

1 A bill to be entitled
2 An act relating to the death penalty; amending s.
3 775.082, F.S.; deleting provisions providing for the
4 death penalty for capital felonies; deleting
5 provisions relating to the effect of a declaration by
6 a court of last resort that the death penalty in a
7 capital felony is unconstitutional; amending ss. 27.51
8 and 27.511, F.S.; deleting provisions relating to
9 representation in death penalty cases; amending s.
10 27.5304, F.S.; conforming provisions to changes made
11 by the act; repealing ss. 27.7001, 27.7002, 27.701,
12 27.702, 27.703, 27.704, 27.7045, 27.705, 27.706,
13 27.707, 27.708, 27.7081, 27.7091, 27.710, 27.711, and
14 27.715, F.S., relating to capital collateral
15 representation and constitutionally deficient
16 representation, respectively; amending s. 119.071,
17 F.S.; deleting a public records exemption relating to
18 capital collateral proceedings; amending s. 282.201,
19 F.S.; conforming a provision to changes made by the
20 act; amending ss. 775.15 and 790.161, F.S.; deleting
21 provisions relating to the effect of a declaration by
22 a court of last resort declaring that the death
23 penalty in a capital felony is unconstitutional;
24 repealing s. 913.13, F.S., relating to jurors in
25 capital cases; repealing s. 921.137, F.S., relating to

26 prohibiting the imposition of the death sentence upon
27 a defendant with mental retardation; repealing s.
28 921.141, F.S., relating to determination of whether to
29 impose a sentence of death or life imprisonment for a
30 capital felony; repealing s. 921.142, F.S., relating
31 to determination of whether to impose a sentence of
32 death or life imprisonment for a capital drug
33 trafficking felony; amending ss. 775.021, 782.04,
34 775.30, 394.912, 782.065, 794.011, 893.135, 944.275,
35 and 948.012, F.S.; conforming provisions to changes
36 made by the act; repealing ss. 922.052, 922.06,
37 922.07, 922.08, 922.095, 922.10, 922.105, 922.108,
38 922.11, 922.111, 922.12, 922.14, 922.15, 924.055,
39 924.056, 924.057, F.S., relating to issuance of
40 warrant of execution, stay of execution of death
41 sentence, proceedings when person under sentence of
42 death appears to be insane, proceedings when person
43 under sentence of death appears to be pregnant,
44 grounds for death warrant, execution of death
45 sentence, prohibition against reduction of death
46 sentence as a result of determination that a method of
47 execution is unconstitutional, sentencing orders in
48 capital cases, regulation of execution, transfer to
49 state prison for safekeeping before death warrant
50 issued, return of warrant of execution issued by

51 Governor, sentence of death unexecuted for
 52 unjustifiable reasons, return of warrant of execution
 53 issued by Supreme Court, legislative intent concerning
 54 appeals and postconviction proceedings in death
 55 penalty cases, commencement of capital postconviction
 56 actions for which sentence of death is imposed on or
 57 after January 14, 2000, and limitation on
 58 postconviction cases in which the death sentence was
 59 imposed before January 14, 2000, respectively;
 60 amending s. 925.11, F.S.; deleting provisions relating
 61 to preservation of DNA evidence in death penalty
 62 cases; amending s. 945.10, F.S.; deleting a public
 63 records exemption for the identity of executioners;
 64 providing an effective date.

65

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

67

68 Section 1. Paragraph (a) of subsection (1) and subsection
 69 (2) of section 775.082, Florida Statutes, are amended to read:

70 775.082 Penalties; applicability of sentencing structures;
 71 mandatory minimum sentences for certain reoffenders previously
 72 released from prison.—

73 (1) (a) ~~Except as provided in paragraph (b),~~ A person who
 74 has been convicted of a capital felony shall be punished by
 75 ~~death if the proceeding held to determine sentence according to~~

76 | ~~the procedure set forth in s. 921.141 results in a determination~~
 77 | ~~that such person shall be punished by death, otherwise such~~
 78 | ~~person shall be punished by~~ life imprisonment and shall be
 79 | ineligible for parole.

80 | ~~(2) In the event the death penalty in a capital felony is~~
 81 | ~~held to be unconstitutional by the Florida Supreme Court or the~~
 82 | ~~United States Supreme Court, the court having jurisdiction over~~
 83 | ~~a person previously sentenced to death for a capital felony~~
 84 | ~~shall cause such person to be brought before the court, and the~~
 85 | ~~court shall sentence such person to life imprisonment as~~
 86 | ~~provided in subsection (1). No sentence of death shall be~~
 87 | ~~reduced as a result of a determination that a method of~~
 88 | ~~execution is held to be unconstitutional under the State~~
 89 | ~~Constitution or the Constitution of the United States.~~

90 | Section 2. Paragraphs (d), (e), and (f) of subsection (1)
 91 | of section 27.51, Florida Statutes, are amended to read:

92 | 27.51 Duties of public defender.—

93 | (1) The public defender shall represent, without
 94 | additional compensation, any person determined to be indigent
 95 | under s. 27.52 and:

96 | (d) Sought by petition filed in such court to be
 97 | involuntarily placed as a mentally ill person under part I of
 98 | chapter 394, involuntarily committed as a sexually violent
 99 | predator under part V of chapter 394, or involuntarily admitted
 100 | to residential services as a person with developmental

101 disabilities under chapter 393. A public defender shall not
 102 represent any plaintiff in a civil action brought under the
 103 Florida Rules of Civil Procedure, the Federal Rules of Civil
 104 Procedure, or the federal statutes, or represent a petitioner in
 105 a rule challenge under chapter 120, unless specifically
 106 authorized by statute; or

107 ~~(e) Convicted and sentenced to death, for purposes of~~
 108 ~~handling an appeal to the Supreme Court; or~~

109 (e) ~~(f)~~ Is appealing a matter in a case arising under
 110 paragraphs (a)-(d).

111 Section 3. Paragraphs (e), (f), and (g) of subsection (5)
 112 and subsection (8) of section 27.511, Florida Statutes, are
 113 amended to read:

114 27.511 Offices of criminal conflict and civil regional
 115 counsel; legislative intent; qualifications; appointment;
 116 duties.—

117 (5) When the Office of the Public Defender, at any time
 118 during the representation of two or more defendants, determines
 119 that the interests of those accused are so adverse or hostile
 120 that they cannot all be counseled by the public defender or his
 121 or her staff without a conflict of interest, or that none can be
 122 counseled by the public defender or his or her staff because of
 123 a conflict of interest, and the court grants the public
 124 defender's motion to withdraw, the office of criminal conflict
 125 and civil regional counsel shall be appointed and shall provide

126 legal services, without additional compensation, to any person
127 determined to be indigent under s. 27.52, who is:

128 ~~(e) Convicted and sentenced to death, for purposes of~~
129 ~~handling an appeal to the Supreme Court;~~

130 (e)~~(f)~~ Appealing a matter in a case arising under
131 paragraphs (a)-(d); or

132 (f)~~(g)~~ Seeking correction, reduction, or modification of a
133 sentence under Rule 3.800, Florida Rules of Criminal Procedure,
134 or seeking postconviction relief under Rule 3.850, Florida Rules
135 of Criminal Procedure, if, in either case, the court determines
136 that appointment of counsel is necessary to protect a person's
137 due process rights.

