

1 SB2
2 147133-4
3 By Senator Scofield
4 RFD: Judiciary
5 First Read: 14-JAN-14
6 PFD: 05/21/2013

1 SB2

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4 ENROLLED, An Act,

5 To amend Section 13A-5-40 of the Code of Alabama
6 1975, relating to capital offenses, to make it a capital
7 offense for a defendant to murder a person in violation of a
8 protection order issued on behalf of the victim against the
9 defendant; and in connection therewith would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds within the meaning of Amendment 621
12 of the Constitution of Alabama of 1901, now appearing as
13 Section 111.05 of the Official Recompilation of the
14 Constitution of Alabama of 1901, as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited
17 as "Kelley's Law."

18 Section 2. Section 13A-5-40 of the Code of Alabama
19 1975, is amended to read as follows:

20 "§13A-5-40.

21 "(a) The following are capital offenses:

22 "(1) Murder by the defendant during a kidnapping in
23 the first degree or an attempt thereof committed by the
24 defendant.

1 "(2) Murder by the defendant during a robbery in the
2 first degree or an attempt thereof committed by the defendant.

3 "(3) Murder by the defendant during a rape in the
4 first or second degree or an attempt thereof committed by the
5 defendant; or murder by the defendant during sodomy in the
6 first or second degree or an attempt thereof committed by the
7 defendant.

8 "(4) Murder by the defendant during a burglary in
9 the first or second degree or an attempt thereof committed by
10 the defendant.

11 "(5) Murder of any police officer, sheriff, deputy,
12 state trooper, federal law enforcement officer, or any other
13 state or federal peace officer of any kind, or prison or jail
14 guard, while such officer or guard is on duty, regardless of
15 whether the defendant knew or should have known the victim was
16 an officer or guard on duty, or because of some official or
17 job-related act or performance of such officer or guard.

18 "(6) Murder committed while the defendant is under
19 sentence of life imprisonment.

20 "(7) Murder done for a pecuniary or other valuable
21 consideration or pursuant to a contract or for hire.

22 "(8) Murder by the defendant during sexual abuse in
23 the first or second degree or an attempt thereof committed by
24 the defendant.

1 "(9) Murder by the defendant during arson in the
2 first or second degree committed by the defendant; or murder
3 by the defendant by means of explosives or explosion.

4 "(10) Murder wherein two or more persons are
5 murdered by the defendant by one act or pursuant to one scheme
6 or course of conduct.

7 "(11) Murder by the defendant when the victim is a
8 state or federal public official or former public official and
9 the murder stems from or is caused by or is related to his
10 official position, act, or capacity.

11 "(12) Murder by the defendant during the act of
12 unlawfully assuming control of any aircraft by use of threats
13 or force with intent to obtain any valuable consideration for
14 the release of said aircraft or any passenger or crewmen
15 thereon or to direct the route or movement of said aircraft,
16 or otherwise exert control over said aircraft.

17 "(13) Murder by a defendant who has been convicted
18 of any other murder in the 20 years preceding the crime;
19 provided that the murder which constitutes the capital crime
20 shall be murder as defined in subsection (b) of this section;
21 and provided further that the prior murder conviction referred
22 to shall include murder in any degree as defined at the time
23 and place of the prior conviction.

24 "(14) Murder when the victim is subpoenaed, or has
25 been subpoenaed, to testify, or the victim had testified, in

1 any preliminary hearing, grand jury proceeding, criminal trial
2 or criminal proceeding of whatever nature, or civil trial or
3 civil proceeding of whatever nature, in any municipal, state,
4 or federal court, when the murder stems from, is caused by, or
5 is related to the capacity or role of the victim as a witness.

6 "(15) Murder when the victim is less than fourteen
7 years of age.

8 "(16) Murder committed by or through the use of a
9 deadly weapon fired or otherwise used from outside a dwelling
10 while the victim is in a dwelling.

11 "(17) Murder committed by or through the use of a
12 deadly weapon while the victim is in a vehicle.

13 "(18) Murder committed by or through the use of a
14 deadly weapon fired or otherwise used within or from a
15 vehicle.

16 "(19) Murder by the defendant where a court had
17 issued a protective order for the victim, against the
18 defendant, pursuant to Section 30-5-1 et seq., or the
19 protective order was issued as a condition of the defendant's
20 pretrial release.

21 "(b) Except as specifically provided to the contrary
22 in the last part of subdivision (a)(13) of this section, the
23 terms "murder" and "murder by the defendant" as used in this
24 section to define capital offenses mean murder as defined in
25 Section 13A-6-2(a)(1), but not as defined in Section

1 13A-6-2(a)(2) and (3). Subject to the provisions of Section
2 13A-5-41, murder as defined in Section 13A-6-2(a)(2) and (3),
3 as well as murder as defined in Section 13A-6-2(a)(1), may be
4 a lesser included offense of the capital offenses defined in
5 subsection (a) of this section.

6 "(c) A defendant who does not personally commit the
7 act of killing which constitutes the murder is not guilty of a
8 capital offense defined in subsection (a) of this section
9 unless that defendant is legally accountable for the murder
10 because of complicity in the murder itself under the
11 provisions of Section 13A-2-23, in addition to being guilty of
12 the other elements of the capital offense as defined in
13 subsection (a) of this section.

14 "(d) To the extent that a crime other than murder is
15 an element of a capital offense defined in subsection (a) of
16 this section, a defendant's guilt of that other crime may also
17 be established under Section 13A-2-23. When the defendant's
18 guilt of that other crime is established under Section
19 13A-2-23, that crime shall be deemed to have been "committed
20 by the defendant" within the meaning of that phrase as it is
21 used in subsection (a) of this section."

22 Section 3. Although this bill would have as its
23 purpose or effect the requirement of a new or increased
24 expenditure of local funds, the bill is excluded from further
25 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB2
Senate 18-FEB-14
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 02-APR-14

By: Senator Scofield