

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [HB 653](#)

TITLE: Aggravating Factors for Capital Felonies

SPONSOR(S): Holcomb

COMPANION BILL: [SB 776](#) (Ingoglia)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Criminal Justice](#)

16 Y, 0 N



[Judiciary](#)

SUMMARY

Effect of the Bill:

HB 653 allows a jury to consider whether a capital felony was committed against the head of a state, or whether in an attempt to commit such crime the defendant committed a capital felony against another individual, as an aggravating factor in determining whether a defendant who has been convicted of a capital felony is eligible to receive a death sentence and whether to recommend a sentence of death or life imprisonment for such a defendant.

Fiscal or Economic Impact:

The bill may have an indeterminate negative impact on state expenditures. To the extent the bill results in more death sentences being imposed, it may increase costs associated with the incarceration and execution of prisoners sentenced to death and may increase the workload of the Florida Supreme Court by requiring the Court to review an increased number of death penalty cases.

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ANALYSIS

EFFECT OF THE BILL:

HB 653 adds a new [aggravating factor](#) that may be considered by a jury during a [sentencing proceeding](#) in determining whether a defendant who has been convicted of a [capital felony](#) is eligible to receive a death sentence and whether to recommend a sentence of death or life imprisonment for such a defendant. Under the bill, a jury may consider, as an aggravating factor, whether the capital felony was committed against the head of a state, including, but not limited to, the President or the Vice President of the United States or the Governor of this or another state, or whether in an attempt to commit such crime the defendant committed a capital felony against another individual. (Section [1](#)).

The bill provides an effective date of July 1, 2025. (Section [2](#)).

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an indeterminate negative impact on state expenditures. To the extent the bill results in more death sentences being imposed, it may increase the:

- Number of inmates on death row and the costs associated with their incarceration and execution.
- Workload of the Florida Supreme Court related to reviewing death penalty cases. However, any increased workload would likely be absorbed within existing resources.

STORAGE NAME: h0653a.CRM

DATE: 3/12/2025

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Capital Sentencing

Section [775.082\(1\), F.S.](#), requires a person who has been convicted of a [capital felony](#)^{1, 2} to be punished by death if a proceeding held to determine sentence under [s. 921.141, F.S.](#), results in a determination that such person shall be punished by death, otherwise the person shall be punished by life imprisonment and is not eligible for parole.

Under [s. 921.141, F.S.](#), to sentence a defendant to death when he or she has not waived the right to a sentencing proceeding by a jury, a jury must unanimously find the existence of at least one aggravating factor and find that any aggravating factors found to exist were proven beyond a reasonable doubt. If a jury makes such a finding, the jury must then make a recommendation to the court as to whether the defendant should be sentenced to death or life imprisonment.³ The jury's recommendation must be based on the following:

- Whether aggravating factors are sufficient to impose death;
- The aggravating factors outweigh the mitigating circumstances found to exist; and
- That, based on the prior considerations, the defendant should be sentenced to death.⁴

If fewer than eight jurors determine that the defendant should be sentenced to death, the jury must recommend a sentence of life imprisonment without the possibility of parole and the court must impose a life sentence.⁵ If at least eight jurors determine that the defendant should be sentenced to death, the jury must recommend a sentence of death.⁶ Thereafter, the judge must consider each aggravating factor that was unanimously found to exist by the jury and all mitigating circumstances, and may impose a sentence of life imprisonment or a death sentence.⁷ The aggravating factors a jury may consider are limited by statute.

Aggravating Factors

Section [921.141\(6\), F.S.](#), provides the following aggravating factors:

- The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.
- The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.
- The defendant knowingly created a great risk of death to many persons.
- The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.
- The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- The capital felony was committed for pecuniary gain.
- The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- The capital felony was especially heinous, atrocious, or cruel.

¹ Capital felony offenses include offenses such as: first-degree murder under [s. 782.04\(1\)\(a\), F.S.](#); the killing of an unborn child by injury to the mother under [s. 782.04\(1\)\(a\)2., F.S.](#); making, possessing, throwing, projecting, placing, discharging, or attempting to do the same, any destructive device that results in death under [s. 790.161\(4\), F.S.](#); and manufacturing, possessing, selling, delivering, sending, mailing, displaying, using, threatening, attempting, or conspiring to use, or making readily accessible to others a weapon of mass destruction if death results under [s. 790.166\(2\), F.S.](#)

² The sentencing of capital sexual battery and capital drug trafficking felonies are specifically provided for in [S. 921.142, F.S.](#), and [S. 921.1425, F.S.](#)

³ [S. 921.141\(2\)\(b\), F.S.](#)

⁴ *Id.*

⁵ [S. 921.141\(2\) and \(3\), F.S.](#)

⁶ [S. 921.141\(2\)\(c\), F.S.](#)

⁷ [S. 921.141\(3\)\(a\)2., F.S.](#)

- The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.
- The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.
- The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties, if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.
- The victim of the capital felony was a person less than 12 years of age.
- The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.
- The capital felony was committed by a criminal gang member, as defined in [s. 874.03, F.S.](#)
- The capital felony was committed by a person designated as a sexual predator pursuant to [s. 775.21, F.S.](#), or a person previously designated as a sexual predator who had the sexual predator designation removed.
- The capital felony was committed by a person subject to specified injunctions or foreign protection orders and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.

Mitigating Circumstances

Mitigating circumstances are not limited by statute. Section [921.141\(7\), F.S.](#), specifies that mitigating circumstances for a capital offense include the following:

- The defendant has no significant history of prior criminal activity.
- The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- The victim was a participant in the defendant's conduct or consented to the act.
- The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.
- The defendant acted under extreme duress or under the substantial domination of another person.
- The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.
- The age of the defendant at the time of the crime.
- The existence of any other factors in the defendant’s background that would mitigate against imposition of the death penalty.

Automatic Review

Section [921.141\(5\), F.S.](#), provides that any judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida, with the required disposition rendered within two years after the filing of a notice of appeal. Such automatic reviews have priority over all other cases.⁸

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Criminal Justice Subcommittee	16 Y, 0 N	3/12/2025	Hall	Leshko
Judiciary Committee				

⁸ S. [921.141\(5\), F.S.](#)