

By Senator Bracy

11-00587-18

2018870__

1 A bill to be entitled
2 An act relating to capital felonies; amending ss.
3 921.141 and 921.142, F.S.; providing legislative
4 findings and intent regarding the retroactive
5 application of *Hurst v. State*, No. SC12-1947 (Fla.,
6 October 14, 2016); providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Present subsection (9) of section 921.141,
11 Florida Statutes, is redesignated as subsection (10), and a new
12 subsection (9) is added to that section, to read:

13 921.141 Sentence of death or life imprisonment for capital
14 felonies; further proceedings to determine sentence.—

15 (9) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
16 that the Florida Supreme Court decided in *Asay v. State*, No.
17 SC16-223, SC16-102, and SC16-628 (Fla., December 22, 2016), that
18 *Hurst v. State*, No. SC12-1947 (Fla., October 14, 2016), will not
19 apply in cases in which the death sentence became final prior to
20 June 24, 2002, the day that the United States Supreme Court
21 issued its opinion in *Ring v. Arizona*, 536 U.S. 584 (2002). The
22 Legislature finds that the court's decision not to apply *Hurst*
23 *v. State* in the cases of inmates whose death sentences became
24 final before June 24, 2002, will result in a miscarriage of
25 justice for those inmates. The Legislature further finds that
26 the retroactive application of *Hurst v. State* to death row cases
27 in which the death sentence became final before June 24, 2002,
28 will provide a more just and final resolution in those cases.
29 Therefore, it is the intent of the Legislature that *Hurst v.*

11-00587-18

2018870__

30 State, No. SC12-1947 (Fla., October 14, 2016), apply in cases in
31 which the death sentence became final before June 24, 2002.

32 Section 2. Subsection (1) of section 921.142, Florida
33 Statutes, is amended to read:

34 921.142 Sentence of death or life imprisonment for capital
35 drug trafficking felonies; further proceedings to determine
36 sentence.—

37 (1) LEGISLATIVE FINDINGS AND INTENT.—

38 (a) The Legislature finds that trafficking in cocaine or
39 opiates carries a grave risk of death or danger to the public;
40 that a reckless disregard for human life is implicit in
41 knowingly trafficking in cocaine or opiates; and that persons
42 who traffic in cocaine or opiates may be determined by the trier
43 of fact to have a culpable mental state of reckless indifference
44 or disregard for human life.

45 (b) The Legislature finds that the Florida Supreme Court
46 decided in *Asay v. State*, No. SC16-223, SC16-102, and SC16-628
47 (Fla., December 22, 2016), that *Hurst v. State*, No. SC12-1947
48 (Fla., October 14, 2016), will not apply in cases in which the
49 death sentence became final prior to June 24, 2002, the day that
50 the United States Supreme Court issued its opinion in *Ring v.*
51 *Arizona*, 536 U.S. 584 (2002). The Legislature finds that the
52 court's decision not to apply *Hurst v. State* in the cases of
53 inmates whose death sentences became final before June 24, 2002,
54 will result in a miscarriage of justice for those inmates. The
55 Legislature further finds that the retroactive application of
56 *Hurst v. State* to death row cases in which the death sentence
57 became final before June 24, 2002, will provide a more just and
58 final resolution in those cases. Therefore, it is the intent of

11-00587-18

2018870__

59 the Legislature that *Hurst v. State*, No. SC12-1947 (Fla.,
60 October 14, 2016), apply in cases in which the death sentence
61 became final before June 24, 2002.

62 Section 3. This act shall take effect July 1, 2018.