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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; repealing ss.
10 27.7001, 27.7002, 27.701, 27.702, 27.703, 27.704,
11 27.705, 27.706, 27.707, 27.708, 27.7081, 27.7091,
12 27.710, 27.711, and 27.715, F.S., relating to capital
13 collateral representation; amending s. 119.071, F.S.;
14 deleting a public records exemption relating to
15 capital collateral proceedings; amending ss. 775.15
16 and 790.161, F.S.; deleting provisions relating to the
17 effect of a declaration by a court of last resort
18 declaring that the death penalty in a capital felony
19 is unconstitutional; repealing s. 913.13, F.S.,
20 relating to jurors in capital cases; repealing s.
21 921.137, F.S., relating to prohibiting the imposition
22 of the death sentence upon a defendant with mental
23 retardation; repealing s. 921.141, F.S., relating to
24 determination of whether to impose a sentence of death
25 or life imprisonment for a capital felony; repealing
26 s. 921.142, F.S., relating to determination of whether
27 to impose a sentence of death or life imprisonment for
28 a capital drug trafficking felony; amending ss.

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29 | 782.04, 394.912 782.065, 794.011, and 893.135, F.S.;

30 | conforming provisions to changes made by the act;

31 | repealing ss. 922.052, 922.06, 922.07, 922.08,

32 | 922.095, 922.10, 922.105, 922.108, 922.11, 922.111,

33 | 922.12, 922.14, and 922.15, F.S., relating to issuance

34 | of warrant of execution, stay of execution of death

35 | sentence, proceedings when person under sentence of

36 | death appears to be insane, proceedings when person

37 | under sentence of death appears to be pregnant,

38 | grounds for death warrant, execution of death

39 | sentence, prohibition against reduction of death

40 | sentence as a result of determination that a method of

41 | execution is unconstitutional, sentencing orders in

42 | capital cases, regulation of execution, transfer to

43 | state prison for safekeeping before death warrant

44 | issued, return of warrant of execution issued by

45 | Governor, sentence of death unexecuted for

46 | unjustifiable reasons, and return of warrant of

47 | execution issued by Supreme Court, respectively;

48 | amending s. 924.055, F.S.; deleting provisions

49 | relating to legislative intent concerning appeals and

50 | postconviction proceedings in death penalty cases;

51 | repealing ss. 924.056 and 924.057, F.S., relating to

52 | commencement of capital postconviction actions for

53 | which sentence of death is imposed on or after January

54 | 14, 2000, and limitation on postconviction cases in

55 | which the death sentence was imposed before January

56 | 14, 2000, respectively; amending ss. 924.058 and

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57 924.059, F.S.; conforming provisions to changes made
 58 by the act; amending s. 925.11, F.S.; deleting
 59 provisions relating to preservation of DNA evidence in
 60 death penalty cases; amending s. 945.10, F.S.;
 61 deleting a public records exemption for the identity
 62 of executioners; providing an effective date.

63
 64 Be It Enacted by the Legislature of the State of Florida:

65
 66 Section 1. Subsections (1) and (2) of section 775.082,
 67 Florida Statutes, are amended to read:

68 775.082 Penalties; applicability of sentencing structures;
 69 mandatory minimum sentences for certain reoffenders previously
 70 released from prison.—

71 (1) A person who has been convicted of a capital felony
 72 shall be ~~punished by death if the proceeding held to determine~~
 73 ~~sentence according to the procedure set forth in s. 921.141~~
 74 ~~results in findings by the court that such person shall be~~
 75 ~~punished by death, otherwise such person shall be~~ punished by
 76 life imprisonment and shall be ineligible for parole.

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

85 ~~execution is held to be unconstitutional under the State~~
 86 ~~Constitution or the Constitution of the United States.~~

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

89 27.51 Duties of public defender.—

90 (1) The public defender shall represent, without
 91 additional compensation, any person determined to be indigent
 92 under s. 27.52 and:

93 (d) Sought by petition filed in such court to be
 94 involuntarily placed as a mentally ill person under part I of
 95 chapter 394, involuntarily committed as a sexually violent
 96 predator under part V of chapter 394, or involuntarily admitted
 97 to residential services as a person with developmental
 98 disabilities under chapter 393. A public defender shall not
 99 represent any plaintiff in a civil action brought under the
 100 Florida Rules of Civil Procedure, the Federal Rules of Civil
 101 Procedure, or the federal statutes, or represent a petitioner in
 102 a rule challenge under chapter 120, unless specifically
 103 authorized by statute; or

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

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

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

111 27.511 Offices of criminal conflict and civil regional
 112 counsel; legislative intent; qualifications; appointment;

