

By Senator Holzendorf

2-1216-00

1 A bill to be entitled
2 An act relating to capital punishment;
3 prohibiting seeking or imposing a sentence of
4 death when the sentence was sought on the basis
5 of race; providing guidelines for determining
6 whether race was improperly used as a
7 consideration; prescribing responsibility of
8 the court; providing a burden of proof in such
9 allegations; providing an effective date.

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

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13 Section 1. Prohibition against death sentence being
14 sought or given on the basis of race; procedure for dealing
15 with claims.--

16 (1) A person may not be subject to or given a sentence
17 of death if the sentence was sought on the basis of race.

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

23 (3) Evidence relevant to establish a finding that race
24 was the basis of the decision to seek a death sentence may
25 include statistical evidence or other evidence, or both, that
26 death sentences were sought significantly more frequently:

27 (a) Upon persons of one race than upon persons of
28 another race; or

29 (b) As punishment for capital offenses against persons
30 of one race than as punishment for capital offenses against
31 persons of another race.

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

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

16 Section 2. This act shall take effect July 1, 2000.

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19 SENATE SUMMARY

20 Prohibits the seeking or imposition of a death sentence
21 whenever race, of the defendant or the victim, is the
22 basis upon which the sentence is sought. Provides for the
23 court to determine the issue, which must be raised by the
24 defendant at the pretrial conference and for which the
25 defendant has the burden of proof.
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