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LEGISLATIVE ACTION

Senate

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House

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Senator Lee moved the following:

1 **Senate Amendment to Amendment (234288) (with title**
2 **amendment)**

3
4 Delete lines 1134 - 1135
5 and insert:

6 Section 18. Section 921.139, Florida Statutes, may be cited
7 as the "Sentencing Accountability and Fair Explanation (SAFE)
8 Act."

9 Section 19. Section 921.139, Florida Statutes, is created
10 to read:

11 921.139 Sentencing and accountability for certain crimes.-



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12 (1) The Legislature finds that students have the right to
13 be safe from violent crime at schools. The Legislature further
14 finds that the murder or attempted murder of two or more
15 persons, including students, teachers, administrators, or other
16 persons, committed on school property with a firearm or deadly
17 weapon is one of the most morally reprehensible acts imaginable.
18 Such a crime is directly contrary to all that is just and good.
19 To ensure justice for the victims, venerate innocent life, and
20 maximize the power of the law to deter future violent acts at
21 schools, the branches of government must work together,
22 consistent with constitutional requirements, to ensure that the
23 punishment for the crime is as swift and severe as possible.
24 Consistent with these purposes:

25 (a) If the identity of an adult who commits murder in the
26 first degree of two or more persons using a firearm or deadly
27 weapon on school property is not in doubt due to the quality and
28 quantity of evidence available to a prosecutor, the prosecutor
29 should not offer, and the court should not accept, a plea
30 agreement that excludes the possibility of a death sentence.

31 (b) If the identity of a person who commits murder in the
32 first degree of two or more persons using a firearm or deadly
33 weapon on school property is not in doubt due to the quality and
34 quantity of evidence available to a prosecutor and the offense
35 was committed before the person attained 18 years of age, the
36 prosecutor should not offer, and the court should not accept, a
37 plea agreement that excludes the possibility of a life sentence.

38 (c) If the identity of a person who attempts to commit
39 murder of two or more persons using a firearm or deadly weapon
40 on school property is not in doubt due to the quality and



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41 quantity of evidence available to a prosecutor, the prosecutor
42 should not offer, and the court should not accept, a plea
43 agreement for a sentence that is less than the maximum penalty
44 for the offense.

45 (2) As used in this section, the term "school" means any
46 preschool, elementary school, middle school, junior high school,
47 secondary school, career center, or postsecondary school,
48 whether public or nonpublic.

49 (3) If a prosecutor enters into a plea agreement that is
50 accepted by a court which is inconsistent with the
51 recommendations of this section, the office of the state
52 attorney employing the prosecutor shall issue a report within 30
53 days after the agreement is accepted by the court which explains
54 the following:

55 (a) Whether and the extent to which the prosecutor
56 conferred with the victims and intended victims, families of the
57 victims, the investigating officers, and other interested
58 persons before entering into the plea agreement.

59 (b) Whether or the extent to which the agreement is
60 consistent with the severity of the crime and the importance of
61 the lives of the victims or intended victims.

62 (c) Whether or the extent to which the plea agreement will
63 deter similar crimes in the future.

64 (d) Whether other information justifies the plea agreement.

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66 The report must be published on the website for the office of
67 the state attorney for at least 30 days.

68 Section 20. Subsection (2) of section 921.1401, Florida
69 Statutes, is amended to read:



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70 921.1401 Sentence of life imprisonment for persons who are
71 under the age of 18 years at the time of the offense; sentencing
72 proceedings.—

73 (2) In determining whether life imprisonment or a term of
74 years equal to life imprisonment is an appropriate sentence, the
75 court shall consider factors relevant to the offense and the
76 defendant's youth and attendant circumstances, including, but
77 not limited to:

78 (a) The nature and circumstances of the offense committed
79 by the defendant.

80 (b) The effect of the crime on the victim's family and on
81 the community.

82 (c) The defendant's age, maturity, intellectual capacity,
83 and mental and emotional health at the time of the offense.

84 (d) The defendant's background, including his or her
85 family, home, and community environment.

86 (e) The effect, if any, of immaturity, impetuosity, or
87 failure to appreciate risks and consequences on the defendant's
88 participation in the offense.

89 (f) The extent of the defendant's participation in the
90 offense.

