

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

HB 7101 — Sentencing for Capital Felonies

by Criminal Justice Subcommittee and Reps. Trujillo, Spano, and others (CS/SB 7068 by Appropriations Committee and Criminal Justice Committee)

The bill (Chapter 2016-13, L.O.F.) makes changes to Florida’s capital sentencing scheme.

On January 12, 2016, the U.S. Supreme Court held Florida’s capital sentencing scheme unconstitutional in an eight to one opinion. (*Hurst v. Florida*, 577 U.S. ____ (2016), 2016 WL 112683, at *3) The Court ruled that “the Sixth Amendment requires a jury, not a judge, to find each fact necessary to impose a sentence of death.” (*Id.* at *1) Several provisions contained within the bill are intended to comply with the U.S. Supreme Court ruling.

Specifically, the bill amends Florida’s capital sentencing scheme in the following ways:

- The prosecutor is required to provide notice to the defendant and file notice with the court when the state is seeking the death penalty and the notice must contain a list of the aggravating factors the state intends to prove;
- The jury is required to identify each aggravating factor found to exist by a unanimous vote in order for a defendant to be eligible for a sentence of death;
- The jury is required to determine whether the aggravating factors outweigh the mitigating circumstances in reaching its sentencing recommendation;
- If at least ten of the twelve members of the jury determine that the defendant should be sentenced to death, the jury’s recommendation is a sentence of death;
- The jury is required to recommend a sentence of life imprisonment without the possibility of parole if fewer than ten jurors determined that the defendant should be sentenced to death;
- The judge is permitted to impose a sentence of life imprisonment without the possibility of parole when the jury unanimously recommends a sentence of death; and
- The judge is no longer permitted to “override” the jury’s recommendation of a sentence of life imprisonment by imposing a sentence of death.

These provisions became law upon approval by the Governor on March 7, 2016.

Vote: Senate 35-5; House 93-20