

By Senator Bullard

39-01294-15

20151322__

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 27.7045, 27.705, 27.706, 27.707, 27.708, 27.7081,
12 27.7091, 27.710, 27.711, and 27.715, F.S., relating to
13 capital collateral representation and constitutionally
14 deficient representation, respectively; amending s.
15 119.071, F.S.; deleting a public records exemption
16 relating to capital collateral proceedings; amending
17 s. 282.201, F.S.; conforming a provision to changes
18 made by the act; amending ss. 775.15 and 790.161,
19 F.S.; deleting provisions relating to the effect of a
20 declaration by a court of last resort declaring that
21 the death penalty in a capital felony is
22 unconstitutional; repealing s. 913.13, F.S., relating
23 to jurors in capital cases; repealing s. 921.137,
24 F.S., relating to prohibiting the imposition of the
25 death sentence upon a defendant with mental
26 retardation; repealing s. 921.141, F.S., relating to
27 determination of whether to impose a sentence of death
28 or life imprisonment for a capital felony; repealing
29 s. 921.142, F.S., relating to determination of whether

39-01294-15

20151322__

30 to impose a sentence of death or life imprisonment for
31 a capital drug trafficking felony; amending ss.
32 775.021, 782.04, 794.011, and 893.135, F.S.;
33 conforming provisions to changes made by the act;
34 repealing ss. 922.052, 922.06, 922.07, 922.08,
35 922.095, 922.10, 922.105, 922.108, 922.11, 922.111,
36 922.12, 922.14, 922.15, 924.055, 924.056, and 924.057,
37 F.S., relating to issuance of warrant of execution,
38 stay of execution of death sentence, proceedings when
39 person under sentence of death appears to be insane,
40 proceedings when person under sentence of death
41 appears to be pregnant, grounds for death warrant,
42 execution of death sentence, prohibition against
43 reduction of death sentence as a result of
44 determination that a method of execution is
45 unconstitutional, sentencing orders in capital cases,
46 regulation of execution, transfer to state prison for
47 safekeeping before death warrant issued, return of
48 warrant of execution issued by Governor, sentence of
49 death unexecuted for unjustifiable reasons, return of
50 warrant of execution issued by Supreme Court,
51 legislative intent concerning appeals and
52 postconviction proceedings in death penalty cases,
53 commencement of capital postconviction actions for
54 which sentence of death is imposed on or after January
55 14, 2000, and limitation on postconviction cases in
56 which the death sentence was imposed before January
57 14, 2000, respectively; amending s. 925.11, F.S.;

58 deleting provisions relating to preservation of DNA

39-01294-15

20151322__

59 evidence in death penalty cases; amending s. 945.10,
60 F.S.; deleting a public records exemption for the
61 identity of executioners; amending ss. 316.3026,
62 373.409, 373.430, 376.302, 394.912, 403.161, 448.09,
63 504.013, 648.571, 775.261, 782.065, 787.06, 794.0115,
64 800.04, 907.041, 921.1401, 921.1402, 944.17, 944.275,
65 944.608, 944.609, 944.705, and 948.012, F.S.;

66 conforming cross-references; providing an effective
67 date.

68

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

70

71 Section 1. Subsections (3) through (11) of section 775.082,
72 Florida Statutes, are redesignated as subsections (2) through
73 (10), respectively, and paragraph (a) of subsection (1) and
74 subsection (2) of that section are amended, to read:

75 775.082 Penalties; applicability of sentencing structures;
76 mandatory minimum sentences for certain reoffenders previously
77 released from prison.—

78 (1) (a) ~~Except as provided in paragraph (b),~~ A person who
79 has been convicted of a capital felony shall be punished by
80 ~~death if the proceeding held to determine sentence according to~~
81 ~~the procedure set forth in s. 921.141 results in findings by the~~
82 ~~court that such person shall be punished by death, otherwise~~
83 ~~such person shall be punished by life imprisonment and shall be~~
84 ineligible for parole.

85 (2) ~~In the event the death penalty in a capital felony is~~
86 ~~held to be unconstitutional by the Florida Supreme Court or the~~
87 ~~United States Supreme Court, the court having jurisdiction over~~

39-01294-15

20151322__

88 ~~a person previously sentenced to death for a capital felony~~
89 ~~shall cause such person to be brought before the court, and the~~
90 ~~court shall sentence such person to life imprisonment as~~
91 ~~provided in subsection (1). No sentence of death shall be~~
92 ~~reduced as a result of a determination that a method of~~
93 ~~execution is held to be unconstitutional under the State~~
94 ~~Constitution or the Constitution of the United States.~~

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

97 27.51 Duties of public defender.—

98 (1) The public defender shall represent, without additional
99 compensation, any person determined to be indigent under s.
100 27.52 and:

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

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

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

116 Section 3. Paragraphs (e), (f), and (g) of subsection (5)

39-01294-15

20151322__

117 and subsection (8) of section 27.511, Florida Statutes, are
118 amended to read:

119 27.511 Offices of criminal conflict and civil regional
120 counsel; legislative intent; qualifications; appointment;
121 duties.—

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

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

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

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

143 (8) The public defender for the judicial circuit specified
144 in s. 27.51(4) shall, after the record on appeal is transmitted
145 to the appellate court by the office of criminal conflict and

39-01294-15

20151322__

146 civil regional counsel which handled the trial and if requested
147 by the regional counsel for the indicated appellate district,
148 handle all circuit court appeals authorized pursuant to
149 paragraph (5) (e) ~~(5) (f)~~ within the state courts system and any
150 authorized appeals to the federal courts required of the
151 official making the request. If the public defender certifies to
152 the court that the public defender has a conflict consistent
153 with the criteria prescribed in s. 27.5303 and moves to
154 withdraw, the regional counsel shall handle the appeal, unless
155 the regional counsel has a conflict, in which case the court
156 shall appoint private counsel pursuant to s. 27.40.