138 (8) The public defender for the judicial circuit specified
139 in s. 27.51(4) shall, after the record on appeal is transmitted
140 to the appellate court by the office of criminal conflict and
141 civil regional counsel which handled the trial and if requested
142 by the regional counsel for the indicated appellate district,
143 handle all circuit court appeals authorized pursuant to
144 paragraph (5) (e)~~(f)~~ within the state courts system and any
145 authorized appeals to the federal courts required of the
146 official making the request. If the public defender certifies to
147 the court that the public defender has a conflict consistent
148 with the criteria prescribed in s. 27.5303 and moves to
149 withdraw, the regional counsel shall handle the appeal, unless
150 the regional counsel has a conflict, in which case the court

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151 shall appoint private counsel pursuant to s. 27.40.

152 Section 4. Subsection (13) of section 27.5304, Florida
153 Statutes, is amended to read:

154 27.5304 Private court-appointed counsel; compensation;
155 notice.—

156 (13) Notwithstanding the limitation set forth in
157 subsection (5) and for the 2017-2018 fiscal year only, the
158 compensation for representation in a criminal proceeding may not
159 exceed the following:

160 (a) For misdemeanors and juveniles represented at the
161 trial level: \$1,000.

162 (b) For noncapital, nonlife felonies represented at the
163 trial level: \$15,000.

164 (c) For life felonies represented at the trial level:
165 \$15,000.

166 ~~(d) For capital cases represented at the trial level:~~
167 ~~\$25,000. For purposes of this paragraph, a "capital case" is any~~
168 ~~offense for which the potential sentence is death and the state~~
169 ~~has not waived seeking the death penalty.~~

170 (d)(e) For representation on appeal: \$9,000.

171 (e)(f) This subsection expires July 1, 2018.

172 Section 5. Sections 27.7001, 27.7002, 27.701, 27.702,
173 27.703, 27.704, 27.7045, 27.705, 27.706, 27.707, 27.708,
174 27.7081, 27.7091, 27.710, 27.711, and 27.715, Florida Statutes,
175 are repealed.

176 Section 6. Paragraph (d) of subsection (1) of section
177 119.071, Florida Statutes, is amended to read:

178 119.071 General exemptions from inspection or copying of
179 public records.—

180 (1) AGENCY ADMINISTRATION.—

181 (d)1. A public record that was prepared by an agency
182 attorney (including an attorney employed or retained by the
183 agency or employed or retained by another public officer or
184 agency to protect or represent the interests of the agency
185 having custody of the record) or prepared at the attorney's
186 express direction, that reflects a mental impression,
187 conclusion, litigation strategy, or legal theory of the attorney
188 or the agency, and that was prepared exclusively for civil or
189 criminal litigation or for adversarial administrative
190 proceedings, or that was prepared in anticipation of imminent
191 civil or criminal litigation or imminent adversarial
192 administrative proceedings, is exempt from s. 119.07(1) and s.
193 24(a), Art. I of the State Constitution until the conclusion of
194 the litigation or adversarial administrative proceedings. ~~For~~
195 ~~purposes of capital collateral litigation as set forth in s.~~
196 ~~27.7001, the Attorney General's office is entitled to claim this~~
197 ~~exemption for those public records prepared for direct appeal as~~
198 ~~well as for all capital collateral litigation after direct~~
199 ~~appeal until execution of sentence or imposition of a life~~
200 ~~sentence.~~

201 2. This exemption is not waived by the release of such
 202 public record to another public employee or officer of the same
 203 agency or any person consulted by the agency attorney. When
 204 asserting the right to withhold a public record pursuant to this
 205 paragraph, the agency shall identify the potential parties to
 206 any such criminal or civil litigation or adversarial
 207 administrative proceedings. If a court finds that the document
 208 or other record has been improperly withheld under this
 209 paragraph, the party seeking access to such document or record
 210 shall be awarded reasonable attorney's fees and costs in
 211 addition to any other remedy ordered by the court.

212 Section 7. Paragraph (c) of subsection (4) of section
 213 282.201, Florida Statutes, is amended to read:

214 282.201 State data center.—The state data center is
 215 established within the Agency for State Technology and shall
 216 provide data center services that are hosted on premises or
 217 externally through a third-party provider as an enterprise
 218 information technology service. The provision of services must
 219 comply with applicable state and federal laws, regulations, and
 220 policies, including all applicable security, privacy, and
 221 auditing requirements.

222 (4) SCHEDULE FOR CONSOLIDATIONS OF AGENCY DATA CENTERS.—

223 (c) The following are exempt from state data center
 224 consolidation under this section: the Department of Law
 225 Enforcement, the Department of the Lottery's Gaming System,

226 Systems Design and Development in the Office of Policy and
 227 Budget, the regional traffic management centers as described in
 228 s. 335.14(2) and the Office of Toll Operations of the Department
 229 of Transportation, the State Board of Administration, state
 230 attorneys, public defenders, criminal conflict and civil
 231 regional counsel, ~~capital collateral regional counsel,~~ and the
 232 Florida Housing Finance Corporation.

233 Section 8. Subsection (1) of section 775.15, Florida
 234 Statutes, is amended to read:

235 775.15 Time limitations; general time limitations;
 236 exceptions.-

237 (1) A prosecution for a capital felony, a life felony, or
 238 a felony that resulted in a death may be commenced at any time.
 239 ~~If the death penalty is held to be unconstitutional by the~~
 240 ~~Florida Supreme Court or the United States Supreme Court, all~~
 241 ~~crimes designated as capital felonies shall be considered life~~
 242 ~~felonies for the purposes of this section, and prosecution for~~
 243 ~~such crimes may be commenced at any time.~~

244 Section 9. Subsection (4) of section 790.161, Florida
 245 Statutes, is amended to read:

246 790.161 Making, possessing, throwing, projecting, placing,
 247 or discharging any destructive device or attempt so to do,
 248 felony; penalties.-A person who willfully and unlawfully makes,
 249 possesses, throws, projects, places, discharges, or attempts to
 250 make, possess, throw, project, place, or discharge any

251 destructive device:

252 (4) If the act results in the death of another person,
253 commits a capital felony, punishable as provided in s. 775.082.
254 ~~In the event the death penalty in a capital felony is held to be~~
255 ~~unconstitutional by the Florida Supreme Court or the United~~
256 ~~States Supreme Court, the court having jurisdiction over a~~
257 ~~person previously sentenced to death for a capital felony shall~~
258 ~~cause such person to be brought before the court, and the court~~
259 ~~shall sentence such person to life imprisonment if convicted of~~
260 ~~murder in the first degree or of a capital felony under this~~
261 ~~subsection, and such person shall be ineligible for parole. No~~
262 ~~sentence of death shall be reduced as a result of a~~
263 ~~determination that a method of execution is held to be~~
264 ~~unconstitutional under the State Constitution or the~~
265 ~~Constitution of the United States.~~

266 Section 10. Sections 913.13, 921.137, 921.141, and
267 921.142, Florida Statutes, are repealed.

268 Section 11. Paragraph (c) of subsection (5) of section
269 775.021, Florida Statutes, is amended to read:

270 775.021 Rules of construction.—

271 (5) Whoever commits an act that violates a provision of
272 this code or commits a criminal offense defined by another
273 statute and thereby causes the death of, or bodily injury to, an
274 unborn child commits a separate offense if the provision or
275 statute does not otherwise specifically provide a separate

276 | offense for such death or injury to an unborn child.

