

By the Committee on Criminal Justice; and Senator Bracy

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1 A bill to be entitled
2 An act relating to conditional medical release;
3 amending s. 947.149, F.S.; defining the term "inmate
4 with a debilitating illness"; expanding eligibility
5 for conditional medical release to include inmates
6 with debilitating illnesses; creating permissive
7 conditional medical release; requiring the Department
8 of Corrections to refer eligible inmates; authorizing
9 the Florida Commission on Offender Review to release
10 eligible inmates; creating mandatory conditional
11 medical release; providing criteria for eligibility;
12 requiring the department to refer an eligible inmate
13 to the commission; requiring that certain inmates
14 whose eligibility is verified by the commission be
15 placed on conditional medical release; requiring that
16 the department's referral for release include certain
17 information; requiring the commission to review the
18 information and verify an inmate's eligibility within
19 a certain timeframe; authorizing electronic monitoring
20 for an inmate on conditional medical release;
21 reenacting ss. 316.1935(6), 775.084(4)(k),
22 775.087(2)(b) and (3)(b), 784.07(3), 790.235(1),
23 794.0115(7), 893.135(1)(b), (c), and (g) and (3),
24 921.0024(2), 944.605(7)(b), 944.70(1)(b),
25 947.13(1)(h), and 947.141(1), (2), and (7), F.S., all
26 relating to authorized conditional medical release
27 granted under s. 947.149, F.S., to incorporate the
28 amendment made to s. 947.149, F.S., in references
29 thereto; providing an effective date.

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

Section 1. Section 947.149, Florida Statutes, is amended to read:

947.149 Conditional medical release.—

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for supervised ~~consideration for~~ release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Inmate with a debilitating illness," which means an inmate who is determined to be suffering from a significant and permanent nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively debilitated or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or others.

~~(b)(a)~~ "Permanently incapacitated inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others.

~~(c)(b)~~ "Terminally ill inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate

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59 terminally ill to the extent that there can be no recovery and
60 death is imminent, so that the inmate does not constitute a
61 danger to herself or himself or others.

62 (2) PERMISSIVE CONDITIONAL MEDICAL RELEASE.—

63 (a) Notwithstanding any provision to the contrary, any
64 person qualifying for one of the three designations defined in
65 subsection (1) ~~determined eligible under this section~~ and
66 sentenced to the custody of the department may, upon referral by
67 the department, be considered for conditional medical release by
68 the commission, in addition to any parole consideration for
69 which the inmate may be considered, except that conditional
70 medical release is not authorized for an inmate who is under
71 sentence of death. ~~No inmate has a right to conditional medical~~
72 ~~release or to a medical evaluation to determine eligibility for~~
73 ~~such release.~~

74 (b) ~~(3)~~ The authority and whether or not to grant
75 conditional medical release and establish additional conditions
76 of conditional medical release under this subsection rests
77 solely within the discretion of the commission, in accordance
78 with the provisions of this section, together with the authority
79 to approve the release plan to include necessary medical care
80 and attention.

81 (c) The department shall identify inmates who may be
82 eligible for conditional medical release based upon available
83 medical information and shall refer them to the commission for
84 consideration.

85 (d) In considering an inmate for conditional medical
86 release in accordance with this subsection, the commission may
87 require that additional medical evidence be produced or that

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88 additional medical examinations be conducted, and may require
89 such other investigations to be made as may be warranted.

90 (3) MANDATORY CONDITIONAL MEDICAL RELEASE.-

91 (a) To be eligible for supervised release under this
92 subsection, an inmate qualifying for one of the three
93 designations defined in subsection (1) shall also be determined
94 by the department to meet all of the following criteria:

95 1. Has served at least 50 percent of his or her sentence.

96 2. Has no current or prior conviction for:

97 a. A capital, life, or first degree felony.

98 b. A sexual offense, which means an offense specified in s.
99 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

100 c. An offense involving a child.

101 3. Has not received a disciplinary report within the
102 previous 6 months.

103 4. Has never received a disciplinary report for a violent
104 act.

105 5. Has renounced any gang affiliation.

106 (b) Any person sentenced to the custody of the department
107 that is determined to be eligible for placement on conditional
108 medical release in accordance with this subsection must be
109 referred by the department to the commission. Upon receiving a
110 referral from the department, the commission shall verify the
111 eligibility of an inmate and, upon verification, such inmate
112 must be placed on conditional medical release.

