

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative McBurney offered the following:

2

3 **Amendment (with title amendment)**

4 Remove lines 46-486 and insert:

5 Section 2. Subsection (1) of section 782.04, Florida

6 Statutes, is amended to read:

7 782.04 Murder.—

8 (1) (a) The unlawful killing of a human being:

9 1. When perpetrated from a premeditated design to effect
10 the death of the person killed or any human being;

11 2. When committed by a person engaged in the perpetration
12 of, or in the attempt to perpetrate, any:

13 a. Trafficking offense prohibited by s. 893.135(1),

14 b. Arson,

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- 15 c. Sexual battery,
- 16 d. Robbery,
- 17 e. Burglary,
- 18 f. Kidnapping,
- 19 g. Escape,
- 20 h. Aggravated child abuse,
- 21 i. Aggravated abuse of an elderly person or disabled
- 22 adult,
- 23 j. Aircraft piracy,
- 24 k. Unlawful throwing, placing, or discharging of a
- 25 destructive device or bomb,
- 26 l. Carjacking,
- 27 m. Home-invasion robbery,
- 28 n. Aggravated stalking,
- 29 o. Murder of another human being,
- 30 p. Resisting an officer with violence to his or her
- 31 person,
- 32 q. Aggravated fleeing or eluding with serious bodily
- 33 injury or death,
- 34 r. Felony that is an act of terrorism or is in furtherance
- 35 of an act of terrorism; or
- 36 3. Which resulted from the unlawful distribution of any
- 37 substance controlled under s. 893.03(1), cocaine as described in
- 38 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
- 39 compound, derivative, or preparation of opium, or methadone by a
- 40 person 18 years of age or older, when such drug is proven to be

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41 the proximate cause of the death of the user,

42
43 is murder in the first degree and constitutes a capital felony,
44 punishable as provided in s. 775.082.

45 (b) In all cases under this section, the procedure set
46 forth in s. 921.141 shall be followed in order to determine
47 sentence of death or life imprisonment. If the prosecutor
48 intends to seek the death penalty, the prosecutor must give
49 notice to the defendant and file the notice with the court
50 within 45 days after arraignment. The notice must contain a list
51 of the aggravating factors the state intends to prove and has
52 reason to believe it can prove beyond a reasonable doubt. The
53 court may allow the prosecutor to amend the notice upon a
54 showing of good cause.

55 Section 3. Section 921.141, Florida Statutes, is amended
56 to read:

57 921.141 Sentence of death or life imprisonment for capital
58 felonies; further proceedings to determine sentence.—

59 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
60 conviction or adjudication of guilt of a defendant of a capital
61 felony, the court shall conduct a separate sentencing proceeding
62 to determine whether the defendant should be sentenced to death
63 or life imprisonment as authorized by s. 775.082. The proceeding
64 shall be conducted by the trial judge before the trial jury as
65 soon as practicable. If, through impossibility or inability, the
66 trial jury is unable to reconvene for a hearing on the issue of

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67 penalty, having determined the guilt of the accused, the trial
68 judge may summon a special juror or jurors as provided in
69 chapter 913 to determine the issue of the imposition of the
70 penalty. If the trial jury has been waived, or if the defendant
71 pleaded guilty, the sentencing proceeding shall be conducted
72 before a jury impaneled for that purpose, unless waived by the
73 defendant. In the proceeding, evidence may be presented as to
74 any matter that the court deems relevant to the nature of the
75 crime and the character of the defendant and shall include
76 matters relating to any of the aggravating factors enumerated in
77 subsection (6) and for which notice has been provided pursuant
78 to s. 782.04(1)(b) or mitigating circumstances enumerated in
79 subsection (7) ~~subsections (5) and (6)~~. Any such evidence that
80 ~~which~~ the court deems to have probative value may be received,
81 regardless of its admissibility under the exclusionary rules of
82 evidence, provided the defendant is accorded a fair opportunity
83 to rebut any hearsay statements. However, this subsection shall
84 not be construed to authorize the introduction of any evidence
85 secured in violation of the Constitution of the United States or
86 the Constitution of the State of Florida. The state and the
87 defendant or the defendant's counsel shall be permitted to
88 present argument for or against sentence of death.

89 (2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
90 subsection applies only if the defendant has not waived his or
91 her right to a sentencing proceeding by a jury.

