

1 HB114  
2 149291-3  
3 By Representative Hill  
4 RFD: Public Safety and Homeland Security  
5 First Read: 05-FEB-13  
6 PFD: 02/01/2013



1 local funds within the meaning of Amendment 621 of the  
2 Constitution of Alabama of 1901, now appearing as Section  
3 111.05 of the Official Recompilation of the Constitution of  
4 Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. For the purposes of this act, the  
7 following terms shall have the following meanings:

8 (1) BUSINESS ENTITY. A person or group of persons  
9 performing or engaging in any private activity, enterprise,  
10 profession, or occupation for gain, benefit, advantage, or  
11 livelihood, whether for profit or not for profit.

12 (2) COUNCIL. The County and Municipal Probation  
13 Advisory Council created under Section 3.

14 (3) PRIVATE PROBATION OFFICER. A probation officer  
15 employed by a business entity that provides probation  
16 services.

17 Section 2. (a) (1) The presiding judge of any circuit  
18 court shall appoint a district judge who, with the consent of  
19 the district attorney, may enter into a written contract with  
20 a business entity to provide probation supervision, programs,  
21 classes, and collection services for all moneys to be paid by  
22 a defendant according to the terms of the sentence imposed,  
23 for supervision of child support orders where the payer has  
24 been adjudicated in arrears, and other probation services for  
25 persons convicted or adjudicated in the district courts and  
26 placed on probation.

1           (2) The probation services provided by the business  
2 entity shall be paid for by monthly supervision fees collected  
3 from probationers.

4           (3) A business entity providing probation services  
5 may not supervise a defendant for a felony offense.

6           (4) The final contract, approved by the district  
7 attorney, between the district judge and the business entity  
8 providing probation services shall be made available to the  
9 public for inspection upon request.

10          (5) A contract for probation services as provided  
11 for in this section may be terminated by the judge executing  
12 the contract in accordance with any express termination  
13 provisions included in the contract.

14          (b) (1) The presiding judge of the municipal court of  
15 any municipality, with the consent of the mayor, may enter  
16 into written contracts with business entities to provide  
17 probation supervision, counseling, collection services for all  
18 moneys to be paid by a defendant according to the terms of the  
19 sentence imposed, and other probation services for persons  
20 convicted or adjudicated in the municipal court and placed on  
21 probation.

22          (2) The probation services provided by the business  
23 entity shall be paid for by monthly supervision fees collected  
24 from probationers.

25          (3) The final contract between the municipal court  
26 judge and the business entity providing probation services

1 shall be made available to the public for inspection upon  
2 request.

3 (4) A contract for probation services as provided  
4 for in this section may be terminated by the municipal court  
5 judge executing the contract in accordance with any express  
6 termination provisions included in the contract.

7 Section 3. (a) There is created the County and  
8 Municipal Probation Advisory Council, to be composed of all of  
9 the following members:

10 (1) A district attorney appointed by the Alabama  
11 District Attorneys' Association.

12 (2) A district court judge designated by the  
13 president of the District Judges' Association.

14 (3) A municipal court judge designated by the  
15 president of the Municipal Judges Association of Alabama.

16 (4) A sheriff appointed by the Governor.

17 (5) A municipal magistrate designated by the  
18 Association of Municipal Court Clerks and Magistrates.

19 (6) A private probation officer or individual with  
20 expertise in private probation services by virtue of his or  
21 her training or employment appointed by the Governor.

22 (7) A mayor or member of a municipal governing  
23 authority appointed by the Governor.

24 (8) A county commissioner appointed by the Governor.

25 (b) All appointing authorities shall coordinate  
26 their appointments so that diversity of gender, race, and  
27 geographical areas is reflective of the makeup of this state.

