

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

SYNOPSIS: Under existing law, a judge may not split a sentence for misdemeanor convictions.

This bill would provide that a judge may split a sentence for misdemeanor convictions.

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Section 15-18-8, as corrected by Act 2018-406, the Codification Act, Code of Alabama 1975; to provide that a judge may split a sentence for misdemeanor convictions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-18-8, as corrected by Act 2018-406, the Codification Act, Code of Alabama 1975, is amended to read as follows:

"§15-18-8.

"(a) When a defendant is convicted of an offense, other than a sex offense involving a child as defined in

1 Section 15-20A-4(26), that constitutes a Class A or Class B
2 felony offense, and receives a sentence of 20 years or less in
3 any court having jurisdiction to try offenses against the
4 State of Alabama and the judge presiding over the case is
5 satisfied that the ends of justice and the best interests of
6 the public as well as the defendant will be served thereby, he
7 or she may order:

8 "(1) That a defendant convicted of a Class A or
9 Class B felony be confined in a prison, jail-type institution,
10 or treatment institution for a period not exceeding three
11 years in cases where the imposed sentence is not more than 15
12 years, and that the execution of the remainder of the sentence
13 be suspended notwithstanding any provision of the law to the
14 contrary and that the defendant be placed on probation for
15 such period and upon such terms as the court deems best.

16 "(2) That a defendant convicted of a Class A, Class
17 B, or Class C felony with an imposed sentence of greater than
18 15 years but not more than 20 years be confined in a prison,
19 jail-type institution, or treatment institution for a period
20 of three to five years for Class A or Class B felony
21 convictions and for a period of three years for Class C felony
22 convictions, during which the offender shall not be eligible
23 for parole or release because of deduction from sentence for
24 good behavior under the Alabama Correctional Incentive Time
25 Act, and that the remainder of the sentence be suspended
26 notwithstanding any provision of the law to the contrary and

1 that the defendant be placed on probation for the period upon
2 the terms as the court deems best.

3 "This subsection shall not be construed to impose
4 the responsibility for offenders sentenced to a Department of
5 Corrections facility upon a local confinement facility not
6 operated by the Department of Corrections.

7 "(b) Unless a defendant is sentenced to probation,
8 drug court, or a pretrial diversion program, when a defendant
9 is convicted of an offense that constitutes a Class C or D
10 felony offense and receives a sentence of not more than 15
11 years, the judge presiding over the case shall order that the
12 convicted defendant be confined in a prison, jail-type
13 institution, treatment institution, or community corrections
14 program for a Class C felony offense or in a consenting
15 community corrections program for a Class D felony offense,
16 except as provided in subsection (e), for a period not
17 exceeding two years in cases where the imposed sentence is not
18 more than 15 years, and that the execution of the remainder of
19 the sentence be suspended notwithstanding any provision of the
20 law to the contrary and that the defendant be placed on
21 probation for a period not exceeding three years and upon such
22 terms as the court deems best. In all cases when it is shown
23 that a defendant has been previously convicted of any three or
24 more felonies or has been previously convicted of any two or
25 more felonies that are Class A or Class B felonies, and after
26 such convictions has committed a Class D felony, upon
27 conviction, he or she must be punished for a Class C felony.

1 This subsection shall not be construed to impose the
2 responsibility for offenders sentenced to a Department of
3 Corrections facility upon a local confinement facility not
4 operated by the Department of Corrections.

5 "(c) Nothing in this section shall be construed as
6 superseding the sentencing requirements set forth and adopted
7 by the Legislature as prescribed by the Alabama Sentencing
8 Commission's Sentencing Standards.

9 "(d) In counties or jurisdictions where no community
10 corrections program exists or resources from a community
11 investment are not complete, a county or jurisdiction may
12 enter into a compact or contract with another county or other
13 counties to create a multi-jurisdiction community corrections
14 facility that meets the needs and resources of each county or
15 jurisdiction or enter into a compact or contract with a county
16 or jurisdiction that has a community corrections program to
17 provide services, as provided in and pursuant to Article 9 of
18 this chapter.

19 "(e) If no community corrections program exists
20 within a county or jurisdiction and no alternative program
21 options are available under subsection (e) of Section
22 15-18-172, a defendant convicted of an offense that
23 constitutes a Class D felony may be sentenced to
24 high-intensity probation under the supervision of the Board of
25 Pardons and Paroles in lieu of community corrections.

26 "(f) Probation may not be granted for a sex offense
27 involving a child as defined in Section 15-20A-4(26), which

1 constitutes a Class A or B felony. Otherwise, probation may be
2 granted whether the offense is punishable by fine or
3 imprisonment or both. If an offense is punishable by both fine
4 and imprisonment, the court may impose a fine and place the
5 defendant on probation as to imprisonment. Probation may be
6 limited to one or more counts or indictments, but, in the
7 absence of express limitation, shall extend to the entire
8 sentence and judgment.

9 "(g) Regardless of whether the defendant has begun
10 serving the minimum period of confinement ordered under the
11 provisions of subsections (a) or (b), if the imposed sentence
12 is not more than 20 years, the court shall retain jurisdiction
13 and authority throughout that period to suspend that portion
14 of the minimum sentence that remains and place the defendant
15 on probation, notwithstanding any provision of the law to the
16 contrary and the court may revoke or modify any condition of
17 probation or may change the period of probation.

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

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

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

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

26 "(i) Except as otherwise provided pursuant to
27 Section 15-18-64, the defendant's liability for any fine or

1 other punishment imposed as to which probation is granted
2 shall be fully discharged by the fulfillment of the terms and
3 conditions of probation.

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

7 "(k) No defendant serving a minimum period of
8 confinement ordered under the provisions of subsections (a) or
9 (b) shall be entitled to parole or to deductions from his or
10 her sentence under the Alabama Correctional Incentive Time
11 Act, during the minimum period of confinement so ordered;
12 provided, however, that this subsection shall not be construed
13 to prohibit application of the Alabama Correctional Incentive
14 Time Act to any period of confinement which may be required
15 after the defendant has served such minimum period.

16 "(l) When a defendant is convicted of a misdemeanor,
17 the judge presiding over the case may impose a sentence in
18 accordance with Section 13A-5-7. The court may order a portion
19 of the sentence to be suspended and the defendant be placed on
20 probation for such a period not exceeding two years and upon
21 such terms as the court deems best."

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