

Bill No. SB 12-A

Amendment No. ____

Senate

CHAMBER ACTION

House

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Senator Mitchell moved the following amendment:

Senate Amendment (with title amendment)

On page 35, between lines 26 and 27,

insert:

Section 21. If a court finds that a defendant has mental retardation, as the term "retardation" is defined in section 393.063(44), Florida Statutes, and that the defendant met that definition of retardation at the time of commission of the offense, the defendant may not be sentenced to death. The burden of production and persuasion to demonstrate mental retardation by a preponderance of the evidence is upon the defendant. The court may excuse the requirements for documentation under this section if the court finds that extraordinary circumstances exist. The defendant must file before trial a petition alleging that the defendant has mental retardation. When a defendant files a petition under this section, the court must order an evaluation of the defendant by a competent psychologist for the purpose of providing evidence of retardation.

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(Redesignate subsequent sections.)

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

And the title is amended as follows:

On page 3, line 6, after the semicolon

insert:

prohibiting the imposition of the death
sentence on a defendant who has mental
retardation at the time of commission of the
offense; defining the term "retardation";
providing procedures;