113 (c) In verifying the inmate's eligibility for conditional
114 medical release, the commission shall review the information
115 provided by the department.

116 (d) The commission must finish its verification of an

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117 inmate's eligibility within 60 days after the department refers
118 the inmate for conditional medical release.

119 (4) No inmate has a right to conditional medical release or
120 to a medical evaluation to determine eligibility for such
121 release.

122 (5) The department's referral of an inmate to the
123 commission for release under this section must include all of
124 the following information:

125 (a) The proposed conditional medical release plan.

126 (b) Any relevant medical history, including current medical
127 prognosis.

128 (c) Criminal history. The criminal history must include all
129 of the following information:

130 1. The inmate's claim of innocence, if any.

131 2. The degree to which the inmate accepts responsibility
132 for his or her actions leading to the conviction of the crime.

133 3. How any claim of responsibility has affected the
134 inmate's feelings of remorse.

135 (d) Any history of substance abuse and mental health
136 issues, provided the inmate authorizes release when such
137 information is collected in accordance with 42 C.F.R. s. 2.

138 (e) Any disciplinary action taken against the inmate while
139 in prison.

140 (f) Any participation in prison work and other prison
141 programs.

142 (g) Any other information the department deems necessary.

143 (6)-(4) The conditional medical release term of an inmate
144 released on conditional medical release is for the remainder of
145 the inmate's sentence, without diminution of sentence for good

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146 behavior. Supervision of the medical releasee must include a
147 release plan as proposed by the department and approved by the
148 commission and include periodic medical evaluations. Supervision
149 may also include electronic monitoring at intervals determined
150 by the commission at the time of release.

151 (7) (a) (5) (a) If it is discovered during the conditional
152 medical release that the medical or physical condition of the
153 medical releasee has improved to the extent that she or he would
154 no longer be eligible for conditional medical release under this
155 section, the commission may order that the releasee be returned
156 to the custody of the department for a conditional medical
157 release revocation hearing, in accordance with s. 947.141. If
158 conditional medical release is revoked due to improvement in the
159 medical or physical condition of the releasee, she or he shall
160 serve the balance of her or his sentence with credit for the
161 time served on conditional medical release and without
162 forfeiture of any gain-time accrued prior to conditional medical
163 release. If the person whose conditional medical release is
164 revoked due to an improvement in medical or physical condition
165 would otherwise be eligible for parole or any other release
166 program, the person may be considered for such release program
167 pursuant to law.

168 (b) In addition to revocation of conditional medical
169 release pursuant to paragraph (a), conditional medical release
170 may also be revoked for violation of any condition of the
171 release established by the commission, in accordance with s.
172 947.141, and the releasee's gain-time may be forfeited pursuant
173 to s. 944.28(1).

174 (8) (6) The department and the commission shall adopt rules

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175 as necessary to implement the conditional medical release
176 program.

177 Section 2. For the purpose of incorporating the amendment
178 made by this act to section 947.149, Florida Statutes, in a
179 reference thereto, subsection (6) of section 316.1935, Florida
180 Statutes, is reenacted to read:

181 316.1935 Fleeing or attempting to elude a law enforcement
182 officer; aggravated fleeing or eluding.—

183 (6) Notwithstanding s. 948.01, no court may suspend, defer,
184 or withhold adjudication of guilt or imposition of sentence for
185 any violation of this section. A person convicted and sentenced
186 to a mandatory minimum term of incarceration under paragraph
187 (3) (b) or paragraph (4) (b) is not eligible for statutory gain-
188 time under s. 944.275 or any form of discretionary early
189 release, other than pardon or executive clemency or conditional
190 medical release under s. 947.149, prior to serving the mandatory
191 minimum sentence.

192 Section 3. For the purpose of incorporating the amendment
193 made by this act to section 947.149, Florida Statutes, in a
194 reference thereto, paragraph (k) of subsection (4) of section
195 775.084, Florida Statutes, is reenacted to read:

196 775.084 Violent career criminals; habitual felony offenders
197 and habitual violent felony offenders; three-time violent felony
198 offenders; definitions; procedure; enhanced penalties or
199 mandatory minimum prison terms.—

200 (4)

201 (k)1. A defendant sentenced under this section as a
202 habitual felony offender, a habitual violent felony offender, or
203 a violent career criminal is eligible for gain-time granted by

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204 the Department of Corrections as provided in s. 944.275(4)(b).

