

By Senator Altman

24-00338A-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 the court to instruct the jury that, in order for the
9 jury to recommend to the court that the death penalty
10 be imposed, the jury must find that sufficient
11 aggravating circumstances exist which outweigh any
12 mitigating circumstances found to exist; requiring the
13 court to instruct the jury that each aggravating
14 circumstance used to support the jury's recommendation
15 of death be proven beyond a reasonable doubt by a
16 unanimous vote; requiring that the court provide a
17 special verdict form for each aggravating circumstance
18 found; providing an effective date.

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

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

24 921.141 Sentence of death or life imprisonment for capital
25 felonies; further proceedings to determine sentence.—

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

29 (a) Whether sufficient aggravating circumstances exist as

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30 enumerated in subsection (5);

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

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

35
36 Effective for an offense committed on or after October 1, 2012,
37 an advisory sentence of death must be made by a unanimous
38 recommendation of the jury. The court shall instruct the jury
39 that, in order for the jury to recommend to the court that the
40 death penalty be imposed, the jury must find that sufficient
41 aggravating circumstances exist which outweigh any mitigating
42 circumstances found to exist. The court shall further instruct
43 the jury that each aggravating circumstance used to support the
44 jury's recommendation of death must be proven beyond a
45 reasonable doubt by a unanimous vote. The court shall provide a
46 special verdict form for each aggravating circumstance found.

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

48 Notwithstanding the recommendation of ~~a majority of~~ the jury,
49 the court, after weighing the aggravating and mitigating
50 circumstances, shall enter a sentence of life imprisonment or
51 death, but if the court imposes a sentence of death, it shall
52 set forth in writing its findings upon which the sentence of
53 death is based as to the facts:

54 (a) That sufficient aggravating circumstances exist as
55 enumerated in subsection (5); and

56 (b) That there are insufficient mitigating circumstances to
57 outweigh the aggravating circumstances.

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

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

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

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

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

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

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

Effective for an offense committed on or after October 1, 2012, an advisory sentence of death must be made by a unanimous recommendation of the jury. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty be imposed, the jury must find that sufficient aggravating circumstances exist which outweigh any mitigating

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circumstances found to exist. The court shall further instruct the jury that each aggravating circumstance used to support the jury's recommendation of death must be proven beyond a reasonable doubt by a unanimous vote. The court shall provide a special verdict form for each aggravating circumstance found.

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

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

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

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

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

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