277 | ~~(c) Notwithstanding any other provision of law, the death~~
 278 | ~~penalty may not be imposed for an offense under this subsection.~~

279 | Section 12. Subsection (1) of section 782.04, Florida
 280 | Statutes, is amended to read:

281 | 782.04 Murder.—

282 | (1)~~(a)~~ The unlawful killing of a human being:

283 | (a)1. When perpetrated from a premeditated design to
 284 | effect the death of the person killed or any human being;

285 | (b)2. When committed by a person engaged in the
 286 | perpetration of, or in the attempt to perpetrate, any:

287 | 1.a. Trafficking offense prohibited by s. 893.135(1),

288 | 2.b. Arson,

289 | 3.e. Sexual battery,

290 | 4.d. Robbery,

291 | 5.e. Burglary,

292 | 6.f. Kidnapping,

293 | 7.g. Escape,

294 | 8.h. Aggravated child abuse,

295 | 9.i. Aggravated abuse of an elderly person or disabled
 296 | adult,

297 | 10.j. Aircraft piracy,

298 | 11.k. Unlawful throwing, placing, or discharging of a
 299 | destructive device or bomb,

300 | 12.l. Carjacking,

301 13.m. Home-invasion robbery,
 302 14.n. Aggravated stalking,
 303 15.o. Murder of another human being,
 304 16.p. Resisting an officer with violence to his or her
 305 person,
 306 17.q. Aggravated fleeing or eluding with serious bodily
 307 injury or death,
 308 18.r. Felony that is an act of terrorism or is in
 309 furtherance of an act of terrorism, including a felony under s.
 310 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or
 311 19.s. Human trafficking; or
 312 (c)3. Which resulted from the unlawful distribution by a
 313 person 18 years of age or older of any of the following
 314 substances, or mixture containing any of the following
 315 substances, when such substance or mixture is proven to be the
 316 proximate cause of the death of the user:
 317 a. A substance controlled under s. 893.03(1);
 318 b. Cocaine, as described in s. 893.03(2)(a)4.;
 319 c. Opium or any synthetic or natural salt, compound,
 320 derivative, or preparation of opium;
 321 d. Methadone;
 322 e. Alfentanil, as described in s. 893.03(2)(b)1.;
 323 f. Carfentanil, as described in s. 893.03(2)(b)6.;
 324 g. Fentanyl, as described in s. 893.03(2)(b)9.;
 325 h. Sufentanil, as described in s. 893.03(2)(b)29.; or

326 i. A controlled substance analog, as described in s.
 327 893.0356, of any substance specified in sub-subparagraphs a.-h.,
 328
 329 is murder in the first degree and constitutes a capital felony,
 330 punishable as provided in s. 775.082.

331 ~~(b) In all cases under this section, the procedure set~~
 332 ~~forth in s. 921.141 shall be followed in order to determine~~
 333 ~~sentence of death or life imprisonment. If the prosecutor~~
 334 ~~intends to seek the death penalty, the prosecutor must give~~
 335 ~~notice to the defendant and file the notice with the court~~
 336 ~~within 45 days after arraignment. The notice must contain a list~~
 337 ~~of the aggravating factors the state intends to prove and has~~
 338 ~~reason to believe it can prove beyond a reasonable doubt. The~~
 339 ~~court may allow the prosecutor to amend the notice upon a~~
 340 ~~showing of good cause.~~

341 Section 13. Subsection (2) of section 775.30, Florida
 342 Statutes, is amended to read:

343 775.30 Terrorism; defined; penalties.-

344 (2) A person who violates s. 782.04(1)(a) ~~782.04(1)(a)1.~~
 345 or (2), s. 782.065, s. 782.07(1), s. 782.09, s. 784.045, s.
 346 784.07, s. 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15,
 347 s. 790.16, s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s.
 348 790.19, s. 806.01, s. 806.031, s. 806.111, s. 815.06, s.
 349 815.061, s. 859.01, or s. 876.34, in furtherance of intimidating
 350 or coercing the policy of a government, or in furtherance of

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351 affecting the conduct of a government by mass destruction,
352 assassination, or kidnapping, commits the crime of terrorism, a
353 felony of the first degree, punishable as provided in s.
354 775.082, s. 775.083, or s. 775.084.

355 Section 14. Paragraph (a) of subsection (9) of section
356 394.912, Florida Statutes, is amended to read:

357 394.912 Definitions.—As used in this part, the term:

358 (9) "Sexually violent offense" means:

359 (a) Murder of a human being while engaged in sexual
360 battery in violation of s. 782.04(1)(b) ~~782.04(1)(a)2~~;

361 Section 15. Subsection (1) of section 782.065, Florida
362 Statutes, is amended to read:

363 782.065 Murder; law enforcement officer, correctional
364 officer, correctional probation officer.—Notwithstanding ss.
365 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
366 shall be sentenced to life imprisonment without eligibility for
367 release upon findings by the trier of fact that, beyond a
368 reasonable doubt:

369 (1) The defendant committed murder in the first degree in
370 violation of s. 782.04(1) and a death sentence was not imposed;
371 murder in the second or third degree in violation of s.
372 782.04(2), (3), or (4); attempted murder in the first or second
373 degree in violation of s. 782.04(1)(a) ~~782.04(1)(a)1~~ or (2); or
374 attempted felony murder in violation of s. 782.051; and

375 Section 16. Paragraph (a) of subsection (2) of section

376 | 794.011, Florida Statutes, is amended to read:

377 | 794.011 Sexual battery.—

378 | (2) (a) A person 18 years of age or older who commits
 379 | sexual battery upon, or in an attempt to commit sexual battery
 380 | injures the sexual organs of, a person less than 12 years of age
 381 | commits a capital felony, punishable as provided in s. ss.
 382 | 775.082 and ~~921.141~~.

383 | Section 17. Paragraphs (b) through (l) of subsection (1)
 384 | of section 893.135, Florida Statutes, are amended to read:

385 | 893.135 Trafficking; mandatory sentences; suspension or
 386 | reduction of sentences; conspiracy to engage in trafficking.—

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

389 | (b)1. Any person who knowingly sells, purchases,
 390 | manufactures, delivers, or brings into this state, or who is
 391 | knowingly in actual or constructive possession of, 28 grams or
 392 | more of cocaine, as described in s. 893.03(2)(a)4., or of any
 393 | mixture containing cocaine, but less than 150 kilograms of
 394 | cocaine or any such mixture, commits a felony of the first
 395 | degree, which felony shall be known as "trafficking in cocaine,"
 396 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 397 | If the quantity involved:

398 | a. Is 28 grams or more, but less than 200 grams, such
 399 | person shall be sentenced to a mandatory minimum term of
 400 | imprisonment of 3 years, and the defendant shall be ordered to

401 pay a fine of \$50,000.

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

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

409 2. Any person who knowingly sells, purchases,
410 manufactures, delivers, or brings into this state, or who is
411 knowingly in actual or constructive possession of, 150 kilograms
412 or more of cocaine, as described in s. 893.03(2)(a)4., commits
413 the first degree felony of trafficking in cocaine. A person who
414 has been convicted of the first degree felony of trafficking in
415 cocaine under this subparagraph shall be punished by life
416 imprisonment and is ineligible for any form of discretionary
417 early release except pardon or executive clemency or conditional
418 medical release under s. 947.149. However, if the court
419 determines that, in addition to committing any act specified in
420 this paragraph:

421 a. The person intentionally killed an individual or
422 counseled, commanded, induced, procured, or caused the
423 intentional killing of an individual and such killing was the
424 result; or

425 b. The person's conduct in committing that act led to a

426 natural, though not inevitable, lethal result,

427

428 such person commits the capital felony of trafficking in
429 cocaine, punishable as provided in s. ss. 775.082 and ~~921.142~~.

430 Any person sentenced for a capital felony under this paragraph
431 shall also be sentenced to pay the maximum fine provided under
432 subparagraph 1.

