

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Joseph offered the following:

Amendment (with title amendment)

Remove lines 55-148 and insert:

(c) If a unanimous jury determines that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If a unanimous jury does not determine that the defendant should be sentenced to death:

1. The court shall order a new trial as to sentencing.

2. If, after a new sentencing proceeding under subparagraph 1. the jury fails to reach a unanimous decision, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.

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

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

16 1. Life imprisonment without the possibility of parole,
17 the court shall impose the recommended sentence of life.

18 2. Death, the court, after considering each aggravating
19 factor found by the jury and all mitigating circumstances, may
20 impose a sentence of life imprisonment without the possibility
21 of parole or a sentence of death. The court may consider only an
22 aggravating factor that was unanimously found to exist by the
23 jury. The court may impose a sentence of death only if the jury
24 unanimously finds at least one aggravating factor beyond a
25 reasonable doubt.

26 (b) If the defendant waived his or her right to a
27 sentencing proceeding by a jury, the court, after considering
28 all aggravating factors and mitigating circumstances, may impose
29 a sentence of life imprisonment without the possibility of
30 parole or a sentence of death. The court may impose a sentence
31 of death only if the court finds that at least one aggravating
32 factor has been proven to exist beyond a reasonable doubt.

33 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
34 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
35 sentence of life imprisonment without the possibility of parole
36 or death, the court shall, considering the records of the trial
37 and the sentencing proceedings, enter a written order addressing
38 the aggravating factors set forth in subsection (6) found to

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39 exist, the mitigating circumstances in subsection (7) reasonably
40 established by the evidence, whether there are sufficient
41 aggravating factors to warrant the death penalty, and whether
42 the aggravating factors outweigh the mitigating circumstances
43 reasonably established by the evidence. If the court does not
44 issue its order requiring the death sentence within 30 days
45 after the rendition of the judgment and sentence, the court
46 shall impose a sentence of life imprisonment without the
47 possibility of parole in accordance with s. 775.082.

48 Section 2. Subsections (3), (4), and (5) of section
49 921.142, Florida Statutes, are amended to read:

50 921.142 Sentence of death or life imprisonment for capital
51 drug trafficking felonies; further proceedings to determine
52 sentence.—

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

56 (a) After hearing all of the evidence presented regarding
57 aggravating factors and mitigating circumstances, the jury shall
58 deliberate and determine if the state has proven, beyond a
59 reasonable doubt, the existence of at least one aggravating
60 factor set forth in subsection (7).

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

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- 64 1. Does not unanimously find at least one aggravating
65 factor, the defendant is ineligible for a sentence of death.
- 66 2. Unanimously finds at least one aggravating factor, the
67 defendant is eligible for a sentence of death and the jury shall
68 make a recommendation to the court as to whether the defendant
69 shall be sentenced to life imprisonment without the possibility
70 of parole or to death. The recommendation shall be based on a
71 weighing of all of the following:
- 72 a. Whether sufficient aggravating factors exist.
- 73 b. Whether aggravating factors exist which outweigh the
74 mitigating circumstances found to exist.
- 75 c. Based on the considerations in sub-subparagraphs a. and
76 b., whether the defendant should be sentenced to life
77 imprisonment without the possibility of parole or to death.
- 78 (c) If a unanimous jury determines that the defendant
79 should be sentenced to death, the jury's recommendation to the
80 court must ~~shall~~ be a sentence of death. If a unanimous jury
81 does not determine that the defendant should be sentenced to
82 death:7
- 83 1. The court shall order a new trial as to sentencing.
- 84 2. If, after a new sentencing proceeding under
85 subparagraph 1. the jury fails to reach a unanimous decision,
86 the jury's recommendation to the court shall be a sentence of
87 life imprisonment without the possibility of parole.
- 88 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

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

90 1. Life imprisonment without the possibility of parole,

91 the court shall impose the recommended sentence of life.

92 2. Death, the court, after considering each aggravating

93 factor found by the jury and all mitigating circumstances, may

94 impose a sentence of life imprisonment without the possibility

95 of parole or a sentence of death. The court may consider only an

96 aggravating factor that was unanimously found to exist by the

97 jury. The court may impose a sentence of death only if the jury

98 unanimously finds at least one aggravating factor beyond a

99 reasonable doubt.

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

104 Remove lines 3-16 and insert:

105 921.141 and 921.142, F.S.; requiring a new sentencing

106 proceeding if a jury fails to reach unanimity as to

107 sentencing; requiring a sentencing recommendation of

108 life imprisonment without the possibility of parole to

109 the court if the jury fails to reach unanimity in a

110 second sentencing proceeding; requiring the court to

111 impose the recommended sentence of life imprisonment

112 without the possibility of parole if the jury

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113 | recommends such a sentence; specifying that the court
114 | may

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