

HB39 INTRODUCED



1 114J3L-1
2 By Representative Hill
3 RFD: Judiciary
4 First Read: 07-Mar-23
5 PFD: 23-Feb-23



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SYNOPSIS:

Under existing law, a judge may split the sentence of an offender who has received a sentence of 20 years or less.

This bill would allow for a judge to split the sentence of an offender who receives a sentence of 30 years or less.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to criminal procedure; to amend Section 15-18-8, Code of Alabama 1975, to further provide for the sentencing of offenders; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-18-8, Code of Alabama 1975, is amended to read as follows:

"§15-18-8



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29 (a) When a defendant is convicted of ~~an~~ a Class A or
30 Class B felony offense, other than a sex offense involving a
31 child as defined in Section 15-20A-4, ~~that constitutes a Class~~
32 ~~A or Class B felony offense,~~ and receives a sentence of ~~20~~ 30
33 years or less, ~~in any court having jurisdiction to try~~
34 ~~offenses against the State of Alabama and~~ the judge presiding
35 over the case ~~is satisfied that the ends of justice and the~~
36 ~~best interests of the public as well as the defendant will be~~
37 ~~served thereby, he or she~~ may order:

38 (1) ~~That a~~ In cases where the defendant is convicted of
39 a Class A or Class B felony ~~be~~ and the imposed sentence is not
40 more than 15 years, that the convicted defendant be confined
41 in a prison, jail-type institution, or treatment institution
42 for a period not exceeding three years ~~in cases where the~~
43 ~~imposed sentence is not more than 15 years, and,~~ that the
44 execution of the remainder of the sentence be suspended
45 notwithstanding any provision of the law to the contrary, and
46 that the defendant be placed on probation for ~~such a~~ period
47 ~~and upon such terms as~~ determined by the court ~~deems best.~~

48 (2) ~~That a~~ In cases where the defendant is convicted of
49 a Class A, Class B, or Class C felony ~~with an~~ and the imposed
50 sentence ~~of is~~ greater than 15 years but not more than 20
51 years, that the convicted defendant be confined in a prison,
52 jail-type institution, or treatment institution for a period
53 of three to five years for Class A or Class B felony
54 convictions and for a period of three years for Class C felony
55 convictions, ~~during which the offender shall not be eligible~~
56 ~~for parole or release because of deduction from sentence for~~



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57 ~~good behavior under the Alabama Correctional Incentive Time~~
58 ~~Act, and~~ that the execution of the remainder of the sentence
59 be suspended notwithstanding any provision of the law to the
60 contrary, and that the defendant be placed on probation for
61 ~~the a~~ period ~~upon the terms~~ as determined by the court ~~deems~~
62 ~~best.~~

63 (3) In cases where the defendant is convicted of a
64 Class A or Class B felony and the imposed sentence is not more
65 than 30 years, that the convicted defendant be confined in a
66 prison, jail-type institution, or treatment institution for a
67 period not exceeding 15 years, that the execution of the
68 remainder of the sentence be suspended notwithstanding any
69 provision of the law to the contrary, and that the defendant
70 be placed on probation for a period as determined by the
71 court.

72 ~~This subsection shall not be construed to impose the~~
73 ~~responsibility for offenders sentenced to a Department of~~
74 ~~Corrections facility upon a local confinement facility not~~
75 ~~operated by the Department of Corrections.~~

76 (b) ~~Unless~~ Other than a defendant who is sentenced to
77 probation, drug court, or a pretrial diversion program, when a
78 defendant is convicted of ~~an offense that constitutes~~ a Class
79 C or Class D felony ~~offense~~ and receives a sentence of not
80 more than 15 years, the judge presiding over the case shall
81 order ~~that~~:

82 (1) In cases where the defendant is convicted of a
83 Class C felony, that the convicted defendant be confined in a
84 prison, jail-type institution, treatment institution, or



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85 community corrections program for a ~~Class C felony offense or~~
86 period not exceeding two years, that the execution of the
87 remainder of the sentence be suspended notwithstanding any
88 provision of the law to the contrary, and that the defendant
89 be placed on probation for a period not exceeding three years.

