

1 A bill to be entitled
2 An act relating to capital sex trafficking; creating
3 s. 787.062, F.S.; providing legislative findings;
4 providing definitions; providing for penalties for
5 persons convicted of the human trafficking of certain
6 persons for sex; creating s. 921.1427, F.S.; providing
7 legislative intent; providing for separate death
8 penalty proceedings in certain cases; providing for
9 findings and recommended sentences by a jury;
10 providing for imposition of sentence of life
11 imprisonment or death; providing requirements for a
12 court order in support of a life imprisonment or death
13 sentence; providing for automatic review of sentences
14 of death within a certain time period; specifying
15 aggravating factors and mitigating circumstances;
16 providing for victim impact evidence; providing for
17 resentencing if provisions are found to be
18 unconstitutional; providing applicability; amending s.
19 924.07, F.S.; authorizing the state to appeal from a
20 sentence on the ground that it resulted from the
21 failure of the circuit court to comply with specified
22 sentencing procedure requirements; amending ss.
23 921.137 and 921.141, F.S.; conforming provisions to
24 changes made by the act; providing an effective date.
25

26 Be It Enacted by the Legislature of the State of Florida:

27

28 **Section 1. Section 787.062, Florida Statutes, is created**
 29 **to read:**

30 787.062 Capital sex trafficking.-

31 (1) The Legislature finds that human trafficking is a form
 32 of modern-day slavery, and victims of such schemes include young
 33 children, young teenagers, and persons with diminished mental
 34 capacity. The Legislature finds that victims of human
 35 trafficking are subjected to force for the purpose of sexual
 36 exploitation. Such crimes destroy the innocence of young
 37 children and violate all standards of decency held by civilized
 38 society.

39 (2) As used in this section, the term:

40 (a) "Human trafficking" has the same meaning as provided
 41 in s. 787.06(2).

42 (b) "Physical force" means the touching, striking, causing
 43 of bodily harm, confining, or restraining of another.

44 (c) "Sexual violence" means an act of any of the
 45 following:

46 1. Sexual battery, as defined in s. 794.011(1).

47 2. Lewd or lascivious battery, as defined in s. 800.04(4).

48 3. Lewd or lascivious molestation, as defined in s.
 49 800.04(5).

50 4. Lewd or lascivious conduct, as defined in s. 800.04(6).

51 5. Sadoomasochistic abuse or sexual bestiality as those
52 terms are defined in s. 827.071(1).

53 (3)(a) Except as provided in paragraph (b), a person who
54 knowingly engages in human trafficking by use of physical force
55 for sexual violence upon a child less than 12 years of age, or
56 upon a person who is mentally defective or mentally
57 incapacitated as those terms are defined in s. 794.011(1),
58 commits a capital felony, punishable as provided in ss. 775.082
59 and 921.1427.

60 (b) A person less than 18 years of age who commits an
61 offense under this subsection commits a life felony, punishable
62 as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

63 (4) In all capital cases under this section, the procedure
64 in s. 921.1427 shall be followed to determine a sentence of
65 death or life imprisonment. If the prosecutor intends to seek
66 the death penalty, the prosecutor must give notice to the
67 defendant and file the notice with the court within 45 days
68 after arraignment. The notice must contain a list of the
69 aggravating factors the state intends to prove and has reason to
70 believe it can prove beyond a reasonable doubt. The court may
71 allow the prosecutor to amend the notice upon a showing of good
72 cause.

73 **Section 2. Section 921.1427, Florida Statutes, is created**
74 **to read:**

75 921.1427 Sentence of death or life imprisonment for

76 capital sex trafficking; further proceedings to determine
77 sentence.—

78 (1) INTENT.—

79 (a) The Legislature finds that a person who commits the
80 act of human trafficking for sex of a person less than 12 years
81 of age carries a great risk of death and danger to vulnerable
82 members of this state. Such crimes destroy the innocence of
83 young children and violate all standards of decency held by
84 civilized society, and that persons who traffic in such
85 vulnerable children may be determined by the trier of fact to
86 have a culpable mental state of reckless indifference or
87 disregard for human life.