91 (g) The effect, if any, of familial pressure or peer
92 pressure on the defendant's actions.

93 (h) The nature and extent of the defendant's prior criminal
94 history.

95 (i) The effect, if any, of characteristics attributable to
96 the defendant's youth on the defendant's judgment.

97 (j) The possibility of rehabilitating the defendant.

98 (k) The need to deter others from committing murder or



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99 attempted murder with a firearm or deadly weapon on the property
100 of a school, as defined in s. 921.139.

101 Section 21. Subsection (6) of section 921.141, Florida
102 Statutes, is amended to read:

103 921.141 Sentence of death or life imprisonment for capital
104 felonies; further proceedings to determine sentence.—

105 (6) AGGRAVATING FACTORS.—Aggravating factors shall be
106 limited to the following:

107 (a) The capital felony was committed by a person previously
108 convicted of a felony and under sentence of imprisonment or
109 placed on community control or on felony probation.

110 (b) The defendant was previously convicted of another
111 capital felony or of a felony involving the use or threat of
112 violence to the person.

113 (c) The defendant knowingly created a great risk of death
114 to many persons.

115 (d) The capital felony was committed while the defendant
116 was engaged, or was an accomplice, in the commission of, or an
117 attempt to commit, or flight after committing or attempting to
118 commit, any: robbery; sexual battery; aggravated child abuse;
119 abuse of an elderly person or disabled adult resulting in great
120 bodily harm, permanent disability, or permanent disfigurement;
121 arson; burglary; kidnapping; aircraft piracy; or unlawful
122 throwing, placing, or discharging of a destructive device or
123 bomb.

124 (e) The capital felony was committed for the purpose of
125 avoiding or preventing a lawful arrest or effecting an escape
126 from custody.

127 (f) The capital felony was committed for pecuniary gain.



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128 (g) The capital felony was committed to disrupt or hinder
129 the lawful exercise of any governmental function or the
130 enforcement of laws.

131 (h) The capital felony was especially heinous, atrocious,
132 or cruel.

133 (i) The capital felony was a homicide and was committed in
134 a cold, calculated, and premeditated manner without any pretense
135 of moral or legal justification.

136 (j) The victim of the capital felony was a law enforcement
137 officer engaged in the performance of his or her official
138 duties.

139 (k) The victim of the capital felony was an elected or
140 appointed public official engaged in the performance of his or
141 her official duties if the motive for the capital felony was
142 related, in whole or in part, to the victim's official capacity.

143 (l) The victim of the capital felony was a person less than
144 12 years of age.

145 (m) The victim of the capital felony was particularly
146 vulnerable due to advanced age or disability, or because the
147 defendant stood in a position of familial or custodial authority
148 over the victim.

149 (n) The capital felony was committed by a criminal gang
150 member, as defined in s. 874.03.

151 (o) The capital felony was committed by a person designated
152 as a sexual predator pursuant to s. 775.21 or a person
153 previously designated as a sexual predator who had the sexual
154 predator designation removed.

155 (p) The capital felony was committed by a person subject to
156 an injunction issued pursuant to s. 741.30 or s. 784.046, or a



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157 foreign protection order accorded full faith and credit pursuant
158 to s. 741.315, and was committed against the petitioner who
159 obtained the injunction or protection order or any spouse,
160 child, sibling, or parent of the petitioner.

161 (q) The capital felony was committed on the property of a
162 school, as defined in s. 921.139.

163

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

165 And the title is amended as follows:

166 Delete line 2516

167 and insert:

168 changes made by the act; creating s. 921.139, F.S.;

169 providing legislative findings and intent; defining

170 the term "school"; requiring the office of the state

171 attorney employing a prosecutor who enters into a plea

172 agreement that is inconsistent with certain

173 recommendations to issue a report within a specified

174 timeframe; requiring such reports be published on the

175 office of the state attorney's website for at least a

176 specified period of time; amending s. 921.1401, F.S.;

177 revising the list of factors relevant to an offense

178 which a court must consider in determining whether

179 life imprisonment or a term of years equal to life

180 imprisonment is an appropriate sentence; amending s.

181 921.141, F.S.; adding an aggravating factor considered

182 during a sentencing proceeding of death or life

183 imprisonment for capital felonies; creating s.

184 943.082, F.S.;