157 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,
158 27.703, 27.704, 27.7045, 27.705, 27.706, 27.707, 27.708,
159 27.7081, 27.7091, 27.710, 27.711, and 27.715, Florida Statutes,
160 are repealed.

161 Section 5. Paragraph (d) of subsection (1) of section
162 119.071, Florida Statutes, is amended to read:

163 119.071 General exemptions from inspection or copying of
164 public records.—

165 (1) AGENCY ADMINISTRATION.—

166 (d)1. A public record that was prepared by an agency
167 attorney (including an attorney employed or retained by the
168 agency or employed or retained by another public officer or
169 agency to protect or represent the interests of the agency
170 having custody of the record) or prepared at the attorney's
171 express direction, that reflects a mental impression,
172 conclusion, litigation strategy, or legal theory of the attorney
173 or the agency, and that was prepared exclusively for civil or
174 criminal litigation or for adversarial administrative

39-01294-15

20151322__

175 proceedings, or that was prepared in anticipation of imminent
176 civil or criminal litigation or imminent adversarial
177 administrative proceedings, is exempt from s. 119.07(1) and s.
178 24(a), Art. I of the State Constitution until the conclusion of
179 the litigation or adversarial administrative proceedings. ~~For~~
180 ~~purposes of capital collateral litigation as set forth in s.~~
181 ~~27.7001, the Attorney General's office is entitled to claim this~~
182 ~~exemption for those public records prepared for direct appeal as~~
183 ~~well as for all capital collateral litigation after direct~~
184 ~~appeal until execution of sentence or imposition of a life~~
185 ~~sentence.~~

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

197 Section 6. Paragraph (c) of subsection (4) of section
198 282.201, Florida Statutes, is amended to read:

199 282.201 State data center.—The state data center is
200 established within the Agency for State Technology and shall
201 provide data center services that are hosted on premises or
202 externally through a third-party provider as an enterprise
203 information technology service. The provision of services must

39-01294-15

20151322__

204 comply with applicable state and federal laws, regulations, and
205 policies, including all applicable security, privacy, and
206 auditing requirements.

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

208 (c) The following are exempt from state data center
209 consolidation under this section: the Department of Law
210 Enforcement, the Department of the Lottery's Gaming System,
211 Systems Design and Development in the Office of Policy and
212 Budget, the regional traffic management centers as described in
213 s. 335.14(2) and the Office of Toll Operations of the Department
214 of Transportation, the State Board of Administration, state
215 attorneys, public defenders, criminal conflict and civil
216 regional counsel, ~~capital collateral regional counsel~~, and the
217 Florida Housing Finance Corporation.

218 Section 7. Subsection (1) of section 775.15, Florida
219 Statutes, is amended to read:

220 775.15 Time limitations; general time limitations;
221 exceptions.—

222 (1) A prosecution for a capital felony, a life felony, or a
223 felony that resulted in a death may be commenced at any time. ~~If~~
224 ~~the death penalty is held to be unconstitutional by the Florida~~
225 ~~Supreme Court or the United States Supreme Court, all crimes~~
226 ~~designated as capital felonies shall be considered life felonies~~
227 ~~for the purposes of this section, and prosecution for such~~
228 ~~crimes may be commenced at any time.~~

229 Section 8. Subsection (4) of section 790.161, Florida
230 Statutes, is amended to read:

231 790.161 Making, possessing, throwing, projecting, placing,
232 or discharging any destructive device or attempt so to do,

39-01294-15

20151322__

233 felony; penalties.—A person who willfully and unlawfully makes,
234 possesses, throws, projects, places, discharges, or attempts to
235 make, possess, throw, project, place, or discharge any
236 destructive device:

237 (4) If the act results in the death of another person,
238 commits a capital felony, punishable as provided in s. 775.082.
239 ~~In the event the death penalty in a capital felony is held to be~~
240 ~~unconstitutional by the Florida Supreme Court or the United~~
241 ~~States Supreme Court, the court having jurisdiction over a~~
242 ~~person previously sentenced to death for a capital felony shall~~
243 ~~cause such person to be brought before the court, and the court~~
244 ~~shall sentence such person to life imprisonment if convicted of~~
245 ~~murder in the first degree or of a capital felony under this~~
246 ~~subsection, and such person shall be ineligible for parole. No~~
247 ~~sentence of death shall be reduced as a result of a~~
248 ~~determination that a method of execution is held to be~~
249 ~~unconstitutional under the State Constitution or the~~
250 ~~Constitution of the United States.~~

251 Section 9. Sections 913.13, 921.137, 921.141, and 921.142,
252 Florida Statutes, are repealed.

253 Section 10. Paragraphs (d) and (e) of subsection (5) of
254 section 775.021, Florida Statutes, are redesignated as
255 paragraphs (c) and (d), respectively, and present paragraph (c)
256 of subsection (5) of that section is amended, to read:

257 775.021 Rules of construction.—

258 (5) Whoever commits an act that violates a provision of
259 this code or commits a criminal offense defined by another
260 statute and thereby causes the death of, or bodily injury to, an
261 unborn child commits a separate offense if the provision or

39-01294-15

20151322__

262 statute does not otherwise specifically provide a separate
263 offense for such death or injury to an unborn child.

