

HB446 INTRODUCED



1 BVRF4Q-1

2 By Representatives Marques, Hammett, Sells, Paramore (N & P)

3 RFD: Local Legislation

4 First Read: 09-May-23

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6 2023 Regular Session



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A BILL
TO BE ENTITLED
AN ACT

Relating to Coffee and Pike Counties and the Twelfth Judicial Circuit; to amend Section 45-16-82.27, Code of Alabama 1975, to further provide for fees related to the pretrial diversion program; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 45-16-82.27, Code of Alabama 1975, is amended to read as follow:

"§45-16-82.27

(a) An applicant may be assessed a fee when the applicant is approved for the program. The amount of the assessment for participation in the program shall be in addition to any court costs and assessments for victims or drug, alcohol, or anger management treatment required by law, the district attorney, or the court, and are in addition to costs of supervision, treatment, and restitution for which the pretrial diversion admittee may be responsible. Pretrial diversion program fees as established by this subpart may be waived or reduced due to indigency or reduced ability to pay



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29 or for other just cause at the discretion of the district
30 attorney. The determination of indigency of the offender, for
31 the purpose of pretrial diversion admission, fee waiver, or
32 reduction, shall be made by the district attorney. A schedule
33 of payments for any of these fees may be established by the
34 district attorney.

35 (b) The following fees shall be paid by applicants
36 accepted into the pretrial diversion program:

37 (1) Felony offenses: Up to ~~eight hundred fifty two~~
38 thousand dollars ~~(\$850)~~ (\$2,000).

39 (2) Driving Under the Influence offenses: Up to two
40 thousand one hundred dollars (\$2,100).

41 ~~(2)~~ (3) Misdemeanor offenses, excluding traffic: Up to
42 ~~five hundred fifty one thousand~~ dollars ~~(\$550)~~ (\$1,000).

43 ~~(3)~~ (4) Traffic offenses: Up to ~~three~~ four hundred fifty
44 dollars ~~(\$350)~~ (\$450).

45 ~~(4)~~ (5) Violations: Up to ~~two hundred~~ three hundred
46 fifty dollars ~~(\$200)~~ (\$350).

47 (c) In cases where the applicant is not indigent, as
48 determined by the district attorney, in felony cases, fifty
49 dollars (\$50) of the fee, and in misdemeanor and violation
50 cases, twenty-five dollars (\$25) of the fee, for each
51 applicant accepted into the pretrial diversion program, shall
52 be allocated to the Coffee County Circuit Clerk's Office, for
53 offenses filed in Coffee County, and to the Pike County
54 Circuit Clerk's Office, for offenses filed in Pike County.
55 Money allocated to a circuit clerk pursuant to this subsection
56 shall be available for use, at the clerk's discretion, to



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57 support the clerk's office operation. These uses may include,
58 but are not limited to, hiring employees, buying needed
59 equipment and supplies, or providing training opportunities.

60 (d) In cases where the applicant is not indigent, as
61 determined by the district attorney, in felony cases, fifty
62 dollars (\$50) of the fee, and in misdemeanor and violation
63 cases, twenty-five dollars (\$25) of the fee, for each
64 applicant accepted into the pretrial diversion program, shall
65 be allocated to the Coffee County General Fund for offenses
66 filed in Coffee County or to the Pike County General Fund for
67 offenses filed in Pike County.

68 (e) In cases where the applicant is not indigent, as
69 determined by the district attorney, in felony cases, fifty
70 dollars (\$50) of the fee, and in misdemeanor and violation
71 cases twenty-five dollars (\$25) of the fee, for each applicant
72 accepted into the pretrial diversion program, shall be
73 allocated to the arresting or ticketing law enforcement agency
74 making the case. Those fees may be used at the agency's
75 discretion to support its operations. These uses may include,
76 but are not limited to, hiring employees, buying needed
77 equipment and supplies, providing training opportunities, or
78 any other lawful purpose.

79 (f) Except as herein specifically allocated, the
80 district attorney may use fees collected by the pretrial
81 diversion program to fund the pretrial diversion program; for
82 the prosecution of state criminal cases; to help support local
83 and state law enforcement and coroners; for education programs
84 which relate to the prosecution of, detection of, or



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85 prevention of crime; or, to benefit any agency or department
86 of state, city, or county government which assists local law
87 enforcement. This support shall be provided to help employ
88 more prosecutors, law enforcement officers, investigators, or
89 staff, buy needed equipment or supplies, provide training
90 opportunities, or for any other prosecutorial or law
91 enforcement purpose.

92 (g) Except for court costs, which are payable by the
93 applicant directly to the clerk of court, fees required by
94 this subpart shall be collected by the office of the District
95 Attorney of the Twelfth Judicial Circuit in the county and
96 division in which the offense was filed. Those fees collected
97 shall be deposited by the district attorney into the Pretrial
98 Diversion Fund as described in Section 45-16-82.30. The
99 district attorney shall timely make disbursement as provided
100 in this subpart.

101 (h) The district attorney shall be allowed without
102 further legislative action to raise fees to meet and equal
103 those prescribed by the Alabama Legislature in the event a
104 state pretrial diversion program is enacted after the passage
105 of this subpart. Any state pretrial diversion program may
106 supersede this subpart, but may be construed to require
107 further and additional penalties."

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