

1 HB48
2 179196-1
3 By Representative Sells
4 RFD: Judiciary
5 First Read: 16-AUG-16

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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 or prison or jail guard
14 or was less than 14 years of age.

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

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

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§13A-5-49.

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

9 "(12) The victim of the capital offense was a victim
10 who was less than 14 years of age."

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

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