

HB363 INTRODUCED



1 HB363
2 C7A3WJW-1
3 By Representatives Faulkner, Pettus, Kirkland, Colvin, Woods,
4 Bedsole, Treadaway
5 RFD: Judiciary
6 First Read: 21-Mar-24



SYNOPSIS:

Under existing law, murder is a Class A felony.

This bill provides that a person commits the crime of murder if he or she commits the crime of driving under the influence and he or she causes the death of another person when the driver has two prior driving under the influence convictions and had a blood alcohol content equal to or greater than 0.15.

Under exiting law, manslaughter is a Class B felony.

This bill provides that a person commits the crime of manslaughter if he or she commits the crime of driving under the influence and he or she causes the death of another person when the driver has one prior driving under the influence conviction and had a blood alcohol content equal to or greater than 0.15.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for



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the purpose.

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

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Section 13A-6-2, Code of Alabama 1975, and Section 13A-6-3, as last amended by Act 2023-387, 2023 Regular Session, Code of Alabama 1975, to provide that a person commits the crime of murder if he or she commits the crime of driving under the influence in certain circumstances; to provide that a person commits the crime of manslaughter if he or she commits the crime of driving under the influence in certain circumstances; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-6-2, Code of Alabama 1975, and



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Section 13A-6-3, as last amended by Act 2023-387, 2023 Regular Session, Code of Alabama 1975, are amended to read as follows:

"§13A-6-2

(a) A person commits the crime of murder if he or she does any of the following:

(1) With intent to cause the death of another person, he or she causes the death of that person or of another person.

(2) Under circumstances manifesting extreme indifference to human life, he or she recklessly engages in conduct ~~which~~ that creates a grave risk of death to a person other than himself or herself, and ~~thereby~~ causes the death of another person.

(3) He or she commits or attempts to commit arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree, aggravated child abuse under Section 26-15-3.1, or any other felony clearly dangerous to human life and, in the course of and in furtherance of the crime that he or she is committing or attempting to commit, or in immediate flight therefrom, he or she, or another participant if there be any, causes the death of any person.

(4) He or she commits the crime of arson and a qualified governmental or volunteer firefighter or other public safety officer dies while performing his or her duty resulting from the arson.

(5) He or she commits the crime of driving under the



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influence under Section 32-5A-191, and causes the death of another person when both of the following occur:

a. He or she has two or more prior driving under the influence convictions.

b. He or she had at least 0.15 percent or more by weight of alcohol in his or her blood while operating or being in actual physical control of a vehicle.

(b) A person does not commit murder under subdivisions (a) (1) or (a) (2) ~~of this section~~ if he or she was moved to act by a sudden heat of passion caused by provocation recognized by law, and before there had been a reasonable time for the passion to cool and for reason to reassert itself. The burden of injecting the issue of killing under legal provocation is on the defendant, but this does not shift the burden of proof. This subsection does not apply to a prosecution for, or preclude a conviction of, manslaughter or other crime.

(c) Murder is a Class A felony; provided, that the punishment for murder or any offense committed under aggravated circumstances by a person 18 years of age or older, as provided by Article 2 of Chapter 5 of this title, is death or life imprisonment without parole, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any amendments thereto. The punishment for murder or any offense committed under aggravated circumstances by a person under the age of 18 years, as provided by Article 2 of Chapter 5, is either life imprisonment without parole, or life, which punishment shall be determined and fixed as provided by Article 2 of Chapter 5 of this title or any



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amendments thereto and the applicable Alabama Rules of Criminal Procedure.

(d) If the defendant is sentenced to life on a capital offense, the defendant must serve a minimum of 30 years, day for day, prior to first consideration of parole."

"§13A-6-3

(a) A person commits the crime of manslaughter if he or she does any of the following:

(1) Recklessly causes the death of another person.

(2) Causes the death of another person under circumstances that would constitute murder under Section 13A-6-2; except, that he or she causes the death due to a sudden heat of passion caused by provocation recognized by law, and before a reasonable time for the passion to cool and for reason to reassert itself.

(3) Knowingly sells, furnishes, gives away, delivers, or distributes a controlled substance in violation of Section 13A-12-211, and the person to whom the controlled substance is sold, furnished, given, delivered, or distributed dies as a proximate result of the use of the controlled substance; provided, nothing in this subdivision shall be construed to apply to a licensed physician engaged in the practice of medicine, a licensed pharmacist engaged in the practice of pharmacy, or a licensed dentist engaged in the practice of dentistry.

(4) He or she commits the crime of driving under the influence under Section 32-5A-191, and causes the death of another person when both of the following occur:



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141 a. He or she has one prior driving under the influence
142 conviction.

143 b. He or she had at least 0.15 percent or more by
144 weight of alcohol in his or her blood while operating or being
145 in actual physical control of a vehicle.

146 (b) Manslaughter is a Class B felony."

147 Section 2. Although this bill would have as its purpose
148 or effect the requirement of a new or increased expenditure of
149 local funds, the bill is excluded from further requirements
150 and application under Section 111.05 of the Constitution of
151 Alabama of 2022, because the bill defines a new crime or
152 amends the definition of an existing crime.

153 Section 3. This act shall become effective on October
154 1, 2024.