205 2. For an offense committed on or after October 1, 1995, a
206 defendant sentenced under this section as a violent career
207 criminal is not eligible for any form of discretionary early
208 release, other than pardon or executive clemency, or conditional
209 medical release granted pursuant to s. 947.149.

210 3. For an offense committed on or after July 1, 1999, a
211 defendant sentenced under this section as a three-time violent
212 felony offender shall be released only by expiration of sentence
213 and shall not be eligible for parole, control release, or any
214 form of early release.

215 Section 4. For the purpose of incorporating the amendment
216 made by this act to section 947.149, Florida Statutes, in
217 references thereto, paragraph (b) of subsection (2) and
218 paragraph (b) of subsection (3) of section 775.087, Florida
219 Statutes, are reenacted to read:

220 775.087 Possession or use of weapon; aggravated battery;
221 felony reclassification; minimum sentence.-

222 (2)

223 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
224 (a)3. does not prevent a court from imposing a longer sentence
225 of incarceration as authorized by law in addition to the minimum
226 mandatory sentence, or from imposing a sentence of death
227 pursuant to other applicable law. Subparagraph (a)1.,
228 subparagraph (a)2., or subparagraph (a)3. does not authorize a
229 court to impose a lesser sentence than otherwise required by
230 law.

231
232 Notwithstanding s. 948.01, adjudication of guilt or imposition

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233 of sentence shall not be suspended, deferred, or withheld, and
234 the defendant is not eligible for statutory gain-time under s.
235 944.275 or any form of discretionary early release, other than
236 pardon or executive clemency, or conditional medical release
237 under s. 947.149, prior to serving the minimum sentence.

238 (3)

239 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
240 (a)3. does not prevent a court from imposing a longer sentence
241 of incarceration as authorized by law in addition to the minimum
242 mandatory sentence, or from imposing a sentence of death
243 pursuant to other applicable law. Subparagraph (a)1.,
244 subparagraph (a)2., or subparagraph (a)3. does not authorize a
245 court to impose a lesser sentence than otherwise required by
246 law.

247
248 Notwithstanding s. 948.01, adjudication of guilt or imposition
249 of sentence shall not be suspended, deferred, or withheld, and
250 the defendant is not eligible for statutory gain-time under s.
251 944.275 or any form of discretionary early release, other than
252 pardon or executive clemency, or conditional medical release
253 under s. 947.149, prior to serving the minimum sentence.

254 Section 5. For the purpose of incorporating the amendment
255 made by this act to section 947.149, Florida Statutes, in a
256 reference thereto, subsection (3) of section 784.07, Florida
257 Statutes, is reenacted to read:

258 784.07 Assault or battery of law enforcement officers,
259 firefighters, emergency medical care providers, public transit
260 employees or agents, or other specified officers;
261 reclassification of offenses; minimum sentences.-

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262 (3) Any person who is convicted of a battery under
263 paragraph (2)(b) and, during the commission of the offense, such
264 person possessed:

265 (a) A "firearm" or "destructive device" as those terms are
266 defined in s. 790.001, shall be sentenced to a minimum term of
267 imprisonment of 3 years.

268 (b) A semiautomatic firearm and its high-capacity
269 detachable box magazine, as defined in s. 775.087(3), or a
270 machine gun as defined in s. 790.001, shall be sentenced to a
271 minimum term of imprisonment of 8 years.

272
273 Notwithstanding s. 948.01, adjudication of guilt or imposition
274 of sentence shall not be suspended, deferred, or withheld, and
275 the defendant is not eligible for statutory gain-time under s.
276 944.275 or any form of discretionary early release, other than
277 pardon or executive clemency, or conditional medical release
278 under s. 947.149, prior to serving the minimum sentence.

