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LEGISLATIVE ACTION

Senate

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House

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Floor: NC/2R

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03/03/2018 06:07 PM

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Senator Lee moved the following:

Senate Amendment (with title amendment)

Between lines 1024 and 1025

insert:

Section 13. Section 921.139, Florida Statutes, may be cited as the "Sentencing Accountability and Fair Explanation (SAFE) Act."

Section 14. Section 921.139, Florida Statutes, is created to read:

921.139 Sentencing and accountability for certain crimes.—
(1) The Legislature finds that students have the right to



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

23 Consistent with these purposes:

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

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

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



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41 should not offer, and the court should not accept, a plea
42 agreement for a sentence that is less than the maximum penalty
43 for the offense.

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

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

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

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

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

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

64
65 The report must be published on the website for the office of
66 the state attorney for at least 30 days.

67 Section 15. Subsection (2) of section 921.1401, Florida
68 Statutes, is amended to read:

69 921.1401 Sentence of life imprisonment for persons who are



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70 under the age of 18 years at the time of the offense; sentencing
71 proceedings.—

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

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

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

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

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

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

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

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

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

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

96 (j) The possibility of rehabilitating the defendant.

97 (k) The need to deter others from committing murder or
98 attempted murder with a firearm or deadly weapon on the property



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99 of a school, as defined in s. 921.139.

100 Section 16. Subsection (6) of section 921.141, Florida
101 Statutes, is amended to read:

102 921.141 Sentence of death or life imprisonment for capital
103 felonies; further proceedings to determine sentence.—

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

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

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

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

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

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

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

127 (g) The capital felony was committed to disrupt or hinder



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128 the lawful exercise of any governmental function or the
129 enforcement of laws.

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

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

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

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

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

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

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

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

154 (p) The capital felony was committed by a person subject to
155 an injunction issued pursuant to s. 741.30 or s. 784.046, or a
156 foreign protection order accorded full faith and credit pursuant



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157 to s. 741.315, and was committed against the petitioner who
158 obtained the injunction or protection order or any spouse,
159 child, sibling, or parent of the petitioner.

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

162

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

164 And the title is amended as follows:

165 Delete line 111

166 and insert:

167 material; providing a short title; creating s.
168 921.139, F.S.; providing legislative findings and
169 intent; defining the term "school"; requiring the
170 office of the state attorney employing a prosecutor
171 who enters into a plea agreement that is inconsistent
172 with certain recommendations to issue a report within
173 a specified timeframe; requiring such reports be
174 published on the office of the state attorney's
175 website for at least a specified period of time;
176 amending s. 921.1401, F.S.; revising the list of
177 factors relevant to an offense which a court must
178 consider in determining whether life imprisonment or a
179 term of years equal to life imprisonment is an
180 appropriate sentence; amending s. 921.141, F.S.;
181 adding an aggravating factor considered during a
182 sentencing proceeding of death or life imprisonment
183 for capital felonies; creating s. 943.082, F.S.;

184 requiring the