

1 A bill to be entitled
2 An act relating to capital human trafficking of
3 vulnerable persons for sexual exploitation; creating
4 s. 787.062, F.S.; providing legislative findings;
5 providing definitions; prohibiting a person 18 years
6 of age or older from knowingly engaging in human
7 trafficking of vulnerable persons with specified
8 knowledge or in reckless disregard of specified
9 circumstances; providing a criminal penalty; requiring
10 the state to give a specified notice if it intends to
11 seek the death penalty for a violation of the offense;
12 creating s. 921.1427, F.S.; providing legislative
13 intent; providing for separate death penalty
14 proceedings in certain cases; providing for findings
15 and recommended sentences by a jury; providing for
16 imposition of sentence of life imprisonment or death;
17 providing requirements for a court order in support of
18 a life imprisonment or death sentence; providing for
19 automatic review of sentences of death within a
20 certain time period; specifying aggravating factors
21 and mitigating circumstances; providing for victim
22 impact evidence; providing for resentencing if
23 provisions are found to be unconstitutional; providing
24 applicability; amending s. 924.07, F.S.; authorizing
25 the state to appeal from a sentence on the ground that

26 | it resulted from the failure of the circuit court to
 27 | comply with specified sentencing procedure
 28 | requirements; amending ss. 921.137 and 921.141, F.S.;
 29 | conforming provisions to changes made by the act;
 30 | providing an effective date.

31 |
 32 | Be It Enacted by the Legislature of the State of Florida:

33 |
 34 | **Section 1. Section 787.062, Florida Statutes, is created**
 35 | **to read:**

36 | 787.062 Capital human trafficking of vulnerable persons
 37 | for sexual exploitation.—

38 | (1) The Legislature finds that human trafficking is a form
 39 | of modern-day slavery and that victims of human trafficking
 40 | include young children and other persons who are particularly
 41 | vulnerable because of diminished mental capacity. Additionally,
 42 | the Legislature finds that some perpetrators of human
 43 | trafficking use physical force and violence against their
 44 | victims for the purpose of further subjecting them to sexual
 45 | exploitation. Such crimes exploit society's most vulnerable
 46 | citizens, destroy the innocence of young children, and violate
 47 | all standards of decency held by civilized society.

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

49 | (a) "Human trafficking" has the same meaning as in s.
 50 | 787.06(2).

51 (b) "Mentally defective" and "mentally incapacitated" have
52 the same meanings as in s. 794.011.

53 (c) "Vulnerable person" means any:

54 1. Child under 12 years of age; or

55 2. Person who is mentally defective or mentally
56 incapacitated.

57 (3) A person 18 years of age or older commits a capital
58 felony, punishable as provided in ss. 775.082 and 921.1427, if
59 he or she knowingly engages in human trafficking of a vulnerable
60 person, through the use of physical force or violence, and, in
61 the course of committing the offense, he or she sells or
62 otherwise transfers the vulnerable person to another person with
63 knowledge, or in reckless disregard of the fact, that as a
64 consequence of the sale or transfer, any person will commit a
65 violation of s. 794.011 upon the vulnerable person.

66
67 In all capital cases under this section, the procedure in s.
68 921.1427 shall be followed to determine a sentence of death or
69 life imprisonment.

70 (4) If the prosecutor intends to seek the death penalty,
71 the prosecutor must give notice to the defendant and file the
72 notice with the court within 45 days after arraignment. The
73 notice must contain a list of the aggravating factors the state
74 intends to prove and has reason to believe it can prove beyond a
75 reasonable doubt. The court may allow the prosecutor to amend

76 the notice upon a showing of good cause.

77 **Section 2. Section 921.1427, Florida Statutes, is created**
 78 **to read:**

79 921.1427 Sentence of death or life imprisonment for
 80 capital human trafficking of vulnerable persons for sexual
 81 exploitation; further proceedings to determine sentence.-

82 (1) INTENT.-

83 (a) The Legislature finds that a person who commits the
 84 offense of human trafficking of a vulnerable person, through the
 85 use of physical force or violence, and, in the course of
 86 committing the offense, sells or transfers the vulnerable person
 87 to another person with knowledge, or in reckless disregard of
 88 the fact, that as a consequence of the sale or transfer, any
 89 person will commit a violation of s. 794.011 upon the vulnerable
 90 person, imposes a great risk of death and danger to vulnerable
 91 members of this state. Such crimes exploit society's most
 92 vulnerable citizens, destroy the innocence of young children,
 93 and violate all standards of decency held by civilized society,
 94 and persons who commit such acts against vulnerable persons may
 95 be determined by the trier of fact to have a culpable mental
 96 state of reckless indifference or disregard for human life.