279 Section 6. For the purpose of incorporating the amendment
280 made by this act to section 947.149, Florida Statutes, in a
281 reference thereto, subsection (1) of section 790.235, Florida
282 Statutes, is reenacted to read:

283 790.235 Possession of firearm or ammunition by violent
284 career criminal unlawful; penalty.—

285 (1) Any person who meets the violent career criminal
286 criteria under s. 775.084(1)(d), regardless of whether such
287 person is or has previously been sentenced as a violent career
288 criminal, who owns or has in his or her care, custody,
289 possession, or control any firearm, ammunition, or electric
290 weapon or device, or carries a concealed weapon, including a

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291 tear gas gun or chemical weapon or device, commits a felony of
292 the first degree, punishable as provided in s. 775.082, s.
293 775.083, or s. 775.084. A person convicted of a violation of
294 this section shall be sentenced to a mandatory minimum of 15
295 years' imprisonment; however, if the person would be sentenced
296 to a longer term of imprisonment under s. 775.084(4)(d), the
297 person must be sentenced under that provision. A person
298 convicted of a violation of this section is not eligible for any
299 form of discretionary early release, other than pardon,
300 executive clemency, or conditional medical release under s.
301 947.149.

302 Section 7. For the purpose of incorporating the amendment
303 made by this act to section 947.149, Florida Statutes, in a
304 reference thereto, subsection (7) of section 794.0115, Florida
305 Statutes, is reenacted to read:

306 794.0115 Dangerous sexual felony offender; mandatory
307 sentencing.-

308 (7) A defendant sentenced to a mandatory minimum term of
309 imprisonment under this section is not eligible for statutory
310 gain-time under s. 944.275 or any form of discretionary early
311 release, other than pardon or executive clemency, or conditional
312 medical release under s. 947.149, before serving the minimum
313 sentence.

314 Section 8. For the purpose of incorporating the amendment
315 made by this act to section 947.149, Florida Statutes, in a
316 reference thereto, paragraphs (b), (c), and (g) of subsection
317 (1) and subsection (3) of section 893.135, Florida Statutes, are
318 reenacted to read:

319 893.135 Trafficking; mandatory sentences; suspension or

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320 reduction of sentences; conspiracy to engage in trafficking.—

321 (1) Except as authorized in this chapter or in chapter 499
322 and notwithstanding the provisions of s. 893.13:

323 (b)1. Any person who knowingly sells, purchases,
324 manufactures, delivers, or brings into this state, or who is
325 knowingly in actual or constructive possession of, 28 grams or
326 more of cocaine, as described in s. 893.03(2)(a)4., or of any
327 mixture containing cocaine, but less than 150 kilograms of
328 cocaine or any such mixture, commits a felony of the first
329 degree, which felony shall be known as "trafficking in cocaine,"
330 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

331 If the quantity involved:

332 a. Is 28 grams or more, but less than 200 grams, such
333 person shall be sentenced to a mandatory minimum term of
334 imprisonment of 3 years, and the defendant shall be ordered to
335 pay a fine of \$50,000.

336 b. Is 200 grams or more, but less than 400 grams, such
337 person shall be sentenced to a mandatory minimum term of
338 imprisonment of 7 years, and the defendant shall be ordered to
339 pay a fine of \$100,000.

340 c. Is 400 grams or more, but less than 150 kilograms, such
341 person shall be sentenced to a mandatory minimum term of
342 imprisonment of 15 calendar years and pay a fine of \$250,000.

343 2. Any person who knowingly sells, purchases, manufactures,
344 delivers, or brings into this state, or who is knowingly in
345 actual or constructive possession of, 150 kilograms or more of
346 cocaine, as described in s. 893.03(2)(a)4., commits the first
347 degree felony of trafficking in cocaine. A person who has been
348 convicted of the first degree felony of trafficking in cocaine

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349 under this subparagraph shall be punished by life imprisonment
350 and is ineligible for any form of discretionary early release
351 except pardon or executive clemency or conditional medical
352 release under s. 947.149. However, if the court determines that,
353 in addition to committing any act specified in this paragraph:

354 a. The person intentionally killed an individual or
355 counseled, commanded, induced, procured, or caused the
356 intentional killing of an individual and such killing was the
357 result; or

358 b. The person's conduct in committing that act led to a
359 natural, though not inevitable, lethal result,

360
361 such person commits the capital felony of trafficking in
362 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
363 person sentenced for a capital felony under this paragraph shall
364 also be sentenced to pay the maximum fine provided under
365 subparagraph 1.

