

CONSTITUTIONAL AMENDMENT FULL TEXT

Ballot Title: Jury Recommendation for Certain Sentences in Criminal Cases

Ballot Summary: Requires jury recommendation of approval or disapproval as to any fixed sentence or mandatory sentence the state seeks to have court impose in criminal cases and for sentencing judges to consider such recommendation and articulate reason for accepting or refusing jury recommendation unless the defendant waives such requirement. Retroactive application.

Article and Section Being Created or Amended: Amends Article I, Section 17

Full Text of the Proposed Amendment: SECTION 17. Excessive punishments.-

(a) Excessive fines, cruel and unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The death penalty is an authorized punishment for capital crimes designated by the legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.

(b) Except in capital cases, for any case in which the law provides for any fixed sentence or mandatory sentence of imprisonment, a jury shall make a recommendation to the sentencing judge approving or disapproving such sentence unless waived by the defendant. Jury recommendations approving or disapproving a fixed sentence or mandatory sentence of imprisonment shall be made by majority vote.

(c) A jury recommendation shall be considered by the sentencing judge and the judge shall be tasked with considering the unique facts of each case, including the seriousness of the offense, the age of the defendant, the degree of culpability of the defendant, the remorse and responsibility demonstrated by the defendant, the defendant's need for deterrence from future criminality, the defendant's prior criminal history, and the public safety before accepting or refusing a jury's recommendation. Sentencing judges, at their discretion, may order pre-sentence investigations, order mental health evaluations, obtain victim input, and utilize any resource available in furtherance of determining an appropriate sentence in every case where a jury has made a recommendation. The reasons accepting or refusing a jury's recommendation shall be reduced to writing and be made a part of the record.

(d) Those individuals currently serving any fixed sentence or mandatory sentence may petition the court of original jurisdiction to obtain a resentencing hearing before the original sentencing judge, whenever possible, to empanel a jury to make a recommendation approving or disapproving such sentence.

(e) This amendment shall take effect one year from the date it is voted into law and shall be applied retroactively.

Initiative Information

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Sponsor Name: Floridians for Redeemable People

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