

By Senator Altman

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A bill to be entitled

An act relating to sentencing in capital felonies;
amending ss. 921.141 and 921.142, F.S.; requiring
that, after a specified date, an advisory sentence of
death be made by a unanimous recommendation of the
jury following a defendant's conviction or
adjudication of guilt for a capital felony or capital
drug trafficking felony; requiring that the court
enter a sentence notwithstanding the unanimous
recommendation of the jury; 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
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 (5);

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

(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, 2011,
30 an 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,
34 the court, after weighing the aggravating and mitigating
35 circumstances, shall enter a sentence of life imprisonment or
36 death, but if the court imposes a sentence of death, it shall
37 set forth in writing its findings upon which the sentence of
38 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

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 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, 2011,
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,
72 the court, after weighing the aggravating and mitigating
73 circumstances, shall enter a sentence of life imprisonment or
74 death, but if the court imposes a sentence of death, it shall
75 set forth in writing its findings upon which the sentence of
76 death is based as to the facts:

77 (a) That sufficient aggravating circumstances exist as
78 enumerated in subsection (6), and

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

81

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

91 Section 3. This act shall take effect October 1, 2011.