

1 HB478
2 210398-2
3 By Representatives Robertson, Moore (P), Estes, Reynolds and
4 Lipscomb
5 RFD: Judiciary
6 First Read: 02-MAR-21

8 SYNOPSIS: This bill would modify the criminal
9 penalties for criminal solicitation, attempt, and
10 criminal conspiracy for consistency with Class D
11 felony offenses.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, as amended by Amendment 890, now appearing
14 as Section 111.05 of the Official Recompilation of
15 the Constitution of Alabama of 1901, prohibits a
16 general law whose purpose or effect would be to
17 require a new or increased expenditure of local
18 funds from becoming effective with regard to a
19 local governmental entity without enactment by a
20 2/3 vote unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to crimes and offenses, to amend Sections
11 13A-4-1, 13A-4-2, and 13A-4-3, Code of Alabama 1975, to modify
12 the criminal penalties for criminal solicitation, attempt, and
13 criminal conspiracy for consistency with Class D felony
14 offenses; 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, as amended by
18 Amendment 890, now appearing as Section 111.05 of the Official
19 Recompilation of the Constitution of Alabama of 1901.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 13A-4-1, 13A-4-2, and 13A-4-3,
22 Code of Alabama 1975, are amended to read as follows:

23 "§13A-4-1.

24 "(a) (1) A person is guilty of criminal solicitation
25 if, with the intent that another person engage in conduct
26 constituting a crime, he or she solicits, requests, commands,

1 or importunes ~~such other~~ another person to engage in such
2 conduct.

3 "(2) A person may not be convicted of criminal
4 solicitation upon the uncorroborated testimony of the person
5 allegedly solicited, and there must be proof of circumstances
6 corroborating both the solicitation and the defendant's
7 intent.

8 "(b) A person is not liable under this section if,
9 under circumstances manifesting a voluntary and complete
10 renunciation of his or her criminal intent, he ~~(1)~~ or she
11 notified the person solicited of his or her renunciation and
12 ~~(2)~~ gave timely and adequate warning to the law enforcement
13 authorities or otherwise made a substantial effort to prevent
14 the commission of the criminal conduct solicited. The burden
15 of injecting this issue is on the defendant, but this does not
16 shift the burden of proof.

17 "(c) A person is not liable under this section when
18 his or her solicitation constitutes conduct of a kind that is
19 necessarily incidental to the commission of the offense
20 solicited. When the solicitation constitutes an offense other
21 than criminal solicitation which is related to, but separate
22 from the offense solicited, the defendant is guilty of ~~such~~
23 the related offense only and not of criminal solicitation.

24 "(d) It is no defense to a prosecution for criminal
25 solicitation that the person solicited could not be guilty of
26 the offense solicited because of any of the following:

1 "(1) Criminal irresponsibility or other legal
2 incapacity or exemption;~~or.~~

3 "(2) Unawareness of the criminal nature of the
4 conduct solicited or of the defendant's criminal purpose;~~or.~~

5 "(3) Any other factor precluding the mental state
6 required for the commission of the offense in question.

7 "(e) It is no defense to a prosecution for criminal
8 solicitation that defendant belongs to a class of persons who
9 by definition are legally incapable in an individual capacity
10 of committing the offense that he or she solicited another to
11 commit.

12 "(f) Criminal solicitation is a:

13 "(1) Class A felony if the offense solicited is
14 murder.

15 "(2) Class B felony if the offense solicited is a
16 Class A felony.

17 "(3) Class C felony if the offense solicited is a
18 Class B felony.

19 "(4) Class A misdemeanor if the offense solicited is
20 a Class C felony.

21 "~~(4)~~ (5) Class A misdemeanor if the offense
22 solicited is a Class ~~C~~ D felony.

23 "~~(5)~~ (6) Class B misdemeanor if the offense
24 solicited is a Class A misdemeanor.

25 "~~(6)~~ (7) Class C misdemeanor if the offense
26 solicited is a Class B misdemeanor.

1 "~~(7)~~ (8) Violation if the offense solicited is a
2 Class C misdemeanor.

3 "§13A-4-2.

4 "(a) A person is guilty of an attempt to commit a
5 crime if, with the intent to commit a specific offense, he or
6 she does any overt act towards the commission of such offense.

7 "(b) It is no defense under this section that the
8 offense charged to have been attempted was, under the
9 attendant circumstances, factually or legally impossible of
10 commission, if such offense could have been committed had the
11 attendant circumstances been as the defendant believed them to
12 be.

