

By Senator Altman

16-00200-13

2013148

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:

21  
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

16-00200-13

2013148

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.

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 to  
57 outweigh the aggravating circumstances.

58

16-00200-13

2013148

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, 2013,  
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

16-00200-13

2013148

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 July 1, 2013.