1 Members of the council appointed by the Governor shall be  
2 appointed for terms of office of four years. With the  
3 exception of the county commissioner, the sheriff, and the  
4 mayor or member of a municipal governing authority, each  
5 designee or representative shall be employed in his or her  
6 representative capacity in a judicial circuit operating under  
7 a contract with a business entity to provide probation  
8 services. No person may serve beyond the time he or she holds  
9 the office or employment by reason of which he or she was  
10 initially eligible for appointment. In the event of death,  
11 resignation, disqualification, or removal for any reason of  
12 any member of the council, the vacancy shall be filled in the  
13 same manner as the original appointment and any successor  
14 shall serve for the unexpired term. The council shall adopt  
15 rules regarding contracts or agreements for probation services  
16 and the conduct of business by business entities providing  
17 probation services.

18 (c) The council shall do all of the following:

19 (1) Annually elect a chair and a vice chair from  
20 among its membership. The offices of chair and vice chair  
21 shall be filled in such a manner that they are not held in  
22 succeeding years by representatives of the same component,  
23 such as law enforcement, courts, or corrections, of the  
24 criminal justice system.

25 (2) Meet at such times and places as it shall  
26 determine necessary or convenient to perform its duties. The

1 council shall also meet on the call of the chair or at the  
2 written request of three of its members.

3 (3) Maintain minutes of its meetings and such other  
4 records as it deems necessary.

5 (4) Adopt rules for the transaction of its business  
6 and appoint committees necessary to carry out its business and  
7 duties.

8 (d) Members of the council shall serve without  
9 compensation but shall receive the same expense allowance per  
10 day as that received by a member of the Legislature for each  
11 day the member of the council is in attendance at a meeting of  
12 the council. Payment of expense and travel allowance shall be  
13 subject to availability of funds.

14 (e) (1) The funds necessary to support the activities  
15 of the council shall be derived from fees remitted to the  
16 council under subdivision (2) and funds otherwise available to  
17 the council. The council is authorized to accept and use  
18 grants of funds for the purpose of carrying out this act.

19 (2) A business entity providing private probation  
20 services under this act shall remit each calendar month fifty  
21 cents (\$.50) for each offender under its supervision where the  
22 offender has not been deemed indigent by the court, placed in  
23 jail on any charge, committed to a medical facility, or is  
24 subject to a warrant for the case that is under supervision.  
25 Except as otherwise provided in this act, the remittance of  
26 fifty cents (\$.50) shall be made for each offender who was  
27 under supervision for any period for any number of days during

1 a calendar month. The remittance shall be made to the council  
2 on a quarterly basis along with an accounting of offenders  
3 under supervision during the quarter for which the money is  
4 remitted. The council shall deposit these funds in the State  
5 Treasury, to be credited to the County and Municipal Probation  
6 Advisory Council Fund created in subsection (f).

7 ~~(3) A business entity providing private probation~~  
8 ~~services under this act shall remit each calendar month one~~  
9 ~~dollar (\$1) for each offender under its supervision in~~  
10 ~~district court where the offender has not been deemed indigent~~  
11 ~~by the court, placed in jail on any charge, committed to a~~  
12 ~~medical facility, or is subject to a warrant for the case that~~  
13 ~~is under supervision. Except as otherwise provided by this~~  
14 ~~act, the remittance of one dollar (\$1) shall be made for each~~  
15 ~~offender who was under supervision from a district court for~~  
16 ~~any period for any number of days during a calendar month. The~~  
17 ~~remittance shall be made to the Alabama Office of Prosecution~~  
18 ~~Services on a quarterly basis along with an accounting of~~  
19 ~~offenders under supervision during the quarter for which the~~  
20 ~~money is remitted.~~

21 ~~(4) A business entity providing probation services~~  
22 ~~under this act shall remit a set-up fee of one dollar (\$1) for~~  
23 ~~each offender when first placed under its supervision in~~  
24 ~~district court where the offender has not been deemed indigent~~  
25 ~~by the court, placed in jail on any charge, committed to a~~  
26 ~~medical facility, or is subject to a warrant for the case that~~  
27 ~~is under supervision. The remittance shall be made to the~~



1 ~~Alabama Office of Prosecution Services on a quarterly basis~~  
2 ~~along with an accounting of offenders under supervision during~~  
3 ~~the quarter for which the money is remitted.~~

