

1 HB57
2 188720-2
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

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8 SYNOPSIS: Under existing law, a person who commits a
9 capital offense may be sentenced to death or life
10 without parole.

11 This bill would include as a capital offense
12 murder by the defendant with knowledge of the
13 presence of a child under the age of 14 years at
14 the time of the offense, if the victim was the
15 parent or legal guardian of the child.

16 This bill would also include additional
17 aggravating circumstances in sentencing for capital
18 offenses.

19 Amendment 621 of the Constitution of Alabama
20 of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of
22 Alabama of 1901, as amended, prohibits a general
23 law whose purpose or effect would be to require a
24 new or increased expenditure of local funds from
25 becoming effective with regard to a local
26 governmental entity without enactment by a 2/3 vote
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

5 The purpose or effect of this bill would be
6 to require a new or increased expenditure of local
7 funds within the meaning of the amendment. However,
8 the bill does not require approval of a local
9 governmental entity or enactment by a 2/3 vote to
10 become effective because it comes within one of the
11 specified exceptions contained in the amendment.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To amend Section 13A-5-40, Code of Alabama 1975, to
18 include as a capital offense murder by the defendant with
19 knowledge of the presence of a child under the age of 14 years
20 at the time of the offense, if the victim was the parent or
21 legal guardian of the child; to amend Section 13A-5-49, Code
22 of Alabama 1975, to include additional aggravating
23 circumstances; and in connection therewith would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds within the meaning of Amendment 621
26 of the Constitution of Alabama of 1901, now appearing as

1 Section 111.05 of the Official ReCompilation of the
2 Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

8 "§13A-5-40.

9 "(a) The following are capital offenses:

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

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

15 "(3) Murder by the defendant during a rape in the
16 first or second degree or an attempt thereof committed by the
17 defendant; or murder by the defendant during sodomy in the
18 first or second degree or an attempt thereof committed by the
19 defendant.

20 "(4) Murder by the defendant during a burglary in
21 the first or second degree or an attempt thereof committed by
22 the defendant.

23 "(5) Murder of any police officer, sheriff, deputy,
24 state trooper, federal law enforcement officer, or any other
25 state or federal peace officer of any kind, or prison or jail
26 guard, while such officer or guard is on duty, regardless of
27 whether the defendant knew or should have known the victim was

1 an officer or guard on duty, or because of some official or
2 job-related act or performance of such officer or guard.

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

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

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

10 "(9) Murder by the defendant during arson in the
11 first or second degree committed by the defendant; or murder
12 by the defendant by means of explosives or explosion.

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

16 "(11) Murder by the defendant when the victim is a
17 state or federal public official or former public official and
18 the murder stems from or is caused by or is related to his
19 official position, act, or capacity.

20 "(12) Murder by the defendant during the act of
21 unlawfully assuming control of any aircraft by use of threats
22 or force with intent to obtain any valuable consideration for
23 the release of said aircraft or any passenger or crewmen
24 thereon or to direct the route or movement of said aircraft,
25 or otherwise exert control over said aircraft.

26 "(13) Murder by a defendant who has been convicted
27 of any other murder in the 20 years preceding the crime;

1 provided that the murder which constitutes the capital crime
2 shall be murder as defined in subsection (b) of this section;
3 and provided further that the prior murder conviction referred
4 to shall include murder in any degree as defined at the time
5 and place of the prior conviction.

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

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

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

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

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

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

1 "(20) Murder by the defendant with knowledge of the
2 presence of a child under the age of 14 years at the time of
3 the offense, if the victim was the parent or legal guardian of
4 the child.

5 "(b) Except as specifically provided to the contrary
6 in the last part of subdivision (a)(13) of this section, the
7 terms "murder" and "murder by the defendant" as used in this
8 section to define capital offenses mean murder as defined in
9 Section 13A-6-2(a)(1), but not as defined in Section
10 13A-6-2(a)(2) and (3). Subject to the provisions of Section
11 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3),
12 as well as murder as defined in Section 13A-6-2(a)(1), may be
13 a lesser included offense of the capital offenses defined in
14 subsection (a) of this section.

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

23 "(d) To the extent that a crime other than murder is
24 an element of a capital offense defined in subsection (a) of
25 this section, a defendant's guilt of that other crime may also
26 be established under Section 13A-2-23. When the defendant's
27 guilt of that other crime is established under Section

1 13A-2-23, that crime shall be deemed to have been "committed
2 by the defendant" within the meaning of that phrase as it is
3 used in subsection (a) of this section.

4 "§13A-5-49.

5 "Aggravating circumstances shall be the following:

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

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

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

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

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

20 "(6) The capital offense was committed for pecuniary
21 gain;

22 "(7) The capital offense was committed to disrupt or
23 hinder the lawful exercise of any governmental function or the
24 enforcement of laws;

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

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

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

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

8 "(12) The capital offense was committed by the
9 defendant with knowledge of the presence of a child under the
10 age of 14 years at the time of the offense, if the victim was
11 the parent or legal guardian of the child.

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

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