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

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

268 782.04 Murder.—

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

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

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

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

275 2.b. Arson,

276 3.e. Sexual battery,

277 4.d. Robbery,

278 5.e. Burglary,

279 6.f. Kidnapping,

280 7.g. Escape,

281 8.h. Aggravated child abuse,

282 9.i. Aggravated abuse of an elderly person or disabled
283 adult,

284 10.j. Aircraft piracy,

285 11.k. Unlawful throwing, placing, or discharging of a
286 destructive device or bomb,

287 12.l. Carjacking,

288 13.m. Home-invasion robbery,

289 14.n. Aggravated stalking,

290 15.o. Murder of another human being,

39-01294-15

20151322__

291 ~~16.p.~~ Resisting an officer with violence to his or her
292 person,

293 ~~17.g.~~ Aggravated fleeing or eluding with serious bodily
294 injury or death,

295 ~~18.r.~~ Felony that is an act of terrorism or is in
296 furtherance of an act of terrorism; or

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

303
304 is murder in the first degree and constitutes a capital felony,
305 punishable as provided in s. 775.082.

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

309 Section 12. Paragraph (a) of subsection (2) of section
310 794.011, Florida Statutes, is amended to read:

311 794.011 Sexual battery.-

312 (2) (a) A person 18 years of age or older who commits sexual
313 battery upon, or in an attempt to commit sexual battery injures
314 the sexual organs of, a person less than 12 years of age commits
315 a capital felony, punishable as provided in s. 775.082 ~~ss.~~
316 ~~775.082 and 921.141.~~

317 Section 13. Paragraphs (b) through (l) of subsection (1) of
318 section 893.135, Florida Statutes, are amended to read:

319 893.135 Trafficking; mandatory sentences; suspension or

39-01294-15

20151322__

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

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

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

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

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

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

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

39-01294-15

20151322__

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

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

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

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

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

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

39-01294-15

20151322__

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

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

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

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

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

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

39-01294-15

20151322__

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

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

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

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

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

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

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

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

39-01294-15

20151322__

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

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

442 4. A person who knowingly sells, purchases, manufactures,
443 delivers, or brings into this state, or who is knowingly in
444 actual or constructive possession of, 30 kilograms or more of
445 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
446 any salt, derivative, isomer, or salt of an isomer thereof,
447 including heroin, as described in s. 893.03(1)(b), (2)(a),
448 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
449 containing any such substance, commits the first degree felony
450 of trafficking in illegal drugs. A person who has been convicted
451 of the first degree felony of trafficking in illegal drugs under
452 this subparagraph shall be punished by life imprisonment and is
453 ineligible for any form of discretionary early release except
454 pardon or executive clemency or conditional medical release
455 under s. 947.149. However, if the court determines that, in
456 addition to committing any act specified in this paragraph:

457 a. The person intentionally killed an individual or
458 counseled, commanded, induced, procured, or caused the
459 intentional killing of an individual and such killing was the
460 result; or

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

463
464 such person commits the capital felony of trafficking in illegal

39-01294-15

20151322__

465 drugs, punishable as provided in s. 775.082 ~~ss. 775.082~~ and
466 ~~921.142~~. A person sentenced for a capital felony under this
467 paragraph shall also be sentenced to pay the maximum fine
468 provided under subparagraph 1.

469 5. A person who knowingly brings into this state 60
470 kilograms or more of any morphine, opium, oxycodone,
471 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
472 salt of an isomer thereof, including heroin, as described in s.
473 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
474 more of any mixture containing any such substance, and who knows
475 that the probable result of such importation would be the death
476 of a person, commits capital importation of illegal drugs, a
477 capital felony punishable as provided in s. 775.082 ~~ss. 775.082~~
478 ~~and 921.142~~. A person sentenced for a capital felony under this
479 paragraph shall also be sentenced to pay the maximum fine
480 provided under subparagraph 1.

481 (d)1. Any person who knowingly sells, purchases,
482 manufactures, delivers, or brings into this state, or who is
483 knowingly in actual or constructive possession of, 28 grams or
484 more of phencyclidine or of any mixture containing
485 phencyclidine, as described in s. 893.03(2)(b), commits a felony
486 of the first degree, which felony shall be known as "trafficking
487 in phencyclidine," punishable as provided in s. 775.082, s.
488 775.083, or s. 775.084. If the quantity involved:

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

493 b. Is 200 grams or more, but less than 400 grams, such

39-01294-15

20151322__

494 person shall be sentenced to a mandatory minimum term of
495 imprisonment of 7 years, and the defendant shall be ordered to
496 pay a fine of \$100,000.

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

500 2. Any person who knowingly brings into this state 800
501 grams or more of phencyclidine or of any mixture containing
502 phencyclidine, as described in s. 893.03(2)(b), and who knows
503 that the probable result of such importation would be the death
504 of any person commits capital importation of phencyclidine, a
505 capital felony punishable as provided in s. 775.082 ~~ss. 775.082~~
506 ~~and 921.142~~. Any person sentenced for a capital felony under
507 this paragraph shall also be sentenced to pay the maximum fine
508 provided under subparagraph 1.

509 (e)1. Any person who knowingly sells, purchases,
510 manufactures, delivers, or brings into this state, or who is
511 knowingly in actual or constructive possession of, 200 grams or
512 more of methaqualone or of any mixture containing methaqualone,
513 as described in s. 893.03(1)(d), commits a felony of the first
514 degree, which felony shall be known as "trafficking in
515 methaqualone," punishable as provided in s. 775.082, s. 775.083,
516 or s. 775.084. If the quantity involved:

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

521 b. Is 5 kilograms or more, but less than 25 kilograms, such
522 person shall be sentenced to a mandatory minimum term of

39-01294-15

20151322__

523 imprisonment of 7 years, and the defendant shall be ordered to
524 pay a fine of \$100,000.

