

1 SB97
2 147434-3
3 By Senators Orr, Marsh, McGill, Keahey, Figures, Dunn, Irons,
4 Coleman, Scofield, Beason, Williams and Smitherman
5 RFD: Judiciary
6 First Read: 05-FEB-13

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8 SYNOPSIS: Under existing law, there is no process for
9 the State Board of Pardons and Paroles to pardon
10 felons determined to be innocent after their death.

11 This bill would create "The Scottsboro Boys
12 Act" to establish procedures to consider the
13 posthumous pardon of certain felons convicted based
14 upon alleged acts committed at least 80 years prior
15 to the date of the petition and which meet other
16 criteria.

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18 A BILL

19 TO BE ENTITLED

20 AN ACT

21
22 Relating to pardons and paroles, to establish
23 procedures for the consideration of posthumous pardons of
24 certain felons by the State Board of Pardons and Paroles.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. This act may be known and cited as "The
27 Scottsboro Boys Act."

1 Section 2. The purpose of this act is to establish a
2 process for the consideration of posthumous pardons by the
3 State Board of Pardons and Paroles for certain felons.

4 Section 3. The following words shall have the
5 following meanings:

6 (1) BOARD. State Board of Pardons and Paroles.

7 (2) CANDIDATE. A person who is considered for a
8 posthumous pardon.

9 (3) PETITION. A document signed by a petitioner
10 requesting the posthumous pardon of a person.

11 (4) PETITIONER. A judge in the judicial circuit
12 where the person was tried and convicted or the district
13 attorney in the person's county of conviction.

14 (5) POSTHUMOUS PARDON. A pardon granted by the State
15 Board of Pardons and Paroles to certain deceased felons.

16 Section 4. (a) A person convicted of a Class A or
17 Class B felony in this state shall be a candidate for a
18 posthumous pardon if all of the following conditions are
19 satisfied:

20 (1) He or she is deceased.

21 (2) The person's circumstances of conviction provide
22 a compelling reason or reasons to consider granting a
23 posthumous pardon to remedy social injustice associated with
24 racial discrimination.

25 (3) He or she did not receive a pardon for his or
26 her felony conviction at issue from this state while living.

1 (4) The acts forming the basis for his or her felony
2 conviction or convictions at issue were committed at least 80
3 years prior to the date of the petition.

4 (b) A petitioner may petition the board to consider
5 granting a posthumous pardon for a specific compelling reason
6 or reasons for the purpose of remedying social injustice
7 associated with racial discrimination evident by the person's
8 circumstances of conviction.

9 (c) (1) The petition shall include attestations of
10 all of the following:

11 a. That the petitioner is an eligible petitioner
12 under this act.

13 b. That the petitioner has personally conducted an
14 intelligent evaluation of the person's case.

15 c. The compelling reason or reasons for which the
16 petitioner requests a posthumous pardon for the purpose of
17 remedying social injustice associated with racial
18 discrimination evident by the person's circumstances of
19 conviction.

20 d. That all information contained in the petition
21 and any supporting documentation or evidence submitted by the
22 petitioner is believed to be true and accurate.

23 (2) The petition shall also include supporting
24 documentation or evidence of the compelling reason or reasons
25 supporting the award of a posthumous pardon.

26 (d) The board shall have no power to grant a
27 posthumous pardon unless the petition specifies a compelling

1 reason or reasons for which the petitioner seeks application
2 for the candidate's posthumous pardon to remedy social
3 injustice associated with racial discrimination evident by the
4 person's circumstances of conviction.

5 (e) Following receipt and review of the petition and
6 supporting documentation or evidence, the board shall conduct
7 a hearing on the petition. The board shall not be required to
8 conduct an investigation to consider or grant a posthumous
9 pardon in accordance with this act, but may rely on the
10 written petition and accompanying documentation or evidence,
11 along with evidence presented at the hearing. The petitioner,
12 public officials, and other witnesses, including members of
13 the public may testify and present evidence at the hearing in
14 support of or in opposition to the petition. The board shall
15 hold ultimate discretion in granting a posthumous pardon. Upon
16 the unanimous affirmative vote of the board, a posthumous
17 pardon may be issued.

18 (f) The notification requirements of Sections
19 15-22-23 and 15-22-36, Code of Alabama 1975, shall not apply
20 to this act, and the board's power to grant posthumous pardons
21 shall not otherwise be limited by Sections 15-22-23 and
22 15-22-36, Code of Alabama 1975.

23 Section 5. For the public welfare, a pardon granted
24 by the board pursuant to this act shall not require formal
25 delivery to and acceptance by the candidate's family or legal
26 heirs in order to be considered valid.

1 Section 6. Nothing in this act, nor any
2 determination made by the Alabama Board of Pardons and Paroles
3 pursuant to this act, shall give rise to any liability from
4 any act or omission of any governmental entity or otherwise
5 give rise to any legal claim, suit, or action, including for
6 reparations to a surviving family member of a person pardoned
7 under this act or to a posthumously pardoned person's estate.
8 All Board of Pardons and Paroles' files and records created
9 and maintained pursuant to this act shall be subject to the
10 absolute governmental privilege created by subsection
11 15-22-36(b), Code of Alabama 1975.

12 Section 7. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.