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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
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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