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113 duties.—

114 (5) When the Office of the Public Defender, at any time
115 during the representation of two or more defendants, determines
116 that the interests of those accused are so adverse or hostile
117 that they cannot all be counseled by the public defender or his
118 or her staff without a conflict of interest, or that none can be
119 counseled by the public defender or his or her staff because of
120 a conflict of interest, and the court grants the public
121 defender's motion to withdraw, the office of criminal conflict
122 and civil regional counsel shall be appointed and shall provide
123 legal services, without additional compensation, to any person
124 determined to be indigent under s. 27.52, who is:

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

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

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

135 (8) The public defender for the judicial circuit specified
136 in s. 27.51(4) shall, after the record on appeal is transmitted
137 to the appellate court by the office of criminal conflict and
138 civil regional counsel which handled the trial and if requested
139 by the regional counsel for the indicated appellate district,
140 handle all circuit court appeals authorized pursuant to

141 paragraph (5) ~~(e)-(f)~~ within the state courts system and any
 142 authorized appeals to the federal courts required of the
 143 official making the request. If the public defender certifies to
 144 the court that the public defender has a conflict consistent
 145 with the criteria prescribed in s. 27.5303 and moves to
 146 withdraw, the regional counsel shall handle the appeal, unless
 147 the regional counsel has a conflict, in which case the court
 148 shall appoint private counsel pursuant to s. 27.40.

149 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,
 150 27.703, 27.704, 27.705, 27.706, 27.707, 27.708, 27.7081,
 151 27.7091, 27.710, 27.711, and 27.715, Florida Statutes, are
 152 repealed.

153 Section 5. Paragraph (d) of subsection (1) of section
 154 119.071, Florida Statutes, is amended to read:

155 119.071 General exemptions from inspection or copying of
 156 public records.—

157 (1) AGENCY ADMINISTRATION.—

158 (d)1. A public record that was prepared by an agency
 159 attorney (including an attorney employed or retained by the
 160 agency or employed or retained by another public officer or
 161 agency to protect or represent the interests of the agency
 162 having custody of the record) or prepared at the attorney's
 163 express direction, that reflects a mental impression,
 164 conclusion, litigation strategy, or legal theory of the attorney
 165 or the agency, and that was prepared exclusively for civil or
 166 criminal litigation or for adversarial administrative
 167 proceedings, or that was prepared in anticipation of imminent
 168 civil or criminal litigation or imminent adversarial

169 administrative proceedings, is exempt from s. 119.07(1) and s.
 170 24(a), Art. I of the State Constitution until the conclusion of
 171 the litigation or adversarial administrative proceedings. ~~For~~
 172 ~~purposes of capital collateral litigation as set forth in s.~~
 173 ~~27.7001, the Attorney General's office is entitled to claim this~~
 174 ~~exemption for those public records prepared for direct appeal as~~
 175 ~~well as for all capital collateral litigation after direct~~
 176 ~~appeal until execution of sentence or imposition of a life~~
 177 ~~sentence.~~

178 2. This exemption is not waived by the release of such
 179 public record to another public employee or officer of the same
 180 agency or any person consulted by the agency attorney. When
 181 asserting the right to withhold a public record pursuant to this
 182 paragraph, the agency shall identify the potential parties to
 183 any such criminal or civil litigation or adversarial
 184 administrative proceedings. If a court finds that the document
 185 or other record has been improperly withheld under this
 186 paragraph, the party seeking access to such document or record
 187 shall be awarded reasonable attorney's fees and costs in
 188 addition to any other remedy ordered by the court.

189 Section 6. Subsection (1) of section 775.15, Florida
 190 Statutes, is amended to read:

191 775.15 Time limitations; general time limitations;
 192 exceptions.—

193 (1) A prosecution for a capital felony, a life felony, or
 194 a felony that resulted in a death may be commenced at any time.
 195 ~~If the death penalty is held to be unconstitutional by the~~
 196 ~~Florida Supreme Court or the United States Supreme Court, all~~

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197 ~~crimes designated as capital felonies shall be considered life~~
 198 ~~felonies for the purposes of this section, and prosecution for~~
 199 ~~such crimes may be commenced at any time.~~

200 Section 7. Subsection (4) of section 790.161, Florida
 201 Statutes, is amended to read:

202 790.161 Making, possessing, throwing, projecting, placing,
 203 or discharging any destructive device or attempt so to do,
 204 felony; penalties.—A person who willfully and unlawfully makes,
 205 possesses, throws, projects, places, discharges, or attempts to
 206 make, possess, throw, project, place, or discharge any
 207 destructive device:

