

1 HB648  
2 152401-3  
3 By Representative Jones  
4 RFD: Judiciary  
5 First Read: 18-APR-13

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ENROLLED, An Act,

To provide for the establishment of a pretrial diversion program; to allow any governing body of a municipality to establish a discretionary pretrial diversion program; and to set basic operating standards for the program.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The governing body of any municipality may establish or abolish a pretrial diversion program for that municipality and may provide for the assessment and collection of fees for the administration of such program.

(b) Any pretrial diversion program established pursuant to this act shall be under the supervision of the presiding judge for the municipality pursuant to any rules and regulations established by the municipal governing body. The presiding judge, with approval of the municipal governing body and the municipal prosecutor, may contract with any agency, person, or business entity for any service necessary to accomplish the purpose of this act.

(c) The presiding municipal judge, acting in consultation with the municipal prosecutor, shall have the authority to establish all rules and terms necessary for the implementation of a pretrial diversion program.

1           Section 2. (a) A person charged with a criminal  
2 offense under the jurisdiction of the municipal court in a  
3 municipality that has established a pretrial diversion program  
4 may apply to the court for admittance to the program.

5           (b) Upon receipt of the application and  
6 recommendation of the municipal prosecutor, the judge shall  
7 determine whether to grant the individual admittance to the  
8 program.

9           (c) Upon admittance to the program, the individual  
10 shall be required to enter a plea of guilty at which time the  
11 case shall be placed in an administrative docket until such  
12 time as the offender has completed all requirements of the  
13 pretrial diversion program. Imposition of any sentence shall  
14 be deferred until such time as the offender completes the  
15 pretrial diversion program or is terminated from the program.

16           (d) In the event the offender does not  
17 satisfactorily complete the program and all terms thereof, the  
18 court shall ~~dismiss the case pursuant to the rules established~~  
19 ~~by the municipality~~ impose an appropriate sentence in the same  
20 manner as with any guilty plea.

21           (e) Upon successful completion of the program and  
22 all terms thereof, the court shall dismiss the case pursuant  
23 to the rules established by the municipality.

24           (f) A holder of a commercial driver's license, an  
25 operator of a commercial motor vehicle, or a commercial driver

1 learner permit holder who is charged with a violation of a  
2 traffic law in this state shall not be eligible for a pretrial  
3 diversion program pursuant to this act.

4 ~~(f)~~ (g) Absent wantonness, gross negligence, or  
5 intentional misconduct, the municipality, or its officers or  
6 employees, shall have no liability, criminal or civil, for the  
7 conduct of any offender while participating in a pretrial  
8 diversion program established under this act or of any service  
9 provider or its agents that are contracted to or who have  
10 agreed to provide services to the pretrial diversion program.

11 ~~(g)~~ (h) The municipality, or its officers or  
12 employees, shall have no liability, criminal or civil, for any  
13 injury or harm to the offender while the offender is a  
14 participant in any pretrial diversion program administered  
15 pursuant to this act. The municipal prosecutor may require  
16 written agreed upon waivers of liability as a prerequisite for  
17 admittance into the pretrial diversion program.

18 Section 3. If, on the effective date of this act, a  
19 municipal pretrial diversion program, or an equivalent, has  
20 been established by local law, the municipal governing body of  
21 the municipality governed by such local law may choose to come  
22 under the provisions of this act or continue under the  
23 provisions of the local law.

1                   Section 4. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 25-APR-13, as amended.

Jeff Woodard  
Clerk

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Senate    20-MAY-13    Passed