

By Senator Ingoglia

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1 A bill to be entitled

2 An act relating to sentencing for capital felonies;
3 amending ss. 921.141 and 921.142, F.S.; authorizing,
4 rather than requiring, a court to impose the jury's
5 recommended sentence of life imprisonment without the
6 possibility of parole for certain capital felonies;
7 requiring the court to enter a written order
8 addressing the sentence of life imprisonment without
9 the possibility of parole and include in its required
10 written order the reasons for not accepting a jury's
11 recommended sentence, if applicable; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (a) of subsection (3) and subsection
17 (4) of section 921.141, Florida Statutes, are amended to read:

18 921.141 Sentence of death or life imprisonment for capital
19 felonies; further proceedings to determine sentence.—

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

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

22 1. Life imprisonment without the possibility of parole, the
23 court may ~~shall~~ impose the recommended sentence.

24 2. Death, the court, after considering each aggravating
25 factor found by the jury and all mitigating circumstances, may
26 impose a sentence of life imprisonment without the possibility
27 of parole or a sentence of death. The court may consider only an
28 aggravating factor that was unanimously found to exist by the
29 jury.

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

47 Section 2. Paragraph (a) of subsection (4) and subsection
48 (5) of section 921.142, Florida Statutes, are amended to read:

49 921.142 Sentence of death or life imprisonment for capital
50 drug trafficking felonies; further proceedings to determine
51 sentence.—

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

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

54 1. Life imprisonment without the possibility of parole, the
55 court may ~~shall~~ impose the recommended sentence.

56 2. Death, the court, after considering each aggravating
57 factor found by the jury and all mitigating circumstances, may
58 impose a sentence of life imprisonment without the possibility

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59 of parole or a sentence of death. The court may consider only an
60 aggravating factor that was unanimously found to exist by the
61 jury.

62 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
63 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
64 ~~death~~ sentence of life imprisonment without the possibility of
65 parole or death, the court shall, considering the records of the
66 trial and the sentencing proceedings, enter a written order
67 addressing the aggravating factors set forth in subsection (7)
68 found to exist, the mitigating circumstances in subsection (8)
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. The court
73 must include in its written order the reasons for not accepting
74 the jury's recommended sentence, if applicable. If the court
75 does not issue its order requiring the death sentence within 30
76 days after the rendition of the judgment and sentence, the court
77 shall impose a sentence of life imprisonment without the
78 possibility of parole in accordance with s. 775.082.

79 Section 3. This act shall take effect October 1, 2023.