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

528 2. Any person who knowingly brings into this state 50
529 kilograms or more of methaqualone or of any mixture containing
530 methaqualone, as described in s. 893.03(1)(d), and who knows
531 that the probable result of such importation would be the death
532 of any person commits capital importation of methaqualone, a
533 capital felony punishable as provided in s. 775.082 ~~ss. 775.082~~
534 ~~and 921.142~~. Any person sentenced for a capital felony under
535 this paragraph shall also be sentenced to pay the maximum fine
536 provided under subparagraph 1.

537 (f)1. Any person who knowingly sells, purchases,
538 manufactures, delivers, or brings into this state, or who is
539 knowingly in actual or constructive possession of, 14 grams or
540 more of amphetamine, as described in s. 893.03(2)(c)2., or
541 methamphetamine, as described in s. 893.03(2)(c)4., or of any
542 mixture containing amphetamine or methamphetamine, or
543 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
544 in conjunction with other chemicals and equipment utilized in
545 the manufacture of amphetamine or methamphetamine, commits a
546 felony of the first degree, which felony shall be known as
547 "trafficking in amphetamine," punishable as provided in s.
548 775.082, s. 775.083, or s. 775.084. If the quantity involved:

549 a. Is 14 grams or more, but less than 28 grams, such person
550 shall be sentenced to a mandatory minimum term of imprisonment
551 of 3 years, and the defendant shall be ordered to pay a fine of

39-01294-15

20151322__

552 \$50,000.

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

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

560 2. Any person who knowingly manufactures or brings into
561 this state 400 grams or more of amphetamine, as described in s.
562 893.03(2)(c)2., or methamphetamine, as described in s.
563 893.03(2)(c)4., or of any mixture containing amphetamine or
564 methamphetamine, or phenylacetone, phenylacetic acid,
565 pseudoephedrine, or ephedrine in conjunction with other
566 chemicals and equipment used in the manufacture of amphetamine
567 or methamphetamine, and who knows that the probable result of
568 such manufacture or importation would be the death of any person
569 commits capital manufacture or importation of amphetamine, a
570 capital felony punishable as provided in s. 775.082 ~~ss. 775.082~~
571 ~~and 921.142~~. Any person sentenced for a capital felony under
572 this paragraph shall also be sentenced to pay the maximum fine
573 provided under subparagraph 1.

574 (g)1. Any person who knowingly sells, purchases,
575 manufactures, delivers, or brings into this state, or who is
576 knowingly in actual or constructive possession of, 4 grams or
577 more of flunitrazepam or any mixture containing flunitrazepam as
578 described in s. 893.03(1)(a) commits a felony of the first
579 degree, which felony shall be known as "trafficking in
580 flunitrazepam," punishable as provided in s. 775.082, s.

39-01294-15

20151322__

581 775.083, or s. 775.084. If the quantity involved:

582 a. Is 4 grams or more but less than 14 grams, such person
583 shall be sentenced to a mandatory minimum term of imprisonment
584 of 3 years, and the defendant shall be ordered to pay a fine of
585 \$50,000.

586 b. Is 14 grams or more but less than 28 grams, such person
587 shall be sentenced to a mandatory minimum term of imprisonment
588 of 7 years, and the defendant shall be ordered to pay a fine of
589 \$100,000.

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

593 2. Any person who knowingly sells, purchases, manufactures,
594 delivers, or brings into this state or who is knowingly in
595 actual or constructive possession of 30 kilograms or more of
596 flunitrazepam or any mixture containing flunitrazepam as
597 described in s. 893.03(1)(a) commits the first degree felony of
598 trafficking in flunitrazepam. A person who has been convicted of
599 the first degree felony of trafficking in flunitrazepam under
600 this subparagraph shall be punished by life imprisonment and is
601 ineligible for any form of discretionary early release except
602 pardon or executive clemency or conditional medical release
603 under s. 947.149. However, if the court determines that, in
604 addition to committing any act specified in this paragraph:

605 a. The person intentionally killed an individual or
606 counseled, commanded, induced, procured, or caused the
607 intentional killing of an individual and such killing was the
608 result; or

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

39-01294-15

20151322__

610 natural, though not inevitable, lethal result,
611
612 such person commits the capital felony of trafficking in
613 flunitrazepam, punishable as provided in s. 775.082 ~~ss. 775.082~~
614 ~~and 921.142~~. Any person sentenced for a capital felony under
615 this paragraph shall also be sentenced to pay the maximum fine
616 provided under subparagraph 1.

617 (h)1. Any person who knowingly sells, purchases,
618 manufactures, delivers, or brings into this state, or who is
619 knowingly in actual or constructive possession of, 1 kilogram or
620 more of gamma-hydroxybutyric acid (GHB), as described in s.
621 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
622 acid (GHB), commits a felony of the first degree, which felony
623 shall be known as "trafficking in gamma-hydroxybutyric acid
624 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
625 775.084. If the quantity involved:

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

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

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

637 2. Any person who knowingly manufactures or brings into
638 this state 150 kilograms or more of gamma-hydroxybutyric acid

39-01294-15

20151322__

639 (GHB), as described in s. 893.03(1)(d), or any mixture
640 containing gamma-hydroxybutyric acid (GHB), and who knows that
641 the probable result of such manufacture or importation would be
642 the death of any person commits capital manufacture or
643 importation of gamma-hydroxybutyric acid (GHB), a capital felony
644 punishable as provided in s. 775.082 ~~ss. 775.082 and 921.142~~.
645 Any person sentenced for a capital felony under this paragraph
646 shall also be sentenced to pay the maximum fine provided under
647 subparagraph 1.