92 (a) After hearing all of the evidence presented regarding

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93 aggravating factors and mitigating circumstances, the jury shall
94 deliberate and determine if the state has proven, beyond a
95 reasonable doubt, the existence of at least one aggravating
96 factor set forth in subsection (6).

97 (b) The jury shall return findings identifying each
98 aggravating factor found to exist. A finding that an aggravating
99 factor exists must be unanimous. If the jury:

100 1. Does not unanimously find at least one aggravating
101 factor, the defendant is ineligible for a sentence of death.

102 2. Unanimously finds at least one aggravating factor, the
103 defendant is eligible for a sentence of death and the jury shall
104 make a recommendation to the court as to whether the defendant
105 shall be sentenced to life imprisonment without the possibility
106 of parole or to death. The recommendation shall be based on a
107 weighing of all of the following:

108 a. Whether sufficient aggravating factors exist.

109 b. Whether aggravating factors exist which outweigh the
110 mitigating circumstances found to exist.

111 c. Based on the considerations in sub-subparagraphs a. and
112 b., whether the defendant should be sentenced to life
113 imprisonment without the possibility of parole or to death.

114 (c) If at least 10 jurors determine that the defendant
115 should be sentenced to death, the jury's recommendation to the
116 court shall be a sentence of death. If fewer than 10 jurors
117 determine that the defendant should be sentenced to death,

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118 the jury's recommendation to the court shall be a sentence of
119 life imprisonment without the possibility of parole.

120 (3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

121 (a) If the jury has recommended a sentence of:

122 1. Life imprisonment without the possibility of parole,
123 the court shall impose the recommended sentence.

124 2. Death, the court, after considering each aggravating
125 factor found by the jury and all mitigating circumstances, may
126 impose a sentence of life imprisonment without the possibility
127 of parole or a sentence of death. The court may consider only an
128 aggravating factor that was unanimously found to exist by the
129 jury.

130 (b) If the defendant waived his or her right to a
131 sentencing proceeding by a jury, the court, after considering
132 all aggravating factors and mitigating circumstances, may impose
133 a sentence of life imprisonment without the possibility of
134 parole or a sentence of death. The court may impose a sentence
135 of death only if the court finds that at least one aggravating
136 factor has been proven to exist beyond a reasonable doubt.

137 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
138 each case in which the court imposes a sentence of death, the
139 court shall, considering the records of the trial and the
140 sentencing proceedings, enter a written order addressing the
141 aggravating factors set forth in subsection (6) found to exist,
142 the mitigating circumstances in subsection (7) reasonably
143 established by the evidence, whether there are sufficient

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144 aggravating factors to warrant the death penalty, and whether
145 the aggravating factors outweigh the mitigating circumstances
146 reasonably established by the evidence. If the court does not
147 issue its order requiring the death sentence within 30 days
148 after the rendition of the judgment and sentence, the court
149 shall impose a sentence of life imprisonment without the
150 possibility of parole in accordance with s. 775.082.

151 ~~(2) ADVISORY SENTENCE BY THE JURY. After hearing all the~~
152 ~~evidence, the jury shall deliberate and render an advisory~~
153 ~~sentence to the court, based upon the following matters:~~

154 ~~(a) Whether sufficient aggravating circumstances exist as~~
155 ~~enumerated in subsection (5);~~

156 ~~(b) Whether sufficient mitigating circumstances exist~~
157 ~~which outweigh the aggravating circumstances found to exist; and~~

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

160 ~~(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—~~

161 ~~Notwithstanding the recommendation of a majority of the jury,~~
162 ~~the court, after weighing the aggravating and mitigating~~
163 ~~circumstances, shall enter a sentence of life imprisonment or~~
164 ~~death, but if the court imposes a sentence of death, it shall~~
165 ~~set forth in writing its findings upon which the sentence of~~
166 ~~death is based as to the facts:~~

167 ~~(a) That sufficient aggravating circumstances exist as~~
168 ~~enumerated in subsection (5), and~~

169 ~~(b) That there are insufficient mitigating circumstances~~

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170 ~~to outweigh the aggravating circumstances.~~