13 "(c) A person is not liable under this section if,
14 under circumstances manifesting a voluntary and complete
15 renunciation of this criminal intent, he or she avoided the
16 commission of the offense attempted by abandoning his or her
17 criminal effort and, if mere abandonment is insufficient to
18 accomplish such avoidance, by taking further and affirmative
19 steps which prevented the commission ~~thereof~~ of the offense.
20 The burden of injecting this issue is on the defendant, but
21 this does not shift the burden of proof.

22 "(d) An attempt is a:

23 "(1) Class A felony if the offense attempted is
24 murder.

25 "(2) Class B felony if the offense attempted is a
26 Class A felony.

1 "(3) Class C felony if the offense attempted is a
2 Class B felony.

3 "(4) Class A misdemeanor if the offense attempted is
4 a Class C felony.

5 "~~(4)~~ (5) Class A misdemeanor if the offense
6 attempted is a Class ~~C~~ D felony.

7 "~~(5)~~ (6) Class B misdemeanor if the offense
8 attempted is a Class A misdemeanor.

9 "~~(6)~~ (7) Class C misdemeanor if the offense
10 attempted is a Class B misdemeanor.

11 "~~(7)~~ (8) Violation if the offense attempted is a
12 Class C misdemeanor.

13 "§13A-4-3.

14 "(a) A person is guilty of criminal conspiracy if,
15 with the intent that conduct constituting an offense be
16 performed, he or she agrees with one or more persons to engage
17 in or cause the performance of such conduct, and any one or
18 more of such persons does an overt act to effect an objective
19 of the agreement.

20 "(b) If a person knows or should know that one with
21 whom he or she agrees has in turn agreed or will agree with
22 another to effect the same criminal objective, he or she shall
23 be deemed to have agreed with such other person, whether or
24 not he or she knows the other's identity.

25 "(c) A person is not liable under this section if,
26 under circumstances manifesting a voluntary and complete
27 renunciation of his or her criminal purpose, he or she gave a

1 timely and adequate warning to law enforcement authorities or
2 made a substantial effort to prevent the enforcement of the
3 criminal conduct contemplated by the conspiracy. Renunciation
4 by one conspirator, however, does not affect the liability of
5 another conspirator who does not join in the abandonment of
6 the conspiratorial objective. The burden of injecting the
7 issue of renunciation is on the defendant, but this does not
8 shift the burden of proof.

9 "(d) ~~It~~ None of the following is ~~no~~ a defense to a
10 prosecution for criminal conspiracy ~~that~~:

11 "(1) The person, or persons, with whom defendant is
12 alleged to have conspired has been acquitted, has not been
13 prosecuted or convicted, has been convicted of a different
14 offense or is immune from prosecution, ~~or.~~

15 "(2) The person, or persons, with whom defendant
16 conspired could not be guilty of the conspiracy or the object
17 crime because of lack of mental responsibility or culpability,
18 or other legal incapacity or defense, ~~or.~~

19 "(3) The defendant belongs to a class of persons who
20 by definition are legally incapable in an individual capacity
21 of committing the offense that is the object of the
22 conspiracy.

23 "(e) A conspirator is not liable under this section
24 if, had the criminal conduct contemplated by the conspiracy
25 actually been performed, he or she would be immune from
26 liability under the law defining the offense or as an
27 accomplice under Section 13A-2-24.

1 "(f) Liability as accomplice. Accomplice liability
2 for offenses committed in furtherance of a conspiracy is to be
3 determined as provided in Section 13A-2-23.

4 "(g) Criminal conspiracy is a:

5 "(1) Class A felony if an object of the conspiracy
6 is murder.

7 "(2) Class B felony if an object of the conspiracy
8 is a Class A felony.

9 "(3) Class C felony if an object of the conspiracy
10 is a Class B felony.

11 "(4) Class A misdemeanor if an object of the
12 conspiracy is a Class C felony.

13 "~~(4)~~ (5) Class A misdemeanor if an object of the
14 conspiracy is a Class ~~C~~ D felony.

15 "~~(5)~~ (6) Class B misdemeanor if an object of the
16 conspiracy is a Class A misdemeanor.

17 "~~(6)~~ (7) Class C misdemeanor if an object of the
18 conspiracy is a Class B misdemeanor.

19 "~~(7)~~ (8) Violation if an object of the conspiracy is
20 a Class C misdemeanor."

21 Section 2. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, as amended
25 by Amendment 890, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of Alabama of 1901,

1 as amended, because the bill defines a new crime or amends the
2 definition of an existing crime.

3 Section 3. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.