

1 SB170  
2 181370-1  
3 By Senators Dial, Ward, Whatley, Brewbaker, Holley, Melson,  
4 Glover, Marsh, Reed, Scofield, Albritton, Shelnut,tt,  
5 Livingston, Williams, Waggoner and Stutts  
6 RFD: Judiciary  
7 First Read: 14-FEB-17

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8 SYNOPSIS: Under existing law, a defendant found guilty  
9 of murdering an on-duty law enforcement officer may  
10 receive the death penalty.

11 This bill would provide that a defendant  
12 found guilty of murdering an on-duty law  
13 enforcement officer must receive the death penalty.

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

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9                   A BILL  
10                  TO BE ENTITLED  
11                  AN ACT

12  
13                  To amend Section 13A-5-43, Code of Alabama 1975,  
14                  relating to capital offenses; to provide that a defendant  
15                  found guilty of murdering an on-duty law enforcement officer  
16                  shall be sentenced to death; and in connection therewith would  
17                  have as its purpose or effect the requirement of a new or  
18                  increased expenditure of local funds within the meaning of  
19                  Amendment 621 of the Constitution of Alabama of 1901, now  
20                  appearing as Section 111.05 of the Official Recompilation of  
21                  the Constitution of Alabama of 1901, as amended.

22                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23                  Section 1. Section 13A-5-43, Code of Alabama 1975,  
24                  as last amended by Act 2016-360, 2016 Regular Session, is  
25                  amended to read as follows:

26                  "§13A-5-43.

1           "(a) In the trial of a capital offense the jury  
2 shall first hear all the admissible evidence offered on the  
3 charge or charges against the defendant. It shall then  
4 determine whether the defendant is guilty of the capital  
5 offense or offenses with which he is charged or of any lesser  
6 included offense or offenses considered pursuant to Section  
7 13A-5-41.

8           "(b) If the defendant is found not guilty of the  
9 capital offense or offenses with which he is charged, and not  
10 guilty of any lesser included offense or offenses considered  
11 pursuant to Section 13A-5-41, the defendant shall be  
12 discharged.

13           "(c) If the defendant is found not guilty of the  
14 capital offense or offenses with which he is charged, and is  
15 found guilty of a lesser included offense or offenses  
16 considered pursuant to Section 13A-5-41, sentence shall be  
17 determined and imposed as provided by law.

18           "(d) If the defendant is found guilty of a capital  
19 offense or offenses with which he is charged and the defendant  
20 does not establish to the court by a preponderance of the  
21 evidence that he or she was under the age of 18 years at the  
22 time of the capital offense or offenses with which he or she  
23 is found guilty, the sentence shall be determined as provided  
24 in Sections 13A-5-45 through 13A-5-53.

25           "(e) If the defendant is found guilty of a capital  
26 offense or offenses with which he or she is charged and the  
27 defendant establishes to the court by a preponderance of the

1 evidence that he or she was under the age of 18 years at the  
2 time of the capital offense or offenses, the sentence shall be  
3 either life without the possibility of parole or, in the  
4 alternative, life, and the sentence shall be determined by the  
5 procedures set forth in the Alabama Rules of Criminal  
6 Procedure for judicially imposing sentences within the range  
7 set by statute without a jury, rather than as provided in  
8 Sections 13A-5-45 to 13A-5-53, inclusive. The judge shall  
9 consider all relevant mitigating circumstances.

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

13 "(f) If the defendant is found guilty of a capital  
14 offense or offenses as provided in subdivision (a) (5) of  
15 Section 13A-5-40 and the defendant does not establish to the  
16 court by a preponderance of the evidence that he or she was  
17 under the age of 18 years at the time of the capital offense  
18 or offenses with which he or she is found guilty, the  
19 defendant shall be sentenced to death."

20 Section 2. Although this bill would have as its  
21 purpose or effect the requirement of a new or increased  
22 expenditure of local funds, the bill is excluded from further  
23 requirements and application under Amendment 621, now  
24 appearing as Section 111.05 of the Official Recompilation of  
25 the Constitution of Alabama of 1901, as amended, because the  
26 bill defines a new crime or amends the definition of an  
27 existing crime.

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