208 (4) If the act results in the death of another person,
 209 commits a capital felony, punishable as provided in s. 775.082.
 210 ~~In the event the death penalty in a capital felony is held to be~~
 211 ~~unconstitutional by the Florida Supreme Court or the United~~
 212 ~~States Supreme Court, the court having jurisdiction over a~~
 213 ~~person previously sentenced to death for a capital felony shall~~
 214 ~~cause such person to be brought before the court, and the court~~
 215 ~~shall sentence such person to life imprisonment if convicted of~~
 216 ~~murder in the first degree or of a capital felony under this~~
 217 ~~subsection, and such person shall be ineligible for parole. No~~
 218 ~~sentence of death shall be reduced as a result of a~~
 219 ~~determination that a method of execution is held to be~~
 220 ~~unconstitutional under the State Constitution or the~~
 221 ~~Constitution of the United States.~~

222 Section 8. Section 913.13, Florida Statutes, is repealed.

223 Section 9. Section 921.137, Florida Statutes, is repealed.

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224 Section 10. Sections 921.141 and 921.142, Florida
 225 Statutes, are repealed.

226 Section 11. Subsection (1) of section 782.04, Florida
 227 Statutes, is amended to read:

228 782.04 Murder.—

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

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

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

234 1.a. Trafficking offense prohibited by s. 893.135(1),
 235 2.b. Arson,
 236 3.e. Sexual battery,
 237 4.d. Robbery,
 238 5.e. Burglary,
 239 6.f. Kidnapping,
 240 7.g. Escape,
 241 8.h. Aggravated child abuse,
 242 9.i. Aggravated abuse of an elderly person or disabled
 243 adult,
 244 10.j. Aircraft piracy,
 245 11.k. Unlawful throwing, placing, or discharging of a
 246 destructive device or bomb,
 247 12.l. Carjacking,
 248 13.m. Home-invasion robbery,
 249 14.n. Aggravated stalking,
 250 15.o. Murder of another human being,
 251 16.p. Resisting an officer with violence to his or her

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252 person, or

253 ~~17.c.~~ Felony that is an act of terrorism or is in
 254 furtherance of an act of terrorism; or

255 ~~(c)3.~~ Which resulted from the unlawful distribution of any
 256 substance controlled under s. 893.03(1), cocaine as described in
 257 s. 893.03(2) (a)4., opium or any synthetic or natural salt,
 258 compound, derivative, or preparation of opium, or methadone by a
 259 person 18 years of age or older, when such drug is proven to be
 260 the proximate cause of the death of the user,

261
 262 is murder in the first degree and constitutes a capital felony,
 263 punishable as provided in s. 775.082.

264 ~~(b) In all cases under this section, the procedure set~~
 265 ~~forth in s. 921.141 shall be followed in order to determine~~
 266 ~~sentence of death or life imprisonment.~~

267 Section 12. Paragraph (a) of subsection (9) of section
 268 394.912, Florida Statutes, is amended to read:

269 394.912 Definitions.—As used in this part, the term:

270 (9) "Sexually violent offense" means:

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

273 Section 13. Subsection (1) of section 782.065, Florida
 274 Statutes, is amended to read:

275 782.065 Murder; law enforcement officer.—Notwithstanding
 276 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a
 277 defendant shall be sentenced to life imprisonment without
 278 eligibility for release upon findings by the trier of fact that,
 279 beyond a reasonable doubt:

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280 (1) The defendant committed murder in the first degree in
 281 violation of s. 782.04(1) and a death sentence was not imposed;
 282 murder in the second or third degree in violation of s.
 283 782.04(2), (3), or (4); attempted murder in the first or second
 284 degree in violation of s. 782.04(1)(a) ~~782.04(1)(a)1.~~ or (2); or
 285 attempted felony murder in violation of s. 782.051; and

286 Section 14. Paragraph (a) of subsection (2) of section
 287 794.011, Florida Statutes, is amended to read:

288 794.011 Sexual battery.—

289 (2)(a) A person 18 years of age or older who commits
 290 sexual battery upon, or in an attempt to commit sexual battery
 291 injures the sexual organs of, a person less than 12 years of age
 292 commits a capital felony, punishable as provided in s. ss.
 293 775.082 ~~and 921.141.~~

294 Section 15. Paragraphs (b) through (l) of subsection (1)
 295 of section 893.135, Florida Statutes, are amended to read:

296 893.135 Trafficking; mandatory sentences; suspension or
 297 reduction of sentences; conspiracy to engage in trafficking.—

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

300 (b)1. Any person who knowingly sells, purchases,
 301 manufactures, delivers, or brings into this state, or who is
 302 knowingly in actual or constructive possession of, 28 grams or
 303 more of cocaine, as described in s. 893.03(2)(a)4., or of any
 304 mixture containing cocaine, but less than 150 kilograms of
 305 cocaine or any such mixture, commits a felony of the first
 306 degree, which felony shall be known as "trafficking in cocaine,"
 307 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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308 If the quantity involved:

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

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

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

320 2. Any person who knowingly sells, purchases,
321 manufactures, delivers, or brings into this state, or who is
322 knowingly in actual or constructive possession of, 150 kilograms
323 or more of cocaine, as described in s. 893.03(2)(a)4., commits
324 the first degree felony of trafficking in cocaine. A person who
325 has been convicted of the first degree felony of trafficking in
326 cocaine under this subparagraph shall be punished by life
327 imprisonment and is ineligible for any form of discretionary
328 early release except pardon or executive clemency or conditional
329 medical release under s. 947.149. However, if the court
330 determines that, in addition to committing any act specified in
331 this paragraph:

332 a. The person intentionally killed an individual or
333 counseled, commanded, induced, procured, or caused the
334 intentional killing of an individual and such killing was the
335 result; or

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336 b. The person's conduct in committing that act led to a
 337 natural, though not inevitable, lethal result,
 338
 339 such person commits the capital felony of trafficking in
 340 cocaine, punishable as provided in s. ss. 775.082 and ~~921.142~~.
 341 Any person sentenced for a capital felony under this paragraph
 342 shall also be sentenced to pay the maximum fine provided under
 343 subparagraph 1.

344 3. Any person who knowingly brings into this state 300
 345 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
 346 and who knows that the probable result of such importation would
 347 be the death of any person, commits capital importation of
 348 cocaine, a capital felony punishable as provided in s. ss.
 349 ~~775.082 and 921.142~~. Any person sentenced for a capital felony
 350 under this paragraph shall also be sentenced to pay the maximum
 351 fine provided under subparagraph 1.

352 (c)1. Any person who knowingly sells, purchases,
 353 manufactures, delivers, or brings into this state, or who is
 354 knowingly in actual or constructive possession of, 4 grams or
 355 more of any morphine, opium, oxycodone, hydrocodone,
 356 hydromorphone, or any salt, derivative, isomer, or salt of an
 357 isomer thereof, including heroin, as described in s.
 358 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
 359 of any mixture containing any such substance, but less than 30
 360 kilograms of such substance or mixture, commits a felony of the
 361 first degree, which felony shall be known as "trafficking in
 362 illegal drugs," punishable as provided in s. 775.082, s.
 363 775.083, or s. 775.084. If the quantity involved:

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364 a. Is 4 grams or more, but less than 14 grams, such person
 365 shall be sentenced to a mandatory minimum term of imprisonment
 366 of 3 years, and the defendant shall be ordered to pay a fine of
 367 \$50,000.

368 b. Is 14 grams or more, but less than 28 grams, such
 369 person shall be sentenced to a mandatory minimum term of
 370 imprisonment of 15 years, and the defendant shall be ordered to
 371 pay a fine of \$100,000.

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

375 2. Any person who knowingly sells, purchases,
 376 manufactures, delivers, or brings into this state, or who is
 377 knowingly in actual or constructive possession of, 30 kilograms
 378 or more of any morphine, opium, oxycodone, hydrocodone,
 379 hydromorphone, or any salt, derivative, isomer, or salt of an
 380 isomer thereof, including heroin, as described in s.
 381 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
 382 more of any mixture containing any such substance, commits the
 383 first degree felony of trafficking in illegal drugs. A person
 384 who has been convicted of the first degree felony of trafficking
 385 in illegal drugs under this subparagraph shall be punished by
 386 life imprisonment and is ineligible for any form of
 387 discretionary early release except pardon or executive clemency
 388 or conditional medical release under s. 947.149. However, if the
 389 court determines that, in addition to committing any act
 390 specified in this paragraph:

391 a. The person intentionally killed an individual or

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392 counseled, commanded, induced, procured, or caused the
393 intentional killing of an individual and such killing was the
394 result; or

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

397
398 such person commits the capital felony of trafficking in illegal
399 drugs, punishable as provided in s. ss. 775.082 and ~~921.142~~. Any
400 person sentenced for a capital felony under this paragraph shall
401 also be sentenced to pay the maximum fine provided under
402 subparagraph 1.

403 3. Any person who knowingly brings into this state 60
404 kilograms or more of any morphine, opium, oxycodone,
405 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
406 salt of an isomer thereof, including heroin, as described in s.
407 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
408 more of any mixture containing any such substance, and who knows
409 that the probable result of such importation would be the death
410 of any person, commits capital importation of illegal drugs, a
411 capital felony punishable as provided in s. ss. 775.082 and
412 ~~921.142~~. Any person sentenced for a capital felony under this
413 paragraph shall also be sentenced to pay the maximum fine
414 provided under subparagraph 1.