366 3. Any person who knowingly brings into this state 300
367 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
368 and who knows that the probable result of such importation would
369 be the death of any person, commits capital importation of
370 cocaine, a capital felony punishable as provided in ss. 775.082
371 and 921.142. Any person sentenced for a capital felony under
372 this paragraph shall also be sentenced to pay the maximum fine
373 provided under subparagraph 1.

374 (c)1. A person who knowingly sells, purchases,
375 manufactures, delivers, or brings into this state, or who is
376 knowingly in actual or constructive possession of, 4 grams or
377 more of any morphine, opium, hydromorphone, or any salt,

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378 derivative, isomer, or salt of an isomer thereof, including
379 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
380 (3)(c)4., or 4 grams or more of any mixture containing any such
381 substance, but less than 30 kilograms of such substance or
382 mixture, commits a felony of the first degree, which felony
383 shall be known as "trafficking in illegal drugs," punishable as
384 provided in s. 775.082, s. 775.083, or s. 775.084. If the
385 quantity involved:

386 a. Is 4 grams or more, but less than 14 grams, such person
387 shall be sentenced to a mandatory minimum term of imprisonment
388 of 3 years and shall be ordered to pay a fine of \$50,000.

389 b. Is 14 grams or more, but less than 28 grams, such person
390 shall be sentenced to a mandatory minimum term of imprisonment
391 of 15 years and shall be ordered to pay a fine of \$100,000.

392 c. Is 28 grams or more, but less than 30 kilograms, such
393 person shall be sentenced to a mandatory minimum term of
394 imprisonment of 25 years and shall be ordered to pay a fine of
395 \$500,000.

396 2. A person who knowingly sells, purchases, manufactures,
397 delivers, or brings into this state, or who is knowingly in
398 actual or constructive possession of, 14 grams or more of
399 hydrocodone, as described in s. 893.03(2)(a)1.j., codeine, as
400 described in s. 893.03(2)(a)1.g., or any salt thereof, or 14
401 grams or more of any mixture containing any such substance,
402 commits a felony of the first degree, which felony shall be
403 known as "trafficking in hydrocodone," punishable as provided in
404 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

405 a. Is 14 grams or more, but less than 28 grams, such person
406 shall be sentenced to a mandatory minimum term of imprisonment

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407 of 3 years and shall be ordered to pay a fine of \$50,000.

408 b. Is 28 grams or more, but less than 50 grams, such person
409 shall be sentenced to a mandatory minimum term of imprisonment
410 of 7 years and shall be ordered to pay a fine of \$100,000.

411 c. Is 50 grams or more, but less than 200 grams, such
412 person shall be sentenced to a mandatory minimum term of
413 imprisonment of 15 years and shall be ordered to pay a fine of
414 \$500,000.

415 d. Is 200 grams or more, but less than 30 kilograms, such
416 person shall be sentenced to a mandatory minimum term of
417 imprisonment of 25 years and shall be ordered to pay a fine of
418 \$750,000.

419 3. A person who knowingly sells, purchases, manufactures,
420 delivers, or brings into this state, or who is knowingly in
421 actual or constructive possession of, 7 grams or more of
422 oxycodone, as described in s. 893.03(2)(a)1.o., or any salt
423 thereof, or 7 grams or more of any mixture containing any such
424 substance, commits a felony of the first degree, which felony
425 shall be known as "trafficking in oxycodone," punishable as
426 provided in s. 775.082, s. 775.083, or s. 775.084. If the
427 quantity involved:

428 a. Is 7 grams or more, but less than 14 grams, such person
429 shall be sentenced to a mandatory minimum term of imprisonment
430 of 3 years and shall be ordered to pay a fine of \$50,000.

431 b. Is 14 grams or more, but less than 25 grams, such person
432 shall be sentenced to a mandatory minimum term of imprisonment
433 of 7 years and shall be ordered to pay a fine of \$100,000.

434 c. Is 25 grams or more, but less than 100 grams, such
435 person shall be sentenced to a mandatory minimum term of

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436 imprisonment of 15 years and shall be ordered to pay a fine of
437 \$500,000.

438 d. Is 100 grams or more, but less than 30 kilograms, such
439 person shall be sentenced to a mandatory minimum term of
440 imprisonment of 25 years and shall be ordered to pay a fine of
441 \$750,000.

