

1 HB363
2 149485-1
3 By Representatives Greer, Treadaway, Weaver, Johnson (W),
4 Sanderford, Ison, Rich, McClurkin, Baughn, Patterson, Williams
5 (D), Butler, Johnson (K), Nordgren, Collins, McCutcheon,
6 McClendon, Laird, Millican, Williams (J), Buttram, Newton (C),
7 Vance, Hammon, Moore (B), Faust, Brown, Williams (P), Lee,
8 Clouse, Chesteen, Gaston, McMillan, Carns, Farley, Tuggle,
9 Harper, Wood, Johnson (R), Hurst, Wren, Sessions, Wallace,
10 Love, Henry, Drake, Baker, Shiver, Standridge, Davis, Bridges,
11 Roberts and Hill
12 RFD: Judiciary
13 First Read: 28-FEB-13

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8 SYNOPSIS: Under existing law, in any case in which the
9 death penalty is imposed, there is an automatic
10 appeal to the Alabama Court of Criminal Appeals,
11 subject to review by the Alabama Supreme Court.

12 This bill would provide an automatic appeal
13 in any death penalty case directly to the Alabama
14 Supreme Court.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 Relating to appeals of death penalty cases; to amend
21 Section 13A-5-53, Code of Alabama 1975, to provide an
22 automatic appeal from any conviction that results in a
23 sentence of a death penalty directly to the Alabama Supreme
24 Court.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 13A-5-53, Code of Alabama 1975,
27 is amended to read as follows:

1 "§13A-5-53.

2 "(a) In any case in which the death penalty is
3 imposed, in addition to reviewing the case for any error
4 involving the conviction, the ~~Alabama Court of Criminal~~
5 ~~Appeals, subject to review by the~~ Alabama Supreme Court, shall
6 also review the propriety of the death sentence. This review
7 shall include the determination of whether any error adversely
8 affecting the rights of the defendant was made in the sentence
9 proceedings, whether the trial court's findings concerning the
10 aggravating and mitigating circumstances were supported by the
11 evidence, and whether death was the proper sentence in the
12 case. If the court determines that an error adversely
13 affecting the rights of the defendant was made in the sentence
14 proceedings or that one or more of the trial court's findings
15 concerning aggravating and mitigating circumstances were not
16 supported by the evidence, it shall remand the case for new
17 proceedings to the extent necessary to correct the error or
18 errors. If the ~~appellate~~ supreme court finds that no error
19 adversely affecting the rights of the defendant was made in
20 the sentence proceedings and that the trial court's findings
21 concerning aggravating and mitigating circumstances were
22 supported by the evidence, it shall proceed to review the
23 propriety of the decision that death was the proper sentence.

24 "(b) In determining whether death was the proper
25 sentence in the case ~~the Alabama Court of Criminal Appeals,~~
26 ~~subject to review by~~ the Alabama Supreme Court, shall
27 determine:

1 "(1) Whether the sentence of death was imposed under
2 the influence of passion, prejudice, or any other arbitrary
3 factor;

4 "(2) Whether an independent weighing of the
5 aggravating and mitigating circumstances at the appellate
6 level indicates that death was the proper sentence; and

7 "(3) Whether the sentence of death is excessive or
8 disproportionate to the penalty imposed in similar cases,
9 considering both the crime and the defendant.

10 "(c) ~~The Court of Criminal Appeals~~ Alabama Supreme
11 Court shall explicitly address each of the three questions
12 specified in subsection (b) of this section in every case it
13 reviews in which a sentence of death has been imposed.

14 "(d) After performing the review specified in this
15 section, ~~the Alabama Court of Criminal Appeals, subject to~~
16 ~~review by~~ the Alabama Supreme Court, shall be authorized to:

17 "(1) Affirm the sentence of death;

18 "(2) Set the sentence of death aside and remand to
19 the trial court for correction of any errors occurring during
20 the sentence proceedings and for imposition of the appropriate
21 penalty after any new sentence proceedings that are necessary,
22 provided that such errors shall not affect the determination
23 of guilt and shall not preclude the imposition of a sentence
24 of death where it is determined to be proper after any new
25 sentence proceedings that are deemed necessary; or

26 "(3) In cases in which the death penalty is deemed
27 inappropriate under subdivision (b) (2) or (b) (3) of this

1 section, set the sentence of death aside and remand to the
2 trial court with directions that the defendant be sentenced to
3 life imprisonment without parole."

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.