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

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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~~ <u>assigned a CV or DR case number by the Alabama</u>

11   <u>Administrative Office of Courts</u>.

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   <u>to the same extent as matters before a trial court, including</u>

18   <u>all post-trial proceedings and subsequent proceedings between</u>

19   <u>the same parties arising from the same case</u>. 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.

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_____
President and Presiding Officer of
the Senate

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Speaker of the House of Representa-
tives

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7   SB38

8   Senate 13-FEB-18

9   I hereby certify that the within Act originated in

10   and passed the Senate, as amended.

11

12   Patrick Harris,

13   Secretary.

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15   _____

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17   House of Representatives

18   Passed: 21-MAR-18

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20   _____

21   By: Senator Ward

APPROVED _____3/26/18_____

TIME _____4:02pm_____

_____
GOVERNOR

JEFF WOODARD
Clerk

Senate Bill No. ___ X

DATE: 3 13 20 18

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/amend(s) w/sub

This 1 day of March 2018.

_____, Chairperson

DATE: 3 1 20 18

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 _____ NAYS _____

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 ___

yeas ___ nays ___ abstain ___

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

SPONSOR
SPONSORS

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