

By Senator Altman

24-00338A-12

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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.

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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

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30 enumerated in subsection (5);

31 (b) Whether sufficient mitigating circumstances exist which
32 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.

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36 Effective for an offense committed on or after October 1, 2012,
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 to
57 outweigh the aggravating circumstances.

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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 which
78 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.

81
82 Effective for an offense committed on or after October 1, 2012,
83 an advisory sentence of death must be made by a unanimous
84 recommendation of the jury. The court shall instruct the jury
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

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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) ~~;~~ and

102 (b) That there are insufficient mitigating circumstances to
103 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
113 the defendant is that person shall be ineligible for parole.

114 Section 3. This act shall take effect October 1, 2012.