648 (i)1. Any person who knowingly sells, purchases,
649 manufactures, delivers, or brings into this state, or who is
650 knowingly in actual or constructive possession of, 1 kilogram or
651 more of gamma-butyrolactone (GBL), as described in s.
652 893.03(1)(d), or any mixture containing gamma-butyrolactone
653 (GBL), commits a felony of the first degree, which felony shall
654 be known as "trafficking in gamma-butyrolactone (GBL),"
655 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
656 If the quantity involved:

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

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

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

39-01294-15

20151322__

668 2. Any person who knowingly manufactures or brings into the
669 state 150 kilograms or more of gamma-butyrolactone (GBL), as
670 described in s. 893.03(1)(d), or any mixture containing gamma-
671 butyrolactone (GBL), and who knows that the probable result of
672 such manufacture or importation would be the death of any person
673 commits capital manufacture or importation of gamma-
674 butyrolactone (GBL), a capital felony punishable as provided in
675 s. 775.082 ~~ss. 775.082 and 921.142~~. Any person sentenced for a
676 capital felony under this paragraph shall also be sentenced to
677 pay the maximum fine provided under subparagraph 1.

678 (j)1. Any person who knowingly sells, purchases,
679 manufactures, delivers, or brings into this state, or who is
680 knowingly in actual or constructive possession of, 1 kilogram or
681 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
682 any mixture containing 1,4-Butanediol, commits a felony of the
683 first degree, which felony shall be known as "trafficking in
684 1,4-Butanediol," punishable as provided in s. 775.082, s.
685 775.083, or s. 775.084. If the quantity involved:

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

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

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

39-01294-15

20151322__

697 2. Any person who knowingly manufactures or brings into
698 this state 150 kilograms or more of 1,4-Butanediol as described
699 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
700 and who knows that the probable result of such manufacture or
701 importation would be the death of any person commits capital
702 manufacture or importation of 1,4-Butanediol, a capital felony
703 punishable as provided in s. 775.082 ~~ss. 775.082 and 921.142~~.
704 Any person sentenced for a capital felony under this paragraph
705 shall also be sentenced to pay the maximum fine provided under
706 subparagraph 1.

707 (k)1. A person who knowingly sells, purchases,
708 manufactures, delivers, or brings into this state, or who is
709 knowingly in actual or constructive possession of, 10 grams or
710 more of any of the following substances described in s.
711 893.03(1)(c):

- 712 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 713 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 714 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 715 d. 2,5-Dimethoxyamphetamine;
- 716 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 717 f. N-ethylamphetamine;
- 718 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 719 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 720 i. 4-methoxyamphetamine;
- 721 j. 4-methoxymethamphetamine;
- 722 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 723 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 724 m. 3,4-Methylenedioxyamphetamine;
- 725 n. N,N-dimethylamphetamine;

39-01294-15

20151322__

- 726 o. 3,4,5-Trimethoxyamphetamine;
- 727 p. 3,4-Methylenedioxymethcathinone;
- 728 q. 3,4-Methylenedioxypyrovalerone (MDPV); or
- 729 r. Methylnmethcathinone,
- 730
- 731 individually or analogs thereto or isomers thereto or in any
- 732 combination of or any mixture containing any substance listed in
- 733 sub-subparagraphs a.-r., commits a felony of the first degree,
- 734 which felony shall be known as "trafficking in Phenethylamines,"
- 735 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- 736 2. If the quantity involved:
- 737 a. Is 10 grams or more, but less than 200 grams, such
- 738 person shall be sentenced to a mandatory minimum term of
- 739 imprisonment of 3 years and shall be ordered to pay a fine of
- 740 \$50,000.
- 741 b. Is 200 grams or more, but less than 400 grams, such
- 742 person shall be sentenced to a mandatory minimum term of
- 743 imprisonment of 7 years and shall be ordered to pay a fine of
- 744 \$100,000.
- 745 c. Is 400 grams or more, such person shall be sentenced to
- 746 a mandatory minimum term of imprisonment of 15 years and shall
- 747 be ordered to pay a fine of \$250,000.
- 748 3. A person who knowingly manufactures or brings into this
- 749 state 30 kilograms or more of any of the following substances
- 750 described in s. 893.03(1)(c):
- 751 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 752 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 753 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 754 d. 2,5-Dimethoxyamphetamine;

39-01294-15

20151322__

- 755 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
 756 f. N-ethylamphetamine;
 757 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
 758 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
 759 i. 4-methoxyamphetamine;
 760 j. 4-methoxymethamphetamine;
 761 k. 4-Methyl-2,5-dimethoxyamphetamine;
 762 l. 3,4-Methylenedioxy-N-ethylamphetamine;
 763 m. 3,4-Methylenedioxyamphetamine;
 764 n. N,N-dimethylamphetamine;
 765 o. 3,4,5-Trimethoxyamphetamine;
 766 p. 3,4-Methylenedioxymethcathinone;
 767 q. 3,4-Methylenedioxypyrovalerone (MDPV); or
 768 r. Methyldmethcathinone,

769

770 individually or analogs thereto or isomers thereto or in any
 771 combination of or any mixture containing any substance listed in
 772 sub-subparagraphs a.-r., and who knows that the probable result
 773 of such manufacture or importation would be the death of any
 774 person commits capital manufacture or importation of
 775 Phenethylamines, a capital felony punishable as provided in s.
 776 775.082 ~~ss. 775.082 and 921.142~~. A person sentenced for a
 777 capital felony under this paragraph shall also be sentenced to
 778 pay the maximum fine provided under subparagraph 1.

