

1                                   A bill to be entitled  
 2           An act relating to sentencing in capital felonies;  
 3           amending ss. 921.141 and 921.142, F.S.; requiring that  
 4           an advisory sentence of death be made by a unanimous  
 5           recommendation of the jury after a defendant's  
 6           conviction or adjudication of guilt for a capital  
 7           felony or capital drug-trafficking felony; requiring  
 8           the court to instruct the jury that, in order for the  
 9           jury to recommend to the court that the death penalty  
 10          be imposed, the jury must find that sufficient  
 11          aggravating circumstances exist which outweigh any  
 12          mitigating circumstances found to exist; requiring the  
 13          court to instruct the jury that each aggravating  
 14          circumstance used to support the jury's recommendation  
 15          of death be proven beyond a reasonable doubt by a  
 16          unanimous vote; requiring that the court provide a  
 17          special verdict form for each aggravating circumstance  
 18          found; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1. Subsections (2) and (3) of section 921.141,  
 23 Florida Statutes, are amended to read:

24           921.141 Sentence of death or life imprisonment for capital  
 25 felonies; further proceedings to determine sentence.—

26           (2) ADVISORY SENTENCE BY THE JURY.—After hearing all the  
 27 evidence, the jury shall deliberate and render an advisory  
 28 sentence to the court, based upon the following matters:

29 (a) Whether sufficient aggravating circumstances exist as  
 30 enumerated in subsection (5);

31 (b) Whether sufficient mitigating circumstances exist  
 32 which outweigh the aggravating circumstances found to exist; and

33 (c) Based on these considerations, whether the defendant  
 34 should be sentenced to life imprisonment or death.

35  
 36 Effective for an offense committed on or after October 1, 2013,  
 37 an advisory sentence of death must be made by a unanimous  
 38 recommendation of the jury. The court shall instruct the jury  
 39 that, in order for the jury to recommend to the court that the  
 40 death penalty be imposed, the jury must find that sufficient  
 41 aggravating circumstances exist which outweigh any mitigating  
 42 circumstances found to exist. The court shall further instruct  
 43 the jury that each aggravating circumstance used to support the  
 44 jury's recommendation of death must be proven beyond a  
 45 reasonable doubt by a unanimous vote. The court shall provide a  
 46 special verdict form for each aggravating circumstance found.

47 (3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—  
 48 Notwithstanding the recommendation of ~~a majority of~~ the jury,  
 49 the court, after weighing the aggravating and mitigating  
 50 circumstances, shall enter a sentence of life imprisonment or  
 51 death, but if the court imposes a sentence of death, it shall  
 52 set forth in writing its findings upon which the sentence of  
 53 death is based as to the facts:

54 (a) That sufficient aggravating circumstances exist as  
 55 enumerated in subsection (5); ~~and~~

56 (b) That there are insufficient mitigating circumstances

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57 | to outweigh the aggravating circumstances.

58 |

59 | In each case in which the court imposes the death sentence, the  
60 | determination of the court shall be supported by specific  
61 | written findings of fact based upon the circumstances in  
62 | subsections (5) and (6) and upon the records of the trial and  
63 | the sentencing proceedings. If the court does not make the  
64 | findings requiring the death sentence within 30 days after the  
65 | rendition of the judgment and sentence, the court shall impose  
66 | sentence of life imprisonment in accordance with s. 775.082.

67 | Section 2. Subsections (3) and (4) of section 921.142,  
68 | Florida Statutes, are amended to read:

69 | 921.142 Sentence of death or life imprisonment for capital  
70 | drug trafficking felonies; further proceedings to determine  
71 | sentence.—

72 | (3) ADVISORY SENTENCE BY THE JURY.—After hearing all the  
73 | evidence, the jury shall deliberate and render an advisory  
74 | sentence to the court, based upon the following matters:

75 | (a) Whether sufficient aggravating circumstances exist as  
76 | enumerated in subsection (6);

77 | (b) Whether sufficient mitigating circumstances exist  
78 | which outweigh the aggravating circumstances found to exist; and

79 | (c) Based on these considerations, whether the defendant  
80 | should be sentenced to life imprisonment or death.

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82 | Effective for an offense committed on or after October 1, 2013,  
83 | an advisory sentence of death must be made by a unanimous  
84 | recommendation of the jury. The court shall instruct the jury

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85 | that, in order for the jury to recommend to the court that the  
86 | death penalty be imposed, the jury must find that sufficient  
87 | aggravating circumstances exist which outweigh any mitigating  
88 | circumstances found to exist. The court shall further instruct  
89 | the jury that each aggravating circumstance used to support the  
90 | jury's recommendation of death must be proven beyond a  
91 | reasonable doubt by a unanimous vote. The court shall provide a  
92 | special verdict form for each aggravating circumstance found.

93 | (4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—

94 | Notwithstanding the recommendation of ~~a majority of~~ the jury,  
95 | the court, after weighing the aggravating and mitigating  
96 | circumstances, shall enter a sentence of life imprisonment or  
97 | death, but if the court imposes a sentence of death, it shall  
98 | set forth in writing its findings upon which the sentence of  
99 | death is based as to the facts:

100 | (a) That sufficient aggravating circumstances exist as  
101 | enumerated in subsection (6);~~7~~ and

102 | (b) That there are insufficient mitigating circumstances  
103 | to outweigh the aggravating circumstances.

104 |  
105 | In each case in which the court imposes the death sentence, the  
106 | determination of the court shall be supported by specific  
107 | written findings of fact based upon the circumstances in  
108 | subsections (6) and (7) and upon the records of the trial and  
109 | the sentencing proceedings. If the court does not make the  
110 | findings requiring the death sentence within 30 days after the  
111 | rendition of the judgment and sentence, the court shall impose  
112 | sentence of life imprisonment in accordance with s. 775.082, and

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113 | the defendant is ~~that person shall be~~ ineligible for parole.

114 | Section 3. This act shall take effect July 1, 2013.