

HB 979

2011

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 after a defendant's conviction
 6 or adjudication of guilt for a capital felony or capital
 7 drug trafficking felony; requiring that the court enter a
 8 sentence notwithstanding the unanimous recommendation of
 9 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, 2011,
 28 an advisory sentence of death must be made by a unanimous

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29 recommendation of the jury.

30 (3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—

31 Notwithstanding the recommendation of a majority of the jury or
 32 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) ; 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

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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, 2011,
 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 DEATH.—
 70 | Notwithstanding the recommendation of a majority of the jury or
 71 | 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, 2011.