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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/09/2016	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

Senate Amendment

Delete lines 149 - 186

and insert:

b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.

c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

(c) If a unanimous jury determines that the defendant



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11 should be sentenced to death, the jury's recommendation to the
12 court shall be a sentence of death. If a less than unanimous
13 jury determines that the defendant should be sentenced to death,
14 the jury's recommendation to the court shall be a sentence of
15 life imprisonment without the possibility of parole.

16 (3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.-

17 (a) If the jury has recommended a sentence of:

18 1. Life imprisonment without the possibility of parole, the
19 court shall impose the recommended sentence.

20 2. Death, the court, after considering each aggravating
21 factor found by the jury and all mitigating circumstances, may
22 impose a sentence of life imprisonment without the possibility
23 of parole or a sentence of death. The court may consider only an
24 aggravating factor that was unanimously found to exist by the
25 jury.

26 (b) If the defendant waived his or her right to a
27 sentencing proceeding by a jury, the court, after considering
28 all aggravating factors and mitigating circumstances, may impose
29 a sentence of life imprisonment without the possibility of
30 parole or a sentence of death. The court may impose a sentence
31 of death only if the court finds that at least one aggravating
32 factor has been proven to exist beyond a reasonable doubt.

33 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.-In
34 each case in which the court imposes a sentence of death, the
35 court shall, considering the records of the trial and the
36 sentencing proceedings, enter a written order addressing the
37 aggravating factors set forth in subsection (6) found to exist,
38 the mitigating circumstances in subsection (7) reasonably
39 established by the evidence, whether there are sufficient



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40 aggravating factors to warrant the death penalty, and whether
41 the aggravating factors outweigh the mitigating circumstances
42 reasonably established by the evidence. If the court does not
43

44 Delete lines 380 - 417

45 and insert:

46 b. Whether aggravating factors exist which outweigh the
47 mitigating circumstances found to exist.

48 c. Based on the considerations in sub-subparagraphs a. and
49 b., whether the defendant should be sentenced to life
50 imprisonment without the possibility of parole or to death.

51 (c) If a unanimous jury determines that the defendant
52 should be sentenced to death, the jury's recommendation to the
53 court shall be a sentence of death. If less than a unanimous
54 jury determines that the defendant should be sentenced to death,
55 the jury's recommendation to the court shall be a sentence of
56 life imprisonment without the possibility of parole.

57 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.-

58 (a) If the jury has recommended a sentence of:

59 1. Life imprisonment without the possibility of parole, the
60 court shall impose the recommended sentence.

61 2. Death, the court, after considering each aggravating
62 factor found by the jury and all mitigating circumstances, may
63 impose a sentence of life imprisonment without the possibility
64 of parole or a sentence of death. The court may consider only an
65 aggravating factor that was unanimously found to exist by the
66 jury.

67 (b) If the defendant waived his or her right to a
68 sentencing proceeding by a jury, the court, after considering



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69 all aggravating factors and mitigating circumstances, may impose
70 a sentence of life imprisonment without the possibility of
71 parole or a sentence of death. The court may impose a sentence
72 of death only if the court finds at least one aggravating factor
73 has been proven to exist beyond a reasonable doubt.

74 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
75 each case in which the court imposes a death sentence, the court
76 shall, considering the records of the trial and the sentencing
77 proceedings, enter a written order addressing the aggravating
78 factors set forth in subsection (7) found to exist, the
79 mitigating circumstances in subsection (8) reasonably
80 established by the evidence, whether there are sufficient
81 aggravating factors to warrant the death penalty, and whether
82 the aggravating factors outweigh the mitigating circumstances
83 reasonably established by the evidence. If the court does not