415 (d)1. Any person who knowingly sells, purchases,
416 manufactures, delivers, or brings into this state, or who is
417 knowingly in actual or constructive possession of, 28 grams or
418 more of phencyclidine or of any mixture containing
419 phencyclidine, as described in s. 893.03(2)(b), commits a felony

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420 of the first degree, which felony shall be known as "trafficking
 421 in phencyclidine," punishable as provided in s. 775.082, s.
 422 775.083, or s. 775.084. If the quantity involved:

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

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

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

434 2. Any person who knowingly brings into this state 800
 435 grams or more of phencyclidine or of any mixture containing
 436 phencyclidine, as described in s. 893.03(2)(b), and who knows
 437 that the probable result of such importation would be the death
 438 of any person commits capital importation of phencyclidine, a
 439 capital felony punishable as provided in s. 775.082 and
 440 ~~921.142~~. Any person sentenced for a capital felony under this
 441 paragraph shall also be sentenced to pay the maximum fine
 442 provided under subparagraph 1.

443 (e)1. Any person who knowingly sells, purchases,
 444 manufactures, delivers, or brings into this state, or who is
 445 knowingly in actual or constructive possession of, 200 grams or
 446 more of methaqualone or of any mixture containing methaqualone,
 447 as described in s. 893.03(1)(d), commits a felony of the first

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448 degree, which felony shall be known as "trafficking in
 449 methaqualone," punishable as provided in s. 775.082, s. 775.083,
 450 or s. 775.084. If the quantity involved:

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

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

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

462 2. Any person who knowingly brings into this state 50
 463 kilograms or more of methaqualone or of any mixture containing
 464 methaqualone, as described in s. 893.03(1)(d), and who knows
 465 that the probable result of such importation would be the death
 466 of any person commits capital importation of methaqualone, a
 467 capital felony punishable as provided in s. 775.082 and
 468 ~~921.142~~. Any person sentenced for a capital felony under this
 469 paragraph shall also be sentenced to pay the maximum fine
 470 provided under subparagraph 1.

471 (f)1. Any person who knowingly sells, purchases,
 472 manufactures, delivers, or brings into this state, or who is
 473 knowingly in actual or constructive possession of, 14 grams or
 474 more of amphetamine, as described in s. 893.03(2)(c)2., or
 475 methamphetamine, as described in s. 893.03(2)(c)4., or of any

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476 mixture containing amphetamine or methamphetamine, or
477 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
478 in conjunction with other chemicals and equipment utilized in
479 the manufacture of amphetamine or methamphetamine, commits a
480 felony of the first degree, which felony shall be known as
481 "trafficking in amphetamine," punishable as provided in s.
482 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

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

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

494 2. Any person who knowingly manufactures or brings into
495 this state 400 grams or more of amphetamine, as described in s.
496 893.03(2)(c)2., or methamphetamine, as described in s.
497 893.03(2)(c)4., or of any mixture containing amphetamine or
498 methamphetamine, or phenylacetone, phenylacetic acid,
499 pseudoephedrine, or ephedrine in conjunction with other
500 chemicals and equipment used in the manufacture of amphetamine
501 or methamphetamine, and who knows that the probable result of
502 such manufacture or importation would be the death of any person
503 commits capital manufacture or importation of amphetamine, a

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504 capital felony punishable as provided in s. 775.082 ~~and~~
 505 ~~921.142~~. Any person sentenced for a capital felony under this
 506 paragraph shall also be sentenced to pay the maximum fine
 507 provided under subparagraph 1.

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

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

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

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

527 2. Any person who knowingly sells, purchases,
 528 manufactures, delivers, or brings into this state or who is
 529 knowingly in actual or constructive possession of 30 kilograms
 530 or more of flunitrazepam or any mixture containing flunitrazepam
 531 as described in s. 893.03(1)(a) commits the first degree felony

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532 of trafficking in flunitrazepam. A person who has been convicted
 533 of the first degree felony of trafficking in flunitrazepam under
 534 this subparagraph shall be punished by life imprisonment and is
 535 ineligible for any form of discretionary early release except
 536 pardon or executive clemency or conditional medical release
 537 under s. 947.149. However, if the court determines that, in
 538 addition to committing any act specified in this paragraph:

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

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

545
 546 such person commits the capital felony of trafficking in
 547 flunitrazepam, punishable as provided in s. 775.082 and
 548 ~~921.142~~. Any person sentenced for a capital felony under this
 549 paragraph shall also be sentenced to pay the maximum fine
 550 provided under subparagraph 1.

551 (h)1. Any person who knowingly sells, purchases,
 552 manufactures, delivers, or brings into this state, or who is
 553 knowingly in actual or constructive possession of, 1 kilogram or
 554 more of gamma-hydroxybutyric acid (GHB), as described in s.
 555 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
 556 acid (GHB), commits a felony of the first degree, which felony
 557 shall be known as "trafficking in gamma-hydroxybutyric acid
 558 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
 559 775.084. If the quantity involved:

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

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

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

571 2. Any person who knowingly manufactures or brings into
572 this state 150 kilograms or more of gamma-hydroxybutyric acid
573 (GHB), as described in s. 893.03(1)(d), or any mixture
574 containing gamma-hydroxybutyric acid (GHB), and who knows that
575 the probable result of such manufacture or importation would be
576 the death of any person commits capital manufacture or
577 importation of gamma-hydroxybutyric acid (GHB), a capital felony
578 punishable as provided in s. ss. 775.082 and ~~921.142~~. Any person
579 sentenced for a capital felony under this paragraph shall also
580 be sentenced to pay the maximum fine provided under subparagraph
581 1.

