

1 SB111
2 197557-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 19-MAR-19

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8 SYNOPSIS: Under existing law, a defendant who is
9 sentenced to life on a capital offense must serve a
10 minimum of 30 years prior to being eligible for
11 parole.

12 This bill would require a defendant who is
13 sentenced to life on a capital offense to serve a
14 minimum of 25 years prior to being eligible for
15 parole.

16 This bill would further provide for
17 technical revisions.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Sections 13A-5-2, 13A-5-43, 13A-6-2, and
24 15-22-27.3, Code of Alabama 1975, relating to capital
25 offenses, to provide that a person who is sentenced to life on
26 a capital offense must serve a minimum of 25 years prior to

1 being eligible for parole; and to provide for technical
2 changes.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 13A-5-2, 13A-5-43, 13A-6-2, and
5 15-22-27.3, Code of Alabama 1975, are amended to read as
6 follows:

7 "§13A-5-2.

8 "(a) Every person convicted of a felony shall be
9 sentenced by the court to imprisonment for a term authorized
10 by Sections 13A-5-6, 13A-5-9, and 13A-5-10.

11 "(b) In addition to imprisonment, every person
12 convicted of a felony may be sentenced by the court to pay a
13 fine authorized by Section 13A-5-11.

14 "(c) Every person convicted of a misdemeanor or
15 violation shall be sentenced by the court to any of the
16 following:

17 "(1) Imprisonment for a term authorized by Section
18 13A-5-7; ~~or.~~

19 "(2) Pay a fine authorized by Section 13A-5-12; ~~or.~~

20 "(3) Both ~~such~~ imprisonment and fine.

21 "(d) Every person convicted of a felony,
22 misdemeanor, or violation, except for the commission of a sex
23 offense involving a child as defined in Section 15-20A-4(26),
24 may be placed on probation as authorized by law.

25 "(e) This article does not deprive a court of
26 authority conferred by law to forfeit property, dissolve a
27 corporation, suspend or cancel a license or permit, remove a

1 person from office, cite for contempt, or impose any other
2 lawful civil penalty. Such a judgment, order, or decree may be
3 included as part of the sentence.

4 "(f) Every person convicted of murder shall be
5 sentenced by the court to imprisonment for a term, ~~or to~~
6 ~~death, life imprisonment without parole, or life imprisonment~~
7 ~~in the case of a defendant who establishes that he or she was~~
8 ~~under the age of 18 years at the time of the offense, as~~
9 ~~authorized by subsection (c) of~~ authorized by Section 13A-6-2.

10 "§13A-5-43.

11 "(a) In the trial of a capital offense the jury
12 shall first hear all the admissible evidence offered on the
13 charge or charges against the defendant. It shall then
14 determine whether the defendant is guilty of the capital
15 offense or offenses with which he or she is charged or of any
16 lesser included offense or offenses considered pursuant to
17 Section 13A-5-41.

18 "(b) If the defendant is found not guilty of the
19 capital offense or offenses with which he or she is charged,
20 and not guilty of any lesser included offense or offenses
21 considered pursuant to Section 13A-5-41, the defendant shall
22 be discharged.

23 "(c) If the defendant is found not guilty of the
24 capital offense or offenses with which he or she is charged,
25 and is found guilty of a lesser included offense or offenses
26 considered pursuant to Section 13A-5-41, sentence shall be
27 determined and imposed as provided by law.

1 "(d) If the defendant is found guilty of a capital
2 offense or offenses with which he or she is charged and the
3 defendant does not establish to the court by a preponderance
4 of the evidence that he or she was under the age of 18 years
5 at the time of the capital offense or offenses with which he
6 or she is found guilty, the sentence shall be determined as
7 provided in Sections 13A-5-45 through 13A-5-53.

8 "(e) (1) If the defendant is found guilty of a
9 capital offense or offenses with which he or she is charged
10 and the defendant establishes to the court by a preponderance
11 of the evidence that he or she was under the age of 18 years
12 at the time of the capital offense or offenses, the sentence
13 shall be either life without the possibility of parole or, in
14 the alternative, life, and the sentence shall be determined by
15 the procedures set forth in the Alabama Rules of Criminal
16 Procedure for judicially imposing sentences within the range
17 set by statute without a jury, rather than as provided in
18 Sections 13A-5-45 to 13A-5-53, inclusive. The judge shall
19 consider all relevant mitigating circumstances.

20 "(2) If the defendant is sentenced to life on a
21 capital offense, the defendant must serve a minimum of ~~30~~ 25
22 years, day for day, prior to first consideration of parole.

23 "§13A-6-2.

24 "(a) A person commits the crime of murder if he or
25 she does any of the following:

1 "(1) With intent to cause the death of another
2 person, he or she causes the death of that person or of
3 another person.

4 "(2) Under circumstances manifesting extreme
5 indifference to human life, he or she recklessly engages in
6 conduct which creates a grave risk of death to a person other
7 than himself or herself, and thereby causes the death of
8 another person.

9 "(3) He or she commits or attempts to commit arson
10 in the first degree, burglary in the first or second degree,
11 escape in the first degree, kidnapping in the first degree,
12 rape in the first degree, robbery in any degree, sodomy in the
13 first degree, aggravated child abuse under Section 26-15-3.1,
14 or any other felony clearly dangerous to human life and, in
15 the course of and in furtherance of the crime that he or she
16 is committing or attempting to commit, or in immediate flight
17 therefrom, he or she, or another participant if there be any,
18 causes the death of any person.

19 "(4) He or she commits the crime of arson and a
20 qualified governmental or volunteer firefighter or other
21 public safety officer dies while performing his or her duty
22 resulting from the arson.

23 "(b) A person does not commit murder under
24 ~~subdivisions~~ subdivision (a) (1) or (a) (2) of this section if
25 he or she was moved to act by a sudden heat of passion caused
26 by provocation recognized by law, and before there had been a
27 reasonable time for the passion to cool and for reason to

1 reassert itself. The burden of injecting the issue of killing
2 under legal provocation is on the defendant, but this does not
3 shift the burden of proof. This subsection does not apply to a
4 prosecution for, or preclude a conviction of, manslaughter or
5 other crime.

6 "(c) (1) Murder is a Class A felony; provided, that
7 the punishment for murder or any offense committed under
8 aggravated circumstances by a person 18 years of age or older,
9 as provided by Article 2 of Chapter 5 of this title, is death
10 or life imprisonment without parole, which punishment shall be
11 determined and fixed as provided by Article 2 of Chapter 5 of
12 this title or any amendments thereto. The punishment for
13 murder or any offense committed under aggravated circumstances
14 by a person under the age of 18 years, as provided by Article
15 2 of Chapter 5, is either life imprisonment without parole, or
16 life, which punishment shall be determined and fixed as
17 provided by Article 2 of Chapter 5 of this title or any
18 amendments thereto and the applicable Alabama Rules of
19 Criminal Procedure.

20 "(2) If the defendant is sentenced to life on a
21 capital offense, the defendant must serve a minimum of ~~30~~ 25
22 years, day for day, prior to first consideration of parole.

23 "§15-22-27.3.

24 "Any person convicted of a sex offense involving a
25 child as defined in ~~subdivision (26)~~ of Section 15-20A-4 which
26 constitutes a Class A or B felony shall not be eligible for
27 parole."

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