



UNANIMOUS JURY RECOMMENDATION FOR CAPITAL SENTENCING

SUPPORT: SB 664 (Altman); HB 139 (Rodriguez, J.)

BACKGROUND: Florida is one of 32 states which continue to maintain the death penalty. Florida, however, is one of only two states in the country (the other being Delaware) that allow someone to be put to death based on the recommendation of a simple majority of jurors (seven of 12 jurors). Delaware's death penalty, however, is relatively inactive while Florida's rates of both executions and death sentences are in the top two in the nation. Florida is also the only state that does not require any aggravating circumstance to be found unanimously.

As a result of the 2002 Supreme Court ruling in *Ring v. Arizona*, nearly every state changed its law to require a unanimous jury finding for death. In the 2005 case *State v. Steele*, the Florida Supreme Court declared Florida an "outlier state" and advised the legislature to revisit the statute and require some unanimity in jury recommendations.

BILL PROVISIONS:

- After a unanimous finding of guilt, a jury must agree unanimously in order to recommend the death penalty.
- Prior to deliberating on a sentencing recommendation, the jury must agree unanimously that the existence of an aggravating circumstance has been proven beyond a reasonable doubt. The jury must specify on a special verdict form provided by the court which aggravating circumstance(s) it found to exist and certify that each was found unanimously.

RATIONALE: Requiring jurors to unanimously support a death sentence encourages much more thoughtful deliberation and engages every juror in the process. Whether one supports or opposes the death penalty, unanimity ensures a more reliable and fair sentencing scheme.

Florida has exonerated 25 individuals from death row, more than any other state. As long as the state of Florida maintains the death penalty, our state has an obligation to respond to these errors by altering our current capital sentencing processes. One manner in which to do so, already addressed by the US Supreme Court and recommended by the American Bar Association, is to require a jury's unanimous vote in recommending death.

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