

By Senator Villalobos

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A bill to be entitled

An act relating to sentencing in capital felonies; amending ss. 921.141 and 921.142, F.S.; requiring that an advisory sentence of death be made by a unanimous recommendation of the jury following a defendant's conviction or adjudication of guilt for a capital felony or capital drug trafficking felony; requiring that the court enter a sentence notwithstanding the unanimous recommendation of the jury; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 921.141, Florida Statutes, are amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.--

(2) ADVISORY SENTENCE BY THE JURY.--After hearing all the evidence, the jury shall deliberate and render an advisory sentence to the court, based upon the following matters:

(a) Whether sufficient aggravating circumstances exist as enumerated in subsection (5);

(b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and

(c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

1 Effective for an offense committed on or after October 1,
2 2006, an advisory sentence of death must be made by a
3 unanimous recommendation of the jury.

4 (3) FINDINGS IN SUPPORT OF SENTENCE OF
5 DEATH.--Notwithstanding the recommendation of a majority of
6 the jury or a unanimous recommendation of the jury, the court,
7 after weighing the aggravating and mitigating circumstances,
8 shall enter a sentence of life imprisonment or death, but if
9 the court imposes a sentence of death, it shall set forth in
10 writing its findings upon which the sentence of death is based
11 as to the facts:

12 (a) That sufficient aggravating circumstances exist as
13 enumerated in subsection (5);~~7~~ and

14 (b) That there are insufficient mitigating
15 circumstances to outweigh the aggravating circumstances.

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17 In each case in which the court imposes the death sentence,
18 the determination of the court shall be supported by specific
19 written findings of fact based upon the circumstances in
20 subsections (5) and (6) and upon the records of the trial and
21 the sentencing proceedings. If the court does not make the
22 findings requiring the death sentence within 30 days after the
23 rendition of the judgment and sentence, the court shall impose
24 sentence of life imprisonment in accordance with s. 775.082.

25 Section 2. Subsections (3) and (4) of section 921.142,
26 Florida Statutes, are amended to read:

27 921.142 Sentence of death or life imprisonment for
28 capital drug trafficking felonies; further proceedings to
29 determine sentence.--

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1 (3) ADVISORY SENTENCE BY THE JURY.--After hearing all
2 the evidence, the jury shall deliberate and render an advisory
3 sentence to the court, based upon the following matters:

4 (a) Whether sufficient aggravating circumstances exist
5 as enumerated in subsection (6);

6 (b) Whether sufficient mitigating circumstances exist
7 which outweigh the aggravating circumstances found to exist;
8 and

9 (c) Based on these considerations, whether the
10 defendant should be sentenced to life imprisonment or death.

11
12 Effective for an offense committed on or after October 1,
13 2006, an advisory sentence of death must be made by a
14 unanimous recommendation of the jury.

15 (4) FINDINGS IN SUPPORT OF SENTENCE OF
16 DEATH.--Notwithstanding the recommendation of a majority of
17 the jury or a unanimous recommendation of the jury, the court,
18 after weighing the aggravating and mitigating circumstances,
19 shall enter a sentence of life imprisonment or death, but if
20 the court imposes a sentence of death, it shall set forth in
21 writing its findings upon which the sentence of death is based
22 as to the facts:

23 (a) That sufficient aggravating circumstances exist as
24 enumerated in subsection (6);~~7~~ and

25 (b) That there are insufficient mitigating
26 circumstances to outweigh the aggravating circumstances.

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28 In each case in which the court imposes the death sentence,
29 the determination of the court shall be supported by specific
30 written findings of fact based upon the circumstances in
31 subsections (6) and (7) and upon the records of the trial and

1 | the sentencing proceedings. If the court does not make the
2 | findings requiring the death sentence within 30 days after the
3 | rendition of the judgment and sentence, the court shall impose
4 | sentence of life imprisonment in accordance with s. 775.082,
5 | and that person shall be ineligible for parole.

6 | Section 3. This act shall take effect October 1, 2006.

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9 | SENATE SUMMARY

10 | Provides for an advisory sentence of death to be made by
11 | a unanimous recommendation of the jury in a case
12 | involving a capital felony or capital drug trafficking
13 | felony. Requires that the court enter a sentence
14 | notwithstanding the jury's unanimous recommendation.

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