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HOUSE JUDICIARY COMMITTEE SUBSTITUTE TO HB125

SYNOPSIS: Under existing law, the sheriff is granted sovereign immunity as a constitutional officer of the state. Generally, the courts have granted deputies and other persons acting as agents of the sheriff the same protection.

This bill would specify that persons employed by the sheriff when acting for and under the direction and supervision of the sheriff would have the same sovereign immunity as the sheriff.

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 14-6-1 and 36-22-3 of the Code of Alabama 1975, to specify the sovereign immunity protections granted to persons employed by the sheriff when acting for and under the direction and supervision of the sheriff.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 14-6-1 and 36-22-3, Code of Alabama 1975, are amended to read as follows:

"§14-6-1.

"The sheriff has the legal custody and charge of the jail in his or her county and all prisoners committed thereto, except in cases otherwise provided by law~~, and~~. The sheriff may ~~appoint a jailer~~ employ persons to carry out his or her duty to operate the jail and supervise the inmates housed therein for whose acts he or she is civilly responsible. Persons so employed by the sheriff shall be acting for and under the direction and supervision of the sheriff and shall be entitled to the same immunities and legal protections granted to the sheriff under the general laws and the Constitution of Alabama of 1901, as long as such persons are acting within the line and scope of their duties and are acting in compliance with the law.

"§36-22-3.

"(a) It shall be the duty of the sheriff:

"(1) To execute and return the process and orders of the courts of record of this state and of officers of competent authority with due diligence when delivered to him or her for that purpose, according to law.

"(2) To attend upon the circuit courts and district courts held in his or her county when in session and the courts of probate, when required by the judge of probate, and to obey the lawful orders and directions of such courts.

(3) ~~The sheriff of each county must~~ To, three days before each session of the circuit court in his or her county, render to the county treasury or custodian of county funds a statement in writing and on oath of the moneys received by him or her for the county, specifying the amount received in each case, from whom and pay the amount to the county treasurer or custodian of county funds.

(4) ~~It shall be the duty of sheriffs in their respective counties, by themselves or~~ To, with the assistance of deputies as necessary, ~~to~~ ferret out crime, ~~to~~ apprehend and arrest criminals and, insofar as within their power, ~~to~~ secure evidence of crimes in their counties and ~~to~~ present a report of the evidence so secured to the district attorney or assistant district attorney for the county.

(5) To perform such other duties as are or may be imposed by law.

"(b) Any of the duties of the sheriff set out in subsection (a) or as otherwise provided by law may be carried out by deputies, reserve deputies, and persons employed as authorized in Section 14-6-1 as determined appropriate by the sheriff in accordance with state law. Persons undertaking such duties for and under the direction and supervision of the sheriff shall be entitled to the same immunities and legal protections granted to the sheriff under the general laws and the Constitution of Alabama of 1901, as long as he or she is acting within the line and scope of his or her duties and is acting in compliance with the law."

Section 2. Notwithstanding the provisions of Sections 14-6-1, 32-7-23, and 36-22-3 of the Code of Alabama 1975, nothing in this act shall serve as a bar to an individual's or entity's recovery under the uninsured motorist coverage of the individual or entity, or prevent an insured from being legally entitled to recover damages under the uninsured motorist coverage of the insured.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.