582 (i)1. Any person who knowingly sells, purchases,
583 manufactures, delivers, or brings into this state, or who is
584 knowingly in actual or constructive possession of, 1 kilogram or
585 more of gamma-butyrolactone (GBL), as described in s.
586 893.03(1)(d), or any mixture containing gamma-butyrolactone
587 (GBL), commits a felony of the first degree, which felony shall

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588 be known as "trafficking in gamma-butyrolactone (GBL),"
589 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

590 If the quantity involved:

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

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

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

602 2. Any person who knowingly manufactures or brings into
603 the state 150 kilograms or more of gamma-butyrolactone (GBL), as
604 described in s. 893.03(1)(d), or any mixture containing gamma-
605 butyrolactone (GBL), and who knows that the probable result of
606 such manufacture or importation would be the death of any person
607 commits capital manufacture or importation of gamma-
608 butyrolactone (GBL), a capital felony punishable as provided in
609 s. ss. 775.082 and 921.142. Any person sentenced for a capital
610 felony under this paragraph shall also be sentenced to pay the
611 maximum fine provided under subparagraph 1.

612 (j)1. Any person who knowingly sells, purchases,
613 manufactures, delivers, or brings into this state, or who is
614 knowingly in actual or constructive possession of, 1 kilogram or
615 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of

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616 any mixture containing 1,4-Butanediol, commits a felony of the
617 first degree, which felony shall be known as "trafficking in
618 1,4-Butanediol," punishable as provided in s. 775.082, s.
619 775.083, or s. 775.084. If the quantity involved:

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

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

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

631 2. Any person who knowingly manufactures or brings into
632 this state 150 kilograms or more of 1,4-Butanediol as described
633 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
634 and who knows that the probable result of such manufacture or
635 importation would be the death of any person commits capital
636 manufacture or importation of 1,4-Butanediol, a capital felony
637 punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any person
638 sentenced for a capital felony under this paragraph shall also
639 be sentenced to pay the maximum fine provided under subparagraph
640 1.

641 (k)1. Any person who knowingly sells, purchases,
642 manufactures, delivers, or brings into this state, or who is
643 knowingly in actual or constructive possession of, 10 grams or

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644 more of any of the following substances described in s.

645 893.03(1) (a) or (c):

- 646 a. 3,4-Methylenedioxyamphetamine (MDMA);
- 647 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 648 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 649 d. 2,5-Dimethoxyamphetamine;
- 650 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 651 f. N-ethylamphetamine;
- 652 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 653 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 654 i. 4-methoxyamphetamine;
- 655 j. 4-methoxymethamphetamine;
- 656 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 657 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 658 m. 3,4-Methylenedioxyamphetamine;
- 659 n. N,N-dimethylamphetamine; or
- 660 o. 3,4,5-Trimethoxyamphetamine,

661
 662 individually or in any combination of or any mixture containing
 663 any substance listed in sub-subparagraphs a.-o., commits a
 664 felony of the first degree, which felony shall be known as
 665 "trafficking in Phenethylamines," punishable as provided in s.
 666 775.082, s. 775.083, or s. 775.084.

667 2. If the quantity involved:

- 668 a. Is 10 grams or more but less than 200 grams, such
 669 person shall be sentenced to a mandatory minimum term of
 670 imprisonment of 3 years, and the defendant shall be ordered to
 671 pay a fine of \$50,000.

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

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

679 3. Any person who knowingly manufactures or brings into
 680 this state 30 kilograms or more of any of the following
 681 substances described in s. 893.03(1) (a) or (c):

- 682 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 683 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 684 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 685 d. 2,5-Dimethoxyamphetamine;
- 686 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 687 f. N-ethylamphetamine;
- 688 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 689 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 690 i. 4-methoxyamphetamine;
- 691 j. 4-methoxymethamphetamine;
- 692 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 693 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 694 m. 3,4-Methylenedioxyamphetamine;
- 695 n. N,N-dimethylamphetamine; or
- 696 o. 3,4,5-Trimethoxyamphetamine,

697
 698 individually or in any combination of or any mixture containing
 699 any substance listed in sub-subparagraphs a.-o., and who knows

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700 that the probable result of such manufacture or importation
 701 would be the death of any person commits capital manufacture or
 702 importation of Phenethylamines, a capital felony punishable as
 703 provided in s. ss. 775.082 and ~~921.142~~. Any person sentenced for
 704 a capital felony under this paragraph shall also be sentenced to
 705 pay the maximum fine provided under subparagraph 1.

