

HB 979

2011

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

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsections (2) and (3) of section 921.141,
14 Florida Statutes, are amended to read:

15 921.141 Sentence of death or life imprisonment for capital
16 felonies; further proceedings to determine sentence.—

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

20 (a) Whether sufficient aggravating circumstances exist as
21 enumerated in subsection (5);

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

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

26
27 Effective for an offense committed on or after October 1, 2011,
28 an advisory sentence of death must be made by a unanimous

HB 979

2011

29 recommendation of the jury.

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

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

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

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

42
43 In each case in which the court imposes the death sentence, the
44 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
47 the sentencing proceedings. If the court does not make the
48 findings requiring the death sentence within 30 days after the
49 rendition of the judgment and sentence, the court shall impose
50 sentence of life 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

HB 979

2011

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, 2011, an advisory sentence of death must be made by a unanimous recommendation of the jury.

(4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—
Notwithstanding the recommendation of a majority of the jury or a unanimous recommendation 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

HB 979

2011

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

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