442 4.a. A person who knowingly sells, purchases, manufactures,
443 delivers, or brings into this state, or who is knowingly in
444 actual or constructive possession of, 4 grams or more of:

445 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

446 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

447 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

448 (IV) Sufentanil, as described in s. 893.03(2)(b)29.;

449 (V) A fentanyl derivative, as described in s.

450 893.03(1)(a)62.;

451 (VI) A controlled substance analog, as described in s.

452 893.0356, of any substance described in sub-sub-subparagraphs

453 (I)-(V); or

454 (VII) A mixture containing any substance described in sub-
455 sub-subparagraphs (I)-(VI),

456
457 commits a felony of the first degree, which felony shall be
458 known as "trafficking in fentanyl," punishable as provided in s.
459 775.082, s. 775.083, or s. 775.084.

460 b. If the quantity involved under sub-subparagraph a.:

461 (I) Is 4 grams or more, but less than 14 grams, such person
462 shall be sentenced to a mandatory minimum term of imprisonment
463 of 3 years, and shall be ordered to pay a fine of \$50,000.

464 (II) Is 14 grams or more, but less than 28 grams, such

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465 person shall be sentenced to a mandatory minimum term of
466 imprisonment of 15 years, and shall be ordered to pay a fine of
467 \$100,000.

468 (III) Is 28 grams or more, such person shall be sentenced
469 to a mandatory minimum term of imprisonment of 25 years, and
470 shall be ordered to pay a fine of \$500,000.

471 5. A person who knowingly sells, purchases, manufactures,
472 delivers, or brings into this state, or who is knowingly in
473 actual or constructive possession of, 30 kilograms or more of
474 any morphine, opium, oxycodone, hydrocodone, codeine,
475 hydromorphone, or any salt, derivative, isomer, or salt of an
476 isomer thereof, including heroin, as described in s.
477 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
478 more of any mixture containing any such substance, commits the
479 first degree felony of trafficking in illegal drugs. A person
480 who has been convicted of the first degree felony of trafficking
481 in illegal drugs under this subparagraph shall be punished by
482 life imprisonment and is ineligible for any form of
483 discretionary early release except pardon or executive clemency
484 or conditional medical release under s. 947.149. However, if the
485 court determines that, in addition to committing any act
486 specified in this paragraph:

487 a. The person intentionally killed an individual or
488 counseled, commanded, induced, procured, or caused the
489 intentional killing of an individual and such killing was the
490 result; or

491 b. The person's conduct in committing that act led to a
492 natural, though not inevitable, lethal result,

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494 such person commits the capital felony of trafficking in illegal
495 drugs, punishable as provided in ss. 775.082 and 921.142. A
496 person sentenced for a capital felony under this paragraph shall
497 also be sentenced to pay the maximum fine provided under
498 subparagraph 1.

499 6. A person who knowingly brings into this state 60
500 kilograms or more of any morphine, opium, oxycodone,
501 hydrocodone, codeine, hydromorphone, or any salt, derivative,
502 isomer, or salt of an isomer thereof, including heroin, as
503 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
504 60 kilograms or more of any mixture containing any such
505 substance, and who knows that the probable result of such
506 importation would be the death of a person, commits capital
507 importation of illegal drugs, a capital felony punishable as
508 provided in ss. 775.082 and 921.142. A person sentenced for a
509 capital felony under this paragraph shall also be sentenced to
510 pay the maximum fine provided under subparagraph 1.

511 (g)1. Any person who knowingly sells, purchases,
512 manufactures, delivers, or brings into this state, or who is
513 knowingly in actual or constructive possession of, 4 grams or
514 more of flunitrazepam or any mixture containing flunitrazepam as
515 described in s. 893.03(1)(a) commits a felony of the first
516 degree, which felony shall be known as "trafficking in
517 flunitrazepam," punishable as provided in s. 775.082, s.
518 775.083, or s. 775.084. If the quantity involved:

519 a. Is 4 grams or more but less than 14 grams, such person
520 shall be sentenced to a mandatory minimum term of imprisonment
521 of 3 years, and the defendant shall be ordered to pay a fine of
522 \$50,000.

