

1 A bill to be entitled
 2 An act relating to sentencing proceedings in death
 3 penalty cases; amending ss. 921.141 and 921.142, F.S.;
 4 specifying that a jury recommends a sentence of death
 5 if at least eight jurors determine a sentence of death
 6 is appropriate; specifying that a jury recommends a
 7 sentence of life imprisonment without the possibility
 8 of parole if fewer than eight jurors determine a
 9 sentence of death is appropriate; requiring a court to
 10 sentence the defendant as recommended by the jury;
 11 requiring the court to set forth specified written
 12 findings if it imposes a sentence of death in
 13 specified cases; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Subsections (2), (3), and (4) of section
 18 921.141, Florida Statutes, are amended to read:

19 921.141 Sentence of death or life imprisonment for capital
 20 felonies; further proceedings to determine sentence.—

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

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

26 deliberate and determine if the state has proven, beyond a
 27 reasonable doubt, the existence of at least one aggravating
 28 factor set forth in subsection (6).

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

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

34 2. Unanimously finds at least one aggravating factor, the
 35 defendant is eligible for a sentence of death and the jury shall
 36 make a recommendation to the court as to whether the defendant
 37 shall be sentenced to life imprisonment without the possibility
 38 of parole or to death. The recommendation shall be based on a
 39 weighing of all of the following:

40 a. Whether sufficient aggravating factors exist.

41 b. Whether aggravating factors exist which outweigh the
 42 mitigating circumstances found to exist.

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

46 (c) If at least eight jurors determine ~~a unanimous jury~~
 47 ~~determines~~ that the defendant should be sentenced to death, the
 48 jury's recommendation to the court shall be a sentence of death.
 49 If fewer than eight jurors ~~a unanimous jury does not~~ determine
 50 that the defendant should be sentenced to death, the jury's

51 recommendation to the court shall be a sentence of life
 52 imprisonment without the possibility of parole.

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

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

55 1. Life imprisonment without the possibility of parole,
 56 the court shall impose the recommended sentence of life
 57 imprisonment without the possibility of parole.

58 2. Death, the court shall impose the recommended,~~after~~
 59 ~~considering each aggravating factor found by the jury and all~~
 60 ~~mitigating circumstances, may impose a sentence of life~~
 61 ~~imprisonment without the possibility of parole or a sentence of~~
 62 death. The court may ~~consider~~ only impose a sentence of death if
 63 the jury unanimously found at least one ~~an~~ aggravating factor
 64 beyond a reasonable doubt ~~that was unanimously found to exist by~~
 65 ~~the jury.~~

66 (b) If the defendant waived his or her right to a
 67 sentencing proceeding by a jury, the court, after considering
 68 all aggravating factors and mitigating circumstances, may impose
 69 a sentence of life imprisonment without the possibility of
 70 parole or a sentence of death. The court may impose a sentence
 71 of death only if the court finds that at least one aggravating
 72 factor has been proven to exist beyond a reasonable doubt.

73 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
 74 each case in which the defendant waived his or her right to a
 75 sentencing proceeding by a jury, and the court imposes a

76 sentence of death under paragraph (3) (b), the court shall,
 77 considering the records of the trial and the sentencing
 78 proceedings, enter a written order addressing the aggravating
 79 factors set forth in subsection (6) found to exist, the
 80 mitigating circumstances in subsection (7) reasonably
 81 established by the evidence, whether there are sufficient
 82 aggravating factors to warrant the death penalty, and whether
 83 the aggravating factors outweigh the mitigating circumstances
 84 reasonably established by the evidence. If the court does not
 85 issue its order requiring the death sentence within 30 days
 86 after the rendition of the judgment and sentence, the court
 87 shall impose a sentence of life imprisonment without the
 88 possibility of parole in accordance with s. 775.082.

89 Section 2. Subsections (3), (4), and (5) of section
 90 921.142, Florida Statutes, are amended to read:

91 921.142 Sentence of death or life imprisonment for capital
 92 drug trafficking felonies; further proceedings to determine
 93 sentence.—

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

97 (a) After hearing all of the evidence presented regarding
 98 aggravating factors and mitigating circumstances, the jury shall
 99 deliberate and determine if the state has proven, beyond a
 100 reasonable doubt, the existence of at least one aggravating

101 factor set forth in subsection (7).

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

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

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

113 a. Whether sufficient aggravating factors exist.

114 b. Whether aggravating factors exist which outweigh the
 115 mitigating circumstances found to exist.

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

119 (c) If at least eight jurors determine ~~a unanimous jury~~
 120 ~~determines~~ that the defendant should be sentenced to death, the
 121 jury's recommendation to the court shall be a sentence of death.
 122 If fewer than eight jurors ~~a unanimous jury does not~~ determine
 123 that the defendant should be sentenced to death, the jury's
 124 recommendation to the court shall be a sentence of life
 125 imprisonment without the possibility of parole.

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

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

128 1. Life imprisonment without the possibility of parole,
 129 the court shall impose the recommended sentence of life
 130 imprisonment without the possibility of parole.

131 2. Death, the court shall impose the recommended,~~after~~
 132 ~~considering each aggravating factor found by the jury and all~~
 133 ~~mitigating circumstances, may impose a sentence of life~~
 134 ~~imprisonment without the possibility of parole or a sentence of~~
 135 death. The court may ~~consider~~ only impose a sentence of death if
 136 the jury found at least one an-aggravating factor that was
 137 unanimously found beyond a reasonable doubt to exist by the
 138 jury.

139 (b) If the defendant waived his or her right to a
 140 sentencing proceeding by a jury, the court, after considering
 141 all aggravating factors and mitigating circumstances, may impose
 142 a sentence of life imprisonment without the possibility of
 143 parole or a sentence of death. The court may impose a sentence
 144 of death only if the court finds at least one aggravating factor
 145 has been proven to exist beyond a reasonable doubt.

146 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
 147 each case in which defendant waived his or her right to a
 148 sentencing proceeding by a jury, and the court imposes a death
 149 sentence under paragraph (4) (b), the court shall, considering
 150 the records of the trial and the sentencing proceedings, enter a

151 written order addressing the aggravating factors set forth in
152 subsection (7) found to exist, the mitigating circumstances in
153 subsection (8) reasonably established by the evidence, whether
154 there are sufficient aggravating factors to warrant the death
155 penalty, and whether the aggravating factors outweigh the
156 mitigating circumstances reasonably established by the evidence.
157 If the court does not issue its order requiring the death
158 sentence within 30 days after the rendition of the judgment and
159 sentence, the court shall impose a sentence of life imprisonment
160 without the possibility of parole in accordance with s. 775.082.
161 Section 3. This act shall take effect October 1, 2023.