

1 SB466  
2 168789-1  
3 By Senator Sanders  
4 RFD: Judiciary  
5 First Read: 07-MAY-15

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8 SYNOPSIS: This bill would provide for the  
9 resentencing by a panel of retired circuit judges  
10 of persons sentenced under the Habitual Offender  
11 Act prior to amendments to the act in 2000.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
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17 To add Section 13A-5-9.2 to the Code of Alabama  
18 1975, relating to the Habitual Offender Act; to provide for  
19 the resentencing under certain conditions of persons sentenced  
20 under the act prior to the enactment of act 2000-759.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 13A-5-9.2 is added to the Code of  
23 Alabama 1975, to read as follows:

24 §13A-5-9.2.

25 (a) The provisions of Section 13A-5-9 shall be  
26 applied retroactively by the appointed review panel further  
27 provided for by this section, for consideration of early

1 parole of each nonviolent convicted offender based on  
2 evaluations performed by the Department of Corrections and  
3 approved by the Board of Pardons and Paroles submitted to the  
4 review panel.

5 (b) (1) There shall be established a panel of retired  
6 judges who shall review applications for resentencing under  
7 the Habitual Felony Offender Act, Section 13A-5-9. The panel  
8 shall consist of five members.

9 (2) Members of the panel shall be appointed by the  
10 Governor, with the advice and consent of the Senate, from a  
11 list of retired judges nominated by a board consisting of the  
12 Chief Justice of the Supreme Court as chair, the presiding  
13 judge of the Court of Criminal Appeals, the Lieutenant  
14 Governor, the Speaker of the House of Representatives, and the  
15 President Pro Tempore of the Senate. The nominating board, as  
16 soon as practicable, shall meet and select by majority vote  
17 the names of retired judges to be submitted to the Governor.  
18 It shall immediately thereafter submit its nominations to the  
19 Governor, who shall make his or her appointment from the list  
20 within 10 days thereafter. Appointees shall begin serving  
21 immediately upon appointment, until confirmed or rejected by  
22 the Senate. Appointments made at times when the Senate is not  
23 in session shall be effective ad interim. Any appointment made  
24 by the Governor while the Senate is in session must be  
25 submitted by the Governor to the Senate not later than the  
26 third legislative day following the date of the appointment.  
27 Any appointment made while the Senate is not in session shall

1 be submitted by the Governor not later than the third  
2 legislative day following the reconvening of the Legislature.  
3 In the event the Senate fails or refuses to act on the  
4 appointment within five legislative days after its submission,  
5 the appointment shall be void, and the person whose name was  
6 submitted shall not thereafter be reappointed. In the event an  
7 appointee is not confirmed by the Senate, the nominating board  
8 shall make five nominations. The Governor shall appoint one of  
9 those nominated, and this appointment shall be submitted to  
10 the Senate as provided in this section. The nominating and  
11 appointing procedure required in this section shall be  
12 continued and followed until an appointment is made and  
13 completed.

14 (3) The term of members of the panel shall be five  
15 years, after which time the panel will be dissolved.

16 (4) The Governor shall designate one of the judges  
17 as presiding judge, and the judge shall preside at sessions of  
18 the panel.

19 (5) Each member shall take the constitutional oath  
20 of office and shall be subject to impeachment for any of the  
21 causes specified in Section 173 of the Constitution of Alabama  
22 of 1901; and the procedure in cases of impeachment shall be in  
23 the manner provided by Section 175 of the Constitution of  
24 Alabama of 1901; provided, however, that in the event the  
25 Governor determines that any member of the panel has become  
26 incapacitated by reason of physical or mental disability or  
27 illness to the extent that he or she cannot efficiently

1 perform the duties of his or her office, the Governor shall  
2 direct the Attorney General to proceed to the determination of  
3 that issue in an inquisition proceeding instituted by the  
4 district attorney in the Circuit Court of Montgomery County,  
5 Alabama. In the event the issue is determined in the court  
6 against the board member, the court shall declare the office  
7 vacant, and the office shall be vacated and a successor  
8 appointed, as provided in this section.

9 (6) Two members of the panel shall constitute a  
10 quorum for the transaction of the official business of the  
11 panel.

12 (7) The annual compensation of the judges serving on  
13 the panel shall be such an amount as is provided by law. The  
14 salaries shall be paid in equal installments from the State  
15 Treasury in the same manner that salaries of other retired  
16 judges are paid.

17 (c) During the term of the panel, members of the  
18 panel shall review petitions and make determinations  
19 concerning resentencing of nonviolent offenders who were  
20 sentenced under the Habitual Felony Offender Act prior to  
21 amendment by Act 2000-759.

22 (d) The review panel shall have the authority to  
23 resentence incarcerated individuals who received mandatory  
24 sentences of life or life without possibility of parole under  
25 the Habitual Felony Offender Act prior to its amendment by Act  
26 2000-759. The panel shall make a determination as to whether  
27 the offender would have been eligible for a non-mandatory

1 sentence under the 2000 amendment made by Act 2000-759, and  
2 shall then make a determination as to whether the offender  
3 should be resentenced.

4 Section 2. All laws or parts of laws which conflict  
5 with this act are repealed.

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