433 3. Any person who knowingly brings into this state 300
434 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
435 and who knows that the probable result of such importation would
436 be the death of any person, commits capital importation of
437 cocaine, a capital felony punishable as provided in s. ss.
438 775.082 and ~~921.142~~. Any person sentenced for a capital felony
439 under this paragraph shall also be sentenced to pay the maximum
440 fine provided under subparagraph 1.

441 (c)1. A person who knowingly sells, purchases,
442 manufactures, delivers, or brings into this state, or who is
443 knowingly in actual or constructive possession of, 4 grams or
444 more of any morphine, opium, hydromorphone, or any salt,
445 derivative, isomer, or salt of an isomer thereof, including
446 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
447 (3)(c)4., or 4 grams or more of any mixture containing any such
448 substance, but less than 30 kilograms of such substance or
449 mixture, commits a felony of the first degree, which felony
450 shall be known as "trafficking in illegal drugs," punishable as

451 provided in s. 775.082, s. 775.083, or s. 775.084. If the
452 quantity involved:

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

456 b. Is 14 grams or more, but less than 28 grams, such
457 person shall be sentenced to a mandatory minimum term of
458 imprisonment of 15 years and shall be ordered to pay a fine of
459 \$100,000.

460 c. Is 28 grams or more, but less than 30 kilograms, such
461 person shall be sentenced to a mandatory minimum term of
462 imprisonment of 25 years and shall be ordered to pay a fine of
463 \$500,000.

464 2. A person who knowingly sells, purchases, manufactures,
465 delivers, or brings into this state, or who is knowingly in
466 actual or constructive possession of, 14 grams or more of
467 hydrocodone, as described in s. 893.03(2)(a)1.j., codeine, as
468 described in s. 893.03(2)(a)1.g., or any salt thereof, or 14
469 grams or more of any mixture containing any such substance,
470 commits a felony of the first degree, which felony shall be
471 known as "trafficking in hydrocodone," punishable as provided in
472 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

473 a. Is 14 grams or more, but less than 28 grams, such
474 person shall be sentenced to a mandatory minimum term of
475 imprisonment of 3 years and shall be ordered to pay a fine of

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476 | \$50,000.

477 | b. Is 28 grams or more, but less than 50 grams, such
478 | person shall be sentenced to a mandatory minimum term of
479 | imprisonment of 7 years and shall be ordered to pay a fine of
480 | \$100,000.

481 | c. Is 50 grams or more, but less than 200 grams, such
482 | person shall be sentenced to a mandatory minimum term of
483 | imprisonment of 15 years and shall be ordered to pay a fine of
484 | \$500,000.

485 | d. Is 200 grams or more, but less than 30 kilograms, such
486 | person shall be sentenced to a mandatory minimum term of
487 | imprisonment of 25 years and shall be ordered to pay a fine of
488 | \$750,000.

489 | 3. A person who knowingly sells, purchases, manufactures,
490 | delivers, or brings into this state, or who is knowingly in
491 | actual or constructive possession of, 7 grams or more of
492 | oxycodone, as described in s. 893.03(2)(a)1.o., or any salt
493 | thereof, or 7 grams or more of any mixture containing any such
494 | substance, commits a felony of the first degree, which felony
495 | shall be known as "trafficking in oxycodone," punishable as
496 | provided in s. 775.082, s. 775.083, or s. 775.084. If the
497 | quantity involved:

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

501 b. Is 14 grams or more, but less than 25 grams, such
 502 person shall be sentenced to a mandatory minimum term of
 503 imprisonment of 7 years and shall be ordered to pay a fine of
 504 \$100,000.

505 c. Is 25 grams or more, but less than 100 grams, such
 506 person shall be sentenced to a mandatory minimum term of
 507 imprisonment of 15 years and shall be ordered to pay a fine of
 508 \$500,000.

509 d. Is 100 grams or more, but less than 30 kilograms, such
 510 person shall be sentenced to a mandatory minimum term of
 511 imprisonment of 25 years and shall be ordered to pay a fine of
 512 \$750,000.

513 4.a. A person who knowingly sells, purchases,
 514 manufactures, delivers, or brings into this state, or who is
 515 knowingly in actual or constructive possession of, 4 grams or
 516 more of:

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

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

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

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

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

522 893.03(1)(a)62.;

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

524 893.0356, of any substance described in sub-sub-subparagraphs

525 (I)-(V); or

526 (VII) A mixture containing any substance described in sub-
527 sub-subparagraphs (I)-(VI),
528
529 commits a felony of the first degree, which felony shall be
530 known as "trafficking in fentanyl," punishable as provided in s.
531 775.082, s. 775.083, or s. 775.084.

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

533 (I) Is 4 grams or more, but less than 14 grams, such
534 person shall be sentenced to a mandatory minimum term of
535 imprisonment of 3 years, and shall be ordered to pay a fine of
536 \$50,000.

537 (II) Is 14 grams or more, but less than 28 grams, such
538 person shall be sentenced to a mandatory minimum term of
539 imprisonment of 15 years, and shall be ordered to pay a fine of
540 \$100,000.

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

544 5. A person who knowingly sells, purchases, manufactures,
545 delivers, or brings into this state, or who is knowingly in
546 actual or constructive possession of, 30 kilograms or more of
547 any morphine, opium, oxycodone, hydrocodone, codeine,
548 hydromorphone, or any salt, derivative, isomer, or salt of an
549 isomer thereof, including heroin, as described in s.
550 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or

551 more of any mixture containing any such substance, commits the
552 first degree felony of trafficking in illegal drugs. A person
553 who has been convicted of the first degree felony of trafficking
554 in illegal drugs under this subparagraph shall be punished by
555 life imprisonment and is ineligible for any form of
556 discretionary early release except pardon or executive clemency
557 or conditional medical release under s. 947.149. However, if the
558 court determines that, in addition to committing any act
559 specified in this paragraph:

560 a. The person intentionally killed an individual or
561 counseled, commanded, induced, procured, or caused the
562 intentional killing of an individual and such killing was the
563 result; or

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

566
567 such person commits the capital felony of trafficking in illegal
568 drugs, punishable as provided in s. 775.082 and ~~921.142~~. A
569 person sentenced for a capital felony under this paragraph shall
570 also be sentenced to pay the maximum fine provided under
571 subparagraph 1.

572 6. A person who knowingly brings into this state 60
573 kilograms or more of any morphine, opium, oxycodone,
574 hydrocodone, codeine, hydromorphone, or any salt, derivative,
575 isomer, or salt of an isomer thereof, including heroin, as

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576 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
577 60 kilograms or more of any mixture containing any such
578 substance, and who knows that the probable result of such
579 importation would be the death of a person, commits capital
580 importation of illegal drugs, a capital felony punishable as
581 provided in s. ss. 775.082 and 921.142. A person sentenced for a
582 capital felony under this paragraph shall also be sentenced to
583 pay the maximum fine provided under subparagraph 1.

584 (d)1. Any person who knowingly sells, purchases,
585 manufactures, delivers, or brings into this state, or who is
586 knowingly in actual or constructive possession of, 28 grams or
587 more of phencyclidine, as described in s. 893.03(2)(b)23., a
588 substituted phenylcyclohexylamine, as described in s.
589 893.03(1)(c)195., or a substance described in s.
590 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
591 containing phencyclidine, as described in s. 893.03(2)(b)23., a
592 substituted phenylcyclohexylamine, as described in s.
593 893.03(1)(c)195., or a substance described in s.
594 893.03(1)(c)13., 32., 38., 103., or 146., commits a felony of
595 the first degree, which felony shall be known as "trafficking in
596 phencyclidine," punishable as provided in s. 775.082, s.
597 775.083, or s. 775.084. If the quantity involved:

598 a. Is 28 grams or more, but less than 200 grams, such
599 person shall be sentenced to a mandatory minimum term of
600 imprisonment of 3 years, and the defendant shall be ordered to

601 pay a fine of \$50,000.

