

1 HB270
2 115766-1
3 By Representatives Fields, England and McClammy
4 RFD: Judiciary
5 First Read: 14-JAN-10

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8 SYNOPSIS: Under existing law, there is no discretion
9 in sentencing a person convicted of a third felony
10 offense.

11 This bill would allow discretion for
12 determining the sentence for conviction for a third
13 felony.

14 Under existing law, a person convicted of a
15 fourth felony offense is sentenced to an enhanced
16 penalty. If any of the prior convictions was for a
17 Class A felony the penalty is life without the
18 possibility of parole.

19 This bill would allow the trial court to
20 sentence a person to life with the possibility of
21 parole upon the fourth felony conviction.

22 Existing law, for purposes of determining
23 the sentence for conviction of a fourth felony,
24 does not distinguish between types of felonies for
25 the first conviction.

26 This bill would provide that if the person
27 convicted of a fourth felony was not an active

1 participant in the commission of the first felony
2 and the offense did not result in the death of the
3 victim, injury or death to a law enforcement
4 officer, or the death or rape of a child 14 years
5 of age or under, the sentence for a fourth
6 conviction that is for a Class A felony would be
7 imprisonment for life with the possibility of
8 parole after 15 years and would require retroactive
9 review of any criminal defendant currently serving
10 a term of imprisonment sentenced for a fourth
11 felony conviction pursuant to this amendatory bill.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To amend Section 13A-5-9 of the Code of Alabama
18 1975, relating to penalties for habitual felony offenders; to
19 allow alternative sentences for a third felony; to revise the
20 mandatory penalty for a fourth conviction that is a Class A
21 felony; to provide a different sentence for a fourth felony in
22 some circumstances; and to provide for retroactive review of
23 persons previously convicted in those circumstances.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 13A-5-9 of the Code of Alabama
26 1975, is amended to read as follows:

27 "§13A-5-9.

1 "(a) In all cases when it is shown that a criminal
2 defendant has been previously convicted of a felony and after
3 the conviction has committed another felony, he or she must be
4 punished as follows:

5 "(1) On conviction of a Class C felony, he or she
6 must be punished for a Class B felony.

7 "(2) On conviction of a Class B felony, he or she
8 must be punished for a Class A felony.

9 "(3) On conviction of a Class A felony, he or she
10 must be punished by imprisonment for life or for any term of
11 not more than 99 years but not less than 15 years.

12 "(b) In all cases when it is shown that a criminal
13 defendant has been previously convicted of any two felonies
14 and after such convictions has committed another felony, he or
15 she must be punished as follows:

16 "(1) On conviction of a Class C felony, he or she
17 must be punished for a Class B felony or a Class A felony.

18 "(2) On conviction of a Class B felony, he or she
19 must be punished for a Class A felony or by imprisonment for
20 life or for any term of not more than 99 years but not less
21 than 15 years.

22 "(3) On conviction of a Class A felony, he or she
23 must be punished by imprisonment for life or for any term of
24 not less than 99 years.

25 "(c) In all cases when it is shown that a criminal
26 defendant has been previously convicted of any three felonies

1 and after such convictions has committed another felony, he or
2 she must be punished as follows:

3 "(1) On conviction of a Class C felony, he or she
4 must be punished by imprisonment for life or for any term of
5 not more than 99 years but not less than 15 years.

6 "(2) On conviction of a Class B felony, he or she
7 must be punished by imprisonment for life or any term of not
8 less than 20 years.

9 "(3) On conviction of a Class A felony, ~~where the~~
10 ~~defendant has no prior convictions for any Class A felony, he~~
11 ~~or she must be punished by imprisonment for life or life~~
12 ~~without the possibility of parole, in the discretion of the~~
13 ~~trial court.~~

14 "~~(4) On conviction of a Class A felony, where the~~
15 ~~defendant has one or more prior convictions for any Class A~~
16 ~~felony, he or she must be punished by imprisonment for life or~~
17 life with ~~without~~ the possibility of parole in the discretion
18 of the trial court.

19 "(d) When a defendant has been previously convicted
20 of any three felonies and the defendant was not an active
21 participant in the commission of the first felony and the
22 offense did not result in the death of the victim, an injury
23 or death of a law enforcement officer, or the death or rape of
24 a child the age of 14 or under, on a fourth conviction that is
25 for a Class A felony the defendant must be punished by
26 imprisonment for life with the possibility of parole after
27 serving 15 years.

1 "(e) The sentence of any individual serving a term
2 of imprisonment pursuant to subsection (d) on the effective
3 date of this amendatory act shall be reviewed for eligibility
4 for parole pursuant to subsection (d)."

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