

HB41 INTRODUCED



HB41

V7WD4PP-1

By Representatives Simpson, Ledbetter, Whitt, Garrett, Lee,
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Underwood, Crawford, Paramore, Easterbrook, Brinyark,
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RFD: Judiciary

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SYNOPSIS:

Under existing law, rape in the first degree, sodomy in the first degree, and sexual torture are Class A felonies.

This bill would provide that rape in the first degree, sodomy in the first degree, and sexual torture are capital offenses when the victim is less than 12 years of age.

This bill would also provide that a person convicted of rape in the first degree, sodomy in the first degree, or sexual torture and sentenced to life imprisonment must serve a minimum of 30 years in prison prior to being considered for parole.

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Sections 13A-5-40, 13A-6-61, 13A-6-63, and 13A-6-65.1, Code of Alabama 1975; to revise the criminal penalties for violations of rape in the first degree, sodomy in the first degree, and sexual torture when the victim is less than 12 years of age.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



HB41 INTRODUCED

29 Section 1. This act shall be known and may be cited as
30 the "Child Predator Death Penalty Act."

31 Section 2. Sections 13A-5-40, 13A-6-61, 13A-6-63, and
32 13A-6-65.1, Code of Alabama 1975, are amended to read as
33 follows:

34 "§13A-5-40

35 (a) The following are capital offenses:

36 (1) Murder by the defendant during a kidnapping in the
37 first degree or an attempt thereof committed by the defendant.

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

40 (3) Murder by the defendant during a rape in the first
41 or second degree or an attempt thereof committed by the
42 defendant; or murder by the defendant during sodomy in the
43 first or second degree or an attempt thereof committed by the
44 defendant.

45 (4) Murder by the defendant during a burglary in the
46 first or second degree or an attempt thereof committed by the
47 defendant.

48 (5) Murder of any police officer, sheriff, deputy,
49 state trooper, federal law enforcement officer, or any other
50 state or federal peace officer of any kind, or prison or jail
51 guard, while the officer or guard is on duty, regardless of
52 whether the defendant knew or should have known the victim was
53 an officer or guard on duty, or because of some official or
54 job-related act or performance of the officer or guard.

55 (6) Murder committed while the defendant is under
56 sentence of life imprisonment.



HB41 INTRODUCED

57 (7) Murder done for a pecuniary or other valuable
58 consideration or pursuant to a contract or for hire.

59 (8) Murder by the defendant during sexual abuse in the
60 first or second degree or an attempt thereof committed by the
61 defendant.

62 (9) Murder by the defendant during arson in the first
63 or second degree committed by the defendant; or murder by the
64 defendant by means of explosives or explosion.

65 (10) Murder wherein two or more persons are murdered by
66 the defendant by one act or pursuant to one scheme or course
67 of conduct.

68 (11) Murder by the defendant when the victim is a state
69 or federal public official or former public official and the
70 murder stems from ~~or~~, is caused by, or is related to his or
71 her official position, act, or capacity.

72 (12) Murder by the defendant during the act of
73 unlawfully assuming control of any aircraft by use of threats
74 or force with intent to obtain any valuable consideration for
75 the release of the aircraft or any passenger or ~~crewm~~
76 crewmember thereon, to direct the route or movement of the
77 aircraft, or otherwise exert control over the aircraft.

78 (13) Murder by a defendant who has been convicted of
79 any other murder in the 20 years preceding the crime;
80 provided, that the murder ~~which~~ that constitutes the capital
81 crime shall be murder as defined in subsection (b); and
82 provided further that the prior murder conviction referred to
83 shall include murder in any degree as defined at the time and
84 place of the prior conviction.



HB41 INTRODUCED

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

(15) Murder when the victim is less than ~~fourteen~~ 14 years of age.

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

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

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

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

(20) Murder by the defendant in the presence of a child under ~~the age of~~ 14 years of age at the time of the offense, if the victim was the parent or legal guardian of the child. For purposes of this subsection, "in the presence of a child" means in the physical presence of a child or having knowledge that a child is present and may see or hear the act.

(21) Murder when the victim is a first responder who is



HB41 INTRODUCED

operating in an official capacity. For the purposes of this subdivision, "first responder" includes emergency medical services personnel licensed by the Alabama Department of Public Health and firefighters and volunteer firefighters as defined by Section 36-32-1.

(22) Rape in the first degree when the victim is less than 12 years of age.

(23) Sodomy in the first degree when the victim is less than 12 years of age.

(24) Sexual torture when the victim is less than 12 years of age.

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

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

(d) To the extent that a crime other than murder is an



HB41 INTRODUCED

element of a capital offense defined in subsection (a), a defendant's guilt of that other crime may also be established under Section 13A-2-23. When the defendant's guilt of that other crime is established under Section 13A-2-23, that crime shall be deemed to have been "committed by the defendant" within the meaning of that phrase as it is used in subsection (a)."

"§13A-6-61

(a) A person commits the crime of rape in the first degree if he or she does any of the following:

(1) Engages in sexual intercourse with another person by forcible compulsion.

(2) Engages in sexual intercourse with another person who is incapable of consent by reason of being incapacitated.

(3) Being 16 years ~~old~~of age or older, engages in sexual intercourse with another person who is less than 12 years ~~old~~of age.

(b) Rape in the first degree is a Class A felony;
provided, that the punishment for a violation of subdivision (a)(3) shall be as determined and fixed as provided in Article 2 of Chapter 5. Any defendant sentenced to life imprisonment on a capital offense must serve a minimum of 30 years, day for day, prior to his or her first consideration of parole."

"§13A-6-63

(a) A person commits the crime of sodomy in the first degree if he or she does any of the following:

(1) Engages in sodomy with another person by forcible compulsion.



HB41 INTRODUCED

(2) Engages in sodomy with another person who is incapable of consent by reason of being incapacitated.

(3) Being 16 years ~~old~~of age or older, engages in sodomy with a person who is less than 12 years ~~old~~of age.

(b) Sodomy in the first degree is a Class A felony;
provided, that the punishment for a violation of subdivision (a) (3) shall be as determined and fixed as provided in Article 2 of Chapter 5. Any defendant sentenced to life imprisonment on a capital offense must serve a minimum of 30 years, day for day, prior to his or her first consideration of parole."

"§13A-6-65.1

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

(1) Penetrates the vagina, anus, or mouth of another person with an inanimate object, by forcible compulsion, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(2) Penetrates the vagina, anus, or mouth of a person who is incapable of consent by reason of being incapacitated, with an inanimate object, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(3) Penetrates the vagina, anus, or mouth of a person who is less than 12 years ~~old~~of age, with an inanimate object, by a person who is 16 years ~~old~~of age or older with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(4) By inflicting physical injury, including, but not



HB41 INTRODUCED

limited to, burning, crushing, wounding, mutilating, or assaulting the sex organs or intimate parts of another person, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.

(b) The crime of sexual torture is a Class A felony; provided, that the punishment for a violation of subdivision (a) (3) shall be as determined and fixed as provided in Article 2 of Chapter 5. Any defendant sentenced to life imprisonment on a capital offense must serve a minimum of 30 years, day for day, prior to his or her first consideration of parole."

Section 3. This act shall become effective on October 1, 2026.