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

606 c. Is 400 grams or more, such person shall be sentenced to
 607 a mandatory minimum term of imprisonment of 15 calendar years
 608 and pay a fine of \$250,000.

609 2. Any person who knowingly brings into this state 800
 610 grams or more of phencyclidine, as described in s.
 611 893.03(2)(b)23., a substituted phenylcyclohexylamine, as
 612 described in s. 893.03(1)(c)195., or a substance described in s.
 613 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
 614 containing phencyclidine, as described in s. 893.03(2)(b)23., a
 615 substituted phenylcyclohexylamine, as described in s.
 616 893.03(1)(c)195., or a substance described in s.
 617 893.03(1)(c)13., 32., 38., 103., or 146., and who knows that the
 618 probable result of such importation would be the death of any
 619 person commits capital importation of phencyclidine, a capital
 620 felony punishable as provided in s. ss. 775.082 and 921.142. Any
 621 person sentenced for a capital felony under this paragraph shall
 622 also be sentenced to pay the maximum fine provided under
 623 subparagraph 1.

624 (e)1. Any person who knowingly sells, purchases,
 625 manufactures, delivers, or brings into this state, or who is

626 knowingly in actual or constructive possession of, 200 grams or
 627 more of methaqualone or of any mixture containing methaqualone,
 628 as described in s. 893.03(1)(d), commits a felony of the first
 629 degree, which felony shall be known as "trafficking in
 630 methaqualone," punishable as provided in s. 775.082, s. 775.083,
 631 or s. 775.084. If the quantity involved:

632 a. Is 200 grams or more, but less than 5 kilograms, such
 633 person shall be sentenced to a mandatory minimum term of
 634 imprisonment of 3 years, and the defendant shall be ordered to
 635 pay a fine of \$50,000.

636 b. Is 5 kilograms or more, but less than 25 kilograms,
 637 such person shall be sentenced to a mandatory minimum term of
 638 imprisonment of 7 years, and the defendant shall be ordered to
 639 pay a fine of \$100,000.

640 c. Is 25 kilograms or more, such person shall be sentenced
 641 to a mandatory minimum term of imprisonment of 15 calendar years
 642 and pay a fine of \$250,000.

643 2. Any person who knowingly brings into this state 50
 644 kilograms or more of methaqualone or of any mixture containing
 645 methaqualone, as described in s. 893.03(1)(d), and who knows
 646 that the probable result of such importation would be the death
 647 of any person commits capital importation of methaqualone, a
 648 capital felony punishable as provided in s. ss. 775.082 and
 649 ~~921.142~~. Any person sentenced for a capital felony under this
 650 paragraph shall also be sentenced to pay the maximum fine

651 provided under subparagraph 1.

652 (f)1. Any person who knowingly sells, purchases,
653 manufactures, delivers, or brings into this state, or who is
654 knowingly in actual or constructive possession of, 14 grams or
655 more of amphetamine, as described in s. 893.03(2)(c)2., or
656 methamphetamine, as described in s. 893.03(2)(c)4., or of any
657 mixture containing amphetamine or methamphetamine, or
658 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
659 in conjunction with other chemicals and equipment utilized in
660 the manufacture of amphetamine or methamphetamine, commits a
661 felony of the first degree, which felony shall be known as
662 "trafficking in amphetamine," punishable as provided in s.
663 775.082, s. 775.083, or s. 775.084. If the quantity involved:

664 a. Is 14 grams or more, but less than 28 grams, such
665 person shall be sentenced to a mandatory minimum term of
666 imprisonment of 3 years, and the defendant shall be ordered to
667 pay a fine of \$50,000.

668 b. Is 28 grams or more, but less than 200 grams, such
669 person shall be sentenced to a mandatory minimum term of
670 imprisonment of 7 years, and the defendant shall be ordered to
671 pay a fine of \$100,000.

672 c. Is 200 grams or more, such person shall be sentenced to
673 a mandatory minimum term of imprisonment of 15 calendar years
674 and pay a fine of \$250,000.

675 2. Any person who knowingly manufactures or brings into

676 | this state 400 grams or more of amphetamine, as described in s.
 677 | 893.03(2)(c)2., or methamphetamine, as described in s.
 678 | 893.03(2)(c)4., or of any mixture containing amphetamine or
 679 | methamphetamine, or phenylacetone, phenylacetic acid,
 680 | pseudoephedrine, or ephedrine in conjunction with other
 681 | chemicals and equipment used in the manufacture of amphetamine
 682 | or methamphetamine, and who knows that the probable result of
 683 | such manufacture or importation would be the death of any person
 684 | commits capital manufacture or importation of amphetamine, a
 685 | capital felony punishable as provided in s. ~~ss.~~ 775.082 and
 686 | ~~921.142~~. Any person sentenced for a capital felony under this
 687 | paragraph shall also be sentenced to pay the maximum fine
 688 | provided under subparagraph 1.

689 | (g)1. Any person who knowingly sells, purchases,
 690 | manufactures, delivers, or brings into this state, or who is
 691 | knowingly in actual or constructive possession of, 4 grams or
 692 | more of flunitrazepam or any mixture containing flunitrazepam as
 693 | described in s. 893.03(1)(a) commits a felony of the first
 694 | degree, which felony shall be known as "trafficking in
 695 | flunitrazepam," punishable as provided in s. 775.082, s.
 696 | 775.083, or s. 775.084. If the quantity involved:

697 | a. Is 4 grams or more but less than 14 grams, such person
 698 | shall be sentenced to a mandatory minimum term of imprisonment
 699 | of 3 years, and the defendant shall be ordered to pay a fine of
 700 | \$50,000.

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701 b. Is 14 grams or more but less than 28 grams, such person
702 shall be sentenced to a mandatory minimum term of imprisonment
703 of 7 years, and the defendant shall be ordered to pay a fine of
704 \$100,000.

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

708 2. Any person who knowingly sells, purchases,
709 manufactures, delivers, or brings into this state or who is
710 knowingly in actual or constructive possession of 30 kilograms
711 or more of flunitrazepam or any mixture containing flunitrazepam
712 as described in s. 893.03(1)(a) commits the first degree felony
713 of trafficking in flunitrazepam. A person who has been convicted
714 of the first degree felony of trafficking in flunitrazepam under
715 this subparagraph shall be punished by life imprisonment and is
716 ineligible for any form of discretionary early release except
717 pardon or executive clemency or conditional medical release
718 under s. 947.149. However, if the court determines that, in
719 addition to committing any act specified in this paragraph:

720 a. The person intentionally killed an individual or
721 counseled, commanded, induced, procured, or caused the
722 intentional killing of an individual and such killing was the
723 result; or

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

726
727 such person commits the capital felony of trafficking in
728 flunitrazepam, punishable as provided in s. ss. 775.082 ~~and~~
729 ~~921.142~~. Any person sentenced for a capital felony under this
730 paragraph shall also be sentenced to pay the maximum fine
731 provided under subparagraph 1.

