

1 HB57
2 188720-3
3 By Representatives Pettus, Standridge, Harbison, Faulkner,
4 Fridy, South, Lovvorn, Mooney, Nordgren, Garrett, Butler,
5 Crawford, Brown, Rich, Sanderford, Greer, Fincher, Shedd,
6 Wilcox, Williams (JW), McCutcheon and Hurst
7 RFD: Judiciary
8 First Read: 09-JAN-18
9 PFD: 01/04/2018

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 To amend Section 13A-5-40, Code of Alabama 1975, to
9 include as a capital offense murder by the defendant with
10 knowledge of the presence of a child under the age of 14 years
11 at the time of the offense, if the victim was the parent or
12 legal guardian of the child; to amend Section 13A-5-49, Code
13 of Alabama 1975, to include additional aggravating
14 circumstances; and in connection therewith would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds within the meaning of Amendment 621
17 of the Constitution of Alabama of 1901, now appearing as
18 Section 111.05 of the Official Recompilation of the
19 Constitution of Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This act shall be known and may be cited
22 as "Hollie's Law."

23 Section 2. Section 13A-5-40, Code of Alabama 1975,
24 is amended to read as follows:

25 "§13A-5-40.

26 "(a) The following are capital offenses:

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

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

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

11 "(4) Murder by the defendant during a burglary in
12 the first or second degree or an attempt thereof committed by
13 the defendant.

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

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

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

25 "(8) Murder by the defendant during sexual abuse in
26 the first or second degree or an attempt thereof committed by
27 the defendant.

1 "(9) Murder by the defendant during arson in the
2 first or second degree committed by the defendant; or murder
3 by the defendant by means of explosives or explosion.

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

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

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

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

24 "(14) Murder when the victim is subpoenaed, or has
25 been subpoenaed, to testify, or the victim had testified, in
26 any preliminary hearing, grand jury proceeding, criminal trial
27 or criminal proceeding of whatever nature, or civil trial or

1 civil proceeding of whatever nature, in any municipal, state,
2 or federal court, when the murder stems from, is caused by, or
3 is related to the capacity or role of the victim as a witness.

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

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

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

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

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

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

26 "(b) Except as specifically provided to the contrary
27 in the last part of subdivision (a)(13) of this section, the

1 terms "murder" and "murder by the defendant" as used in this
2 section to define capital offenses mean murder as defined in
3 Section 13A-6-2(a)(1), but not as defined in Section
4 13A-6-2(a)(2) and (3). Subject to the provisions of Section
5 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3),
6 as well as murder as defined in Section 13A-6-2(a)(1), may be
7 a lesser included offense of the capital offenses defined in
8 subsection (a) of this section.

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

17 "(d) To the extent that a crime other than murder is
18 an element of a capital offense defined in subsection (a) of
19 this section, a defendant's guilt of that other crime may also
20 be established under Section 13A-2-23. When the defendant's
21 guilt of that other crime is established under Section
22 13A-2-23, that crime shall be deemed to have been "committed
23 by the defendant" within the meaning of that phrase as it is
24 used in subsection (a) of this section.

25 "§13A-5-49.

26 "Aggravating circumstances shall be the following:

1 "(1) The capital offense was committed by a person
2 under sentence of imprisonment;

3 "(2) The defendant was previously convicted of
4 another capital offense or a felony involving the use or
5 threat of violence to the person;

6 "(3) The defendant knowingly created a great risk of
7 death to many persons;

8 "(4) The capital offense was committed while the
9 defendant was engaged or was an accomplice in the commission
10 of, or an attempt to commit, or flight after committing, or
11 attempting to commit, rape, robbery, burglary or kidnapping;

12 "(5) The capital offense was committed for the
13 purpose of avoiding or preventing a lawful arrest or effecting
14 an escape from custody;

15 "(6) The capital offense was committed for pecuniary
16 gain;

17 "(7) The capital offense was committed to disrupt or
18 hinder the lawful exercise of any governmental function or the
19 enforcement of laws;

20 "(8) The capital offense was especially heinous,
21 atrocious, or cruel compared to other capital offenses;

22 "(9) The defendant intentionally caused the death of
23 two or more persons by one act or pursuant to one scheme or
24 course of conduct; or

25 "(10) The capital offense was one of a series of
26 intentional killings committed by the defendant.

1 "(11) The capital offense was committed when the
2 victim was less than 14 years of age.

3 "(12) The capital offense was committed by the
4 defendant ~~with knowledge of~~ in the presence of a child under
5 the age of 14 years at the time of the offense, if the victim
6 was the parent or legal guardian of the child. For the
7 purposes of this subsection, "in the presence of a child"
8 means in the physical presence of a child or having knowledge
9 that a child is present and may see or hear the act.

10 Section 3. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621, now
14 appearing as Section 111.05 of the Official Recompilation of
15 the Constitution of Alabama of 1901, as amended, because the
16 bill defines a new crime or amends the definition of an
17 existing crime.

18 Section 4. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 09-JAN-18

Read for the second time and placed
on the calendar 1 amendment 18-JAN-18

Read for the third time and passed
as amended..... 01-FEB-18

Yeas 77, Nays 17, Abstains 2

Jeff Woodard
Clerk