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523 b. Is 14 grams or more but less than 28 grams, such person
524 shall be sentenced to a mandatory minimum term of imprisonment
525 of 7 years, and the defendant shall be ordered to pay a fine of
526 \$100,000.

527 c. Is 28 grams or more but less than 30 kilograms, such
528 person shall be sentenced to a mandatory minimum term of
529 imprisonment of 25 calendar years and pay a fine of \$500,000.

530 2. Any person who knowingly sells, purchases, manufactures,
531 delivers, or brings into this state or who is knowingly in
532 actual or constructive possession of 30 kilograms or more of
533 flunitrazepam or any mixture containing flunitrazepam as
534 described in s. 893.03(1)(a) commits the first degree felony of
535 trafficking in flunitrazepam. A person who has been convicted of
536 the first degree felony of trafficking in flunitrazepam under
537 this subparagraph shall be punished by life imprisonment and is
538 ineligible for any form of discretionary early release except
539 pardon or executive clemency or conditional medical release
540 under s. 947.149. However, if the court determines that, in
541 addition to committing any act specified in this paragraph:

542 a. The person intentionally killed an individual or
543 counseled, commanded, induced, procured, or caused the
544 intentional killing of an individual and such killing was the
545 result; or

546 b. The person's conduct in committing that act led to a
547 natural, though not inevitable, lethal result,

548
549 such person commits the capital felony of trafficking in
550 flunitrazepam, punishable as provided in ss. 775.082 and
551 921.142. Any person sentenced for a capital felony under this

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552 paragraph shall also be sentenced to pay the maximum fine
553 provided under subparagraph 1.

554 (3) Notwithstanding the provisions of s. 948.01, with
555 respect to any person who is found to have violated this
556 section, adjudication of guilt or imposition of sentence shall
557 not be suspended, deferred, or withheld, nor shall such person
558 be eligible for parole prior to serving the mandatory minimum
559 term of imprisonment prescribed by this section. A person
560 sentenced to a mandatory minimum term of imprisonment under this
561 section is not eligible for any form of discretionary early
562 release, except pardon or executive clemency or conditional
563 medical release under s. 947.149, prior to serving the mandatory
564 minimum term of imprisonment.

565 Section 9. For the purpose of incorporating the amendment
566 made by this act to section 947.149, Florida Statutes, in a
567 reference thereto, subsection (2) of section 921.0024, Florida
568 Statutes, is reenacted to read:

569 921.0024 Criminal Punishment Code; worksheet computations;
570 scoresheets.—

571 (2) The lowest permissible sentence is the minimum sentence
572 that may be imposed by the trial court, absent a valid reason
573 for departure. The lowest permissible sentence is any nonstate
574 prison sanction in which the total sentence points equals or is
575 less than 44 points, unless the court determines within its
576 discretion that a prison sentence, which may be up to the
577 statutory maximums for the offenses committed, is appropriate.
578 When the total sentence points exceeds 44 points, the lowest
579 permissible sentence in prison months shall be calculated by
580 subtracting 28 points from the total sentence points and

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581 decreasing the remaining total by 25 percent. The total sentence
582 points shall be calculated only as a means of determining the
583 lowest permissible sentence. The permissible range for
584 sentencing shall be the lowest permissible sentence up to and
585 including the statutory maximum, as defined in s. 775.082, for
586 the primary offense and any additional offenses before the court
587 for sentencing. The sentencing court may impose such sentences
588 concurrently or consecutively. However, any sentence to state
589 prison must exceed 1 year. If the lowest permissible sentence
590 under the code exceeds the statutory maximum sentence as
591 provided in s. 775.082, the sentence required by the code must
592 be imposed. If the total sentence points are greater than or
593 equal to 363, the court may sentence the offender to life
594 imprisonment. An offender sentenced to life imprisonment under
595 this section is not eligible for any form of discretionary early
596 release, except executive clemency or conditional medical
597 release under s. 947.149.

598 Section 10. For the purpose of incorporating the amendment
599 made by this act to section 947.149, Florida Statutes, in a
600 reference thereto, paragraph (b) of subsection (7) of section
601 944.605, Florida Statutes, is reenacted to read:

602 944.605 Inmate release; notification; identification card.—

603 (7)

604 (b) Paragraph (a) does not apply to inmates who:

605 1. The department determines have a valid driver license or
606 state identification card, except that the department shall
607 provide these inmates with a replacement state identification
608 card or replacement driver license, if necessary.