90 (2) In cases where a defendant is convicted of a Class
91 D felony, that the convicted defendant be confined in a
92 consenting community corrections program ~~for a Class D felony~~
93 ~~offense~~, except as provided in subsection (e), for a period
94 not exceeding two years, ~~in cases where the imposed sentence~~
95 ~~is not more than 15 years, and~~ that the execution of the
96 remainder of the sentence be suspended notwithstanding any
97 provision of the law to the contrary, and that the defendant
98 be placed on probation for a period not exceeding three years
99 ~~and upon such terms as the court deems best~~. In ~~all~~ cases when
100 it is shown that a defendant has been previously convicted of
101 any three or more felonies or has been previously convicted of
102 any two or more felonies that are Class A or Class B felonies,
103 and after such convictions has committed a Class D felony,
104 upon conviction, ~~he or she must~~ that the convicted defendant
105 shall be punished for a Class C felony. ~~This subsection shall~~
106 ~~not be construed to impose the responsibility for offenders~~
107 ~~sentenced to a Department of Corrections facility upon a local~~
108 ~~confinement facility not operated by the Department of~~
109 ~~Corrections.~~

110 (c) Nothing in this section shall be construed as
111 superseding the sentencing requirements set forth and adopted
112 by the Legislature as prescribed by the Alabama Sentencing



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113 Commission's Sentencing Standards.

114 (d) In counties or jurisdictions where no community
115 corrections program exists or resources from a community
116 investment are not complete, a county or jurisdiction may
117 enter into a compact or contract with another county or other
118 counties to create a multi-jurisdiction community corrections
119 facility that meets the needs and resources of each county or
120 jurisdiction or enter into a compact or contract with a county
121 or jurisdiction that has a community corrections program to
122 provide services, ~~as provided in and~~ pursuant to Article 9 of
123 this chapter.

124 (e) If no community corrections program exists within a
125 county or jurisdiction and no alternative program options are
126 available under ~~subsection (e) of~~ Section 15-18-172 (e), a
127 defendant convicted of ~~an~~ a Class D felony offense ~~that~~
128 ~~constitutes a Class D felony~~ may be sentenced to
129 high-intensity probation under the supervision of the Board of
130 Pardons and Paroles in lieu of community corrections.

131 (f) Probation may not be granted for a Class A or Class
132 B felony sex offense involving a child as defined in Section
133 15-20A-4, ~~which constitutes a Class A or B felony~~. Otherwise,
134 probation may be granted whether the offense is punishable by
135 fine or imprisonment or both. If an offense is punishable by
136 both fine and imprisonment, the court may impose a fine and
137 place the defendant on probation as to imprisonment. Probation
138 may be limited to one or more counts or indictments, but, in
139 the absence of express limitation, shall extend to the entire
140 sentence and judgment.



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141 (g) Regardless of whether the defendant has begun
142 serving the minimum period of confinement ordered under the
143 provisions of ~~subsections~~subsection (a) ~~or~~, (b), or (1), if
144 the imposed sentence is not more than ~~20~~30 years, the court
145 shall retain jurisdiction and authority throughout that period
146 to suspend that portion of the minimum sentence that remains
147 and place the defendant on probation, notwithstanding any
148 provision of the law to the contrary and the court may revoke
149 or modify any condition of probation or may change the period
150 of probation.

151 (h) While incarcerated or on probation and among the
152 conditions thereof, the defendant may be required to do any of
153 the following:

154 (1) ~~To pay~~Pay a fine in one or several sums~~;~~.

155 (2) ~~To make~~Make restitution or reparation to aggrieved
156 parties for actual damages or loss caused by the offense for
157 which conviction was had~~;~~ and.

158 (3) ~~To provide~~Provide for the support of any persons
159 for whose support ~~he or she~~ the defendant is legally
160 responsible.

161 (i) Except as otherwise provided pursuant to Section
162 15-18-64, the defendant's liability for any fine or other
163 punishment imposed as to which probation is granted shall be
164 fully discharged by the fulfillment of the terms and
165 conditions of probation.

166 (j) During any term of probation, the defendant shall
167 report to the probation authorities at ~~such a~~ a time and place
168 as directed by the judge imposing the sentence.



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169 (k) No defendant serving a minimum period of
170 confinement ordered under subsection (a) ~~or~~, (b) , or (1)
171 shall be entitled to parole or to deductions from his or her
172 sentence under the Alabama Correctional Incentive Time Act,
173 during the minimum period of confinement so ordered; provided,
174 however, that this subsection shall not be construed to
175 prohibit application of the Alabama Correctional Incentive
176 Time Act to any period of confinement which may be required
177 after the defendant has served ~~such~~the minimum period.

178 (l) When a defendant is convicted of a misdemeanor or
179 convicted of a municipal ordinance, the judge presiding over
180 the case may impose a sentence in accordance with Section
181 13A-5-7. The court may order a portion of the sentence to be
182 suspended and the defendant be placed on probation for such a
183 period not exceeding two years ~~and upon such terms as the~~
184 ~~court deems best.~~

185 (m) Nothing in this section shall be construed to
186 impose the responsibility for offenders sentenced to a
187 Department of Corrections facility upon a local confinement
188 facility not operated by the Department of Corrections."

189 Section 2. This act shall become effective on the first
190 day of the third month following its passage and approval by
191 the Governor, or its otherwise becoming law.