

A bill to be entitled

An act relating to sentencing in capital felonies; amending ss. 921.141 and 921.142, F.S.; requiring that an advisory sentence of death be made by a unanimous recommendation of the jury after a defendant's conviction or adjudication of guilt for a capital felony or capital drug-trafficking felony; requiring the court to instruct the jury that, in order for the jury to recommend to the court that the death penalty be imposed, the jury must find that sufficient aggravating circumstances exist which outweigh any mitigating circumstances found to exist; requiring the court to instruct the jury that each aggravating circumstance used to support the jury's recommendation of death must be proven beyond a reasonable doubt by a unanimous vote; requiring that the court provide a special verdict form for each aggravating circumstance found; providing an effective date.

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

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

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

(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.~~†~~
 33 ~~and~~

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

36
 37 Effective for an offense committed on or after July 1, 2015, an
 38 advisory sentence of death may be made only by a unanimous
 39 recommendation of the jury. The court shall instruct the jury
 40 that, in order for the jury to recommend to the court that the
 41 death penalty be imposed, the jury must find that sufficient
 42 aggravating circumstances exist which outweigh any mitigating
 43 circumstances found to exist. The court shall further instruct
 44 the jury that each aggravating circumstance used to support the
 45 jury's recommendation of death must be proven beyond a
 46 reasonable doubt and be made by a unanimous vote. The court
 47 shall provide a special verdict form for each aggravating
 48 circumstance found.

49 (3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—
 50 Notwithstanding the recommendation of a ~~majority~~ of the jury,
 51 the court, after weighing the aggravating and mitigating
 52 circumstances, shall enter a sentence of life imprisonment or

53 death, but if the court imposes a sentence of death, it shall
 54 set forth in writing its findings upon which the sentence of
 55 death is based as to the facts:

56 (a) That sufficient aggravating circumstances exist as
 57 enumerated in subsection (5) . ~~and~~

58 (b) That there are insufficient mitigating circumstances
 59 to outweigh the aggravating circumstances.

60

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

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

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

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

77 (a) Whether sufficient aggravating circumstances exist as
 78 enumerated in subsection (6) . ~~and~~

79 (b) Whether sufficient mitigating circumstances exist
 80 which outweigh the aggravating circumstances found to exist.~~†~~
 81 and

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

84
 85 Effective for an offense committed on or after July 1, 2015, an
 86 advisory sentence of death may be made only by a unanimous
 87 recommendation of the jury. The court shall instruct the jury
 88 that, in order for the jury to recommend to the court that the
 89 death penalty be imposed, the jury must find that sufficient
 90 aggravating circumstances exist which outweigh any mitigating
 91 circumstances found to exist. The court shall further instruct
 92 the jury that each aggravating circumstance used to support the
 93 jury's recommendation of death must be proven beyond a
 94 reasonable doubt and be made by a unanimous vote. The court
 95 shall provide a special verdict form for each aggravating
 96 circumstance found.

97 (4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—
 98 Notwithstanding the recommendation of ~~a majority of~~ the jury,
 99 the court, after weighing the aggravating and mitigating
 100 circumstances, shall enter a sentence of life imprisonment or
 101 death, but if the court imposes a sentence of death, it shall
 102 set forth in writing its findings upon which the sentence of
 103 death is based as to the facts:

104 (a) That sufficient aggravating circumstances exist as

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105 enumerated in subsection (6); ~~and~~

106 (b) That there are insufficient mitigating circumstances
107 to outweigh the aggravating circumstances.

108

109 In each case in which the court imposes the death sentence, the
110 determination of the court shall be supported by specific
111 written findings of fact based upon the circumstances in
112 subsections (6) and (7) and upon the records of the trial and
113 the sentencing proceedings. If the court does not make the
114 findings requiring the death sentence within 30 days after the
115 rendition of the judgment and sentence, the court shall impose
116 sentence of life imprisonment in accordance with s. 775.082, and
117 the defendant is ~~that person shall be~~ ineligible for parole.

118 Section 3. This act shall take effect July 1, 2015.