19 §12-23B-3.

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

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

25 (1) To establish, implement, and operate a uniform
26 certification process for accountability courts.

1 (2) To provide state-level coordination and support
2 for accountability court judges and their programs and operate
3 as a liaison between accountability court judges and other
4 state-level agencies providing services to or benefitting from
5 accountability court programs.

6 (3) To develop and update statewide evaluation plans
7 and models for establishing and monitoring all critical
8 aspects of accountability courts in each judicial circuit.

9 (4) To establish criteria for eligibility, the
10 adoption of procedural rules, the establishment of guidelines
11 for operation, and adoption of standards and protocols for
12 participation in accountability courts. All rules, guidelines,
13 standards, and protocols shall periodically be reviewed and
14 revised by the commission.

15 (5) To make recommendations to improve
16 accountability courts.

17 (6) To establish a viable and fiscally responsible
18 plan and establish an accountability court in each judicial
19 circuit in the state.

20 (7) To determine appropriate fees, if any, to be
21 paid by offenders for participation in programs of
22 accountability courts and to establish procedures to determine
23 indigency.

24 (8) To establish a plan to increase participation in
25 each accountability court while maintaining the court's
26 voluntary nature.

1 (9) To make recommendations to the supreme court
2 that are necessary and incident to compliance with established
3 rules.

4 (10) To identify existing resources for assessment
5 and treatment and establish a plan for the allocation of those
6 resources; explore grants and funds necessary to support
7 accountability courts; promote and provide annual training and
8 technical assistance for all accountability court judges and
9 personnel, as well as education for the public about the
10 effectiveness of accountability court; and establish
11 evaluation criteria and procedures, including tracking the
12 status of participants after completion of accountability
13 court requirements.

14 (11) To develop and maintain an accountability court
15 database.

16 (12) To monitor the accountability courts in each
17 judicial circuit according to the standards established by the
18 commission.

19 (c) The accountability court in each judicial
20 circuit shall replace all state accountability courts,
21 pretrial diversion programs, drug courts, mental health
22 courts, veterans courts, or any other diversion courts
23 established by a district attorney's office or judicial
24 circuit.

25 §12-23B-4.

26 (a) The commission shall consist of the following
27 voting members:

1 (1) A judge of the court of criminal appeals,
2 appointed by the Chief Justice of the Supreme Court, who shall
3 serve as the chair.

4 (2) Two circuit judges, active or retired, appointed
5 by the President of the Alabama Association of Circuit Court
6 Judges. One circuit judge shall be from a judicial circuit
7 that primarily includes a large urban area and one circuit
8 judge shall be from a judicial circuit that primarily includes
9 rural areas.

10 (3) Two district judges, active or retired,
11 appointed by the President of the Alabama Association of
12 District Courts Judges. One district judge shall be from a
13 judicial circuit that primarily includes a large urban area
14 and one district judge shall be from a judicial circuit that
15 primarily includes rural areas.

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

17 (5) Two district attorneys appointed by the
18 President of the Alabama District Attorneys' Association. One
19 district attorney shall be from a judicial circuit that
20 primarily includes a large urban area and one district
21 attorney shall be from a judicial circuit that primarily
22 includes rural areas.

23 (6) Three members of the Alabama State Bar,
24 appointed by the President of the Alabama State Bar.

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

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

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

5 (10) One attorney licensed to practice in this
6 state, appointed by the Chair of the Senate Judiciary
7 Committee.

8 (11) One attorney licensed to practice in this
9 state, appointed by the President of the Alabama Criminal
10 Defense Lawyers Association.

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

16 (2) A member appointed to fill a vacancy on the
17 commission which occurs before the expiration of the term for
18 which his or her predecessor was appointed shall only serve
19 the remainder of the term.

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

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

1 (5) Members of the commission may participate in a
2 meeting by means of conference telephone, video conference, or
3 similar communications equipment, if all persons participating
4 in the meeting may hear each other at the same time.
5 Participation by these means shall constitute presence at the
6 meeting for all purposes, including the establishment of a
7 quorum.

8 (6) The commission may appoint an executive director
9 and other staff to implement and administer the duties and
10 responsibilities of the commission.

11 (c) The membership of the commission shall be
12 inclusive and reflect the racial, gender, geographic,
13 urban/rural, or economic diversity of the state.

14 §12-23B-5.

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-6.

4 (a) Each accountability court 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 accountability court in the month.

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

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

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

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

1 (b) Each accountability court 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) Any additional information as required by the
15 commission.

16 (c) Each accountability court shall submit the
17 information in subsections (a) and (b) to the commission by
18 the 15th of each month.

19 (d) The commission shall report the information
20 collected pursuant to subsection (a) annually to the House
21 Judiciary Committee, the Senate Judiciary Committee, and the
22 Administrative Director of Courts.

23 §12-23B-7.

24 (a) All monies received from any source for the use
25 of accountability courts shall be deposited in a fund to be
26 used for only accountability court purposes. Any funds
27 remaining in this fund at the end of the fiscal year shall not

1 revert to the State General Fund, but shall be retained in the
2 accountability court fund for the funding of further
3 activities by accountability courts.

4 (b) An accountability court program may apply for
5 and receive any of the following:

6 (1) Gifts, bequests, and donations from private
7 sources.

8 (2) Grant and contract money from governmental
9 sources.

10 (3) Funding or appropriations from city, county, or
11 state agencies or departments.

12 (4) Other forms of financial assistance approved by
13 the commission to supplement the budget of the accountability
14 court program.

15 (c) Nothing in this chapter shall require a county
16 commission or any of its departments or agencies to
17 participate in, or provide funding for, the accountability
18 court program.

19 §12-23B-8.

20 (a) By January 1, 2021, the commission shall adopt a
21 plan for the transition of offenders participating in any
22 state intervention court, pretrial diversion programs, drug
23 courts, mental health courts, veterans courts, or any other
24 diversion courts.

25 (b) By January 1, 2022, accountability courts shall
26 be fully operational pursuant to the requirements of the act
27 adding this chapter.

1 §12-23B-9.

2 A holder of a commercial driver's license, a
3 commercial driver learner's permit, or any other operator of a
4 commercial motor vehicle that is subject to Part 383 of the
5 Federal Motor Carrier Safety Regulations shall be ineligible
6 to participate in an accountability court.

7 §12-23B-10.

8 Absent negligence, wantonness, recklessness, or
9 deliberate misconduct, any individual who, in good faith,
10 provides services pursuant to this chapter, shall not be
11 liable in any civil action. The grant of immunity provided for
12 in this section shall extend to all employees, administrative
13 personnel, accountability court members and volunteers, and to
14 the commission.

15 §12-23B-11.

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

19 Section 2. The following sections of the Code of
20 Alabama 1975, are repealed:

21 (1) Division 5 of Article 6 of Chapter 17 of Title
22 12, commencing with Section 12-17-226, Code of Alabama 1975,
23 relating to pretrial diversion.

24 (2) Chapter 23A of Title 12, Code of Alabama 1975,
25 relating to drug courts.

26 Section 3. Section 2 of this act shall become
27 effective January 1, 2022. The remaining sections of this act

1 shall become effective immediately following the act's passage
2 and approval by the Governor, or its otherwise becoming law.