706 (1)1. Any person who knowingly sells, purchases,
 707 manufactures, delivers, or brings into this state, or who is
 708 knowingly in actual or constructive possession of, 1 gram or
 709 more of lysergic acid diethylamide (LSD) as described in s.
 710 893.03(1)(c), or of any mixture containing lysergic acid
 711 diethylamide (LSD), commits a felony of the first degree, which
 712 felony shall be known as "trafficking in lysergic acid
 713 diethylamide (LSD)," punishable as provided in s. 775.082, s.
 714 775.083, or s. 775.084. If the quantity involved:

715 a. Is 1 gram or more, but less than 5 grams, such person
 716 shall be sentenced to a mandatory minimum term of imprisonment
 717 of 3 years, and the defendant shall be ordered to pay a fine of
 718 \$50,000.

719 b. Is 5 grams or more, but less than 7 grams, such person
 720 shall be sentenced to a mandatory minimum term of imprisonment
 721 of 7 years, and the defendant shall be ordered to pay a fine of
 722 \$100,000.

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

726 2. Any person who knowingly manufactures or brings into
 727 this state 7 grams or more of lysergic acid diethylamide (LSD)

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728 as described in s. 893.03(1)(c), or any mixture containing
 729 lysergic acid diethylamide (LSD), and who knows that the
 730 probable result of such manufacture or importation would be the
 731 death of any person commits capital manufacture or importation
 732 of lysergic acid diethylamide (LSD), a capital felony punishable
 733 as provided in s. ss. 775.082 and 921.142. Any person sentenced
 734 for a capital felony under this paragraph shall also be
 735 sentenced to pay the maximum fine provided under subparagraph 1.

736 Section 16. Sections 922.052, 922.06, 922.07, 922.08,
 737 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
 738 922.14, and 922.15, Florida Statutes, are repealed.

739 Section 17. Section 924.055, Florida Statutes, is amended
 740 to read:

741 924.055 Postconviction review in capital cases;
 742 legislative findings and intent.—

743 ~~(1) It is the intent of the Legislature to reduce delays~~
 744 ~~in capital cases and to ensure that all appeals and~~
 745 ~~postconviction actions in capital cases are resolved within 5~~
 746 ~~years after the date a sentence of death is imposed in the~~
 747 ~~circuit court. All capital postconviction actions must be filed~~
 748 ~~as early as possible after the imposition of a sentence of death~~
 749 ~~which may be during a direct appeal of the conviction and~~
 750 ~~sentence. A person sentenced to death or that person's capital~~
 751 ~~postconviction counsel must file any postconviction legal action~~
 752 ~~in compliance with the statutes of limitation established in s.~~
 753 ~~924.056 and elsewhere in this chapter. Except as expressly~~
 754 ~~allowed by s. 924.056(5), a person sentenced to death or that~~
 755 ~~person's capital postconviction counsel may not file more than~~

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756 ~~one postconviction action in a sentencing court and one appeal~~
 757 ~~therefrom to the Florida Supreme Court, unless authorized by~~
 758 ~~law.~~

759 ~~(2)~~ It is the ~~further~~ intent of the Legislature that no
 760 state resources be expended in violation of this act. In the
 761 event that any state employee or party contracting with the
 762 state violates the provisions of this act, the Attorney General
 763 shall deliver to the Speaker of the House of Representatives and
 764 the President of the Senate a copy of any court pleading or
 765 order that describes or adjudicates a violation.

766 Section 18. Sections 924.056 and 924.057, Florida
 767 Statutes, are repealed.

768 Section 19. Subsection (1) of section 924.058, Florida
 769 Statutes, is amended to read:

770 924.058 Capital postconviction claims.—This section shall
 771 regulate the procedures in actions for capital postconviction
 772 relief commencing after the effective date of this act unless
 773 and until such procedures are revised by rule or rules adopted
 774 by the Florida Supreme Court which specifically reference this
 775 section.

776 (1) The defendant or the defendant's capital
 777 postconviction counsel shall not file more than one capital
 778 postconviction action in the sentencing court, one appeal
 779 therefrom in the Florida Supreme Court, and one original capital
 780 postconviction action alleging the ineffectiveness of direct
 781 appeal counsel in the Florida Supreme Court, ~~except as expressly~~
 782 ~~allowed by s. 924.056(5).~~

783 Section 20. Subsection (8) of section 924.059, Florida

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784 Statutes, is amended to read:

785 924.059 Time limitations and judicial review in capital
 786 postconviction actions.—This section shall regulate the
 787 procedures in actions for capital postconviction relief
 788 commencing after the effective date of this act unless and until
 789 such procedures are revised by rule or rules adopted by the
 790 Florida Supreme Court which specifically reference this section.

