

ORDINANCE #110-83i

An Ordinance to Amend Chapter 6. Adding Section 6-13,
Court and Criminal Procedure of the Code of Ordinances,
City of Pelham, Alabama, to Establish a Pre-Trial Diversion Program

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELHAM,
ALABAMA AS FOLLOWS:**

1. That pursuant to Act No. 2013-353, adopted by the Alabama Legislature, the City of Pelham does hereby establish a Pre-Trial Diversion Program for such cases as may come before the Municipal Court as the Judge of said court may determine.
2. That the Municipal Judge is hereby authorized and directed to promulgate and issue such rules and regulations as the Municipal Judge shall determine is appropriate in order to implement the aforesaid Pre-Trial Diversion Program.
3. In any case charging a misdemeanor offense over which the Municipal Court has jurisdiction, the applicable Pre-Trial Diversion Program fees and charges for participants will be set by order of the Municipal Judge at a minimum of one hundred (\$100) dollars up to a maximum amount which is equal to the maximum fine which could be ordered by the Municipal Court if there was a conviction. Said fees, upon collection to be receipted, accounted for, and deposited eighty percent (80%) in the City of Pelham Municipal Corrections Fund and twenty percent (20%) to the City of Pelham Municipal Administration Court Fund. The Pre-Trial Diversion Program fees are in addition to any fees for counseling, probation, monitoring and court costs for which the participant may also be responsible.
4. Any other provisions of said Ordinance Numbers 110-83a through 110-83h not specifically amended hereby shall remain in full force and effect.
5. Any ordinance heretofore adopted by the City Council of the City of Pelham, Alabama, which is in conflict with this ordinance is hereby repealed to the extent of such conflict.
6. The provisions of this ordinance are severable. If any part of this ordinance is declared invalid or unconstitutional, that declaration shall not affect the part which remains.
7. This Ordinance shall become effective immediately upon its passage and posting as required by law.

Ron Scott, a member of the Pelham City Council, moved that all rules which would prevent the immediate consideration of **Ordinance No.110-83i**, hereupon attached, be suspended and immediate consideration given to passage of said Ordinance. Said motion was seconded by Karyl Rice, a member, and passed unanimously by roll call vote. The vote on said motion was as follows:

Rick Hayes Council President	<u>yes</u>
Ron Scott Council Member	<u>yes</u>
Beth McMillan Council Member	<u>yes</u>
Maurice Mercer Council Member	<u>yes</u>
Karyl Rice Council Member	<u>yes</u>

THEREUPON Karyl Rice, a member moved and Beth McMillan, a member seconded the motion that Ordinance #110-83i be given vote. The roll call vote on said motion was as follows:

Rick Hayes Council President	<u>yes</u>
Ron Scott Council Member	<u>yes</u>
Beth McMillan Council Member	<u>yes</u>
Maurice Mercer Council Member	<u>yes</u>
Karyl Rice Council Member	<u>yes</u>

Ordinance #110-83i passed by majority vote of the Council and the Council President declared the same passed.

ADOPTED this 16th day of December 2013.

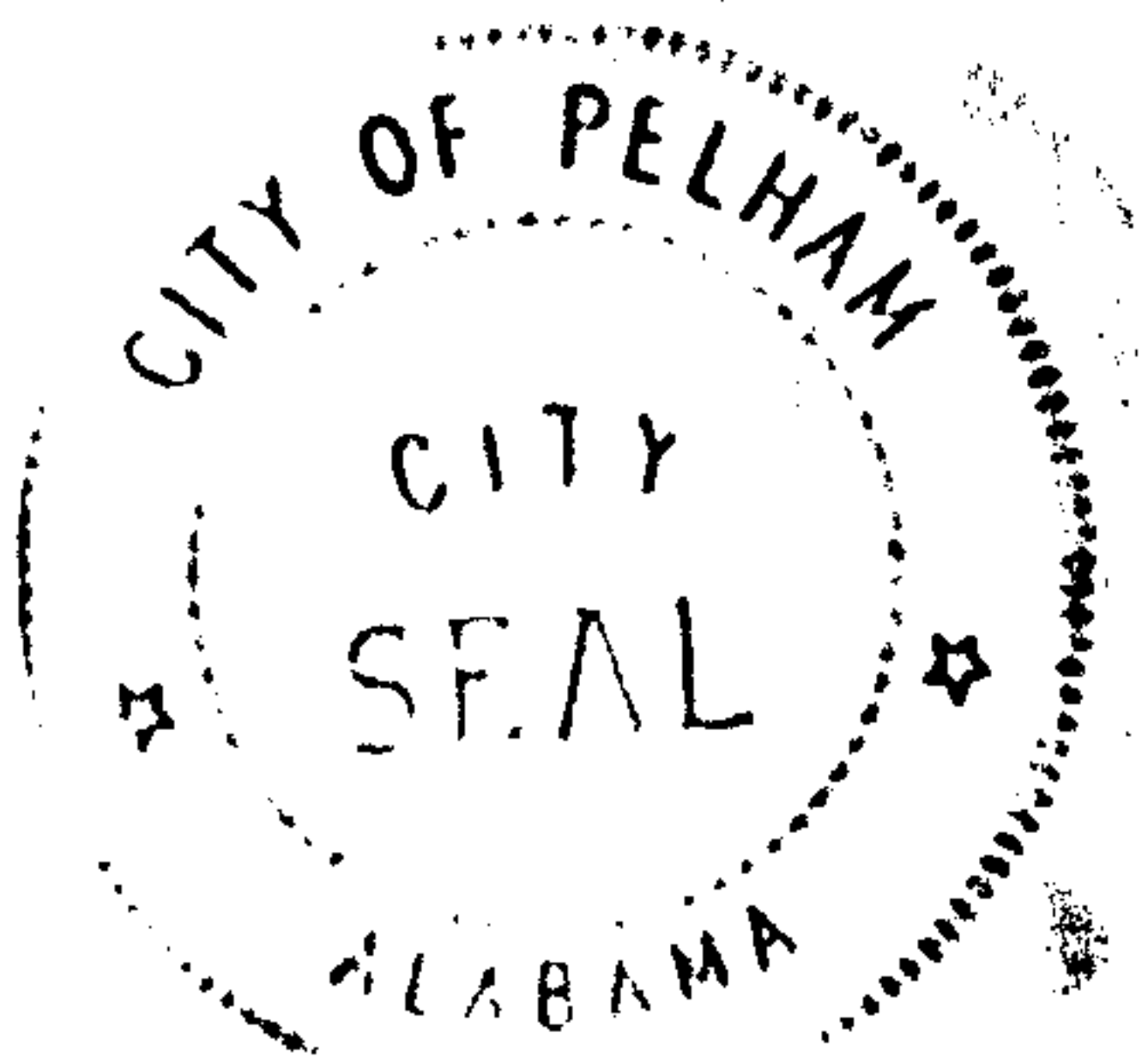
Rick Hayes
Rick Hayes, Council President

