

1 SB36  
2 197228-1  
3 By Senator Elliott  
4 RFD: Judiciary  
5 First Read: 05-MAR-19  
6 PFD: 02/25/2019

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, when a person is found  
9 guilty of committing a misdemeanor or felony and it  
10 is shown beyond a reasonable doubt that the  
11 commission of the crime was motivated by the  
12 victim's race, color, religion, national origin,  
13 ethnicity, or physical or mental disability, the  
14 person is subject to heightened criminal penalties.

15 This bill would provide that when a person  
16 is found guilty of committing a misdemeanor or  
17 felony against a law enforcement officer and it is  
18 shown beyond a reasonable doubt that the commission  
19 of the crime was motivated by the victim's  
20 employment as a law enforcement officer, the person  
21 is subject to heightened criminal penalties.

22 Amendment 621 of the Constitution of Alabama  
23 of 1901, now appearing as Section 111.05 of the  
24 Official Recompilation of the Constitution of  
25 Alabama of 1901, as amended, prohibits a general  
26 law whose purpose or effect would be to require a  
27 new or increased expenditure of local funds from

1 becoming effective with regard to a local  
2 governmental entity without enactment by a 2/3 vote  
3 unless: it comes within one of a number of  
4 specified exceptions; it is approved by the  
5 affected entity; or the Legislature appropriates  
6 funds, or provides a local source of revenue, to  
7 the entity for the purpose.

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

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT  
19

20 Relating to crimes and offenses; to amend Section  
21 13A-5-13, Code of Alabama 1975, to provide additional criminal  
22 penalties when the commission of a felony or misdemeanor is  
23 motivated by the victim's employment as a law enforcement  
24 officer; and in connection therewith would have as its purpose  
25 or effect the requirement of a new or increased expenditure of  
26 local funds within the meaning of Amendment 621 of the  
27 Constitution of Alabama of 1901, now appearing as Section

1 111.05 of the Official Recompilation of the Constitution of  
2 Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§13A-5-13.

7 "(a) The Legislature finds and declares the  
8 following:

9 "(1) It is the right of every person, regardless of  
10 race, color, religion, national origin, ethnicity, ~~or~~ physical  
11 or mental disability, or employment as a law enforcement  
12 officer, to be secure and protected from threats of reasonable  
13 fear, intimidation, harassment, and physical harm caused by  
14 activities of groups and individuals.

15 "(2) It is not the intent, by enactment of this  
16 section, to interfere with the exercise of rights protected by  
17 the Constitution of the State of Alabama or the United States.

18 "(3) The intentional advocacy of unlawful acts by  
19 groups or individuals against other persons or groups and  
20 bodily injury or death to persons is not constitutionally  
21 protected when violence or civil disorder is imminent, and  
22 poses a threat to public order and safety, and such conduct  
23 should be subjected to criminal sanctions.

24 "(b) The purpose of this section is to impose  
25 additional penalties where it is shown that a perpetrator  
26 committing the underlying offense was motivated by the  
27 victim's actual or perceived race, color, religion, national

1 origin, ethnicity, ~~or~~ physical or mental disability, or  
2 employment as a law enforcement officer.

3 "(c) A person who has been found guilty of a crime,  
4 the commission of which was shown beyond a reasonable doubt to  
5 have been motivated by the victim's actual or perceived race,  
6 color, religion, national origin, ethnicity, ~~or~~ physical or  
7 mental disability, or employment as a law enforcement officer,  
8 shall be punished as follows:

9 "(1) Felonies:

10 "a. On conviction of a Class A felony that was found  
11 to have been motivated by the victim's actual or perceived  
12 race, color, religion, national origin, ethnicity, ~~or~~ physical  
13 or mental disability, or employment as a law enforcement  
14 officer, the sentence shall not be less than 15 years.

15 "b. On conviction of a Class B felony that was found  
16 to have been motivated by the victim's actual or perceived  
17 race, color, religion, national origin, ethnicity, ~~or~~ physical  
18 or mental disability, or employment as a law enforcement  
19 officer, the sentence shall not be less than 10 years.

20 "c. On conviction of a Class C felony that was found  
21 to have been motivated by the victim's actual or perceived  
22 race, color, religion, national origin, ethnicity, ~~or~~ physical  
23 or mental disability, or employment as a law enforcement  
24 officer, the sentence shall not be less than two years.

25 "d. On conviction of a Class D felony that was found  
26 to have been motivated by the victim's actual or perceived  
27 race, color, religion, national origin, ethnicity, ~~or~~ physical

1 or mental disability, or employment as a law enforcement  
2 officer, the sentence shall not be less than 18 months.

3 "e. For purposes of this subdivision, a criminal  
4 defendant who has been previously convicted of any felony and  
5 receives an enhanced sentence pursuant to this section is also  
6 subject to enhanced punishment under the Alabama Habitual  
7 Felony Offender Act, Section 13A-5-9.

8 "(2) Misdemeanors:

9 "On conviction of a misdemeanor which was found  
10 beyond a reasonable doubt to have been motivated by the  
11 victim's actual or perceived race, color, religion, national  
12 origin, ethnicity, ~~or~~ physical or mental disability, or  
13 employment as a law enforcement officer, the defendant shall  
14 be sentenced for a Class A misdemeanor, except that the  
15 defendant shall be sentenced to a minimum of three months."

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

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