609 2. Have an active detainer, unless the department

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610 determines that cancellation of the detainer is likely or that
611 the incarceration for which the detainer was issued will be less
612 than 12 months in duration.

613 3. Are released due to an emergency release or a
614 conditional medical release under s. 947.149.

615 4. Are not in the physical custody of the department at or
616 within 180 days before release.

617 5. Are subject to sex offender residency restrictions, and
618 who, upon release under such restrictions, do not have a
619 qualifying address.

620 Section 11. For the purpose of incorporating the amendment
621 made by this act to section 947.149, Florida Statutes, in a
622 reference thereto, paragraph (b) of subsection (1) of section
623 944.70, Florida Statutes, is reenacted to read:

624 944.70 Conditions for release from incarceration.—

625 (1)

626 (b) A person who is convicted of a crime committed on or
627 after January 1, 1994, may be released from incarceration only:

628 1. Upon expiration of the person's sentence;

629 2. Upon expiration of the person's sentence as reduced by
630 accumulated meritorious or incentive gain-time;

631 3. As directed by an executive order granting clemency;

632 4. Upon placement in a conditional release program pursuant
633 to s. 947.1405 or a conditional medical release program pursuant
634 to s. 947.149; or

635 5. Upon the granting of control release, including
636 emergency control release, pursuant to s. 947.146.

637 Section 12. For the purpose of incorporating the amendment
638 made by this act to section 947.149, Florida Statutes, in a

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639 reference thereto, paragraph (h) of subsection (1) of section
640 947.13, Florida Statutes, is reenacted to read:

641 947.13 Powers and duties of commission.—

642 (1) The commission shall have the powers and perform the
643 duties of:

644 (h) Determining what persons will be released on
645 conditional medical release under s. 947.149, establishing the
646 conditions of conditional medical release, and determining
647 whether a person has violated the conditions of conditional
648 medical release and taking action with respect to such a
649 violation.

650 Section 13. For the purpose of incorporating the amendment
651 made by this act to section 947.149, Florida Statutes, in a
652 reference thereto, subsections (1), (2), and (7) of section
653 947.141, Florida Statutes, are reenacted to read:

654 947.141 Violations of conditional release, control release,
655 or conditional medical release or addiction-recovery
656 supervision.—

657 (1) If a member of the commission or a duly authorized
658 representative of the commission has reasonable grounds to
659 believe that an offender who is on release supervision under s.
660 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
661 the terms and conditions of the release in a material respect,
662 such member or representative may cause a warrant to be issued
663 for the arrest of the releasee; if the offender was found to be
664 a sexual predator, the warrant must be issued.

665 (2) Upon the arrest on a felony charge of an offender who
666 is on release supervision under s. 947.1405, s. 947.146, s.
667 947.149, or s. 944.4731, the offender must be detained without

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668 bond until the initial appearance of the offender at which a
669 judicial determination of probable cause is made. If the trial
670 court judge determines that there was no probable cause for the
671 arrest, the offender may be released. If the trial court judge
672 determines that there was probable cause for the arrest, such
673 determination also constitutes reasonable grounds to believe
674 that the offender violated the conditions of the release. Within
675 24 hours after the trial court judge's finding of probable
676 cause, the detention facility administrator or designee shall
677 notify the commission and the department of the finding and
678 transmit to each a facsimile copy of the probable cause
679 affidavit or the sworn offense report upon which the trial court
680 judge's probable cause determination is based. The offender must
681 continue to be detained without bond for a period not exceeding
682 72 hours excluding weekends and holidays after the date of the
683 probable cause determination, pending a decision by the
684 commission whether to issue a warrant charging the offender with
685 violation of the conditions of release. Upon the issuance of the
686 commission's warrant, the offender must continue to be held in
687 custody pending a revocation hearing held in accordance with
688 this section.

689 (7) If a law enforcement officer has probable cause to
690 believe that an offender who is on release supervision under s.
691 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
692 the terms and conditions of his or her release by committing a
693 felony offense, the officer shall arrest the offender without a
694 warrant, and a warrant need not be issued in the case.

695 Section 14. This act shall take effect October 1, 2018.