779 (1)1. Any person who knowingly sells, purchases,
 780 manufactures, delivers, or brings into this state, or who is
 781 knowingly in actual or constructive possession of, 1 gram or
 782 more of lysergic acid diethylamide (LSD) as described in s.
 783 893.03(1)(c), or of any mixture containing lysergic acid

39-01294-15

20151322__

784 diethylamide (LSD), commits a felony of the first degree, which
785 felony shall be known as "trafficking in lysergic acid
786 diethylamide (LSD)," punishable as provided in s. 775.082, s.
787 775.083, or s. 775.084. If the quantity involved:

788 a. Is 1 gram or more, but less than 5 grams, such person
789 shall be sentenced to a mandatory minimum term of imprisonment
790 of 3 years, and the defendant shall be ordered to pay a fine of
791 \$50,000.

792 b. Is 5 grams or more, but less than 7 grams, such person
793 shall be sentenced to a mandatory minimum term of imprisonment
794 of 7 years, and the defendant shall be ordered to pay a fine of
795 \$100,000.

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

799 2. Any person who knowingly manufactures or brings into
800 this state 7 grams or more of lysergic acid diethylamide (LSD)
801 as described in s. 893.03(1)(c), or any mixture containing
802 lysergic acid diethylamide (LSD), and who knows that the
803 probable result of such manufacture or importation would be the
804 death of any person commits capital manufacture or importation
805 of lysergic acid diethylamide (LSD), a capital felony punishable
806 as provided in s. 775.082 ~~ss. 775.082 and 921.142~~. Any person
807 sentenced for a capital felony under this paragraph shall also
808 be sentenced to pay the maximum fine provided under subparagraph
809 1.

810 Section 14. Sections 922.052, 922.06, 922.07, 922.08,
811 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
812 922.14, 922.15, 924.055, 924.056, and 924.057, Florida Statutes,

39-01294-15

20151322__

813 are repealed.

814 Section 15. Subsection (4) of section 925.11, Florida
815 Statutes, is amended to read:

816 925.11 Postsentencing DNA testing.—

817 (4) PRESERVATION OF EVIDENCE.—

818 ~~(a)~~ Governmental entities that may be in possession of any
819 physical evidence in the case, including, but not limited to,
820 any investigating law enforcement agency, the clerk of the
821 court, the prosecuting authority, or the Department of Law
822 Enforcement shall maintain any physical evidence collected at
823 the time of the crime for which a postsentencing testing of DNA
824 may be requested.

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

831 Section 16. Paragraphs (g) and (h) of subsection (1) and
832 subsection (2) of section 945.10, Florida Statutes, are amended
833 to read:

834 945.10 Confidential information.—

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

839 ~~(g) Information which identifies an executioner, or any~~
840 ~~person prescribing, preparing, compounding, dispensing, or~~
841 ~~administering a lethal injection.~~

39-01294-15

20151322__

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

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

847 (a) Information specified in paragraphs (1)(b), (d), and
848 (f) to the Office of the Governor, the Legislature, the Florida
849 Commission on Offender Review, the Department of Children and
850 Families, a private correctional facility or program that
851 operates under a contract, the Department of Legal Affairs, a
852 state attorney, the court, or a law enforcement agency. A
853 request for records or information pursuant to this paragraph
854 need not be in writing.

855 (b) Information specified in paragraphs (1)(c), (e), and
856 (g)~~(h)~~ to the Office of the Governor, the Legislature, the
857 Florida Commission on Offender Review, the Department of
858 Children and Families, a private correctional facility or
859 program that operates under contract, the Department of Legal
860 Affairs, a state attorney, the court, or a law enforcement
861 agency. A request for records or information pursuant to this
862 paragraph must be in writing and a statement provided
863 demonstrating a need for the records or information.

864 (c) Information specified in paragraph (1)(b) to an
865 attorney representing an inmate under sentence of death, except
866 those portions of the records containing a victim's statement or
867 address, or the statement or address of a relative of the
868 victim. A request for records of information pursuant to this
869 paragraph must be in writing and a statement provided
870 demonstrating a need for the records or information.

39-01294-15

20151322__

871 (d) Information specified in paragraph (1)(b) to a public
872 defender representing a defendant, except those portions of the
873 records containing a victim's statement or address, or the
874 statement or address of a relative of the victim. A request for
875 records or information pursuant to this paragraph need not be in
876 writing.

877 (e) Information specified in paragraph (1)(b) to state or
878 local governmental agencies. A request for records or
879 information pursuant to this paragraph must be in writing and a
880 statement provided demonstrating a need for the records or
881 information.

882 (f) Information specified in paragraph (1)(b) to a person
883 conducting legitimate research. A request for records and
884 information pursuant to this paragraph must be in writing, the
885 person requesting the records or information must sign a
886 confidentiality agreement, and the department must approve the
887 request in writing.

888 (g) Information specified in paragraph (1)(a) to the
889 Department of Health and the county health department where an
890 inmate plans to reside if he or she has tested positive for the
891 presence of the antibody or antigen to human immunodeficiency
892 virus infection.

893
894 Records and information released under this subsection remain
895 confidential and exempt from the provisions of s. 119.07(1) and
896 s. 24(a), Art. I of the State Constitution when held by the
897 receiving person or entity.

