

HB382 INTRODUCED



1 5R8TMM-1
2 By Representative England
3 RFD: Judiciary
4 First Read: 25-Apr-23
5
6 2023 Regular Session



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SYNOPSIS:

Under existing law, a person commits the crime of murder if he or she attempts to commit certain felony offenses and in the course of, in furtherance of, or in the immediate flight therefrom, he or she, or another participant, causes the death of another person.

This bill would provide an exception to the crime of murder, specifically, that a person does not commit the crime of murder if the person killed was a willing participant in the underlying felony.

This bill would further provide for penalties for the crime of murder.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

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



HB382 INTRODUCED

29 within the meaning of the amendment. However, the bill
30 does not require approval of a local governmental
31 entity or enactment by a 2/3 vote to become effective
32 because it comes within one of the specified exceptions
33 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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Relating to crimes and offenses, to amend Section
13A-6-2, Code of Alabama 1975, to further provide for the
crime of murder; to provide for an exception to murder; to
further provide for penalties; and in connection therewith
would have as its purpose or effect the requirement of a new
or increased expenditure of local funds within the meaning of
Section 111.05 of the Constitution of Alabama of 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Section 13A-6-2, Code of Alabama 1975, is
amended to read as follows:

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"§13A-6-2

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

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

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(2) Under circumstances manifesting extreme



HB382 INTRODUCED

57 indifference to human life, he or she recklessly engages in
58 conduct which creates a grave risk of death to a person other
59 than himself or herself, and thereby causes the death of
60 another person.

61 (3) He or she commits or attempts to commit the crime
62 of arson in the first degree, burglary in the first or second
63 degree, escape in the first degree, kidnapping in the first
64 degree, rape in the first degree, robbery in any degree,
65 sodomy in the first degree, or aggravated child abuse ~~under~~
66 pursuant to Section 26-15-3.1, ~~or any other felony clearly~~
67 ~~dangerous to human life~~ and, in the course of and in
68 furtherance of the crime that he or she is committing or
69 attempting to commit, or in immediate flight therefrom, he or
70 she, ~~or another participant if there be any,~~ causes the death
71 of any person. A person does not commit murder under this
72 subdivision if the person killed was a willing participant in
73 the commission of, or attempt to commit, the underlying
74 felony.

75 (4) He or she commits the crime of arson and a
76 qualified governmental or volunteer firefighter or other
77 public safety officer dies while performing his or her duty
78 resulting from the arson.

79 (b) A person does not commit murder under ~~subdivisions~~
80 subdivision (a) (1) or (a) (2) ~~of this section~~ if he or she was
81 moved to act by a sudden heat of passion caused by provocation
82 recognized by law, and before there had been a reasonable time
83 for the passion to cool and for reason to reassert itself. The
84 burden of injecting the issue of killing under legal



HB382 INTRODUCED

85 provocation is on the defendant, but this does not shift the
86 burden of proof. This subsection does not apply to a
87 prosecution for, or preclude a conviction of, manslaughter or
88 other crime.

89 (c) (1) Murder pursuant to subdivision (a) (1) or (a) (2)
90 is a Class A felony; provided, that the punishment for murder
91 or any offense committed under aggravated circumstances by a
92 person 18 years of age or older, as provided by Article 2 of
93 Chapter 5 of this title, is death or life imprisonment without
94 parole, which punishment shall be determined and fixed as
95 provided by Article 2 of Chapter 5 of this title or any
96 amendments thereto. The punishment for murder or any offense
97 committed under aggravated circumstances by a person under the
98 age of 18 years, as provided by Article 2 of Chapter 5, is
99 either life imprisonment without parole, or life, which
100 punishment shall be determined and fixed as provided by
101 Article 2 of Chapter 5 of this title or any amendments thereto
102 and the applicable Alabama Rules of Criminal Procedure.

103 (2) Murder pursuant to subdivision (a) (3) is a Class B
104 felony.

105 (d) If the defendant is sentenced to life on a capital
106 offense, the defendant ~~must~~ shall serve a minimum of 30 years,
107 day for day, prior to first consideration of parole."

108 Section 2. Although this bill would have as its purpose
109 or effect the requirement of a new or increased expenditure of
110 local funds, the bill is excluded from further requirements
111 and application under Section 111.05 of the Constitution of
112 Alabama of 2022, because the bill defines a new crime or



HB382 INTRODUCED

113 amends the definition of an existing crime.

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