

1 HB161
2 189380-1
3 By Representative Sells
4 RFD: Judiciary
5 First Read: 11-JAN-18

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8 SYNOPSIS: Under existing law, there are certain
9 aggravating circumstances listed for capital
10 offenses.

11 This bill would include as an aggravating
12 circumstance a victim of a capital offense who was
13 a law enforcement officer, a prison or jail guard,
14 a first responder, or was less than 14 years of
15 age.

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

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

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

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Section 13A-5-49, Code of Alabama 1975,
16 relating to aggravating circumstances for capital offenses; to
17 include victims who were law enforcement officers, prison
18 guards, first responders, or who were less than a certain age;
19 and in connection therewith would have as its purpose or
20 effect the requirement of a new or increased expenditure of
21 local funds within the meaning of Amendment 621 of the
22 Constitution of Alabama of 1901, now appearing as Section
23 111.05 of the Official Recompilation of the Constitution of
24 Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 13A-5-49, Code of Alabama 1975,
27 is amended to read as follows:

1 "§13A-5-49.

2 "Aggravating circumstances shall be the following:

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

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

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

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

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

17 "(6) The capital offense was committed for pecuniary
18 gain;

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

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

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

1 "(10) The capital offense was one of a series of
2 intentional killings committed by the defendant-;

3 "(11) The victim of the capital offense was any
4 police officer, sheriff, deputy, state trooper, federal law
5 enforcement officer, or any other state or federal law
6 enforcement officer of any kind, or prison or jail guard,
7 while the officer or guard was on duty, regardless of whether
8 the defendant knew or should have known the victim was an
9 officer or guard on duty, or because of some official or
10 job-related act or performance of the officer or guard;

11 "(12) The victim of the capital offense was a first
12 responder who was operating in an official capacity and on
13 behalf of a government entity and at the time engaged in the
14 execution of an emergency response or act of assistance where
15 life or limb is threatened. For the purposes of this
16 subdivision, "first responder" includes emergency medical
17 services personnel licensed by the Alabama Department of
18 Public Health, as well as firefighters and volunteer
19 firefighters as defined by Section 36-32-1; or

20 "(13) The victim of the capital offense was a victim
21 who was less than 14 years of age."

22 Section 2. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now
26 appearing as Section 111.05 of the Official Recompilation of
27 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

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