HB229

197228-1

By Representative Sells

RFD: Judiciary

First Read: 20-MAR-19
SYNOPSIS: Under existing law, when a person is found guilty of committing a misdemeanor or felony and it is shown beyond a reasonable doubt that the commission of the crime was motivated by the victim's race, color, religion, national origin, ethnicity, or physical or mental disability, the person is subject to heightened criminal penalties.

This bill would provide that when a person is found guilty of committing a misdemeanor or felony against a law enforcement officer and it is shown beyond a reasonable doubt that the commission of the crime was motivated by the victim's employment as a law enforcement officer, the person is subject to heightened criminal penalties.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, 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 within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Section 13A-5-13, Code of Alabama 1975, to provide additional criminal penalties when the commission of a felony or misdemeanor is motivated by the victim's employment as a law enforcement officer; 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 Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section
111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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


(a) The Legislature finds and declares the following:

"(1) It is the right of every person, regardless of race, color, religion, national origin, ethnicity, or physical or mental disability, or employment as a law enforcement officer, to be secure and protected from threats of reasonable fear, intimidation, harassment, and physical harm caused by activities of groups and individuals.

"(2) It is not the intent, by enactment of this section, to interfere with the exercise of rights protected by the Constitution of the State of Alabama or the United States.

"(3) The intentional advocacy of unlawful acts by groups or individuals against other persons or groups and bodily injury or death to persons is not constitutionally protected when violence or civil disorder is imminent, and poses a threat to public order and safety, and such conduct should be subjected to criminal sanctions.

"(b) The purpose of this section is to impose additional penalties where it is shown that a perpetrator committing the underlying offense was motivated by the victim's actual or perceived race, color, religion, national
origin, ethnicity, or physical or mental disability, or employment as a law enforcement officer.

"(c) A person who has been found guilty of a crime, the commission of which was shown beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, or employment as a law enforcement officer, shall be punished as follows:

"(1) Felonies:

"a. On conviction of a Class A felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, or employment as a law enforcement officer, the sentence shall not be less than 15 years.

"b. On conviction of a Class B felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, or employment as a law enforcement officer, the sentence shall not be less than 10 years.

"c. On conviction of a Class C felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, or employment as a law enforcement officer, the sentence shall not be less than two years.

"d. On conviction of a Class D felony that was found to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical
or mental disability, or employment as a law enforcement officer, the sentence shall not be less than 18 months.

"e. For purposes of this subdivision, a criminal defendant who has been previously convicted of any felony and receives an enhanced sentence pursuant to this section is also subject to enhanced punishment under the Alabama Habitual Felony Offender Act, Section 13A-5-9.

"(2) Misdemeanors:

"On conviction of a misdemeanor which was found beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or physical or mental disability, or employment as a law enforcement officer, the defendant shall be sentenced for a Class A misdemeanor, except that the defendant shall be sentenced to a minimum of three months."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

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