171
172 ~~In each case in which the court imposes the death sentence, the~~
173 ~~determination of the court shall be supported by specific~~
174 ~~written findings of fact based upon the circumstances in~~
175 ~~subsections (5) and (6) and upon the records of the trial and~~
176 ~~the sentencing proceedings. If the court does not make the~~
177 ~~findings requiring the death sentence within 30 days after the~~
178 ~~rendition of the judgment and sentence, the court shall impose~~
179 ~~sentence of life imprisonment in accordance with s. 775.082.~~

180 (5)~~(4)~~ REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
181 conviction and sentence of death shall be subject to automatic
182 review by the Supreme Court of Florida and disposition rendered
183 within 2 years after the filing of a notice of appeal. Such
184 review by the Supreme Court shall have priority over all other
185 cases and shall be heard in accordance with rules adopted
186 ~~promulgated~~ by the Supreme Court.

187 (6)~~(5)~~ AGGRAVATING FACTORS ~~CIRCUMSTANCES~~.—Aggravating
188 factors ~~circumstances~~ shall be limited to the following:

189 (a) The capital felony was committed by a person
190 previously convicted of a felony and under sentence of
191 imprisonment or placed on community control or on felony
192 probation.

193 (b) The defendant was previously convicted of another
194 capital felony or of a felony involving the use or threat of
195 violence to the person.

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196 (c) The defendant knowingly created a great risk of death
197 to many persons.

198 (d) The capital felony was committed while the defendant
199 was engaged, or was an accomplice, in the commission of, or an
200 attempt to commit, or flight after committing or attempting to
201 commit, any: robbery; sexual battery; aggravated child abuse;
202 abuse of an elderly person or disabled adult resulting in great
203 bodily harm, permanent disability, or permanent disfigurement;
204 arson; burglary; kidnapping; aircraft piracy; or unlawful
205 throwing, placing, or discharging of a destructive device or
206 bomb.

207 (e) The capital felony was committed for the purpose of
208 avoiding or preventing a lawful arrest or effecting an escape
209 from custody.

210 (f) The capital felony was committed for pecuniary gain.

211 (g) The capital felony was committed to disrupt or hinder
212 the lawful exercise of any governmental function or the
213 enforcement of laws.

214 (h) The capital felony was especially heinous, atrocious,
215 or cruel.

216 (i) The capital felony was a homicide and was committed in
217 a cold, calculated, and premeditated manner without any pretense
218 of moral or legal justification.

219 (j) The victim of the capital felony was a law enforcement
220 officer engaged in the performance of his or her official
221 duties.

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222 (k) The victim of the capital felony was an elected or
223 appointed public official engaged in the performance of his or
224 her official duties if the motive for the capital felony was
225 related, in whole or in part, to the victim's official capacity.

226 (l) The victim of the capital felony was a person less
227 than 12 years of age.

228 (m) The victim of the capital felony was particularly
229 vulnerable due to advanced age or disability, or because the
230 defendant stood in a position of familial or custodial authority
231 over the victim.

232 (n) The capital felony was committed by a criminal gang
233 member, as defined in s. 874.03.

234 (o) The capital felony was committed by a person
235 designated as a sexual predator pursuant to s. 775.21 or a
236 person previously designated as a sexual predator who had the
237 sexual predator designation removed.

238 (p) The capital felony was committed by a person subject
239 to an injunction issued pursuant to s. 741.30 or s. 784.046, or
240 a foreign protection order accorded full faith and credit
241 pursuant to s. 741.315, and was committed against the petitioner
242 who obtained the injunction or protection order or any spouse,
243 child, sibling, or parent of the petitioner.

244 ~~(7)-(6)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
245 shall be the following:

246 (a) The defendant has no significant history of prior
247 criminal activity.

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248 (b) The capital felony was committed while the defendant
249 was under the influence of extreme mental or emotional
250 disturbance.

251 (c) The victim was a participant in the defendant's
252 conduct or consented to the act.

253 (d) The defendant was an accomplice in the capital felony
254 committed by another person and his or her participation was
255 relatively minor.

256 (e) The defendant acted under extreme duress or under the
257 substantial domination of another person.

258 (f) The capacity of the defendant to appreciate the
259 criminality of his or her conduct or to conform his or her
260 conduct to the requirements of law was substantially impaired.

261 (g) The age of the defendant at the time of the crime.

262 (h) The existence of any other factors in the defendant's
263 background that would mitigate against imposition of the death
264 penalty.

