

1 SB377
2 147171-1
3 By Senator Sanders
4 RFD: Judiciary
5 First Read: 04-APR-13

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8 SYNOPSIS: This bill would grant certain death row
9 inmates the right to challenge a sentence of death
10 on the grounds that it was obtained on the basis of
11 race and to provide procedures for challenging a
12 sentence of death.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 Relating to the death penalty; to grant certain
19 death row inmates the right to challenge a sentence of death
20 on the grounds that it was obtained on the basis of race; and
21 to provide procedures for challenging a sentence of death.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act may be known and cited as the
24 Alabama Racial Justice Act.

25 Section 2. (a) No person shall be subject to or
26 given a sentence of death or shall be executed pursuant to any
27 judgment that was sought or obtained on the basis of race.

1 (b) A finding that race was the basis of the
2 decision to seek or impose a death sentence may be established
3 if the court finds that race was a significant factor in
4 decisions to seek or impose the death penalty in the
5 defendant's case at the time the death sentence was sought or
6 imposed. For the purposes of this section, "at the time the
7 death sentence was sought or imposed" means the period from 10
8 years prior to the commission of the offense to the date that
9 is two years after the imposition of the death sentence.

10 (c) It is the intent of this section to provide for
11 an amelioration of the death sentence. It shall be a condition
12 for the filing and consideration of a motion under this
13 section that the defendant knowingly and voluntarily waives
14 any objection to the imposition of a sentence to life
15 imprisonment without parole based upon any common law,
16 statutory law, or the federal or state constitutions that
17 would otherwise require that the defendant be eligible for
18 parole. The waiver shall be in writing, signed by the
19 defendant, and included in the motion seeking relief under
20 this section. If the court determines that a hearing is
21 required pursuant to subdivision (3) of subsection (g), the
22 court shall make an oral inquiry of the defendant to confirm
23 the defendant's waiver, which shall be part of the record. If
24 the court grants relief under this section, the judgment shall
25 include a finding that the defendant waived any objection to
26 the imposition of a sentence of life imprisonment without
27 parole.

1 (d) The defendant has the burden of proving that
2 race was a significant factor in decisions to seek or impose
3 the sentence of death in the county or prosecutorial district
4 at the time the death sentence was sought or imposed. The
5 state may offer evidence in rebuttal of the claims or evidence
6 of the defendant, including statistical evidence. The court
7 may consider evidence of the impact upon the defendant's trial
8 of any program the purpose of which is to eliminate race as a
9 factor in seeking or imposing a sentence of death.

10 (e) Evidence relevant to establish a finding that
11 race was a significant factor in decisions to seek or impose
12 the sentence of death in the county or prosecutorial district
13 at the time the death sentence was sought or imposed may
14 include statistical evidence derived from the county or
15 prosecutorial district where the defendant was sentenced to
16 death, or other evidence, that either the race of the
17 defendant was a significant factor or race was a significant
18 factor in decisions to exercise peremptory challenges during
19 jury selection. The evidence may include, but is not limited
20 to, sworn testimony of attorneys, prosecutors, law enforcement
21 officers, judicial officials, jurors, or others involved in
22 the criminal justice system. A juror's testimony under this
23 subsection shall be consistent with Rule 606(b) of the Alabama
24 Rules of Evidence.

25 (f) Statistical evidence alone is insufficient to
26 establish that race was a significant factor under this
27 section. The state may offer evidence in rebuttal of the

1 claims or evidence of the defendant, including, but not
2 limited to, statistical evidence.

3 (g) In any motion filed under this section, the
4 defendant shall state with particularity how the evidence
5 supports a claim that race was a significant factor in
6 decisions to seek or impose the sentence of death in the
7 defendant's case in the county or prosecutorial district at
8 the time the death sentence was sought or imposed.

9 (1) The claim shall be raised by the defendant at
10 the pretrial conference pursuant to Rule 16 of the Alabama
11 Rules of Civil Procedure or in postconviction proceedings
12 pursuant to Rule 32 of the Alabama Rules of Criminal
13 Procedure.

14 (2) If the court finds that the defendant's motion
15 fails to state a sufficient claim under this section, then the
16 court shall dismiss the claim without an evidentiary hearing.

17 (3) If the court finds that the defendant's motion
18 states a sufficient claim under this section, the court shall
19 schedule a hearing on the claim and may prescribe a time prior
20 to the hearing for each party to present a forecast of its
21 proposed evidence.

22 (h) If the court finds that race was a significant
23 factor in decisions to seek or impose the sentence of death in
24 the defendant's case at the time the death sentence was sought
25 or imposed, the court shall order that a death sentence not be
26 sought, or that the death sentence imposed by the judgment

1 shall be vacated and the defendant resentenced to life
2 imprisonment without the possibility of parole.

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.