

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

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

"(1) That a defendant convicted of a Class A or Class B felony be confined in a prison, jail-type institution, or treatment institution for a period not exceeding three years in cases where the imposed sentence is not more than 15 years, and that the execution of the remainder of the sentence

1 be suspended notwithstanding any provision of the law to the
2 contrary and that the defendant be placed on probation for
3 such period and upon such terms as the court deems best.

4 "(2) That a defendant convicted of a Class A, Class
5 B, or Class C felony with an imposed sentence of greater than
6 15 years but not more than 20 years be confined in a prison,
7 jail-type institution, or treatment institution for a period
8 of three to five years for Class A or Class B felony
9 convictions and for a period of three years for Class C felony
10 convictions, during which the offender shall not be eligible
11 for parole or release because of deduction from sentence for
12 good behavior under the Alabama Correctional Incentive Time
13 Act, and that the remainder of the sentence be suspended
14 notwithstanding any provision of the law to the contrary and
15 that the defendant be placed on probation for the period upon
16 the terms as the court deems best.

17 "This subsection shall not be construed to impose
18 the responsibility for offenders sentenced to a Department of
19 Corrections facility upon a local confinement facility not
20 operated by the Department of Corrections.

21 "(b) Unless a defendant is sentenced to probation,
22 drug court, or a pretrial diversion program, when a defendant
23 is convicted of an offense that constitutes a Class C or D
24 felony offense and receives a sentence of not more than 15
25 years, the judge presiding over the case shall order that the

1 convicted defendant be confined in a prison, jail-type
2 institution, treatment institution, or community corrections
3 program for a Class C felony offense or in a consenting
4 community corrections program for a Class D felony offense,
5 except as provided in subsection (e), for a period not
6 exceeding two years in cases where the imposed sentence is not
7 more than 15 years, and that the execution of the remainder of
8 the sentence be suspended notwithstanding any provision of the
9 law to the contrary and that the defendant be placed on
10 probation for a period not exceeding three years and upon such
11 terms as the court deems best. In all cases when it is shown
12 that a defendant has been previously convicted of any three or
13 more felonies or has been previously convicted of any two or
14 more felonies that are Class A or Class B felonies, and after
15 such convictions has committed a Class D felony, upon
16 conviction, he or she must be punished for a Class C felony.
17 This subsection shall not be construed to impose the
18 responsibility for offenders sentenced to a Department of
19 Corrections facility upon a local confinement facility not
20 operated by the Department of Corrections.

21 "(c) Nothing in this section shall be construed as
22 superseding the sentencing requirements set forth and adopted
23 by the Legislature as prescribed by the Alabama Sentencing
24 Commission's Sentencing Standards.

1 "(d) In counties or jurisdictions where no community
2 corrections program exists or resources from a community
3 investment are not complete, a county or jurisdiction may
4 enter into a compact or contract with another county or other
5 counties to create a multi-jurisdiction community corrections
6 facility that meets the needs and resources of each county or
7 jurisdiction or enter into a compact or contract with a county
8 or jurisdiction that has a community corrections program to
9 provide services, as provided in and pursuant to Article 9 of
10 this chapter.

11 "(e) If no community corrections program exists
12 within a county or jurisdiction and no alternative program
13 options are available under subsection (e) of Section
14 15-18-172, a defendant convicted of an offense that
15 constitutes a Class D felony may be sentenced to
16 high-intensity probation under the supervision of the Board of
17 Pardons and Paroles in lieu of community corrections.

18 "(f) Probation may not be granted for a sex offense
19 involving a child as defined in Section 15-20A-4(26), which
20 constitutes a Class A or B felony. Otherwise, probation may be
21 granted whether the offense is punishable by fine or
22 imprisonment or both. If an offense is punishable by both fine
23 and imprisonment, the court may impose a fine and place the
24 defendant on probation as to imprisonment. Probation may be
25 limited to one or more counts or indictments, but, in the

1 absence of express limitation, shall extend to the entire
 2 sentence and judgment.

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

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

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

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

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

20 "(i) Except as otherwise provided pursuant to
 21 Section 15-18-64, the defendant's liability for any fine or
 22 other punishment imposed as to which probation is granted
 23 shall be fully discharged by the fulfillment of the terms and
 24 conditions of probation.

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

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

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

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

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Speaker of the House of Representatives

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 15-MAY-19, as amended.

Jeff Woodard
Clerk

Senate

28-MAY-19

Passed