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LEGISLATIVE ACTION

Senate

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House

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03/29/2023 07:01 PM

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Senator Powell moved the following:

Senate Amendment (with title amendment)

Delete lines 55 - 140

and insert:

(c) If at least 10 jurors determine ~~a unanimous jury determines~~ that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of death. If fewer than 10 jurors ~~a unanimous jury does not determine~~ that the defendant should be sentenced to death, the jury's recommendation to the court must ~~shall~~ be a sentence of life imprisonment without the possibility of parole.



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

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

14 1. Life imprisonment without the possibility of parole, the
15 court shall impose the recommended sentence of life.

16 2. Death, and at least 10 jurors recommend a sentence of
17 death, the court, after considering each aggravating factor
18 found by the jury and all mitigating circumstances, may impose a
19 sentence of life imprisonment without the possibility of parole
20 or a sentence of death. The court may consider only an
21 aggravating factor that was unanimously found to exist by the
22 jury. The court may impose a sentence of death only if the jury
23 unanimously finds at least one aggravating factor beyond a
24 reasonable doubt.

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

32 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
33 IMPRISONMENT OR DEATH.-In each case in which the court imposes a
34 sentence of life imprisonment without the possibility of parole
35 or death, the court shall, considering the records of the trial
36 and the sentencing proceedings, enter a written order addressing
37 the aggravating factors set forth in subsection (6) found to
38 exist, the mitigating circumstances in subsection (7) reasonably
39 established by the evidence, whether there are sufficient
40 aggravating factors to warrant the death penalty, and whether



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41 the aggravating factors outweigh the mitigating circumstances
42 reasonably established by the evidence. The court must include
43 in its written order the reasons for not accepting the jury's
44 recommended sentence, if applicable. If the court does not issue
45 its order requiring the death sentence within 30 days after the
46 rendition of the judgment and sentence, the court shall impose a
47 sentence of life imprisonment without the possibility of parole
48 in accordance with s. 775.082.

49 Section 2. Subsections (3), (4), and (5) of section
50 921.142, Florida Statutes, are amended to read:

51 921.142 Sentence of death or life imprisonment for capital
52 drug trafficking felonies; further proceedings to determine
53 sentence.—

54 (3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
55 subsection applies only if the defendant has not waived his or
56 her right to a sentencing proceeding by a jury.

57 (a) After hearing all of the evidence presented regarding
58 aggravating factors and mitigating circumstances, the jury shall
59 deliberate and determine if the state has proven, beyond a
60 reasonable doubt, the existence of at least one aggravating
61 factor set forth in subsection (7).

62 (b) The jury shall return findings identifying each
63 aggravating factor found to exist. A finding that an aggravating
64 factor exists must be unanimous. If the jury:

65 1. Does not unanimously find at least one aggravating
66 factor, the defendant is ineligible for a sentence of death.

67 2. Unanimously finds at least one aggravating factor, the
68 defendant is eligible for a sentence of death and the jury shall
69 make a recommendation to the court as to whether the defendant



70 shall be sentenced to life imprisonment without the possibility
71 of parole or to death. The recommendation shall be based on a
72 weighing of all of the following:

73 a. Whether sufficient aggravating factors exist.

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

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

79 (c) If at least 10 jurors determine ~~a unanimous jury~~
80 ~~determines~~ that the defendant should be sentenced to death, the
81 jury's recommendation to the court must ~~shall~~ be a sentence of
82 death. If fewer than 10 jurors ~~a unanimous jury does not~~
83 determine that the defendant should be sentenced to death, the
84 jury's recommendation to the court must ~~shall~~ be a sentence of
85 life imprisonment without the possibility of parole.

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

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

88 1. Life imprisonment without the possibility of parole, the
89 court shall impose the recommended sentence of life.

90 2. Death, and at least 10 jurors recommend a sentence of

91
92 ===== T I T L E A M E N D M E N T =====

93 And the title is amended as follows:

94 Delete lines 12 - 15

95 and insert:

96 fewer than 10 jurors recommend a sentence of death;
97 authorizing the court to impose a sentence of life
98 imprisonment without the possibility of parole or a



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sentence of death if at least 10 jurors recommend a