88 (b) It is the intent of the Legislature that the procedure
89 in this section shall be followed, and a prosecutor must file
90 notice, as provided in s. 787.062(4), if he or she intends to
91 seek the death penalty.

92 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
93 conviction or adjudication of guilt of a defendant of a capital
94 felony under s. 787.062(3)(a), the court shall conduct a
95 separate sentencing proceeding to determine whether the
96 defendant should be sentenced to death or life imprisonment as
97 authorized by s. 775.082. The proceeding shall be conducted by
98 the trial judge before the trial jury as soon as practicable.
99 If, through impossibility or inability, the trial jury is unable
100 to reconvene for a hearing on the issue of penalty, having

101 determined the guilt of the accused, the trial judge may summon
102 a special juror or jurors as provided in chapter 913 to
103 determine the issue of the imposition of the penalty. If the
104 trial jury has been waived, or if the defendant pleaded guilty,
105 the sentencing proceeding shall be conducted before a jury
106 impaneled for that purpose, unless waived by the defendant. In
107 the proceeding, evidence may be presented as to any matter that
108 the court deems relevant to the nature of the crime and the
109 character of the defendant and shall include matters relating to
110 any of the aggravating factors enumerated in subsection (7) and
111 for which notice has been provided pursuant to s. 787.062(4) or
112 mitigating circumstances enumerated in subsection (8). Any such
113 evidence that the court deems to have probative value may be
114 received, regardless of its admissibility under the exclusionary
115 rules of evidence, provided the defendant is accorded a fair
116 opportunity to rebut any hearsay statements. However, this
117 subsection shall not be construed to authorize the introduction
118 of any evidence secured in violation of the United States
119 Constitution or the State Constitution. The state and the
120 defendant or the defendant's counsel shall be permitted to
121 present argument for or against a sentence of death.

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

125 (a) After hearing all of the evidence presented regarding
126 aggravating factors and mitigating circumstances, the jury shall
127 deliberate and determine if the state has proven, beyond a
128 reasonable doubt, the existence of at least two aggravating
129 factors set forth in subsection (7).

130 (b) The jury shall return findings identifying each
131 aggravating factor found to exist. A finding that at least two
132 aggravating factors exist must be unanimous. If the jury:

133 1. Does not unanimously find at least two aggravating
134 factors, the defendant is ineligible for a sentence of death.

135 2. Unanimously finds at least two aggravating factors, the
136 defendant is eligible for a sentence of death and the jury shall
137 make a recommendation to the court as to whether the defendant
138 shall be sentenced to life imprisonment without the possibility
139 of parole or to death. The recommendation shall be based on a
140 weighing of all of the following:

141 a. Whether sufficient aggravating factors exist.

142 b. Whether aggravating factors exist which outweigh the
143 mitigating circumstances found to exist.

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

147 (c) If at least eight jurors determine that the defendant
148 should be sentenced to death, the jury's recommendation to the
149 court shall be a sentence of death. If fewer than eight jurors

150 determine that the defendant should be sentenced to death, the
151 jury's recommendation to the court shall be a sentence of life
152 imprisonment without the possibility of parole.

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

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

155 1. Life imprisonment without the possibility of parole,
156 the court shall impose the recommended sentence of life
157 imprisonment without the possibility of parole.

158 2. Death, the court, after considering each aggravating
159 factor found by the jury and all mitigating circumstances, may
160 impose a sentence of life imprisonment without the possibility
161 of parole or a sentence of death. The court may consider only an
162 aggravating factor that was unanimously found to exist by the
163 jury. The court may impose a sentence of death only if the jury
164 unanimously found at least two aggravating factors beyond a
165 reasonable doubt.

166 (b) If the defendant waived his or her right to a
167 sentencing proceeding by a jury, the court, after considering
168 all aggravating factors and mitigating circumstances, may impose
169 a sentence of life imprisonment without the possibility of
170 parole or a sentence of death. The court may impose a sentence
171 of death only if the court finds that at least two aggravating
172 factors have been proven to exist beyond a reasonable doubt.