Ron Scott
Ron Scott, Council Member

Beth McMillan
Beth McMillan, Council Member

Maurice Mercer
Maurice Mercer, Council Member

Karyl Rice
Karyl Rice, Council Member



[Seal]

ATTEST

Marsha Yates
Marsha Yates, CMC, City Clerk

APPROVED:

Gary Waters 12/18/13
Gary Waters, Mayor Date

CERTIFICATE AND POSTING AFFIDAVIT

I, the undersigned qualified City Clerk of the City of Pelham, Alabama, do hereby certify that the above and foregoing ORDINANCE #110-83i was duly ordained, adopted and passed by the City Council of the City of Pelham, Alabama at a regular meeting of such Council held on the 16th day of December 2013 and duly published by posting an exact copy thereof on the 17th day of December 2013 at four public places within the city, including the Mayor's Office at City Hall, City Park, Water Works and Library, and at www.pelhamonline.com. I further certify that said ordinance is on file in the office of the City Clerk and a copy of the full ordinance may be obtained from the office of the City Clerk during normal business hours.

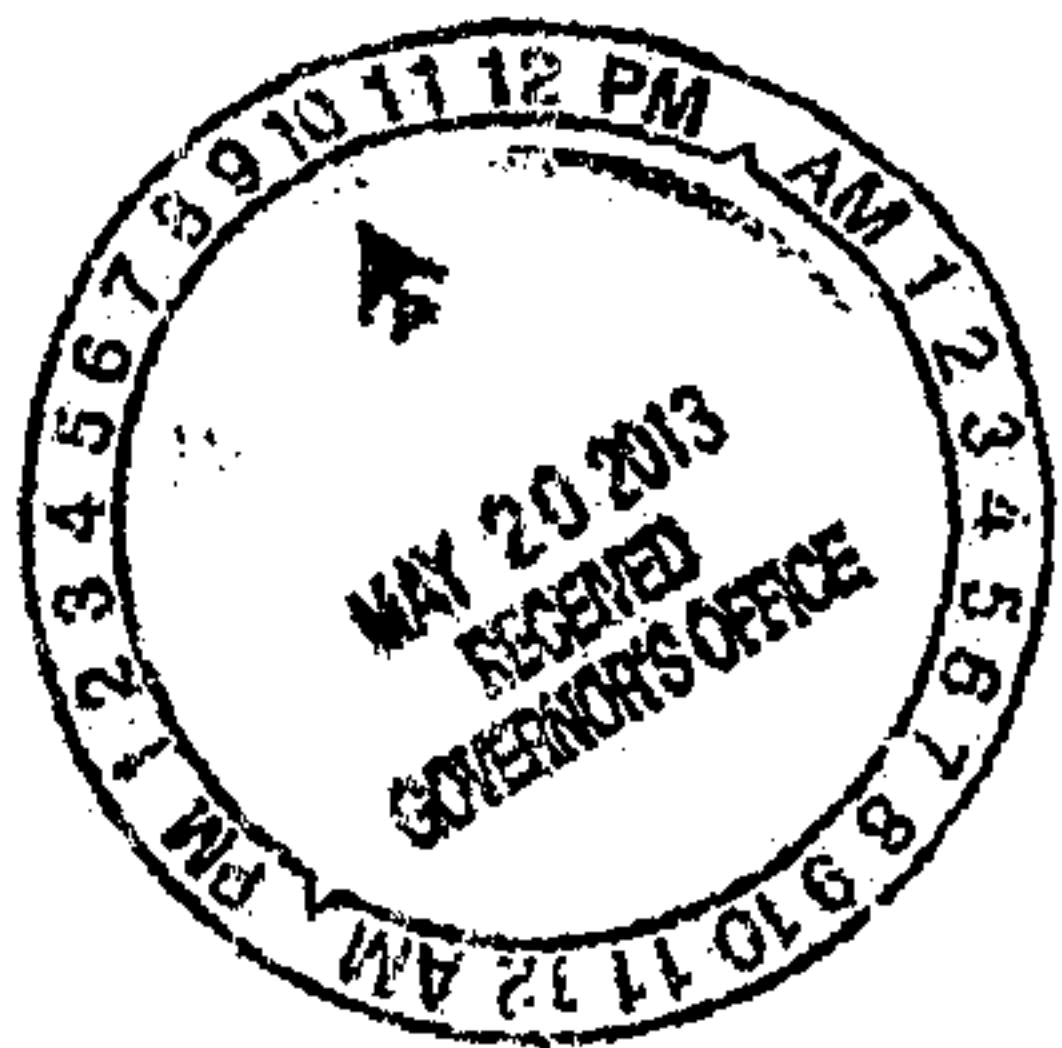



Marsha Yates
Marsha Yates, CMC, City Clerk

ACT 2013 - 353

1 HB643
2 152401-3
3 By Representative Jones
4 RFD: Judiciary