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

101 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
102 conviction or an adjudication of guilt of a defendant of a
103 capital felony under s. 787.062(3), the court shall conduct a
104 separate sentencing proceeding to determine whether the
105 defendant should be sentenced to death or life imprisonment as
106 authorized by s. 775.082. The proceeding shall be conducted by
107 the trial judge before the trial jury as soon as practicable.
108 If, through impossibility or inability, the trial jury is unable
109 to reconvene for a hearing on the issue of penalty, having
110 determined the guilt of the accused, the trial judge may summon
111 a special juror or jurors as provided in chapter 913 to
112 determine the issue of the imposition of the penalty. If the
113 trial jury has been waived, or if the defendant pleaded guilty,
114 the sentencing proceeding shall be conducted before a jury
115 impaneled for that purpose, unless waived by the defendant. In
116 the proceeding, evidence may be presented as to any matter that
117 the court deems relevant to the nature of the crime and the
118 character of the defendant and shall include matters relating to
119 any of the aggravating factors enumerated in subsection (7) and
120 for which notice has been provided pursuant to s. 787.062(4) or
121 mitigating circumstances enumerated in subsection (8). Any such
122 evidence that the court deems to have probative value may be
123 received, regardless of its admissibility under the exclusionary
124 rules of evidence, provided the defendant is accorded a fair
125 opportunity to rebut any hearsay statements. However, this

126 subsection shall not be construed to authorize the introduction
 127 of any evidence secured in violation of the United States
 128 Constitution or the State Constitution. The state and the
 129 defendant or the defendant's counsel shall be permitted to
 130 present argument for or against a sentence of death.

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

134 (a) After hearing all of the evidence presented regarding
 135 aggravating factors and mitigating circumstances, the jury shall
 136 deliberate and determine if the state has proven, beyond a
 137 reasonable doubt, the existence of at least two aggravating
 138 factors set forth in subsection (7).

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

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

144 2. Unanimously finds at least two aggravating factors, the
 145 defendant is eligible for a sentence of death and the jury shall
 146 make a recommendation to the court as to whether the defendant
 147 shall be sentenced to life imprisonment without the possibility
 148 of parole or to death. The recommendation shall be based on a
 149 weighing of all of the following:

150 a. Whether sufficient aggravating factors exist.

151 b. Whether aggravating factors exist which outweigh the
152 mitigating circumstances found to exist.

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

156 (c) If at least eight jurors determine that the defendant
157 should be sentenced to death, the jury's recommendation to the
158 court shall be a sentence of death. If fewer than eight jurors
159 determine that the defendant should be sentenced to death, the
160 jury's recommendation to the court shall be a sentence of life
161 imprisonment without the possibility of parole.

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

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

164 1. Life imprisonment without the possibility of parole,
165 the court shall impose the recommended sentence of life
166 imprisonment without the possibility of parole.

167 2. Death, the court, after considering each aggravating
168 factor found by the jury and all mitigating circumstances, may
169 impose a sentence of life imprisonment without the possibility
170 of parole or a sentence of death. The court may consider only an
171 aggravating factor that was unanimously found to exist by the
172 jury. The court may impose a sentence of death only if the jury
173 unanimously found at least two aggravating factors beyond a
174 reasonable doubt.

175 (b) If the defendant waived his or her right to a
176 sentencing proceeding by a jury, the court, after considering
177 all aggravating factors and mitigating circumstances, may impose
178 a sentence of life imprisonment without the possibility of
179 parole or a sentence of death. The court may impose a sentence
180 of death only if the court finds that at least two aggravating
181 factors have been proven to exist beyond a reasonable doubt.

182 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
183 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
184 sentence of life imprisonment without the possibility of parole
185 or death, the court shall, considering the records of the trial
186 and the sentencing proceedings, enter a written order addressing
187 the aggravating factors set forth in subsection (7) found to
188 exist, the mitigating circumstances in subsection (8) reasonably
189 established by the evidence, whether there are sufficient
190 aggravating factors to warrant the death penalty, and whether
191 the aggravating factors outweigh the mitigating circumstances
192 reasonably established by the evidence. The court shall include
193 in its written order the reasons for not accepting the jury's
194 recommended sentence, if applicable. If the court does not issue
195 its order requiring the death sentence within 30 days after the
196 rendition of the judgment and sentence, the court shall impose a
197 sentence of life imprisonment without the possibility of parole
198 in accordance with s. 775.082.

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

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

207 (a) The capital felony was committed by a person
208 previously convicted of a felony violation under s. 787.06 or s.
209 787.062, and under sentence of imprisonment or placed on
210 community control or on felony probation.

211 (b) The defendant was previously convicted of another
212 capital felony or of a felony involving the use or threat of
213 violence to the person.

214 (c) The capital felony was committed by a person
215 designated as a sexual predator pursuant to s. 775.21 or a
216 person previously designated as a sexual predator who had the
217 sexual predator designation removed.

218 (d) The capital felony was committed by a sexual offender
219 who is required to register pursuant to s. 943.0435 or a person
220 previously required to register as a sexual offender who had
221 such requirement removed.

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

225 (f) The defendant used a firearm or knowingly directed,
226 advised, authorized, or assisted another to use a firearm to
227 threaten, intimidate, assault, or injure a person in committing
228 the offense or in furtherance of the offense.

