

HB70 INTRODUCED



1 HB70
2 9J2TWBB-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 13-Jan-26
6 PFD: 02-Dec-25



4 SYNOPSIS:

5 Prior to the enactment of Act 2017-131,
6 effective April 11, 2017, following a defendant's
7 conviction for a capital offense, the duty of the jury
8 was to review the aggravating and mitigating
9 circumstances associated with the defendant's offense
10 and return to the court an advisory verdict. The
11 sentencing court was required to review the advisory
12 verdict and give it consideration, but the advisory
13 verdict was not binding on the court.

14 Upon the enactment of Act 2017-131, when a jury
15 returns a verdict at sentencing, the trial court must
16 sentence the defendant in accordance with the jury's
17 verdict and may not overrule the jury's verdict.

18 This bill would provide a procedure for a
19 defendant in a capital murder case, who was sentenced
20 pursuant to a judicial override, to be resentenced
21 pursuant to existing law.

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25 A BILL
26 TO BE ENTITLED
27 AN ACT
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Relating to sentencing; to add Section 13A-5-46.1 to the Code of Alabama 1975, to provide for resentencing for certain defendants sentenced for capital murder; to repeal Section 13A-5-47.1, Code of Alabama 1975, relating to resentencing for certain defendants.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-5-46.1 is added to the Code of Alabama 1975, to read as follows:

(a) A defendant convicted of a capital offense who was sentenced pursuant to this article prior to June 1, 2026, on petition to the sentencing court, shall be resentenced pursuant to Section 13A-5-46, if the court finds all of the following:

(1) The defendant was sentenced pursuant to the provisions of this article prior to June 1, 2026, under the law in effect on April 10, 2017.

(2) The jury returned an advisory verdict recommending to the trial court that the imposed penalty be life imprisonment without parole.

(3) The sentencing court overruled the jury's advisory verdict and imposed a sentence of death.

(b) The petition shall be on a form and in a manner established by the Administrative Office of Courts. Petitions shall be considered authorized motions for modifications of sentence, shall be assigned a unique identifier by the Administrative Office of Courts, and shall not require payment of a filing fee.

(c) The petition for resentencing shall be heard by the



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original sentencing judge or his or her successor, the presiding judge of the circuit, or a retired judge as assigned by the Chief Justice of the Alabama Supreme Court. If the court determines the defendant is eligible for resentencing pursuant subsection (a), the court shall order the defendant to be resentenced. The court shall dismiss the petition if the court determines the defendant to be ineligible.

(d) The court shall serve a copy of the petition for resentencing on the district attorney in the county of the conviction. The district attorney shall have an opportunity to be heard on any motion filed pursuant to this section.

(e) Upon determining the defendant is eligible for resentencing pursuant to subsection (a), the court shall notify the Victim Notification Unit of the Board of Pardons and Paroles, which shall provide notifications to any interested party registered for notice for the inmate through the statewide automated victim notification system established pursuant to Section 15-22-36.2.

(f) The Administrative Office of Courts shall adopt rules to implement and administer this section.

Section 2. Section 13A-5-47.1, Code of Alabama 1975, relating to the application of sentencing of certain defendants convicted of capital murder, is repealed.

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