

By Senator Jones

40-1227-00

1 A bill to be entitled
2 An act relating to the imposition of the
3 sentence of death; creating the Florida Racial
4 Justice Act; prohibiting the imposition of a
5 death sentence that is sought on the basis of
6 race; providing standards and evidentiary
7 guidelines for finding that a sentence was
8 sought on the basis of race; providing
9 procedural guidelines; specifying that the
10 defendant's burden of proof is by clear and
11 convincing evidence; providing applicability;
12 providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. (1) This section may be cited as the
17 "Florida Racial Justice Act."

18 (2) A person may not be given a sentence of death
19 which was sought on the basis of race.

20 (3) A finding that race was the basis of a decision to
21 seek a death sentence may be established if the court finds
22 that race was a significant factor in decisions to seek the
23 sentence of death in this state at the time the death sentence
24 was sought.

25 (4) Evidence relevant to establishing a finding that
26 race was the basis of the decision to seek a death sentence
27 may include statistical evidence and other evidence that death
28 sentences were sought more frequently:

29 (a) Upon persons of one race than upon persons of
30 another race; or

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1 (b) As punishment for capital offenses against persons
2 of one race than as punishment for capital offenses against
3 persons of another race.

4 (5) A defendant must state with particularity how the
5 evidence supports a claim that racial considerations played a
6 significant part in the decision to seek a death sentence in
7 his or her case. The claim shall be raised at the pretrial
8 conference. The court shall schedule a hearing on the claim
9 and shall prescribe a time for the submission of evidence by
10 both parties. If the court finds that race was the basis for
11 the decision to seek the death sentence, the court shall order
12 that a death sentence not be sought.

13 (6) The defendant has the burden of proving by clear
14 and convincing evidence that race was the basis of the
15 decision to seek the death penalty. The state may offer
16 evidence in rebuttal of the claims or evidence of the
17 defendant.

18 (7) This section applies only to sentences imposed
19 after the effective date of this act.

20 Section 2. This act shall take effect upon becoming a
21 law.

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24 SENATE SUMMARY

25 Creates the Florida Racial Justice Act. Prohibits the
26 court from imposing a sentence of death if the sentence
27 is sought on the basis of the defendant's race. Provides
28 for statistical evidence and other evidence to be used to
29 establish a finding that a sentence has been sought on
30 the basis of race. Provides that the defendant has the
31 burden of proving by clear and convincing evidence the
basis of the sentence. (See bill for details.)