

A bill to be entitled

An act relating to sentencing in capital felonies; amending ss. 921.141 and 921.142, F.S.; requiring that an advisory sentence of death be made by a unanimous recommendation of the jury after a defendant's conviction or adjudication of guilt for a capital felony or capital drug-trafficking felony; requiring the court to 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 circumstances found to exist; requiring the court to 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; requiring that the court provide a special verdict form for each aggravating circumstance found; providing an effective date.

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

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

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

(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
30 enumerated in subsection (5);

31 (b) Whether sufficient mitigating circumstances exist
32 which 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, 2014,
37 an advisory sentence of death may be made only 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 and be made by a unanimous vote. The court
46 shall provide a special verdict form for each aggravating
47 circumstance found.

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

49 Notwithstanding the recommendation of ~~a majority of~~ the jury,
50 the court, after weighing the aggravating and mitigating
51 circumstances, shall enter a sentence of life imprisonment or
52 death, but if the court imposes a sentence of death, it shall

53 set forth in writing its findings upon which the sentence of
54 death is based as to the facts:

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

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

59

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

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

70 921.142 Sentence of death or life imprisonment for capital
71 drug trafficking felonies; further proceedings to determine
72 sentence.—

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

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

78 (b) Whether sufficient mitigating circumstances exist

79 which outweigh the aggravating circumstances found to exist; and
 80 (c) Based on these considerations, whether the defendant
 81 should be sentenced to life imprisonment or death.

82
 83 Effective for an offense committed on or after October 1, 2014,
 84 an advisory sentence of death may be made only by a unanimous
 85 recommendation of the jury. The court shall instruct the jury
 86 that, in order for the jury to recommend to the court that the
 87 death penalty be imposed, the jury must find that sufficient
 88 aggravating circumstances exist which outweigh any mitigating
 89 circumstances found to exist. The court shall further instruct
 90 the jury that each aggravating circumstance used to support the
 91 jury's recommendation of death must be proven beyond a
 92 reasonable doubt and be made by a unanimous vote. The court
 93 shall provide a special verdict form for each aggravating
 94 circumstance found.

95 (4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—
 96 Notwithstanding the recommendation of a ~~majority~~ of the jury,
 97 the court, after weighing the aggravating and mitigating
 98 circumstances, shall enter a sentence of life imprisonment or
 99 death, but if the court imposes a sentence of death, it shall
 100 set forth in writing its findings upon which the sentence of
 101 death is based as to the facts:

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

104 (b) That there are insufficient mitigating circumstances

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105 | to outweigh the aggravating circumstances.

106 |

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

116 | Section 3. This act shall take effect July 1, 2014.