

By Senator Braynon

33-00414-12

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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.

11
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 which
24 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.

27
28 Effective for an offense committed on or after October 1, 2012,
29 an advisory sentence of death must be made by a unanimous

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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);~~7~~ and

41 (b) That there are insufficient mitigating circumstances to
42 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

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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 which
63 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 to
81 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
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

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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.