265 (8) ~~(7)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
266 provided evidence of the existence of one or more aggravating
267 factors ~~circumstances~~ as described in subsection (6) ~~(5)~~, the
268 prosecution may introduce, and subsequently argue, victim impact
269 evidence to the jury. Such evidence shall be designed to
270 demonstrate the victim's uniqueness as an individual human being
271 and the resultant loss to the community's members by the
272 victim's death. Characterizations and opinions about the crime,
273 the defendant, and the appropriate sentence shall not be

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274 permitted as a part of victim impact evidence.

275 (9)~~(8)~~ APPLICABILITY.—This section does not apply to a
276 person convicted or adjudicated guilty of a capital drug
277 trafficking felony under s. 893.135.

278 Section 4. Section 921.142, Florida Statutes, is amended
279 to read:

280 921.142 Sentence of death or life imprisonment for capital
281 drug trafficking felonies; further proceedings to determine
282 sentence.—

283 (1) FINDINGS.—The Legislature finds that trafficking in
284 cocaine or opiates carries a grave risk of death or danger to
285 the public; that a reckless disregard for human life is implicit
286 in knowingly trafficking in cocaine or opiates; and that persons
287 who traffic in cocaine or opiates may be determined by the trier
288 of fact to have a culpable mental state of reckless indifference
289 or disregard for human life.

290 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
291 conviction or adjudication of guilt of a defendant of a capital
292 felony under s. 893.135, the court shall conduct a separate
293 sentencing proceeding to determine whether the defendant should
294 be sentenced to death or life imprisonment as authorized by s.
295 775.082. The proceeding shall be conducted by the trial judge
296 before the trial jury as soon as practicable. If, through
297 impossibility or inability, the trial jury is unable to
298 reconvene for a hearing on the issue of penalty, having
299 determined the guilt of the accused, the trial judge may summon

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300 a special juror or jurors as provided in chapter 913 to
301 determine the issue of the imposition of the penalty. If the
302 trial jury has been waived, or if the defendant pleaded guilty,
303 the sentencing proceeding shall be conducted before a jury
304 impaneled for that purpose, unless waived by the defendant. In
305 the proceeding, evidence may be presented as to any matter that
306 the court deems relevant to the nature of the crime and the
307 character of the defendant and shall include matters relating to
308 any of the aggravating factors enumerated in subsection (7) and
309 for which notice has been provided pursuant to s. 782.04(1)(b)
310 or mitigating circumstances enumerated in subsection (8)
311 ~~subsections (6) and (7)~~. Any such evidence that ~~which~~ the court
312 deems to have probative value may be received, regardless of its
313 admissibility under the exclusionary rules of evidence, provided
314 the defendant is accorded a fair opportunity to rebut any
315 hearsay statements. However, this subsection shall not be
316 construed to authorize the introduction of any evidence secured
317 in violation of the Constitution of the United States or the
318 Constitution of the State of Florida. The state and the
319 defendant or the defendant's counsel shall be permitted to
320 present argument for or against sentence of death.

321 (3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
322 subsection applies only if the defendant has not waived his or
323 her right to a sentencing proceeding by a jury.

324 (a) After hearing all of the evidence presented regarding
325 aggravating factors and mitigating circumstances, the jury shall

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326 deliberate and determine if the state has proven, beyond a
327 reasonable doubt, the existence of at least one aggravating
328 factor set forth in subsection (7).

329 (b) The jury shall return findings identifying each
330 aggravating factor found to exist. A finding that an aggravating
331 factor exists must be unanimous. If the jury:

332 1. Does not unanimously find at least one aggravating
333 factor, the defendant is ineligible for a sentence of death.

334 2. Unanimously finds at least one aggravating factor, the
335 defendant is eligible for a sentence of death and the jury shall
336 make a recommendation to the court as to whether the defendant
337 shall be sentenced to life imprisonment without the possibility
338 of parole or to death. The recommendation shall be based on a
339 weighing of all of the following:

340 a. Whether sufficient aggravating factors exist.

341 b. Whether aggravating factors exist which outweigh the
342 mitigating circumstances found to exist.

343 c. Based on the considerations in sub-subparagraphs a. and
344 b., whether the defendant should be sentenced to life
345 imprisonment without the possibility of parole or to death.