4 (f) There is hereby established a special fund in  
5 the State Treasury to be known as the County and Municipal  
6 Probation Advisory Council Fund. The fund shall consist of all  
7 monies received pursuant to subdivision (2) of subsection (e)  
8 and shall be used, as determined by the council, exclusively  
9 for the purpose of funding and administering the duties and  
10 activities of the County and Municipal Probation Advisory  
11 Council. Interest earned from the investment of monies in the  
12 fund by the State Treasurer shall be deposited to the fund.  
13 The fund shall be administered by the administrator of the  
14 council pursuant to such authorization as may be given by the  
15 council. It shall be the duty of the administrator of the  
16 council to keep permanent records of all receipts and  
17 disbursements of the fund.

18 (g) The council shall have all of the following  
19 powers and duties:

20 (1) To adopt rules for the administration of the  
21 council, including rules of procedure for its internal  
22 management and control.

23 (2) To review the uniform professional standards for  
24 private probation officers and uniform contract standards for  
25 private probation contracts established in this act and submit  
26 a report with its recommendations to the Legislature.

1           (3) To adopt rules establishing training and  
2 education requirements for private probation officers.

3           (4) To adopt rules relative to compliance with this  
4 act and enforcement mechanisms that may include, but are not  
5 limited to, the imposition of sanctions and fines and the  
6 voiding of contracts or agreements.

7           (5) To adopt rules establishing registration for any  
8 business entity providing private probation services under  
9 this act.

10          (6) To make an annual summary report of probation  
11 services provided by business entities in this state. The  
12 report shall not contain information identifying individual  
13 business entities or related contracts.

14          (7) To adopt rules establishing procedures for  
15 criminal history information background checks of private  
16 probation officers and disqualifying offenses for eligibility  
17 to serve as a private probation officer.

18          (8) To increase the fee established in subdivision  
19 (2) of subsection (e) of Section 3 to no more than one dollar  
20 (\$1). Any fee increase is subject to Section 41-22-5, Code of  
21 Alabama 1975.

22          (9) To employ or contract for the services of an  
23 administrator and other personnel as may be needed and to  
24 arrange for the assistance, services, supplies, office space,  
25 and equipment as it may require for the performance of its  
26 duties. The number of employees, their compensation, and all

1 other expenses of the council shall be paid at the rates and  
2 amounts approved by the council.

3 Section 4. (a) (1) Any person employed as and using  
4 the title of a private probation officer shall meet all of the  
5 following uniform professional standards:

6 a. Be at least 21 years of age at the time of the  
7 appointment to the position.

8 b. Have no felony conviction or misdemeanor  
9 conviction involving violence.

10 c. Have completed a standard two-year college degree  
11 or have four years of law enforcement or equivalent  
12 experience. A person employed as a private probation officer  
13 and who has completed at least 12 months of experience as a  
14 private probation officer or probation officer in this state  
15 shall not be required to satisfy the college education  
16 requirement.

17 d. Complete an initial 40 hours of orientation upon  
18 employment and complete 20 hours of continuing education each  
19 year as approved by the council. A person who has successfully  
20 completed a probation or parole officer basic course of  
21 training certified by the Peace Officers' Standards and  
22 Training Commission or any private probation officer who has  
23 been continuously employed by a business entity to provide  
24 probation services for at least 12 months, shall not be  
25 required to complete the 40-hour orientation.

26 (2) A business entity providing private probation  
27 services shall conduct a criminal history background

1 information check of a person employed as a private probation  
2 officer or an applicant for a private probation officer  
3 position by submitting a request to the Department of Public  
4 Safety, ACJIC, a sheriff, or other criminal justice agency for  
5 a criminal history background information check accompanied by  
6 appropriate fees, two complete functional sets of  
7 fingerprints, properly executed by a criminal justice agency  
8 or an individual properly trained in fingerprinting  
9 techniques, and written consent from the applicant for release  
10 of criminal background information to the business entity.

