

ACT #2018-304

1 SB38
2 188992-3
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 09-JAN-18
6 PFD: 01/02/2018



1 SB38

2

3

4 ENROLLED, An Act,

5 Relating to the appointment of private judges; to
6 amend Sections 12-11A-2 and 12-11A-4, Code of Alabama 1975, to
7 allow former and retired probate judges meeting specified
8 requirements to serve as private judges in certain cases.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 12-11A-2 and 12-11A-4 of the
11 Code of Alabama 1975, are amended to read as follows:

12 "§12-11A-2.

13 "(a) Persons who may act as private judges shall:

14 "(1) Have been, but are not actively serving as, a
15 judge of a district, ~~or~~ circuit, or probate court and have
16 served in the capacity of judge for at least six consecutive
17 years.

18 "(2) Be admitted to the practice of law in Alabama.

19 "(3) Be an active member in good standing of the
20 Alabama State Bar Association.

21 "(4) Be a resident of Alabama.

22 "(b) A person may act as a judge of a case under
23 this chapter only if all of the following occur:

24 "(1) All parties to the action file a written
25 petition with the circuit clerk of the court in which the

1 action is pending requesting a private judge and naming the
2 person whom the parties wish to have as private judge. The
3 petition shall be accompanied by a form signed by the private
4 judge selected consenting to the appointment.

5 "(2) The case is one over which the court in which
6 the former judge served would have had subject matter and
7 monetary jurisdiction.

8 "(3) The case is ~~founded exclusively on domestic~~
9 ~~relations, contract, tort, or a combination of contract and~~
10 ~~tort~~ assigned a CV or DR case number by the Alabama
11 Administrative Office of Courts.

12 "\$12-11A-4.

13 "(a) A trial conducted by a private judge shall be
14 conducted without a jury.

15 "(b) A person who serves as a private judge has, for
16 each case the private judge hears, the same powers as the
17 judge of a circuit court in relation to the following:

18 "(1) Court procedure.

19 "(2) Deciding the outcome of the case.

20 "(3) Attendance of witnesses.

21 "(4) Punishment of contempt.

22 "(5) Enforcement of orders.

23 "(6) Administering oaths.

24 "(7) Giving all necessary certificates for the
25 authentication of the records and proceedings.

1 "(c) A person appointed as a private judge pursuant
2 to the terms of this chapter shall have immunity in the same
3 manner and to the same extent as a judge in the State of
4 Alabama.

5 "(d) All proceedings in an action heard by a private
6 judge are of record and must be:

7 "(1) Filed with the clerk of the circuit court in
8 the county of proper venue under the Alabama Rules of Civil
9 Procedure.

10 "(2) Made available to the public in the same manner
11 as circuit court records.

12 "(e) The Alabama Rules of Civil Procedure shall
13 apply for all actions brought before a private judge. The
14 private judge shall maintain jurisdiction over all matters
15 brought before him or her ~~until the order is deemed final and~~
16 ~~appealable, as defined by the Alabama Rules of Civil Procedure~~
17 to the same extent as matters before a trial court, including
18 all post-trial proceedings and subsequent proceedings between
19 the same parties arising from the same case. An appeal from an
20 action or a judgment of a private judge may be taken in the
21 same manner as an appeal from the circuit court of the county
22 where the case is filed."

23 Section 2. This act shall become effective on the
24 first day of the third month following its passage and
25 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
20
21

Del Mar

President and Presiding Officer of
the Senate

Mac McClatchey

Speaker of the House of Representa-
tives

SB38

Senate 13-FEB-18

I hereby certify that the within Act originated in
and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 21-MAR-18

By: Senator Ward

APPROVED 3/26/18

TIME 4:02pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2018-384
Bill Num....: S-38

Recv'd 03/27/18 01:55pmSLF

SPONSORS
Wood

19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

SENATE ACTION

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill. SB 32

years 23 nays 0 abstain 1

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill. SB _____ as required in the General Acts of Alabama, 1975 Act No 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees

HOUSE ACTION

DATE: 213 2018

RD 1 RFD

Judy

REPORT OF STANDING COMMITTEE
This bill having been referred by the House to its standing committee on Judiciary was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/append(s) w/sub.
This 1 day of March 2018.
[Signature] Chairperson

DATE: 31 2018

RF RD 2 CAL

DATE: 20

RE-REFERRED RE-COMMITTED

Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill.
SB 38

YEAS 95 NAYS 0