732 (h)1. Any person who knowingly sells, purchases,
733 manufactures, delivers, or brings into this state, or who is
734 knowingly in actual or constructive possession of, 1 kilogram or
735 more of gamma-hydroxybutyric acid (GHB), as described in s.
736 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
737 acid (GHB), commits a felony of the first degree, which felony
738 shall be known as "trafficking in gamma-hydroxybutyric acid
739 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
740 775.084. If the quantity involved:

741 a. Is 1 kilogram or more but less than 5 kilograms, such
742 person shall be sentenced to a mandatory minimum term of
743 imprisonment of 3 years, and the defendant shall be ordered to
744 pay a fine of \$50,000.

745 b. Is 5 kilograms or more but less than 10 kilograms, such
746 person shall be sentenced to a mandatory minimum term of
747 imprisonment of 7 years, and the defendant shall be ordered to
748 pay a fine of \$100,000.

749 c. Is 10 kilograms or more, such person shall be sentenced
750 to a mandatory minimum term of imprisonment of 15 calendar years

751 and pay a fine of \$250,000.

752 2. Any person who knowingly manufactures or brings into
753 this state 150 kilograms or more of gamma-hydroxybutyric acid
754 (GHB), as described in s. 893.03(1)(d), or any mixture
755 containing gamma-hydroxybutyric acid (GHB), and who knows that
756 the probable result of such manufacture or importation would be
757 the death of any person commits capital manufacture or
758 importation of gamma-hydroxybutyric acid (GHB), a capital felony
759 punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any person
760 sentenced for a capital felony under this paragraph shall also
761 be sentenced to pay the maximum fine provided under subparagraph
762 1.

763 (i)1. Any person who knowingly sells, purchases,
764 manufactures, delivers, or brings into this state, or who is
765 knowingly in actual or constructive possession of, 1 kilogram or
766 more of gamma-butyrolactone (GBL), as described in s.
767 893.03(1)(d), or any mixture containing gamma-butyrolactone
768 (GBL), commits a felony of the first degree, which felony shall
769 be known as "trafficking in gamma-butyrolactone (GBL),"
770 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
771 If the quantity involved:

772 a. Is 1 kilogram or more but less than 5 kilograms, such
773 person shall be sentenced to a mandatory minimum term of
774 imprisonment of 3 years, and the defendant shall be ordered to
775 pay a fine of \$50,000.

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776 b. Is 5 kilograms or more but less than 10 kilograms, such
777 person shall be sentenced to a mandatory minimum term of
778 imprisonment of 7 years, and the defendant shall be ordered to
779 pay a fine of \$100,000.

780 c. Is 10 kilograms or more, such person shall be sentenced
781 to a mandatory minimum term of imprisonment of 15 calendar years
782 and pay a fine of \$250,000.

783 2. Any person who knowingly manufactures or brings into
784 the state 150 kilograms or more of gamma-butyrolactone (GBL), as
785 described in s. 893.03(1)(d), or any mixture containing gamma-
786 butyrolactone (GBL), and who knows that the probable result of
787 such manufacture or importation would be the death of any person
788 commits capital manufacture or importation of gamma-
789 butyrolactone (GBL), a capital felony punishable as provided in
790 s. ss. 775.082 and 921.142. Any person sentenced for a capital
791 felony under this paragraph shall also be sentenced to pay the
792 maximum fine provided under subparagraph 1.

793 (j)1. Any person who knowingly sells, purchases,
794 manufactures, delivers, or brings into this state, or who is
795 knowingly in actual or constructive possession of, 1 kilogram or
796 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
797 any mixture containing 1,4-Butanediol, commits a felony of the
798 first degree, which felony shall be known as "trafficking in
799 1,4-Butanediol," punishable as provided in s. 775.082, s.
800 775.083, or s. 775.084. If the quantity involved:

801 a. Is 1 kilogram or more, but less than 5 kilograms, such
 802 person shall be sentenced to a mandatory minimum term of
 803 imprisonment of 3 years, and the defendant shall be ordered to
 804 pay a fine of \$50,000.

805 b. Is 5 kilograms or more, but less than 10 kilograms,
 806 such person shall be sentenced to a mandatory minimum term of
 807 imprisonment of 7 years, and the defendant shall be ordered to
 808 pay a fine of \$100,000.

809 c. Is 10 kilograms or more, such person shall be sentenced
 810 to a mandatory minimum term of imprisonment of 15 calendar years
 811 and pay a fine of \$500,000.

812 2. Any person who knowingly manufactures or brings into
 813 this state 150 kilograms or more of 1,4-Butanediol as described
 814 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
 815 and who knows that the probable result of such manufacture or
 816 importation would be the death of any person commits capital
 817 manufacture or importation of 1,4-Butanediol, a capital felony
 818 punishable as provided in s. ss. 775.082 and ~~921.142~~. Any person
 819 sentenced for a capital felony under this paragraph shall also
 820 be sentenced to pay the maximum fine provided under subparagraph
 821 1.

822 (k)1. A person who knowingly sells, purchases,
 823 manufactures, delivers, or brings into this state, or who is
 824 knowingly in actual or constructive possession of, 10 grams or
 825 more of a:

826 a. Substance described in s. 893.03(1)(c)4., 5., 10., 11.,
 827 15., 17., 21.-27., 29., 39., 40.-45., 58., 72.-80., 81.-86.,
 828 90.-102., 104.-108., 110.-113., 143.-145., 148.-150., 160.-163.,
 829 165., or 187.-189., a substituted cathinone, as described in s.
 830 893.03(1)(c)191., or substituted phenethylamine, as described in
 831 s. 893.03(1)(c)192.;

832 b. Mixture containing any substance described in sub-
 833 subparagraph a.; or

834 c. Salt, isomer, ester, or ether or salt of an isomer,
 835 ester, or ether of a substance described in sub-subparagraph a.,
 836
 837 commits a felony of the first degree, which felony shall be
 838 known as "trafficking in phenethylamines," punishable as
 839 provided in s. 775.082, s. 775.083, or s. 775.084.

840 2. If the quantity involved under subparagraph 1.:

841 a. Is 10 grams or more, but less than 200 grams, such
 842 person shall be sentenced to a mandatory minimum term of
 843 imprisonment of 3 years and shall be ordered to pay a fine of
 844 \$50,000.

845 b. Is 200 grams or more, but less than 400 grams, such
 846 person shall be sentenced to a mandatory minimum term of
 847 imprisonment of 7 years and shall be ordered to pay a fine of
 848 \$100,000.

849 c. Is 400 grams or more, such person shall be sentenced to
 850 a mandatory minimum term of imprisonment of 15 years and shall

851 be ordered to pay a fine of \$250,000.

852 3. A person who knowingly manufactures or brings into this
853 state 30 kilograms or more of a substance described in sub-
854 subparagraph 1.a., a mixture described in sub-subparagraph 1.b.,
855 or a salt, isomer, ester, or ether or a salt of an isomer,
856 ester, or ether described in sub-subparagraph 1.c., and who
857 knows that the probable result of such manufacture or
858 importation would be the death of any person commits capital
859 manufacture or importation of phenethylamines, a capital felony
860 punishable as provided in s. ss. 775.082 and ~~921.142~~. A person
861 sentenced for a capital felony under this paragraph shall also
862 be sentenced to pay the maximum fine under subparagraph 2.

863 (1)1. Any person who knowingly sells, purchases,
864 manufactures, delivers, or brings into this state, or who is
865 knowingly in actual or constructive possession of, 1 gram or
866 more of lysergic acid diethylamide (LSD) as described in s.
867 893.03(1)(c), or of any mixture containing lysergic acid
868 diethylamide (LSD), commits a felony of the first degree, which
869 felony shall be known as "trafficking in lysergic acid
870 diethylamide (LSD)," punishable as provided in s. 775.082, s.
871 775.083, or s. 775.084. If the quantity involved:

872 a. Is 1 gram or more, but less than 5 grams, such person
873 shall be sentenced to a mandatory minimum term of imprisonment
874 of 3 years, and the defendant shall be ordered to pay a fine of
875 \$50,000.