11 (b) The following uniform contract standards shall  
12 apply to all private probation contracts executed under the  
13 authority of this act and shall be included as a term of any  
14 contract for private probation services:

15 (1) The extent of the services to be rendered by the  
16 business entity providing private probation supervision,  
17 including the monthly fee to be charged to probationers for  
18 supervision services and how the fees are to be disbursed.

19 (2) Any requirements for staff qualifications, to  
20 include those contained in this section, as well as any  
21 surpassing those contained in this section.

22 (3) Requirements for criminal history background  
23 information checks of staff in accordance with the rules  
24 adopted by the council.

25 (4) Policies and procedures for the training of  
26 staff that comply with rules adopted by the council.

1           (5) Bonding of staff and a requirement for business  
2 entities providing private probation services to obtain  
3 liability insurance coverage.

4           (6) Staffing levels and standards for offender  
5 supervision, including frequency and type of contacts with  
6 offenders.

7           (7) Procedures for handling the collection of all  
8 court-ordered fines, fees, and restitution or any  
9 court-ordered monies, to include a description of the method,  
10 priority, and schedule of disbursement of funds collected. All  
11 funds collected shall be disbursed pursuant to state law.

12           (8) Procedures for handling indigent offenders to  
13 ensure placement of indigent offenders irrespective of the  
14 ability to pay.

15           (9) Circumstances under which revocation of an  
16 offender's probation may be recommended by private probation  
17 officers.

18           (10) Reporting and recordkeeping requirements.

19           (11) Default and contract termination procedures.

20           (c) (1) Nothing in this section shall be construed to  
21 permit court referral officers to serve as a probation officer  
22 without first meeting all the requirements of a private  
23 probation officer.

24           (2) A person who serves as a court referral officer  
25 may not concurrently serve as a private probation officer.

26           (d) The council shall review the uniform  
27 professional standards and uniform contract and agreement

1 standards contained in subsections (a), (b), and (c) and shall  
2 submit a report of its findings to the Legislature. The  
3 council shall submit its initial report on or before January  
4 1, 2015, and shall submit a report every two years thereafter.  
5 Nothing contained in the report shall be considered to  
6 authorize or require a change in the standards without action  
7 by the Legislature. This report shall provide information that  
8 will allow the Legislature to review the effectiveness of the  
9 minimum professional standards and, if necessary, to revise  
10 these standards. This subsection shall not be interpreted to  
11 prevent the council from making recommendations to the  
12 Legislature prior to its required review and report.

13 Section 5. (a) A business entity contracting to  
14 provide private probation services shall provide to the judge  
15 with whom the contract or agreement was made, the council, and  
16 the district attorney, in the case of district court  
17 contracts, a detailed quarterly report summarizing all of the  
18 following:

19 (1) The number of offenders under supervision.

20 (2) The amount of fees, fines, statutory surcharges,  
21 and restitution collected, or other court-ordered monies.

22 (3) The number of offenders for whom supervision or  
23 rehabilitation has been terminated and the reason for the  
24 termination.

25 (4) The number of warrants issued during the  
26 quarter.

1 (b) All records of a business entity contracting to  
2 provide private probation services shall be open to inspection  
3 upon the request of the affected county, municipality, court,  
4 the Department of Examiners of Public Accounts, or the council  
5 or its designee.

6 (c) A business entity contracting to provide  
7 probation services shall provide access to defendant case  
8 histories, correspondence, court orders, and financial history  
9 via a searchable online database and server to the presiding  
10 judge, district judge, municipal court judge, the district  
11 attorney, or their designee. All information provided via the  
12 online server shall be posted no later than one business day  
13 after the date of the transaction.

14 Section 6. (a) A business entity contracting to  
15 provide private probation services or an employee of the  
16 business entity may not engage in any other employment,  
17 business, or activity which interferes or conflicts with the  
18 duties and responsibilities under contracts authorized in this  
19 act.

20 (b) A business entity contracting to provide private  
21 probation services or an employee of the business entity may  
22 not engage in personal or business dealings, including the  
23 lending of money or posting of sureties or bonds, with  
24 probationers under supervision. A private probation officer  
25 shall be subject to 14-11-31, Code of Alabama 1975.

