

1                                   A bill to be entitled  
 2           An act relating to sentencing in capital felonies;  
 3           amending ss. 921.141 and 921.142, F.S.; requiring that an  
 4           advisory sentence of death be made by a unanimous  
 5           recommendation of the jury following a defendant's  
 6           conviction or adjudication of guilt for a capital felony  
 7           or capital drug trafficking felony; requiring that the  
 8           court enter a sentence notwithstanding the unanimous  
 9           recommendation of the jury; 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. Subsections (2) and (3) of section 921.141,  
 14 Florida Statutes, are amended to read:

15           921.141 Sentence of death or life imprisonment for capital  
 16 felonies; further proceedings to determine sentence.--

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

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

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

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

26

27 Effective for an offense committed on or after October 1, 2006,  
 28 an advisory sentence of death must be made by a unanimous

29 recommendation of the jury.

30 (3) FINDINGS IN SUPPORT OF SENTENCE OF  
 31 DEATH.--Notwithstanding the recommendation of a majority of the  
 32 jury or a unanimous recommendation of the jury, the court, after  
 33 weighing the aggravating and mitigating circumstances, shall  
 34 enter a sentence of life imprisonment or death, but if the court  
 35 imposes a sentence of death, it shall set forth in writing its  
 36 findings upon which the sentence of death is based as to the  
 37 facts:

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

40 (b) That there are insufficient mitigating circumstances  
 41 to outweigh the aggravating circumstances.

42  
 43 In each case in which the court imposes the death sentence, the  
 44 determination of the court shall be supported by specific  
 45 written findings of fact based upon the circumstances in  
 46 subsections (5) and (6) and upon the records of the trial and  
 47 the sentencing proceedings. If the court does not make the  
 48 findings requiring the death sentence within 30 days after the  
 49 rendition of the judgment and sentence, the court shall impose  
 50 sentence of life imprisonment in accordance with s. 775.082.

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

53 921.142 Sentence of death or life imprisonment for capital  
 54 drug trafficking felonies; further proceedings to determine  
 55 sentence.--

56 (3) ADVISORY SENTENCE BY THE JURY.--After hearing all the

57 | evidence, the jury shall deliberate and render an advisory  
 58 | sentence to the court, based upon the following matters:

59 |       (a) Whether sufficient aggravating circumstances exist as  
 60 | enumerated in subsection (6);

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

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

65 |  
 66 | Effective for an offense committed on or after October 1, 2006,  
 67 | an advisory sentence of death must be made by a unanimous  
 68 | recommendation of the jury.

69 |       (4) FINDINGS IN SUPPORT OF SENTENCE OF  
 70 | DEATH.--Notwithstanding the recommendation of a majority of the  
 71 | jury or a unanimous recommendation of the jury, the court, after  
 72 | weighing the aggravating and mitigating circumstances, shall  
 73 | enter a sentence of life imprisonment or death, but if the court  
 74 | imposes a sentence of death, it shall set forth in writing its  
 75 | findings upon which the sentence of death is based as to the  
 76 | facts:

77 |       (a) That sufficient aggravating circumstances exist as  
 78 | enumerated in subsection (6) ~~;~~ and

79 |       (b) That there are insufficient mitigating circumstances  
 80 | to outweigh the aggravating circumstances.

81 |  
 82 | In each case in which the court imposes the death sentence, the  
 83 | determination of the court shall be supported by specific  
 84 | written findings of fact based upon the circumstances in

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85 subsections(6) and (7) and upon the records of the trial and the  
86 sentencing proceedings. If the court does not make the findings  
87 requiring the death sentence within 30 days after the rendition  
88 of the judgment and sentence, the court shall impose sentence of  
89 life imprisonment in accordance with s. 775.082, and that person  
90 shall be ineligible for parole.

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