791 (8) A capital postconviction action filed in violation of
 792 the time limitations provided by statute is barred, and all
 793 claims raised therein are waived. ~~A state court shall not~~
 794 ~~consider any capital postconviction action filed in violation of~~
 795 ~~s. 924.056 or s. 924.057.~~ The Attorney General shall deliver to
 796 the Governor, the President of the Senate, and the Speaker of
 797 the House of Representatives a copy of any pleading or order
 798 that alleges or adjudicates any violation of this provision.

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

801 925.11 Postsentencing DNA testing.—

802 (4) PRESERVATION OF EVIDENCE.—

803 ~~(a)~~ Governmental entities that may be in possession of any
 804 physical evidence in the case, including, but not limited to,
 805 any investigating law enforcement agency, the clerk of the
 806 court, the prosecuting authority, or the Department of Law
 807 Enforcement shall maintain any physical evidence collected at
 808 the time of the crime for which a postsentencing testing of DNA
 809 may be requested.

810 ~~(b) In a case in which the death penalty is imposed, the~~
 811 ~~evidence shall be maintained for 60 days after execution of the~~

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812 ~~sentence. In all other cases, a governmental entity may dispose~~
 813 ~~of the physical evidence if the term of the sentence imposed in~~
 814 ~~the case has expired and no other provision of law or rule~~
 815 ~~requires that the physical evidence be preserved or retained.~~

816 Section 22. Paragraphs (g) and (h) of subsection (1) and
 817 subsection (2) of section 945.10, Florida Statutes, are amended
 818 to read:

819 945.10 Confidential information.—

820 (1) Except as otherwise provided by law or in this
 821 section, the following records and information held by the
 822 Department of Corrections are confidential and exempt from the
 823 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 824 Constitution:

825 ~~(g) Information which identifies an executioner, or any~~
 826 ~~person prescribing, preparing, compounding, dispensing, or~~
 827 ~~administering a lethal injection.~~

828 (g) ~~(h)~~ Records that are otherwise confidential or exempt
 829 from public disclosure by law.

830 (2) The records and information specified in subsection
 831 ~~paragraphs~~ (1) ~~(a)~~ ~~(h)~~ may be released as follows unless
 832 expressly prohibited by federal law:

833 (a) Information specified in paragraphs (1) (b), (d), and
 834 (f) to the Office of the Governor, the Legislature, the Parole
 835 Commission, the Department of Children and Family Services, a
 836 private correctional facility or program that operates under a
 837 contract, the Department of Legal Affairs, a state attorney, the
 838 court, or a law enforcement agency. A request for records or
 839 information pursuant to this paragraph need not be in writing.

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840 (b) Information specified in paragraphs (1)(c), (e), and
841 (g)~~(h)~~ to the Office of the Governor, the Legislature, the
842 Parole Commission, the Department of Children and Family
843 Services, a private correctional facility or program that
844 operates under contract, the Department of Legal Affairs, a
845 state attorney, the court, or a law enforcement agency. A
846 request for records or information pursuant to this paragraph
847 must be in writing and a statement provided demonstrating a need
848 for the records or information.

849 (c) Information specified in paragraph (1)(b) to an
850 attorney representing an inmate under sentence of death, except
851 those portions of the records containing a victim's statement or
852 address, or the statement or address of a relative of the
853 victim. A request for records of information pursuant to this
854 paragraph must be in writing and a statement provided
855 demonstrating a need for the records or information.

856 (d) Information specified in paragraph (1)(b) to a public
857 defender representing a defendant, except those portions of the
858 records containing a victim's statement or address, or the
859 statement or address of a relative of the victim. A request for
860 records or information pursuant to this paragraph need not be in
861 writing.

862 (e) Information specified in paragraph (1)(b) to state or
863 local governmental agencies. A request for records or
864 information pursuant to this paragraph must be in writing and a
865 statement provided demonstrating a need for the records or
866 information.

867 (f) Information specified in paragraph (1)(b) to a person

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868 | conducting legitimate research. A request for records and
869 | information pursuant to this paragraph must be in writing, the
870 | person requesting the records or information must sign a
871 | confidentiality agreement, and the department must approve the
872 | request in writing.

873 | (g) Information specified in paragraph (1)(a) to the
874 | Department of Health and the county health department where an
875 | inmate plans to reside if he or she has tested positive for the
876 | presence of the antibody or antigen to human immunodeficiency
877 | virus infection.

878 |
879 | Records and information released under this subsection remain
880 | confidential and exempt from the provisions of s. 119.07(1) and
881 | s. 24(a), Art. I of the State Constitution when held by the
882 | receiving person or entity.

883 | Section 23. This act shall take effect July 1, 2012.