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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2023	.	
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The Committee on Criminal Justice (Ingoglia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (2), (3), and (4) of section
921.141, Florida Statutes, are amended to read:

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

(2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
subsection applies only if the defendant has not waived his or



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11 her right to a sentencing proceeding by a jury.

12 (a) After hearing all of the evidence presented regarding
13 aggravating factors and mitigating circumstances, the jury shall
14 deliberate and determine if the state has proven, beyond a
15 reasonable doubt, the existence of at least one aggravating
16 factor set forth in subsection (6).

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

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

22 2. Unanimously finds at least one aggravating factor, the
23 defendant is eligible for a sentence of death and the jury shall
24 make a recommendation to the court as to whether the defendant
25 shall be sentenced to life imprisonment without the possibility
26 of parole or to death. The recommendation shall be based on a
27 weighing of all of the following:

28 a. Whether sufficient aggravating factors exist.

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

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

34 (c) If at least eight jurors determine ~~a unanimous jury~~
35 ~~determines~~ that the defendant should be sentenced to death, the
36 jury's recommendation to the court must ~~shall~~ be a sentence of
37 death. If fewer than eight jurors ~~a unanimous jury does not~~
38 determine that the defendant should be sentenced to death, the
39 jury's recommendation to the court must ~~shall~~ be a sentence of



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40 life imprisonment without the possibility of parole.

41 (3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

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

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

45 2. Death, the court must impose the recommended sentence of
46 death. The court may impose a sentence of death only if the jury
47 unanimously finds at least one aggravating factor beyond a
48 reasonable doubt, after considering each aggravating factor
49 found by the jury and all mitigating circumstances, may impose a
50 sentence of life imprisonment without the possibility of parole
51 or a sentence of death. The court may consider only an
52 aggravating factor that was unanimously found to exist by the
53 jury.

54 (b) If the defendant waived his or her right to a
55 sentencing proceeding by a jury, the court, after considering
56 all aggravating factors and mitigating circumstances, may impose
57 a sentence of life imprisonment without the possibility of
58 parole or a sentence of death. The court may impose a sentence
59 of death only if the court finds that at least one aggravating
60 factor has been proven to exist beyond a reasonable doubt.

61 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—If
62 a defendant waived his or her right to a sentencing proceeding
63 by a jury, and the court imposes a sentence of death under
64 paragraph (3) (b) In each case in which the court imposes a
65 sentence of death, the court shall, considering the records of
66 the trial and the sentencing proceedings, enter a written order
67 addressing the aggravating factors set forth in subsection (6)
68 found to exist, the mitigating circumstances in subsection (7)



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69 reasonably established by the evidence, whether there are
70 sufficient aggravating factors to warrant the death penalty, and
71 whether the aggravating factors outweigh the mitigating
72 circumstances reasonably established by the evidence. If the
73 court does not issue its order requiring the death sentence
74 within 30 days after the rendition of the judgment and sentence,
75 the court shall impose a sentence of life imprisonment without
76 the possibility of parole in accordance with s. 775.082.

77 Section 2. Subsections (3), (4), and (5) of section
78 921.142, Florida Statutes, are amended to read:

79 921.142 Sentence of death or life imprisonment for capital
80 drug trafficking felonies; further proceedings to determine
81 sentence.—

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

85 (a) After hearing all of the evidence presented regarding
86 aggravating factors and mitigating circumstances, the jury shall
87 deliberate and determine if the state has proven, beyond a
88 reasonable doubt, the existence of at least one aggravating
89 factor set forth in subsection (7).

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

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

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



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98 shall be sentenced to life imprisonment without the possibility
99 of parole or to death. The recommendation shall be based on a
100 weighing of all of the following:

101 a. Whether sufficient aggravating factors exist.

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

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

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

114 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

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

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

118 2. Death, the court must impose the recommended sentence of
119 death. The court may impose a sentence of death only if the jury
120 unanimously finds at least one aggravating factor beyond a
121 reasonable doubt, ~~after considering each aggravating factor~~
122 ~~found by the jury and all mitigating circumstances, may impose a~~
123 ~~sentence of life imprisonment without the possibility of parole~~
124 ~~or a sentence of death. The court may consider only an~~
125 ~~aggravating factor that was unanimously found to exist by the~~
126 ~~jury.~~



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127 (b) If the defendant waived his or her right to a
128 sentencing proceeding by a jury, the court, after considering
129 all aggravating factors and mitigating circumstances, may impose
130 a sentence of life imprisonment without the possibility of
131 parole or a sentence of death. The court may impose a sentence
132 of death only if the court finds at least one aggravating factor
133 has been proven to exist beyond a reasonable doubt.

134 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—If
135 a defendant waived his or her right to a sentencing proceeding
136 by a jury, and the court imposes a sentence of death under
137 paragraph (4) (b) In each case in which the court imposes a death
138 sentence, the court shall, considering the records of the trial
139 and the sentencing proceedings, enter a written order addressing
140 the aggravating factors set forth in subsection (7) found to
141 exist, the mitigating circumstances in subsection (8) reasonably
142 established by the evidence, whether there are sufficient
143 aggravating factors to warrant the death penalty, and whether
144 the aggravating factors outweigh the mitigating circumstances
145 reasonably established by the evidence. If the court does not
146 issue its order requiring the death sentence within 30 days
147 after the rendition of the judgment and sentence, the court
148 shall impose a sentence of life imprisonment without the
149 possibility of parole in accordance with s. 775.082.

150 Section 3. This act shall take effect upon becoming a law.

151
152 ===== T I T L E A M E N D M E N T =====

153 And the title is amended as follows:

154 Delete everything before the enacting clause
155 and insert:



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156 A bill to be entitled
157 An act relating to the death penalty; amending ss.
158 921.141 and 921.142, F.S.; requiring a determination
159 of a specified number of jurors, rather than jury
160 unanimity, for a sentencing recommendation of death to
161 the court for capital felonies and capital drug
162 trafficking felonies, respectively; requiring a
163 determination of a specified number of jurors, rather
164 than jury unanimity, for a sentencing recommendation
165 of life imprisonment without the possibility of parole
166 to the court; requiring the court to impose the
167 recommended sentence of death if the jury has
168 recommended a sentence of death; specifying that the
169 court may impose a sentence of death only if the jury
170 unanimously finds at least one aggravating factor
171 beyond a reasonable doubt; providing an effective
172 date.