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LEGISLATIVE ACTION

Senate

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House

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The Committee on Rules (Ingoglia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 65 - 149

and insert:

2. Death, and at least eight jurors recommend a sentence of death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury. The court may impose a sentence of death only if the jury



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12 unanimously finds at least one aggravating factor beyond a  
13 reasonable doubt.

14 (b) If the defendant waived his or her right to a  
15 sentencing proceeding by a jury, the court, after considering  
16 all aggravating factors and mitigating circumstances, may impose  
17 a sentence of life imprisonment without the possibility of  
18 parole or a sentence of death. The court may impose a sentence  
19 of death only if the court finds that at least one aggravating  
20 factor has been proven to exist beyond a reasonable doubt.

21 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE  
22 IMPRISONMENT OR DEATH.—In each case in which the court imposes a  
23 sentence of life imprisonment without the possibility of parole  
24 or death, the court shall, considering the records of the trial  
25 and the sentencing proceedings, enter a written order addressing  
26 the aggravating factors set forth in subsection (6) found to  
27 exist, the mitigating circumstances in subsection (7) reasonably  
28 established by the evidence, whether there are sufficient  
29 aggravating factors to warrant the death penalty, and whether  
30 the aggravating factors outweigh the mitigating circumstances  
31 reasonably established by the evidence. The court must include  
32 in its written order the reasons for not accepting the jury's  
33 recommended sentence, if applicable. If the court does not issue  
34 its order requiring the death sentence within 30 days after the  
35 rendition of the judgment and sentence, the court shall impose a  
36 sentence of life imprisonment without the possibility of parole  
37 in accordance with s. 775.082.

38 Section 2. Subsections (3), (4), and (5) of section  
39 921.142, Florida Statutes, are amended to read:

40 921.142 Sentence of death or life imprisonment for capital



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41 drug trafficking felonies; further proceedings to determine  
42 sentence.—

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

46 (a) After hearing all of the evidence presented regarding  
47 aggravating factors and mitigating circumstances, the jury shall  
48 deliberate and determine if the state has proven, beyond a  
49 reasonable doubt, the existence of at least one aggravating  
50 factor set forth in subsection (7).

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

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

56 2. Unanimously finds at least one aggravating factor, the  
57 defendant is eligible for a sentence of death and the jury shall  
58 make a recommendation to the court as to whether the defendant  
59 shall be sentenced to life imprisonment without the possibility  
60 of parole or to death. The recommendation shall be based on a  
61 weighing of all of the following:

62 a. Whether sufficient aggravating factors exist.

63 b. Whether aggravating factors exist which outweigh the  
64 mitigating circumstances found to exist.

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

68 (c) If at least eight jurors determine ~~a unanimous jury~~  
69 ~~determines~~ that the defendant should be sentenced to death, the



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70 jury's recommendation to the court must ~~shall~~ be a sentence of  
71 death. If fewer than eight jurors ~~a unanimous jury does not~~  
72 determine that the defendant should be sentenced to death, the  
73 jury's recommendation to the court must ~~shall~~ be a sentence of  
74 life imprisonment without the possibility of parole.

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

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

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

79 2. Death, and at least eight jurors recommend a  
80

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

82 And the title is amended as follows:

83 Delete lines 10 - 14

84 and insert:

85 court to impose the recommended sentence of life  
86 imprisonment without the possibility of parole if  
87 fewer than eight jurors recommend a sentence of death;  
88 authorizing the court to impose a sentence of life  
89 imprisonment without the possibility of parole or a  
90 sentence of death if at least eight jurors