26 (c) (1) A business entity contracting to provide  
27 private probation services or an employee of the business

1 entity may not own, operate, have any financial interest in,  
2 be an instructor at, or be employed by, a business entity  
3 providing drug or alcohol education services, or any surety or  
4 bail bonding business.

5 (2) A business entity contracting to provide private  
6 probation services or an employee of the business entity may  
7 not specify, directly or indirectly, a particular alcohol or  
8 substance abuse program which a probationer may or is required  
9 to attend. This subdivision shall not prohibit business  
10 entities or employees providing probation services from  
11 furnishing to any probationer, upon request, the names of  
12 certified alcohol and substance abuse programs. Any person  
13 violating this subdivision shall be guilty of a Class C  
14 misdemeanor.

15 Section 7. (a) All reports, files, records, and  
16 other papers relative to the supervision of probationers by a  
17 business entity are declared to be confidential and shall be  
18 available without the need for a subpoena to the pertinent  
19 county or municipality, the judge handling a particular case,  
20 the Department of Examiners of Public Accounts, the council or  
21 its designee, or the prosecuting attorney and law enforcement  
22 agencies conducting a criminal investigation. Any other person  
23 or entity must obtain a subpoena.

24 (b) In the event of a transfer of the supervision of  
25 a probationer from a business entity providing probation  
26 services to the Department of Corrections, the Department of  
27 Corrections shall have access to any relevant reports, files,



1 records, and papers of the transferring entity. All reports,  
2 files, records, and other papers relative to the supervision  
3 of probationers by business entities shall be subject to a  
4 subpoena.

5 Section 8. (a) A business entity providing private  
6 probation services or offering to contract for private  
7 probation services shall register with the council before  
8 entering into any contract to provide private probation  
9 services. The information included in the registration shall  
10 include the name of the business entity, its principal  
11 business address and telephone number, the name of its agent  
12 for communication, and other information in such detail as the  
13 council may require.

14 (b) A business entity providing private probation  
15 services required to register under subsection (a) who fails  
16 or refuses to register shall be guilty of a Class A  
17 misdemeanor and a civil penalty of not less than five thousand  
18 dollars (\$5,000) per occurrence, and shall be subject to the  
19 revocation of any existing contracts, in addition to any other  
20 fines or sanctions imposed by the council.

21 Section 9. (a) The following probation standards  
22 shall be met by business entities who enter into written  
23 contracts for private probation services under Section 2:

24 (1) Meet all requirements as outlined in subsection  
25 (b) of Section 4, relating to uniform contract standards.

1           (2) Not own or control any finance business or  
2           lending institution which makes loans to probationers under  
3           its supervision for the payment of probation fees or fines.

4           (3) Employ at least one person who is responsible  
5           for the direct supervision of private probation officers  
6           employed by the corporation, enterprise, or agency and who  
7           shall have at least five years' experience in corrections,  
8           parole, or probation services.

9           (b) A business entity providing private probation  
10          services that fails to meet the standards established in  
11          subsection (a) shall not be eligible to provide private  
12          probation services in this state.

13          Section 10. Although this bill would have as its  
14          purpose or effect the requirement of a new or increased  
15          expenditure of local funds, the bill is excluded from further  
16          requirements and application under Amendment 621, now  
17          appearing as Section 111.05 of the Official Recompilation of  
18          the Constitution of Alabama of 1901, as amended, because the  
19          bill defines a new crime or amends the definition of an  
20          existing crime.

21          Section 11. This act shall become effective on the  
22          first day of the third month following its passage and  
23          approval by the Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
  
16  
17  
18  
19

House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Public Safety  
and Homeland Security..... . . . . . 05-FEB-13

Read for the second time and placed  
on the calendar with 1 substitute  
and 2 amendments..... . . . . . 28-FEB-13

Read for the third time and passed  
as amended..... . . . . . 25-APR-13

Yeas 85, Nays 11, Abstains 0

Jeff Woodard  
Clerk