5 First Read: 18-APR-13

Pre-trial Diversion Program




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Shelby Cnty Judge of Probate, AL
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HB648

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ENROLLED, An Act,

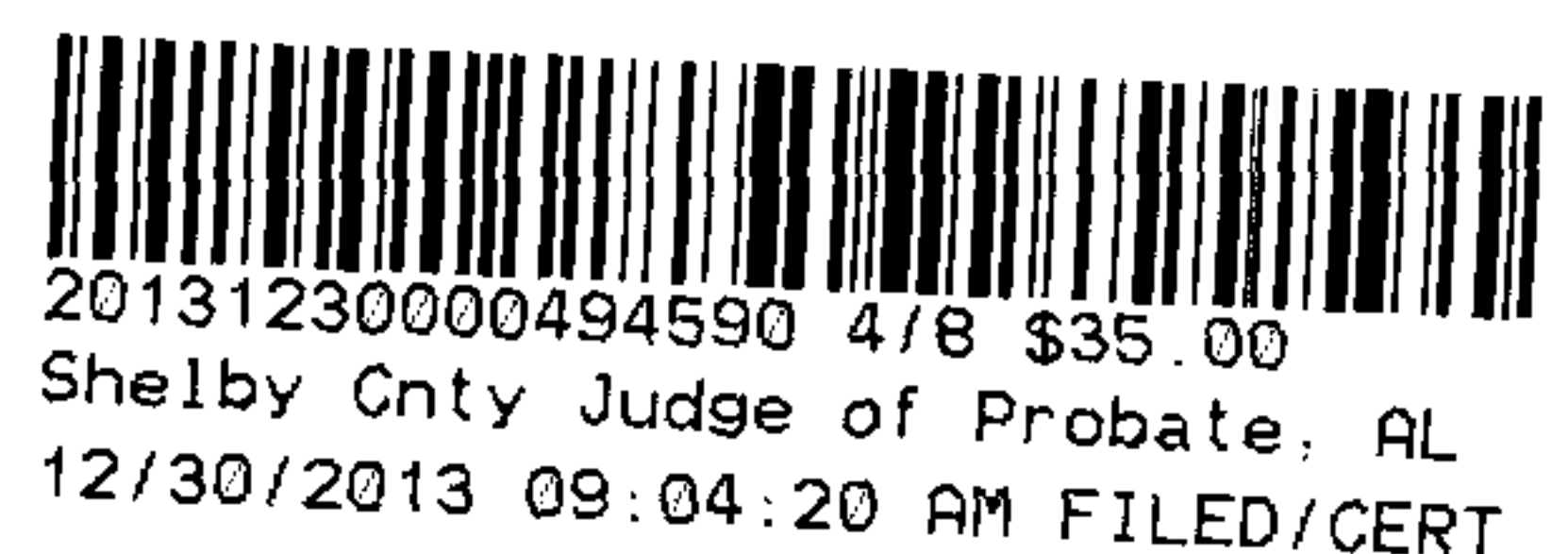
To provide for the establishment of a pretrial diversion program; to allow any governing body of a municipality to establish a discretionary pretrial diversion program; and to set basic operating standards for the program.

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.



HB648

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.

HB648

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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Shelby Cnty Judge of Probate, AL
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HB548

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Speaker of the House of Representatives

Ray Ivey

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

Senate

20-MAY-13

Passed

APPROVED May 23 2013

TIME 3:15 p.m.

Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num.: 2013-353
Bill Num.: H-648

Recv'd 05/24/13 11:20amSLF