173 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
174 IMPRISONMENT OR DEATH.—In each case in which the court imposes a

175 sentence of life imprisonment without the possibility of parole
176 or death, the court shall, considering the records of the trial
177 and the sentencing proceedings, enter a written order addressing
178 the aggravating factors set forth in subsection (7) found to
179 exist, the mitigating circumstances in subsection (8) reasonably
180 established by the evidence, whether there are sufficient
181 aggravating factors to warrant the death penalty, and whether
182 the aggravating factors outweigh the mitigating circumstances
183 reasonably established by the evidence. The court shall include
184 in its written order the reasons for not accepting the jury's
185 recommended sentence, if applicable. If the court does not issue
186 its order requiring the death sentence within 30 days after the
187 rendition of the judgment and sentence, the court shall impose a
188 sentence of life imprisonment without the possibility of parole
189 in accordance with s. 775.082.

190 (6) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
191 conviction and sentence of death shall be subject to automatic
192 review by the Supreme Court and disposition rendered within 2
193 years after the filing of a notice of appeal. Such review by the
194 Supreme Court shall have priority over all other cases and shall
195 be heard in accordance with rules adopted by the Supreme Court.

196 (7) AGGRAVATING FACTORS.—Aggravating factors shall be
197 limited to the following:

198 (a) The capital felony was committed by a person
199 previously convicted of a felony violation under s. 787.06 or s.

200 787.062, and under sentence of imprisonment or placed on
201 community control or on felony probation.

202 (b) The defendant was previously convicted of another
203 capital felony or of a felony involving the use or threat of
204 violence to the person.

205 (c) The capital felony was committed by a person
206 designated as a sexual predator pursuant to s. 775.21 or a
207 person previously designated as a sexual predator who had the
208 sexual predator designation removed.

209 (d) The capital felony was committed by a sexual offender
210 who is required to register pursuant to s. 943.0435 or a person
211 previously required to register as a sexual offender who had
212 such requirement removed.

213 (e) The defendant knowingly created a great risk of death
214 to one or more persons such that participation in the offense
215 constituted reckless indifference or disregard for human life.

216 (f) The defendant used a firearm or knowingly directed,
217 advised, authorized, or assisted another to use a firearm to
218 threaten, intimidate, assault, or injure a person in committing
219 the offense or in furtherance of the offense.

220 (g) The capital felony was especially heinous, atrocious,
221 or cruel.

222 (h) The victim of the capital felony was particularly
223 vulnerable due to age or disability, or because the defendant

224 stood in a position of familial or custodial authority over the
225 victim.

226 (i) The capital felony was committed by a person subject
227 to an injunction issued pursuant to s. 741.30 or s. 784.046, or
228 a foreign protection order accorded full faith and credit
229 pursuant to s. 741.315, and was committed against the petitioner
230 who obtained the injunction or protection order or any spouse,
231 child, sibling, or parent of the petitioner.

232 (j) The victim of the capital felony sustained serious
233 bodily injury.

234 (8) MITIGATING CIRCUMSTANCES.—Mitigating circumstances
235 shall include the following:

236 (a) The defendant has no significant history of prior
237 criminal activity.

238 (b) The capital felony was committed while the defendant
239 was under the influence of extreme mental or emotional
240 disturbance.

241 (c) The defendant was an accomplice in the capital felony
242 committed by another person, and the defendant's participation
243 was relatively minor.

244 (d) The defendant was under extreme duress or under the
245 substantial domination of another person.

246 (e) The capacity of the defendant to appreciate the
247 criminality of her or his conduct or to conform her or his
248 conduct to the requirements of law was substantially impaired.

249 (f) The age of the defendant at the time of the offense.

250 (g) The defendant could not have reasonably foreseen that
251 her or his conduct in the course of the commission of the
252 offense would cause or would create a grave risk of death to one
253 or more persons.

254 (h) The existence of any other factors in the defendant's
255 background that would mitigate against imposition of the death
256 penalty.