346 (c) If at least 10 jurors determine that the defendant
347 should be sentenced to death, the jury's recommendation to the
348 court shall be a sentence of death. If fewer than 10 jurors
349 determine that the defendant should be sentenced to death,
350 the jury's recommendation to the court shall be a sentence of
351 life imprisonment without the possibility of parole.

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352 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

353 (a) If the jury has recommended a sentence of:

354 1. Life imprisonment without the possibility of parole,
355 the court shall impose the recommended sentence.

356 2. Death, the court, after considering each aggravating
357 factor found by the jury and all mitigating circumstances, may
358 impose a sentence of life imprisonment without the possibility
359 of parole or a sentence of death. The court may consider only an
360 aggravating factor that was unanimously found to exist by the
361 jury.

362 (b) If the defendant waived his or her right to a
363 sentencing proceeding by a jury, the court, after considering
364 all aggravating factors and mitigating circumstances, may impose
365 a sentence of life imprisonment without the possibility of
366 parole or a sentence of death. The court may impose a sentence
367 of death only if the court finds at least one aggravating factor
368 has been proven to exist beyond a reasonable doubt.

369 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
370 each case in which the court imposes a death sentence, the court
371 shall, considering the records of the trial and the sentencing
372 proceedings, enter a written order addressing the aggravating
373 factors set forth in subsection (7) found to exist, the
374 mitigating circumstances in subsection (8) reasonably
375 established by the evidence, whether there are sufficient
376 aggravating factors to warrant the death penalty, and whether
377 the aggravating factors outweigh the mitigating circumstances

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378 reasonably established by the evidence. If the court does not
379 issue its order requiring the death sentence within 30 days
380 after the rendition of the judgment and sentence, the court
381 shall impose a sentence of life imprisonment without the
382 possibility of parole in accordance with s. 775.082.

383 ~~(3) ADVISORY SENTENCE BY THE JURY. After hearing all the~~
384 ~~evidence, the jury shall deliberate and render an advisory~~
385 ~~sentence to the court, based upon the following matters:~~

386 ~~(a) Whether sufficient aggravating circumstances exist as~~
387 ~~enumerated in subsection (6);~~

388 ~~(b) Whether sufficient mitigating circumstances exist~~
389 ~~which outweigh the aggravating circumstances found to exist; and~~

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

392 ~~(4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—~~

393 ~~Notwithstanding the recommendation of a majority of the jury,~~
394 ~~the court, after weighing the aggravating and mitigating~~
395 ~~circumstances, shall enter a sentence of life imprisonment or~~
396 ~~death, but if the court imposes a sentence of death, it shall~~
397 ~~set forth in writing its findings upon which the sentence of~~
398 ~~death is based as to the facts:~~

399 ~~(a) That sufficient aggravating circumstances exist as~~
400 ~~enumerated in subsection (6), and~~

401 ~~(b) That there are insufficient mitigating circumstances~~
402 ~~to outweigh the aggravating circumstances.~~

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404 ~~In each case in which the court imposes the death sentence, the~~
405 ~~determination of the court shall be supported by specific~~
406 ~~written findings of fact based upon the circumstances in~~
407 ~~subsections (6) and (7) and upon the records of the trial and~~
408 ~~the sentencing proceedings. If the court does not make the~~
409 ~~findings requiring the death sentence within 30 days after the~~
410 ~~rendition of the judgment and sentence, the court shall impose~~
411 ~~sentence of life imprisonment in accordance with s. 775.082, and~~
412 ~~that person shall be ineligible for parole.~~

413 (6)~~(5)~~ REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
414 conviction and sentence of death shall be subject to automatic
415 review and disposition rendered by the Supreme Court of Florida
416 within 2 years after the filing of a notice of appeal. Such
417 review by the Supreme Court shall have priority over all other
418 cases and shall be heard in accordance with rules promulgated by
419 the Supreme Court.

420 (7)~~(6)~~ AGGRAVATING FACTORS CIRCUMSTANCES.—Aggravating
421 factors ~~circumstances~~ shall be limited to the following:

422 (a) The capital felony was committed by a person under a
423 sentence of imprisonment.

424 (b) The defendant was previously convicted of another
425 capital felony or of a state or federal offense involving the
426 distribution of a controlled substance which ~~that~~ is punishable
427 by a sentence of at least 1 year of imprisonment.

