

1 HB229
2 180785-4
3 By Representatives Harbison, Hanes, Whorton (R), Butler,
4 Farley, Rowe, Fridy, Williams (JW), Lovvorn, Ledbetter,
5 Ainsworth, Wadsworth, Henry, Shedd, Standridge, Davis and
6 Whorton (I)
7 RFD: Judiciary
8 First Read: 14-FEB-17

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8 SYNOPSIS: Under existing law, there are certain
9 enumerated capital offenses.

10 This bill would provide that the murder of a
11 firefighter or other first responder in the line of
12 duty would be an enumerated capital offense.

13 Amendment 621 of the Constitution of Alabama
14 of 1901, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of
16 Alabama of 1901, as amended, prohibits a general
17 law whose purpose or effect would be to require a
18 new or increased expenditure of local funds from
19 becoming effective with regard to a local
20 governmental entity without enactment by a 2/3 vote
21 unless: it comes within one of a number of
22 specified exceptions; it is approved by the
23 affected entity; or the Legislature appropriates
24 funds, or provides a local source of revenue, to
25 the entity for the purpose.

26 The purpose or effect of this bill would be
27 to require a new or increased expenditure of local

1 funds within the meaning of the amendment. However,
2 the bill does not require approval of a local
3 governmental entity or enactment by a 2/3 vote to
4 become effective because it comes within one of the
5 specified exceptions contained in the amendment.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to capital offenses; to amend Section
12 13A-5-40, Code of Alabama 1975, to include as an enumerated
13 capital offense the murder of a firefighter or other first
14 responder in the line of duty; and in connection therewith
15 would have as its purpose or effect the requirement of a new
16 or increased expenditure of local funds within the meaning of
17 Amendment 621 of the Constitution of Alabama of 1901, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 13A-5-40, Code of Alabama 1975,
22 is amended to read as follows:

23 "§13A-5-40.

24 "(a) The following are capital offenses:

25 "(1) Murder by the defendant during a kidnapping in
26 the first degree or an attempt thereof committed by the
27 defendant.

1 "(2) Murder by the defendant during a robbery in the
2 first degree or an attempt thereof committed by the defendant.

3 "(3) Murder by the defendant during a rape in the
4 first or second degree or an attempt thereof committed by the
5 defendant; or murder by the defendant during sodomy in the
6 first or second degree or an attempt thereof committed by the
7 defendant.

8 "(4) Murder by the defendant during a burglary in
9 the first or second degree or an attempt thereof committed by
10 the defendant.

11 "(5) Murder of any police officer, sheriff, deputy,
12 state trooper, federal law enforcement officer, or any other
13 state or federal peace officer of any kind, or prison or jail
14 guard, while such officer or guard is on duty, regardless of
15 whether the defendant knew or should have known the victim was
16 an officer or guard on duty, or because of some official or
17 job-related act or performance of such officer or guard.

18 "(6) Murder committed while the defendant is under
19 sentence of life imprisonment.

20 "(7) Murder done for a pecuniary or other valuable
21 consideration or pursuant to a contract or for hire.

22 "(8) Murder by the defendant during sexual abuse in
23 the first or second degree or an attempt thereof committed by
24 the defendant.

25 "(9) Murder by the defendant during arson in the
26 first or second degree committed by the defendant; or murder
27 by the defendant by means of explosives or explosion.

1 "(10) Murder wherein two or more persons are
2 murdered by the defendant by one act or pursuant to one scheme
3 or course of conduct.

4 "(11) Murder by the defendant when the victim is a
5 state or federal public official or former public official and
6 the murder stems from or is caused by or is related to his
7 official position, act, or capacity.

8 "(12) Murder by the defendant during the act of
9 unlawfully assuming control of any aircraft by use of threats
10 or force with intent to obtain any valuable consideration for
11 the release of said aircraft or any passenger or crewmen
12 thereon or to direct the route or movement of said aircraft,
13 or otherwise exert control over said aircraft.

14 "(13) Murder by a defendant who has been convicted
15 of any other murder in the 20 years preceding the crime;
16 provided that the murder which constitutes the capital crime
17 shall be murder as defined in subsection (b) of this section;
18 and provided further that the prior murder conviction referred
19 to shall include murder in any degree as defined at the time
20 and place of the prior conviction.

21 "(14) Murder when the victim is subpoenaed, or has
22 been subpoenaed, to testify, or the victim had testified, in
23 any preliminary hearing, grand jury proceeding, criminal trial
24 or criminal proceeding of whatever nature, or civil trial or
25 civil proceeding of whatever nature, in any municipal, state,
26 or federal court, when the murder stems from, is caused by, or
27 is related to the capacity or role of the victim as a witness.

1 "(15) Murder when the victim is less than fourteen
2 years of age.

3 "(16) Murder committed by or through the use of a
4 deadly weapon fired or otherwise used from outside a dwelling
5 while the victim is in a dwelling.

6 "(17) Murder committed by or through the use of a
7 deadly weapon while the victim is in a vehicle.

8 "(18) Murder committed by or through the use of a
9 deadly weapon fired or otherwise used within or from a
10 vehicle.

11 "(19) Murder by the defendant where a court had
12 issued a protective order for the victim, against the
13 defendant, pursuant to Section 30-5-1 et seq., or the
14 protective order was issued as a condition of the defendant's
15 pretrial release.

16 "(20) Murder of a firefighter or other first
17 responder while the firefighter or other first responder is
18 responding in the line of duty to the scene of an accident,
19 disaster, emergency, or other call for assistance. For
20 purposes of this subdivision, first responder means any of the
21 following:

22 "a. Any person certified by the Alabama Fire College
23 and Personnel Standards Commission to provide emergency
24 medical services.

25 "b. Any person serving in either a paid or volunteer
26 capacity as a firefighter, whether or not the person is

1 certified by the Alabama Fire College and Personnel Standards
2 Commission.

3 "c. Any person certified by the appropriate
4 authority to provide emergency medical services, including,
5 but not limited to, an ambulance driver or a paramedic.

6 "d. An animal control officer.

7 "(b) Except as specifically provided to the contrary
8 in the last part of subdivision (a)(13) of this section, the
9 terms "murder" and "murder by the defendant" as used in this
10 section to define capital offenses mean murder as defined in
11 Section 13A-6-2(a)(1), but not as defined in Section
12 13A-6-2(a)(2) and (3). Subject to the provisions of Section
13 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3),
14 as well as murder as defined in Section 13A-6-2(a)(1), may be
15 a lesser included offense of the capital offenses defined in
16 subsection (a) of this section.

17 "(c) A defendant who does not personally commit the
18 act of killing which constitutes the murder is not guilty of a
19 capital offense defined in subsection (a) of this section
20 unless that defendant is legally accountable for the murder
21 because of complicity in the murder itself under the
22 provisions of Section 13A-2-23, in addition to being guilty of
23 the other elements of the capital offense as defined in
24 subsection (a) of this section.

25 "(d) To the extent that a crime other than murder is
26 an element of a capital offense defined in subsection (a) of
27 this section, a defendant's guilt of that other crime may also

1 be established under Section 13A-2-23. When the defendant's
2 guilt of that other crime is established under Section
3 13A-2-23, that crime shall be deemed to have been "committed
4 by the defendant" within the meaning of that phrase as it is
5 used in subsection (a) of this section."

6 Section 2. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621 because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 3. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.