257 (9) VICTIM IMPACT EVIDENCE.—Once the prosecution has
258 provided evidence of the existence of two or more aggravating
259 factors as described in subsection (7), the prosecution may
260 introduce, and subsequently argue, victim impact evidence to the
261 jury. Such evidence shall be designed to demonstrate the
262 victim's uniqueness as an individual human being and the
263 physical and psychological harm to the victim. Characterizations
264 and opinions about the crime, the defendant, and the appropriate
265 sentence shall not be permitted as a part of victim impact
266 evidence.

267 (10) CONSTITUTIONALITY.—Notwithstanding s. 775.082(2) or
268 s. 775.15, or any other provision of law, a sentence of death
269 shall be imposed under this section notwithstanding existing
270 case law which holds that such a sentence is unconstitutional
271 under the State Constitution and the United States Constitution.
272 In any case for which the Florida Supreme Court or the United
273 States Supreme Court reviews a sentence of death imposed

274 pursuant to this section, and in making such a review
275 reconsiders the prior holdings in *Buford v. State of Florida,*
276 *403 So. 2d 943 (Fla. 1981), and Kennedy v. Louisiana, 554 U.S.*
277 *407 (2008), and determines that a sentence of death remains*
278 *unconstitutional, the court having jurisdiction over the person*
279 *previously sentenced to death shall cause such person to be*
280 *brought before the court, and the court shall sentence such*
281 *person to life imprisonment as provided in s. 775.082(1).*

282 (11) APPLICABILITY.—This section applies to any capital
283 felony under s. 787.062 that is committed on or after October 1,
284 2025.

285 **Section 3. Paragraph (o) is added to subsection (1) of**
286 **section 924.07, Florida Statutes, to read:**

287 924.07 Appeal by state.—

288 (1) The state may appeal from:

289 (o) The sentence in a case of capital human trafficking on
290 the ground that it resulted from the circuit court's failure to
291 comply with sentencing procedures under s. 921.1427, including
292 by striking a notice of intent to seek the death penalty,
293 refusing to impanel a capital jury, or otherwise granting relief
294 that prevents the state from seeking a sentence of death.

295 **Section 4. Subsection (4) of section 921.137, Florida**
296 **Statutes, is amended to read:**

297 921.137 Imposition of the death sentence upon an
298 intellectually disabled defendant prohibited.—

299 (4) After a defendant who has given notice of his or her
300 intention to raise intellectual disability as a bar to the death
301 sentence is convicted of a capital felony and an advisory jury
302 has returned a recommended sentence of death, the defendant may
303 file a motion to determine whether the defendant is
304 intellectually disabled. Upon receipt of the motion, the court
305 shall appoint two experts in the field of intellectual
306 disabilities who shall evaluate the defendant and report their
307 findings to the court and all interested parties prior to the
308 final sentencing hearing. Notwithstanding s. 921.141, s.
309 921.142, ~~or~~ s. 921.1425, or s. 921.1427, the final sentencing
310 hearing shall be held without a jury. At the final sentencing
311 hearing, the court shall consider the findings of the court-
312 appointed experts and consider the findings of any other expert
313 which is offered by the state or the defense on the issue of
314 whether the defendant has an intellectual disability. If the
315 court finds, by clear and convincing evidence, that the
316 defendant has an intellectual disability as defined in
317 subsection (1), the court may not impose a sentence of death and
318 shall enter a written order that sets forth with specificity the
319 findings in support of the determination.

320 **Section 5. Subsection (9) of section 921.141, Florida**
321 **Statutes, is amended to read:**

322 921.141 Sentence of death or life imprisonment for capital
323 felonies; further proceedings to determine sentence.-

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324 (9) APPLICABILITY.—This section does not apply to a person
325 convicted or adjudicated guilty of a capital sexual battery
326 under s. 794.011, a capital sex trafficking felony under
327 787.062, or a capital drug trafficking felony under s. 893.135.

328 **Section 6.** This act shall take effect October 1, 2025.