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876 b. Is 5 grams or more, but less than 7 grams, such person
877 shall be sentenced to a mandatory minimum term of imprisonment
878 of 7 years, and the defendant shall be ordered to pay a fine of
879 \$100,000.

880 c. Is 7 grams or more, such person shall be sentenced to a
881 mandatory minimum term of imprisonment of 15 calendar years and
882 pay a fine of \$500,000.

883 2. Any person who knowingly manufactures or brings into
884 this state 7 grams or more of lysergic acid diethylamide (LSD)
885 as described in s. 893.03(1)(c), or any mixture containing
886 lysergic acid diethylamide (LSD), and who knows that the
887 probable result of such manufacture or importation would be the
888 death of any person commits capital manufacture or importation
889 of lysergic acid diethylamide (LSD), a capital felony punishable
890 as provided in s. ss. 775.082 and ~~921.142~~. Any person sentenced
891 for a capital felony under this paragraph shall also be
892 sentenced to pay the maximum fine provided under subparagraph 1.

893 Section 18. Paragraph (e) of subsection (4) of section
894 944.275, Florida Statutes, is amended to read:

895 944.275 Gain-time.—

896 (4)

897 (e) Notwithstanding subparagraph (b)3., for sentences
898 imposed for offenses committed on or after October 1, 2014, the
899 department may not grant incentive gain-time if the offense is a
900 violation of s. 782.04(1)(b)3. ~~782.04(1)(a)2.e.~~; s.

901 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,
 902 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.
 903 847.0135(5).

904 Section 19. Paragraph (a) of subsection (5) of section
 905 948.012, Florida Statutes, is amended to read:

906 948.012 Split sentence of probation or community control
 907 and imprisonment.—

908 (5)(a) Effective for offenses committed on or after
 909 October 1, 2014, if the court imposes a term of years in
 910 accordance with s. 775.082 which is less than the maximum
 911 sentence for the offense, the court must impose a split sentence
 912 pursuant to subsection (1) for any person who is convicted of a
 913 violation of:

- 914 1. Section 782.04(1)(b)3. ~~782.04(1)(a)2.c.;~~
- 915 2. Section 787.01(3)(a)2. or 3.;
- 916 3. Section 787.02(3)(a)2. or 3.;
- 917 4. Section 794.011, excluding s. 794.011(10);
- 918 5. Section 800.04;
- 919 6. Section 825.1025; or
- 920 7. Section 847.0135(5).

921 Section 20. Sections 922.052, 922.06, 922.07, 922.08,
 922 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
 923 922.14, 922.15, 924.055, 924.056, and 924.057, Florida Statutes,
 924 are repealed.

925 Section 21. Subsection (4) of section 925.11, Florida
 926 Statutes, is amended to read:

927 925.11 Postsentencing DNA testing.—

928 (4) PRESERVATION OF EVIDENCE.—

929 ~~(a)~~ Governmental entities that may be in possession of any
 930 physical evidence in the case, including, but not limited to,
 931 any investigating law enforcement agency, the clerk of the
 932 court, the prosecuting authority, or the Department of Law
 933 Enforcement shall maintain any physical evidence collected at
 934 the time of the crime for which a postsentencing testing of DNA
 935 may be requested.

936 ~~(b) In a case in which the death penalty is imposed, the~~
 937 ~~evidence shall be maintained for 60 days after execution of the~~
 938 ~~sentence. In all other cases, a governmental entity may dispose~~
 939 ~~of the physical evidence if the term of the sentence imposed in~~
 940 ~~the case has expired and no other provision of law or rule~~
 941 ~~requires that the physical evidence be preserved or retained.~~

942 Section 22. Paragraphs (g), (h), and (i) of subsection (1)
 943 and subsection (2) of section 945.10, Florida Statutes, are
 944 amended to read:

945 945.10 Confidential information.—

946 (1) Except as otherwise provided by law or in this
 947 section, the following records and information held by the
 948 Department of Corrections are confidential and exempt from the
 949 provisions of s. 119.07(1) and s. 24(a), Art. I of the State

950 Constitution:

951 ~~(g) Information which identifies an executioner, or any~~
952 ~~person prescribing, preparing, compounding, dispensing, or~~
953 ~~administering a lethal injection.~~

954 (g)(h) The identity of any inmate or offender upon whom an
955 HIV test has been performed and the inmate's or offender's test
956 results, in accordance with s. 381.004. The term "HIV test" has
957 the same meaning as provided in s. 381.004. This paragraph is
958 subject to the Open Government Sunset Review Act of 1995 in
959 accordance with s. 119.15 and shall stand repealed on October 2,
960 2022, unless reviewed and saved from repeal through reenactment
961 by the Legislature.

962 (h)(i) Records that are otherwise confidential or exempt
963 from public disclosure by law.

964 (2) The records and information specified in paragraphs
965 (1)(a)-(h) ~~(1)(a)-(i)~~ may be released as follows unless
966 expressly prohibited by federal law:

967 (a) Information specified in paragraphs (1)(b), (d), and
968 (f) to the Executive Office of the Governor, the Legislature,
969 the Florida Commission on Offender Review, the Department of
970 Children and Families, a private correctional facility or
971 program that operates under a contract, the Department of Legal
972 Affairs, a state attorney, the court, or a law enforcement
973 agency. A request for records or information pursuant to this
974 paragraph need not be in writing.

975 (b) Information specified in paragraphs (1)(c), (e), and
976 (h) ~~(i)~~ to the Executive Office of the Governor, the
977 Legislature, the Florida Commission on Offender Review, the
978 Department of Children and Families, a private correctional
979 facility or program that operates under contract, the Department
980 of Legal Affairs, a state attorney, the court, or a law
981 enforcement agency. A request for records or information
982 pursuant to this paragraph must be in writing and a statement
983 provided demonstrating a need for the records or information.

984 (c) Information specified in paragraph (1)(b) to an
985 attorney representing an inmate under sentence of death, except
986 those portions of the records containing a victim's statement or
987 address, or the statement or address of a relative of the
988 victim. A request for records of information pursuant to this
989 paragraph must be in writing and a statement provided
990 demonstrating a need for the records or information.

991 (d) Information specified in paragraph (1)(b) to a public
992 defender representing a defendant, except those portions of the
993 records containing a victim's statement or address, or the
994 statement or address of a relative of the victim. A request for
995 records or information pursuant to this paragraph need not be in
996 writing.

997 (e) Information specified in paragraph (1)(b) to state or
998 local governmental agencies. A request for records or
999 information pursuant to this paragraph must be in writing and a

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1000 statement provided demonstrating a need for the records or
1001 information.

1002 (f) Information specified in paragraph (1)(b) to a person
1003 conducting legitimate research. A request for records and
1004 information pursuant to this paragraph must be in writing, the
1005 person requesting the records or information must sign a
1006 confidentiality agreement, and the department must approve the
1007 request in writing.

1008 (g) Protected health information and records specified in
1009 paragraphs (1)(a) and (i) ~~(h)~~ to the Department of Health and
1010 the county health department where an inmate plans to reside if
1011 he or she has tested positive for the presence of the antibody
1012 or antigen to human immunodeficiency virus infection or as
1013 authorized in s. 381.004.

