

HOUSE BILL 450

By Lamberth

AN ACT to amend Tennessee Code Annotated, Section 40-35-303, relative to the supervision of defendants placed on probation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-35-303, is amended by deleting subsection (p) and substituting instead the following:

(p)

(1) The department charged by law with the supervision of probationers shall contract with approved private probation providers to furnish probation supervision and services to defendants granted probation pursuant to this section and released to the department if the defendant's conviction offense was for a Class C, Class D, or Class E felony.

(2) The following are requirements for any private probation provider who wants to contract with the department for the supervision of felons described in subdivision (p)(1):

(A) Meet all qualifications established by the private probation council for entities providing misdemeanor probation services;

(B) Keep all records in an electronic format that is accessible upon demand by an approved state agency;

(C) Maintain professional liability insurance of not less than one million dollars (\$1,000,000) in addition to a general liability policy; and

(D)

(i) Have been a private provider of misdemeanor probation services for courts exercising criminal jurisdiction in this state for at least ten (10) years; or

(ii) Have been a private provider of misdemeanor probation services for courts exercising criminal jurisdiction in this state for at least two (2) years and a state probation officer for at least ten (10) years.

(3)

(A) A private probation provider who meets the requirements of subdivision (p)(2) and who wants to contract with the department to provide probation services to felons described in subdivision (p)(1), does so by registering with the department and the private probation council.

(B) At the time of registration, the private provider shall submit to the department and council:

(i) All documentation necessary to demonstrate that the provider meets the requirements of subdivision (p)(2); and

(ii) A specific plan demonstrating how the use of the registering provider to supervise and provide services to felons described in subdivision (p)(1), who have been granted probation will further the overall goal of reducing the recidivism rate of probationers. The plan shall also contain statistics for misdemeanor probation services provided by the private provider for the previous ten (10) years. At a minimum, the statistics contained in the plan shall contain the same information required to be maintained by subdivision (p)(5).

(C) If the documentation and recidivism rate reduction plan presented by the private provider demonstrates that it meets the

requirements of subdivision (p)(2), the department and council shall approve the private provider and place such provider on a list of companies eligible to contract with the department pursuant to this subsection (p).

(4) If the sentencing judge places a defendant on probation and determines that a private probation provider would best serve the rehabilitation needs of the defendant without compromising the safety of the public, the judge shall select a private probation provider from the list of approved providers. Upon selecting the provider, the provider and the department shall enter into a supervision contract authorized by this section for the probationer. No probationer meeting the criteria set out in subdivision (p)(1) shall be placed under the supervision of or supervised by a private provider that has not contracted with the department and is not on the list of companies approved by the department and the council.

(5) Any private provider who contracts with the department pursuant to this subsection (p) shall maintain statistics on the probationers supervised pursuant to this subsection (p) and shall submit a quarterly report of such statistics to the person or agency designated by the department. The statistics shall include, but not be limited to:

(A) The number of felony probationers described in subdivision (p)(1) the private provider has contracted to supervise;

(B) The style of the case which resulted in the defendant being placed on probation;

(C) The number of felons described in subdivision (p)(1), whose probation was revoked prior to the end of supervision; and

(D) The recidivism rate of the felons on probation under supervision by the private provider under a contract authorized by this subsection (p).

(6)

(A) A private provider contracting to supervise felons described in subdivision (p)(1) may charge a supervision fee not to exceed sixty dollars (\$60.00) per month. However, if a probationer cannot afford all or part of the supervision fee, the probationer may go before the court placing the defendant on probation and petition that it be waived or reduced. For good cause shown, the court may waive or reduce the supervision fee in appropriate cases.

(B)

(i) If the probationer fails or refuses to pay the supervision fee to the private probation provider for three (3) consecutive months or for three (3) or more months during a six-month period, the provider may go before the court placing the defendant on probation and petition for payment of supervision fees. Unless the court finds the probationer cannot afford the fees, the court shall order the probationer to perform four (4) hours of community service work for each month in which the supervision fee was not paid.

(ii) If the probationer has been ordered to perform community service work pursuant to subdivision (p)(6)(B)(i), and does not perform the work or pay the supervision fee, the court may infer that the probationer's failure to pay the supervision fee is

willful. If the court finds the probationer's conduct is willful, that shall be grounds to revoke the probationer's probation.

(7) No employee of a private provider of probation services shall supervise a felon described in subdivision (p)(1) unless the employee has a bachelor's degree from an accredited college or university or at least two (2) years of related work experience.

(8) This subsection (p) shall not apply to offenders who are governed by the Interstate Compact for Supervision of Adult Offenders, codified in § 40-28-401. The supervision of those offenders shall be controlled by the compact.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it, and shall apply to all judges sentencing defendants to probation supervision on or after that date.