

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
4 that, after a specified date, an advisory sentence of
5 death be made by a unanimous recommendation of the
6 jury following a defendant's conviction or
7 adjudication of guilt for a capital felony or capital
8 drug trafficking felony; requiring that the court
9 enter a sentence notwithstanding the unanimous
10 recommendation of the jury to impose a sentence of
11 death; providing an effective date.
12

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

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

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

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

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

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

26 (c) Based on these considerations, whether the defendant
27 should be sentenced to life imprisonment or death.
28

29 Effective for an offense committed on or after October 1, 2012, an
30 advisory sentence of death must be made by a unanimous
31 recommendation of the jury.

32 (3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH. -

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

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

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

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

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

53 921.142 Sentence of death or life imprisonment for capital
54 drug trafficking felonies; further proceedings to determine
55 sentence. -

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

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

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

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

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

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

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

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