

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Jacques offered the following:

Amendment (with title amendment)

Remove lines 58-161 and insert:

6 2. Death, and at least eight jurors recommend a sentence
 7 of death, the court, after considering each aggravating factor
 8 found by the jury and all mitigating circumstances, may impose a
 9 sentence of life imprisonment without the possibility of parole
 10 or a sentence of death. The court may consider only an
 11 aggravating factor that was unanimously found to exist by the
 12 jury. The court may impose a sentence of death only if the jury
 13 unanimously finds at least one aggravating factor beyond a
 14 reasonable doubt.

15 (b) If the defendant waived his or her right to a
 16 sentencing proceeding by a jury, the court, after considering

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17 all aggravating factors and mitigating circumstances, may impose
18 a sentence of life imprisonment without the possibility of
19 parole or a sentence of death. The court may impose a sentence
20 of death only if the court finds that at least one aggravating
21 factor has been proven to exist beyond a reasonable doubt.

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

39 Section 2. Subsections (3), (4), and (5) of section
40 921.142, Florida Statutes, are amended to read:

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41 921.142 Sentence of death or life imprisonment for capital
42 drug trafficking felonies; further proceedings to determine
43 sentence.—

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

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

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

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

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

63 a. Whether sufficient aggravating factors exist.

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

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

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

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

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

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

81 2. Death, and at least eight jurors recommend a sentence
82 of death, the court, after considering each aggravating factor
83 found by the jury and all mitigating circumstances, may impose a
84 sentence of life imprisonment without the possibility of parole
85 or a sentence of death. The court may consider only an
86 aggravating factor that was unanimously found to exist by the
87 jury. The court may impose a sentence of death only if the jury
88 unanimously finds at least one aggravating factor beyond a
89 reasonable doubt.

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90 (b) If the defendant waived his or her right to a
91 sentencing proceeding by a jury, the court, after considering
92 all aggravating factors and mitigating circumstances, may impose
93 a sentence of life imprisonment without the possibility of
94 parole or a sentence of death. The court may impose a sentence
95 of death only if the court finds at least one aggravating factor
96 has been proven to exist beyond a reasonable doubt.

97 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
98 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
99 sentence of life imprisonment without the possibility of parole
100 or death sentence, the court shall, considering the records of
101 the trial and the sentencing proceedings, enter a written order
102 addressing the aggravating factors set forth in subsection (7)
103 found to exist, the mitigating circumstances in subsection (8)
104 reasonably established by the evidence, whether there are
105 sufficient aggravating factors to warrant the death penalty, and
106 whether the aggravating factors outweigh the mitigating
107 circumstances reasonably established by the evidence. The court
108 must include in its written order the reasons for not accepting
109 the jury's recommended sentence, if applicable. If the court
110 does not issue its order requiring the death sentence within 30
111 days after the rendition of the judgment and sentence, the court
112 shall impose a sentence of life imprisonment without the
113 possibility of parole in accordance with s. 775.082.

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

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

Remove lines 4-13 and insert:

requiring a determination of a specified number of jurors,
rather than jury unanimity, for a sentencing recommendation of
death to the court; requiring a determination of a specified
number of jurors for a sentencing recommendation of life
imprisonment without the possibility of parole to the court;
requiring the court to impose the recommended sentence of life
imprisonment without the possibility of parole if fewer than
eight jurors recommend a sentence of death; authorizing the
court to impose a sentence of life imprisonment without the
possibility of parole or a sentence of death if at least eight
jurors recommend a sentence of death; specifying that the court
may impose a sentence of death only if the jury unanimously
finds at least one aggravating factor beyond a reasonable doubt;
requiring the court to include in its written order the reasons
for not accepting a jury's recommended sentence, if applicable;
providing an effective date.