898 Section 17. Subsection (2) of section 316.3026, Florida
899 Statutes, is amended to read:

39-01294-15

20151322__

900 316.3026 Unlawful operation of motor carriers.—

901 (2) Any motor carrier enjoined or prohibited from operating

902 by an out-of-service order by this state, any other state, or

903 the Federal Motor Carrier Safety Administration may not operate

904 on the roadways of this state until the motor carrier has been

905 authorized to resume operations by the originating enforcement

906 jurisdiction. Commercial motor vehicles owned or operated by any

907 motor carrier prohibited from operation found on the roadways of

908 this state shall be placed out of service by law enforcement

909 officers of the Department of Highway Safety and Motor Vehicles,

910 and the motor carrier assessed a \$10,000 civil penalty pursuant

911 to 49 C.F.R. s. 383.53, in addition to any other penalties

912 imposed on the driver or other responsible person. Any person

913 who knowingly drives, operates, or causes to be operated any

914 commercial motor vehicle in violation of an out-of-service order

915 issued by the department in accordance with this section commits

916 a felony of the third degree, punishable as provided in s.

917 775.082(2)(e) ~~s. 775.082(3)(e)~~. Any costs associated with the

918 impoundment or storage of such vehicles are the responsibility

919 of the motor carrier. Vehicle out-of-service orders may be

920 rescinded when the department receives proof of authorization

921 for the motor carrier to resume operation.

922 Section 18. Subsection (3) of section 373.409, Florida

923 Statutes, is amended to read:

924 373.409 Headgates, valves, and measuring devices.—

925 (3) No person shall alter or tamper with a measuring device

926 so as to cause it to register other than the actual amount of

927 water diverted, discharged, or taken. Violation of this

928 subsection shall be a misdemeanor of the second degree,

39-01294-15

20151322__

929 punishable under s. 775.082(3)(b) ~~s. 775.082(4)(b)~~.

930 Section 19. Subsections (3), (4), and (5) of section
931 373.430, Florida Statutes, are amended to read:

932 373.430 Prohibitions, violation, penalty, intent.—

933 (3) Any person who willfully commits a violation specified
934 in paragraph (1)(a) is guilty of a felony of the third degree,
935 punishable as provided in ss. 775.082(2)(e) ~~ss. 775.082(3)(e)~~
936 and 775.083(1)(g), by a fine of not more than \$50,000 or by
937 imprisonment for 5 years, or by both, for each offense. Each day
938 during any portion of which such violation occurs constitutes a
939 separate offense.

940 (4) Any person who commits a violation specified in
941 paragraph (1)(a) due to reckless indifference or gross careless
942 disregard is guilty of a misdemeanor of the second degree,
943 punishable as provided in ss. 775.082(3)(b) ~~ss. 775.082(4)(b)~~
944 and 775.083(1)(g), by a fine of not more than \$5,000 or 60 days
945 in jail, or by both, for each offense.

946 (5) Any person who willfully commits a violation specified
947 in paragraph (1)(b) or paragraph (1)(c) is guilty of a
948 misdemeanor of the first degree, punishable as provided in ss.
949 775.082(3)(a) ~~ss. 775.082(4)(a)~~ and 775.083(1)(g), by a fine of
950 not more than \$10,000 or by 6 months in jail, or by both, for
951 each offense.

952 Section 20. Subsections (3) and (4) of section 376.302,
953 Florida Statutes, are amended to read:

954 376.302 Prohibited acts; penalties.—

955 (3) Any person who willfully commits a violation specified
956 in paragraph (1)(a) or paragraph (1)(b) shall be guilty of a
957 misdemeanor of the first degree punishable as provided in ss.

39-01294-15

20151322__

958 775.082(3)(a) ~~ss. 775.082(4)(a)~~ and 775.083(1)(g), by a fine of
959 not less than \$2,500 or more than \$25,000, or punishable by 1
960 year in jail, or by both for each offense. Each day during any
961 portion of which such violation occurs constitutes a separate
962 offense.

963 (4) Any person who commits a violation specified in
964 paragraph (1)(c) shall be guilty of a misdemeanor of the first
965 degree punishable as provided in ss. 775.082(3)(a) ~~ss.~~
966 ~~775.082(4)(a)~~ and 775.083(1)(g), by a fine of not more than
967 \$10,000, or by 6 months in jail, or by both for each offense.

968 Section 21. Subsection (9) of section 394.912, Florida
969 Statutes, is amended to read:

970 394.912 Definitions.—As used in this part, the term:

971 (9) "Sexually violent offense" means:

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

974 (b) Kidnapping of a child under the age of 13 and, in the
975 course of that offense, committing:

976 1. Sexual battery; or

977 2. A lewd, lascivious, or indecent assault or act upon or
978 in the presence of the child;

979 (c) Committing the offense of false imprisonment upon a
980 child under the age of 13 and, in the course of that offense,
981 committing:

982 1. Sexual battery; or

983 2. A lewd, lascivious, or indecent assault or act upon or
984 in the presence of the child;

985 (d) Sexual battery in violation of s. 794.011;

986 (e) Lewd, lascivious, or indecent assault or act upon or in

39-01294-15

20151322__

987 presence of the child in violation of s. 800.04 or s.
988 847.0135(5);

989 (f) An attempt, criminal solicitation, or conspiracy, in
990 violation of s. 777.04, of a sexually violent offense;

991 (g) Any conviction for a felony offense in effect at any
992 time before October 1, 1998, which is comparable to a sexually
993 violent offense under paragraphs (a)-(f) or any federal
994 conviction or conviction in another state for a felony offense
995 that in this state would be a sexually violent offense;

996 (h) Any criminal act that, either at the time of sentencing
997 for the offense or subsequently during civil commitment
998 proceedings under this part, has been determined beyond a
999 reasonable doubt to have been sexually motivated; or

1000 (i) A criminal offense in which the state attorney refers a
1001 person to the department for civil commitment proceedings
1002 pursuant to s. 394.9125.