229 (g) The capital felony was especially heinous, atrocious,
230 or cruel.

231 (h) The victim of the capital felony was particularly
232 vulnerable due to age or disability, or because the defendant
233 stood in a position of familial or custodial authority over the
234 victim.

235 (i) The capital felony was committed by a person subject
236 to an injunction issued pursuant to s. 741.30 or s. 784.046, or
237 a foreign protection order accorded full faith and credit
238 pursuant to s. 741.315, and was committed against the petitioner
239 who obtained the injunction or protection order or any spouse,
240 child, sibling, or parent of the petitioner.

241 (j) The victim of the capital felony sustained serious
242 bodily injury.

243 (8) MITIGATING CIRCUMSTANCES.—Mitigating circumstances
244 shall include the following:

245 (a) The defendant has no significant history of prior
246 criminal activity.

247 (b) The capital felony was committed while the defendant
248 was under the influence of extreme mental or emotional
249 disturbance.

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

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

255 (e) The capacity of the defendant to appreciate the
256 criminality of her or his conduct or to conform his or her
257 conduct to the requirements of law was substantially impaired.

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

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

263 (h) The existence of any other factors in the defendant's
264 background that would mitigate against imposition of the death
265 penalty.

266 (9) VICTIM IMPACT EVIDENCE.—Once the prosecution has
267 provided evidence of the existence of two or more aggravating
268 factors as described in subsection (7), the prosecution may
269 introduce, and subsequently argue, victim impact evidence to the
270 jury. Such evidence shall be designed to demonstrate the
271 victim's uniqueness as an individual human being and the

272 physical and psychological harm to the victim. Characterizations
273 and opinions about the crime, the defendant, and the appropriate
274 sentence shall not be permitted as a part of victim impact
275 evidence.

276 (10) CONSTITUTIONALITY.—Notwithstanding s. 775.082(2) or
277 s. 775.15, or any other provision of law, a sentence of death
278 shall be imposed under this section notwithstanding existing
279 case law which holds that such a sentence is unconstitutional
280 under the State Constitution and the United States Constitution.
281 In any case for which the Florida Supreme Court or the United
282 States Supreme Court reviews a sentence of death imposed
283 pursuant to this section, and in making such a review
284 reconsiders the prior holdings in *Buford v. State of Florida,*
285 *403 So. 2d 943 (Fla. 1981), and *Kennedy v. Louisiana, 554 U.S.**
286 *407 (2008), and determines that a sentence of death remains*
287 *unconstitutional, the court having jurisdiction over the person*
288 *previously sentenced to death shall cause such person to be*
289 *brought before the court, and the court shall sentence such*
290 *person to life imprisonment as provided in s. 775.082(1).*

291 (11) APPLICABILITY.—This section applies to any capital
292 felony under s. 787.062 that is committed on or after October 1,
293 2025.

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

296 924.07 Appeal by state.—

297 (1) The state may appeal from:

298 (o) The sentence in a case of capital human trafficking of
 299 vulnerable persons for sexual exploitation on the ground that it
 300 resulted from the circuit court's failure to comply with
 301 sentencing procedures under s. 921.1427, including by striking a
 302 notice of intent to seek the death penalty, refusing to impanel
 303 a capital jury, or otherwise granting relief that prevents the
 304 state from seeking a sentence of death.

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

307 921.137 Imposition of the death sentence upon an
 308 intellectually disabled defendant prohibited.—

309 (4) After a defendant who has given notice of his or her
 310 intention to raise intellectual disability as a bar to the death
 311 sentence is convicted of a capital felony and an advisory jury
 312 has returned a recommended sentence of death, the defendant may
 313 file a motion to determine whether the defendant is
 314 intellectually disabled. Upon receipt of the motion, the court
 315 shall appoint two experts in the field of intellectual
 316 disabilities who shall evaluate the defendant and report their
 317 findings to the court and all interested parties prior to the
 318 final sentencing hearing. Notwithstanding s. 921.141, s.
 319 921.142, ~~or~~ s. 921.1425, or s. 921.1427, the final sentencing
 320 hearing shall be held without a jury. At the final sentencing
 321 hearing, the court shall consider the findings of the court—

322 appointed experts and consider the findings of any other expert
323 which is offered by the state or the defense on the issue of
324 whether the defendant has an intellectual disability. If the
325 court finds, by clear and convincing evidence, that the
326 defendant has an intellectual disability as defined in
327 subsection (1), the court may not impose a sentence of death and
328 shall enter a written order that sets forth with specificity the
329 findings in support of the determination.

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

332 921.141 Sentence of death or life imprisonment for capital
333 felonies; further proceedings to determine sentence.—

334 (9) APPLICABILITY.—This section does not apply to a person
335 convicted or adjudicated guilty of a capital sexual battery
336 under s. 794.011, capital human trafficking of vulnerable
337 persons for sexual exploitation under s. 787.062, or a capital
338 drug trafficking felony under s. 893.135.

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