428 (c) The defendant knowingly created grave risk of death to
429 one or more persons such that participation in the offense

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430 constituted reckless indifference or disregard for human life.

431 (d) The defendant used a firearm or knowingly directed,
432 advised, authorized, or assisted another to use a firearm to
433 threaten, intimidate, assault, or injure a person in committing
434 the offense or in furtherance of the offense.

435 (e) The offense involved the distribution of controlled
436 substances to persons under the age of 18 years, the
437 distribution of controlled substances within school zones, or
438 the use or employment of persons under the age of 18 years in
439 aid of distribution of controlled substances.

440 (f) The offense involved distribution of controlled
441 substances known to contain a potentially lethal adulterant.

442 (g) The defendant:

- 443 1. Intentionally killed the victim;
444 2. Intentionally inflicted serious bodily injury that
445 ~~which~~ resulted in the death of the victim; or

446 3. Intentionally engaged in conduct intending that the
447 victim be killed or that lethal force be employed against the
448 victim, which resulted in the death of the victim.

449 (h) The defendant committed the offense as consideration
450 for the receipt, or in the expectation of the receipt, of
451 anything of pecuniary value.

452 (i) The defendant committed the offense after planning and
453 premeditation.

454 (j) The defendant committed the offense in a heinous,
455 cruel, or depraved manner in that the offense involved torture

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456 or serious physical abuse to the victim.

457 (8)~~(7)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
458 shall include the following:

459 (a) The defendant has no significant history of prior
460 criminal activity.

461 (b) The capital felony was committed while the defendant
462 was under the influence of extreme mental or emotional
463 disturbance.

464 (c) The defendant was an accomplice in the capital felony
465 committed by another person, and the defendant's participation
466 was relatively minor.

467 (d) The defendant was under extreme duress or under the
468 substantial domination of another person.

469 (e) The capacity of the defendant to appreciate the
470 criminality of her or his conduct or to conform her or his
471 conduct to the requirements of law was substantially impaired.

472 (f) The age of the defendant at the time of the offense.

473 (g) The defendant could not have reasonably foreseen that
474 her or his conduct in the course of the commission of the
475 offense would cause or would create a grave risk of death to one
476 or more persons.

477 (h) The existence of any other factors in the defendant's
478 background that would mitigate against imposition of the death
479 penalty.

480 (9)~~(8)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
481 provided evidence of the existence of one or more aggravating

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482 factors ~~circumstances~~ as described in subsection (7) ~~(6)~~, the
483 prosecution may introduce, and subsequently argue, victim impact
484 evidence. Such evidence shall be designed to demonstrate the
485 victim's uniqueness as an individual human being and the
486 resultant loss to the community's members by the victim's death.
487 Characterizations and opinions about the crime, the defendant,
488 and the appropriate sentence shall not be permitted as a part of
489 victim impact evidence.

490

491

492

T I T L E A M E N D M E N T

493

Remove lines 4-28 and insert:

494

changes made by the act; amending s. 782.04, F.S.;

495

requiring the prosecutor to give notice to the

496

defendant and to file the notice with the court within

497

a certain timeframe if the prosecutor intends to seek

498

the death penalty; requiring the notice to specify

499

aggravating factors that state intends to prove;

500

providing for amendment of notice; amending ss.

501

921.141 and 921.142, F.S.; requiring juries to

502

determine the existence of aggravating factors, if

503

any, in the penalty phase of capital cases; specifying

504

a standard of proof for such factors; requiring

505

unanimity for such findings; requiring a jury to make

506

a recommendation to the court whether the defendant

507

shall be sentenced to life imprisonment or death;

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508 specifying considerations for such a recommendation;
509 requiring a certain determination by at least 10
510 jurors to support a recommendation of a sentence of
511 death; requiring a sentence of life imprisonment
512 without the possibility of parole in certain
513 circumstances; requiring the court to enter an order
514 meeting specified requirements in each case in which
515 it imposes a death sentence; deleting provisions
516 relating to advisory sentencing by juries and findings
517 by the court in support of sentences of death;
518 reenacting s. 794.011(2) (a), F.S., relating to sexual
519 battery, to incorporate the amendment made by the act
520 to s. 921.141, F.S., in a reference thereto;
521 reenacting s. 893.135(1) (b) through (l), F.S.,
522 relating to trafficking in controlled substances, to
523 incorporate the amendment made by the act to s.

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