1014 (h) Protected health information and mental health,
1015 medical, or substance abuse records specified in paragraph
1016 (1)(a) to the Executive Office of the Governor, the Correctional
1017 Medical Authority, and the Department of Health for health care
1018 oversight activities authorized by state or federal law,
1019 including audits; civil, administrative, or criminal
1020 investigations; or inspections relating to the provision of
1021 health services, in accordance with 45 C.F.R. part 164, subpart
1022 E.

1023 (i) Protected health information and mental health,
1024 medical, or substance abuse records specified in paragraph

1025 (1) (a) to a state attorney, a state court, or a law enforcement
 1026 agency conducting an ongoing criminal investigation, if the
 1027 inmate agrees to the disclosure and provides written consent or,
 1028 if the inmate refuses to provide written consent, in response to
 1029 an order of a court of competent jurisdiction, a subpoena,
 1030 including a grand jury, investigative, or administrative
 1031 subpoena, a court-ordered warrant, or a statutorily authorized
 1032 investigative demand or other process as authorized by law, in
 1033 accordance with 45 C.F.R. part 164, subpart E, provided that:

1034 1. The protected health information and records sought are
 1035 relevant and material to a legitimate law enforcement inquiry;

1036 2. There is a clear connection between the investigated
 1037 incident and the inmate whose protected health information and
 1038 records are sought;

1039 3. The request is specific and limited in scope to the
 1040 extent reasonably practicable in light of the purpose for which
 1041 the information or records are sought; and

1042 4. Deidentified information could not reasonably be used.

1043 (j) Protected health information and mental health,
 1044 medical, or substance abuse records specified in paragraph
 1045 (1) (a) of an inmate who is or is suspected of being the victim
 1046 of a crime, to a state attorney or a law enforcement agency if
 1047 the inmate agrees to the disclosure and provides written consent
 1048 or if the inmate is unable to agree because of incapacity or
 1049 other emergency circumstance, in accordance with 45 C.F.R. part

1050 164, subpart E, provided that:

1051 1. Such protected health information and records are
 1052 needed to determine whether a violation of law by a person other
 1053 than the inmate victim has occurred;

1054 2. Such protected health information or records are not
 1055 intended to be used against the inmate victim;

1056 3. The immediate law enforcement activity that depends
 1057 upon the disclosure would be materially and adversely affected
 1058 by waiting until the inmate victim is able to agree to the
 1059 disclosure; and

1060 4. The disclosure is in the best interests of the inmate
 1061 victim, as determined by the department.

1062 (k) Protected health information and mental health,
 1063 medical, or substance abuse records specified in paragraph
 1064 (1) (a) to a state attorney or a law enforcement agency if the
 1065 department believes in good faith that the information and
 1066 records constitute evidence of criminal conduct that occurred in
 1067 a correctional institution or facility, in accordance with 45
 1068 C.F.R. part 164, subpart E, provided that:

1069 1. The protected health information and records disclosed
 1070 are specific and limited in scope to the extent reasonably
 1071 practicable in light of the purpose for which the information or
 1072 records are sought;

1073 2. There is a clear connection between the criminal
 1074 conduct and the inmate whose protected health information and

1075 records are sought; and

1076 3. Deidentified information could not reasonably be used.

1077 (1) Protected health information and mental health,
 1078 medical, or substance abuse records specified in paragraph
 1079 (1) (a) to the Division of Risk Management of the Department of
 1080 Financial Services, in accordance with 45 C.F.R. part 164,
 1081 subpart E, upon certification by the Division of Risk Management
 1082 that such information and records are necessary to investigate
 1083 and provide legal representation for a claim against the
 1084 Department of Corrections.

1085 (m) Protected health information and mental health,
 1086 medical, or substance abuse records specified in paragraph
 1087 (1) (a) of an inmate who is bringing a legal action against the
 1088 department, to the Department of Legal Affairs or to an attorney
 1089 retained to represent the department in a legal proceeding, in
 1090 accordance with 45 C.F.R. part 164, subpart E.

1091 (n) Protected health information and mental health,
 1092 medical, or substance abuse records of an inmate as specified in
 1093 paragraph (1) (a) to another correctional institution or facility
 1094 or law enforcement official having lawful custody of the inmate,
 1095 in accordance with 45 C.F.R. part 164, subpart E, if the
 1096 protected health information or records are necessary for:

- 1097 1. The provision of health care to the inmate;
- 1098 2. The health and safety of the inmate or other inmates;
- 1099 3. The health and safety of the officers, employees, or

1100 | others at the correctional institution or facility;

1101 | 4. The health and safety of the individuals or officers

1102 | responsible for transporting the inmate from one correctional

1103 | institution, facility, or setting to another;

1104 | 5. Law enforcement on the premises of the correctional

1105 | institution or facility; or

1106 | 6. The administration and maintenance of the safety,

1107 | security, and good order of the correctional institution or

1108 | facility.

1109 | (o) Protected health information and mental health,

1110 | medical, or substance abuse records of an inmate as specified in

1111 | paragraph (1)(a) to the Department of Children and Families and

1112 | the Florida Commission on Offender Review, in accordance with 45

1113 | C.F.R. part 164, subpart E, if the inmate received mental health

1114 | treatment while in the custody of the Department of Corrections

1115 | and becomes eligible for release under supervision or upon the

1116 | end of his or her sentence.

1117 | (p) Notwithstanding s. 456.057 and in accordance with 45

1118 | C.F.R. part 164, subpart E, protected health information and

1119 | mental health, medical, or substance abuse records specified in

1120 | paragraph (1)(a) of a deceased inmate or offender to an

1121 | individual with authority to act on behalf of the deceased

1122 | inmate or offender, upon the individual's request. For purposes

1123 | of this section, the following individuals have authority to act

1124 | on behalf of a deceased inmate or offender only for the purpose

1125 of requesting access to such protected health information and
 1126 records:

1127 1. A person appointed by a court to act as the personal
 1128 representative, executor, administrator, curator, or temporary
 1129 administrator of the deceased inmate's or offender's estate;

1130 2. If a court has not made a judicial appointment under
 1131 subparagraph 1., a person designated by the inmate or offender
 1132 to act as his or her personal representative in a last will that
 1133 is self-proved under s. 732.503; or

1134 3. If a court has not made a judicial appointment under
 1135 subparagraph 1. or if the inmate or offender has not designated
 1136 a person in a self-proved last will as provided in subparagraph
 1137 2., only the following individuals:

1138 a. A surviving spouse.

1139 b. If there is no surviving spouse, a surviving adult
 1140 child of the inmate or offender.

1141 c. If there is no surviving spouse or adult child, a
 1142 parent of the inmate or offender.

1143 (q) All requests for access to a deceased inmate's or
 1144 offender's protected health information or mental health,
 1145 medical, or substance abuse records specified in paragraph
 1146 (1)(a) must be in writing and must be accompanied by the
 1147 following:

1148 1. If made by a person authorized under subparagraph
 1149 (p)1., a copy of the letter of administration and a copy of the

1150 court order appointing such person as the representative of the
1151 inmate's or offender's estate.

1152 2. If made by a person authorized under subparagraph
1153 (p)2., a copy of the self-proved last will designating the
1154 person as the inmate's or offender's representative.

1155 3. If made by a person authorized under subparagraph
1156 (p)3., a letter from the person's attorney verifying the
1157 person's relationship to the inmate or offender and the absence
1158 of a court-appointed representative and self-proved last will.

1159

1160 Records and information released under this subsection remain
1161 confidential and exempt from the provisions of s. 119.07(1) and
1162 s. 24(a), Art. I of the State Constitution when held by the
1163 receiving person or entity.

1164 Section 23. This act shall take effect upon becoming a
1165 law.