

Bill No. SB 12-A, 1st Eng.

Amendment No.     

| <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Senators Meek, Hargrett, Dyer, Holzendorf, Campbell, and Jones moved the following amendment:

**Senate Amendment (with title amendment)**

On page 18, line 12, delete the phrase  
. For the purposes of this

and insert:

, except that a postconviction claim that race was the basis of the decision to seek a death sentence may be established if the court finds that race was a significant factor in decisions to seek the sentence of death in the state of Florida at the time the death sentence was sought.

1. Evidence relevant to support finding that race was the basis of the decision to seek a death sentence may include statistical evidence and other evidence that death sentences were sought more frequently upon persons of one race than upon persons of another race; or as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

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1           2. 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 a death  
 4 sentence in his or her case. The claim need not be raised by  
 5 the defendant at the pre-trial conference. The court shall  
 6 schedule a hearing on the claim and shall prescribe a time for  
 7 the submission of evidence by both parties. If the court  
 8 finds that race was the basis for the decision to seek the  
 9 death sentence, the court shall order that a death sentence  
 10 shall not be sought.

11           3. 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           4. If the defendant is successful in showing that the  
 17 imposition of his or her death sentence was based, in whole or  
 18 in part, on his or her race, the death sentence shall be  
 19 commuted to life in prison.

20  
21 For the purposes of this

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24 ===== T I T L E    A M E N D M E N T =====

25 And the title is amended as follows:

26           On page 1, line 11 after "actions"

27  
28 insert:

29           and exception

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