

By the Committees on Rules; and Criminal Justice; and Senators
Ingoglia and Martin

595-02899-23

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1 A bill to be entitled
2 An act relating to the death penalty; amending ss.
3 921.141 and 921.142, F.S.; requiring a determination
4 of a specified number of jurors, rather than jury
5 unanimity, for a sentencing recommendation of death to
6 the court; requiring a determination of a specified
7 number of jurors, rather than jury unanimity, for a
8 sentencing recommendation of life imprisonment without
9 the possibility of parole to the court; requiring the
10 court to impose the recommended sentence of life
11 imprisonment without the possibility of parole if
12 fewer than eight jurors recommend a sentence of death;
13 authorizing the court to impose a sentence of life
14 imprisonment without the possibility of parole or a
15 sentence of death if at least eight jurors recommend a
16 sentence of death; specifying that the court may
17 impose a sentence of death only if the jury
18 unanimously finds at least one aggravating factor
19 beyond a reasonable doubt; requiring the court to
20 include in its written order the reasons for not
21 accepting the jury's recommended sentence, if
22 applicable; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsections (2), (3), and (4) of section
27 921.141, Florida Statutes, are amended to read:

28 921.141 Sentence of death or life imprisonment for capital
29 felonies; further proceedings to determine sentence.-

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30 (2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
31 subsection applies only if the defendant has not waived his or
32 her right to a sentencing proceeding by a jury.

33 (a) After hearing all of the evidence presented regarding
34 aggravating factors and mitigating circumstances, the jury shall
35 deliberate and determine if the state has proven, beyond a
36 reasonable doubt, the existence of at least one aggravating
37 factor set forth in subsection (6).

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

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

43 2. Unanimously finds at least one aggravating factor, the
44 defendant is eligible for a sentence of death and the jury shall
45 make a recommendation to the court as to whether the defendant
46 shall be sentenced to life imprisonment without the possibility
47 of parole or to death. The recommendation shall be based on a
48 weighing of all of the following:

49 a. Whether sufficient aggravating factors exist.

50 b. Whether aggravating factors exist which outweigh the
51 mitigating circumstances found to exist.

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

55 (c) If at least eight jurors determine ~~a unanimous jury~~
56 ~~determines~~ that the defendant should be sentenced to death, the
57 jury's recommendation to the court must ~~shall~~ be a sentence of
58 death. If fewer than eight jurors ~~a unanimous jury does not~~

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59 determine that the defendant should be sentenced to death, the
60 jury's recommendation to the court must ~~shall~~ be a sentence of
61 life imprisonment without the possibility of parole.

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

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

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

66 2. Death, and at least eight jurors recommend a sentence of
67 death, the court, after considering each aggravating factor
68 found by the jury and all mitigating circumstances, may impose a
69 sentence of life imprisonment without the possibility of parole
70 or a sentence of death. The court may consider only an
71 aggravating factor that was unanimously found to exist by the
72 jury. The court may impose a sentence of death only if the jury
73 unanimously finds at least one aggravating factor beyond a
74 reasonable doubt.

75 (b) If the defendant waived his or her right to a
76 sentencing proceeding by a jury, the court, after considering
77 all aggravating factors and mitigating circumstances, may impose
78 a sentence of life imprisonment without the possibility of
79 parole or a sentence of death. The court may impose a sentence
80 of death only if the court finds that at least one aggravating
81 factor has been proven to exist beyond a reasonable doubt.

82 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
83 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
84 sentence of life imprisonment without the possibility of parole
85 or death, the court shall, considering the records of the trial
86 and the sentencing proceedings, enter a written order addressing
87 the aggravating factors set forth in subsection (6) found to

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88 exist, the mitigating circumstances in subsection (7) reasonably
89 established by the evidence, whether there are sufficient
90 aggravating factors to warrant the death penalty, and whether
91 the aggravating factors outweigh the mitigating circumstances
92 reasonably established by the evidence. The court must include
93 in its written order the reasons for not accepting the jury's
94 recommended sentence, if applicable. If the court does not issue
95 its order requiring the death sentence within 30 days after the
96 rendition of the judgment and sentence, the court shall impose a
97 sentence of life imprisonment without the possibility of parole
98 in accordance with s. 775.082.

99 Section 2. Subsections (3), (4), and (5) of section
100 921.142, Florida Statutes, are amended to read:

101 921.142 Sentence of death or life imprisonment for capital
102 drug trafficking felonies; further proceedings to determine
103 sentence.—

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

107 (a) After hearing all of the evidence presented regarding
108 aggravating factors and mitigating circumstances, the jury shall
109 deliberate and determine if the state has proven, beyond a
110 reasonable doubt, the existence of at least one aggravating
111 factor set forth in subsection (7).

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

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

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117 2. Unanimously finds at least one aggravating factor, the
118 defendant is eligible for a sentence of death and the jury shall
119 make a recommendation to the court as to whether the defendant
120 shall be sentenced to life imprisonment without the possibility
121 of parole or to death. The recommendation shall be based on a
122 weighing of all of the following:

123 a. Whether sufficient aggravating factors exist.

124 b. Whether aggravating factors exist which outweigh the
125 mitigating circumstances found to exist.

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

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

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

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

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

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

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146 jury. The court may impose a sentence of death only if the jury
147 unanimously finds at least one aggravating factor beyond a
148 reasonable doubt.

149 (b) If the defendant waived his or her right to a
150 sentencing proceeding by a jury, the court, after considering
151 all aggravating factors and mitigating circumstances, may impose
152 a sentence of life imprisonment without the possibility of
153 parole or a sentence of death. The court may impose a sentence
154 of death only if the court finds at least one aggravating factor
155 has been proven to exist beyond a reasonable doubt.

156 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
157 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
158 sentence of life imprisonment without the possibility of parole
159 or death sentence, the court shall, considering the records of
160 the trial and the sentencing proceedings, enter a written order
161 addressing the aggravating factors set forth in subsection (7)
162 found to exist, the mitigating circumstances in subsection (8)
163 reasonably established by the evidence, whether there are
164 sufficient aggravating factors to warrant the death penalty, and
165 whether the aggravating factors outweigh the mitigating
166 circumstances reasonably established by the evidence. The court
167 must include in its written order the reasons for not accepting
168 the jury's recommended sentence, if applicable. If the court
169 does not issue its order requiring the death sentence within 30
170 days after the rendition of the judgment and sentence, the court
171 shall impose a sentence of life imprisonment without the
172 possibility of parole in accordance with s. 775.082.

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