

HB 29

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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       that the court enter a sentence notwithstanding the  
9       unanimous recommendation of the jury; providing an  
10      effective date.

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

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

16       921.141 Sentence of death or life imprisonment for capital  
17   felonies; further proceedings to determine sentence.—

18       (2) ADVISORY SENTENCE BY THE JURY.—After hearing all the  
19   evidence, the jury shall deliberate and render an advisory  
20   sentence to the court, based upon the following matters:

21       (a) Whether sufficient aggravating circumstances exist as  
22   enumerated in subsection (5);

23       (b) Whether sufficient mitigating circumstances exist  
24   which outweigh the aggravating circumstances found to exist; and

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

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28   Effective for an offense committed on or after October 1, 2012,

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29 an advisory sentence of death must be made by a unanimous  
30 recommendation of the jury.

31 (3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—

32 Notwithstanding the recommendation of a majority of the jury or  
33 a unanimous recommendation of the jury, the court, after  
34 weighing the aggravating and mitigating circumstances, shall  
35 enter a sentence of life imprisonment or death, but if the court  
36 imposes a sentence of death, it shall set forth in writing its  
37 findings upon which the sentence of death is based as to the  
38 facts:

39 (a) That sufficient aggravating circumstances exist as  
40 enumerated in subsection (5); ~~and~~

41 (b) That there are insufficient mitigating circumstances  
42 to outweigh the aggravating circumstances.

43  
44 In each case in which the court imposes the death sentence, the  
45 determination of the court shall be supported by specific  
46 written findings of fact based upon the circumstances in  
47 subsections (5) and (6) and upon the records of the trial and  
48 the sentencing proceedings. If the court does not make the  
49 findings requiring the death sentence within 30 days after the  
50 rendition of the judgment and sentence, the court shall impose  
51 sentence of life imprisonment in accordance with s. 775.082.

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

54 921.142 Sentence of death or life imprisonment for capital  
55 drug trafficking felonies; further proceedings to determine  
56 sentence.—

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

60 (a) Whether sufficient aggravating circumstances exist as  
61 enumerated in subsection (6);

62 (b) Whether sufficient mitigating circumstances exist  
63 which outweigh the aggravating circumstances found to exist; and

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

66  
67 Effective for an offense committed on or after October 1, 2012,  
68 an advisory sentence of death must be made by a unanimous  
69 recommendation of the jury.

70 (4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—  
71 Notwithstanding the recommendation of a majority of the jury or  
72 a unanimous recommendation of the jury, the court, after  
73 weighing the aggravating and mitigating circumstances, shall  
74 enter a sentence of life imprisonment or death, but if the court  
75 imposes a sentence of death, it shall set forth in writing its  
76 findings upon which the sentence of death is based as to the  
77 facts:

78 (a) That sufficient aggravating circumstances exist as  
79 enumerated in subsection (6); ~~and~~

80 (b) That there are insufficient mitigating circumstances  
81 to outweigh the aggravating circumstances.

82  
83 In each case in which the court imposes the death sentence, the  
84 determination of the court shall be supported by specific

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85 written findings of fact based upon the circumstances in  
86 subsections (6) and (7) and upon the records of the trial and  
87 the sentencing proceedings. If the court does not make the  
88 findings requiring the death sentence within 30 days after the  
89 rendition of the judgment and sentence, the court shall impose  
90 sentence of life imprisonment in accordance with s. 775.082, and  
91 that person shall be ineligible for parole.

92       Section 3. This act shall take effect October 1, 2012.