

26 | 921.141, Florida Statutes, are amended to read:

27 | 921.141 Sentence of death or life imprisonment for capital
28 | felonies; further proceedings to determine sentence.—

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

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

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

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

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

48 | a. Whether sufficient aggravating factors exist.

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

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

54 (c) If at least eight jurors determine ~~a unanimous jury~~
55 ~~determines~~ that the defendant should be sentenced to death, the
56 jury's recommendation to the court shall be a sentence of death.
57 If fewer than eight jurors ~~a unanimous jury does not~~ determine
58 that the defendant should be sentenced to death, the jury's
59 recommendation to the court shall be a sentence of life
60 imprisonment without the possibility of parole.

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

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

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

66 2. Death, and at least eight jurors recommend a sentence
67 of 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
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.

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 shall be a sentence of death.
 132 If fewer than eight jurors ~~a unanimous jury does not~~ determine
 133 that the defendant should be sentenced to death, the jury's
 134 recommendation to the court shall be a sentence of life
 135 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,
 139 the court shall impose the recommended sentence of life
 140 imprisonment without the possibility of parole.

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

150 (b) If the defendant waived his or her right to a

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

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

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