1003 Section 22. Subsections (3), (4), and (5) of section
1004 403.161, Florida Statutes, are amended to read:

1005 403.161 Prohibitions, violation, penalty, intent.—

1006 (3) Any person who willfully commits a violation specified
1007 in paragraph (1)(a) is guilty of a felony of the third degree
1008 punishable as provided in ss. 775.082(2)(e) ~~ss. 775.082(3)(e)~~
1009 and 775.083(1)(g) by a fine of not more than \$50,000 or by
1010 imprisonment for 5 years, or by both, for each offense. Each day
1011 during any portion of which such violation occurs constitutes a
1012 separate offense.

1013 (4) Any person who commits a violation specified in
1014 paragraph (1)(a) due to reckless indifference or gross careless
1015 disregard is guilty of a misdemeanor of the second degree,

39-01294-15

20151322__

1016 punishable as provided in ss. 775.082(3)(b) ~~ss. 775.082(4)(b)~~
1017 and 775.083(1)(g) by a fine of not more than \$5,000 or by 60
1018 days in jail, or by both, for each offense.

1019 (5) Any person who willfully commits a violation specified
1020 in paragraph (1)(b) or paragraph (1)(c) is guilty of a
1021 misdemeanor of the first degree punishable as provided in ss.
1022 775.082(3)(a) ~~ss. 775.082(4)(a)~~ and 775.083(1)(g) by a fine of
1023 not more than \$10,000 or by 6 months in jail, or by both for
1024 each offense.

1025 Section 23. Subsection (2) of section 448.09, Florida
1026 Statutes, is amended to read:

1027 448.09 Unauthorized aliens; employment prohibited.—

1028 (2) The first violation of subsection (1) shall be a
1029 noncriminal violation as defined in s. 775.08(3) and, upon
1030 conviction, shall be punishable as provided in s. 775.082(4) ~~s.~~
1031 ~~775.082(5)~~ by a civil fine of not more than \$500, regardless of
1032 the number of aliens with respect to whom the violation
1033 occurred.

1034 Section 24. Section 504.013, Florida Statutes, is amended
1035 to read:

1036 504.013 Penalties.—Any person, firm, or corporation engaged
1037 in the business of the retail vending of fresh fruits, fresh
1038 vegetables, bee pollen, or honey who willfully and knowingly
1039 removes any labels or identifying marks from fruits, vegetables,
1040 bee pollen, or honey so labeled is guilty of a noncriminal
1041 violation as defined in s. 775.08(3) and upon conviction shall
1042 be punished as provided in s. 775.082(4) ~~s. 775.082(5)~~ by a
1043 civil fine of not more than \$500.

1044 Section 25. Paragraph (c) of subsection (3) of section

39-01294-15

20151322__

1045 648.571, Florida Statutes, is amended to read:

1046 648.571 Failure to return collateral; penalty.—

1047 (3)

1048 (c) Allowable expenses incurred in apprehending a defendant
 1049 because of a bond forfeiture or judgment under s. 903.29 may be
 1050 deducted if such expenses are accounted for. The failure to
 1051 return collateral under these terms is punishable as follows:

1052 1. If the collateral is of a value less than \$100, as
 1053 provided in s. 775.082(3)(a) ~~s. 775.082(4)(a)~~.

1054 2. If the collateral is of a value of \$100 or more, as
 1055 provided in s. 775.082(2)(e) ~~s. 775.082(3)(e)~~.

1056 3. If the collateral is of a value of \$1,500 or more, as
 1057 provided in s. 775.082(2)(d) ~~s. 775.082(3)(d)~~.

1058 4. If the collateral is of a value of \$10,000 or more, as
 1059 provided in s. 775.082(2)(b) ~~s. 775.082(3)(b)~~.

1060 Section 26. Paragraph (a) of subsection (2) of section
 1061 775.261, Florida Statutes, is amended to read:

1062 775.261 The Florida Career Offender Registration Act.—

1063 (2) DEFINITIONS.—As used in this section, the term:

1064 (a) "Career offender" means any person who is designated as
 1065 a habitual violent felony offender, a violent career criminal,
 1066 or a three-time violent felony offender under s. 775.084 or as a
 1067 prison releasee reoffender under s. 775.082(8) ~~s. 775.082(9)~~.

1068 Section 27. Subsection (1) of section 782.065, Florida
 1069 Statutes, is amended to read:

1070 782.065 Murder; law enforcement officer, correctional
 1071 officer, correctional probation officer.—Notwithstanding ss.
 1072 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
 1073 shall be sentenced to life imprisonment without eligibility for

39-01294-15

20151322__

1074 release upon findings by the trier of fact that, beyond a
1075 reasonable doubt:

1076 (1) The defendant committed murder in the first degree in
1077 violation of s. 782.04(1) and a death sentence was not imposed;
1078 murder in the second or third degree in violation of s.
1079 782.04(2), (3), or (4); attempted murder in the first or second
1080 degree in violation of s. 782.04(1)(a) ~~s. 782.04(1)(a)1.~~ or (2);
1081 or attempted felony murder in violation of s. 782.051; and

1082 Section 28. Paragraph (g) of subsection (3) of section
1083 787.06, Florida Statutes, is amended to read:

1084 787.06 Human trafficking.—

1085 (3) Any person who knowingly, or in reckless disregard of
1086 the facts, engages in human trafficking, or attempts to engage
1087 in human trafficking, or benefits financially by receiving
1088 anything of value from participation in a venture that has
1089 subjected a person to human trafficking:

1090 (g) For commercial sexual activity in which any child under
1091 the age of 18, or in which any person who is mentally defective
1092 or mentally incapacitated as those terms are defined in s.
1093 794.011(1), is involved commits a life felony, punishable as
1094 provided in s. 775.082(2)(a)6. ~~s. 775.082(3)(a)6.~~, s. 775.083,
1095 or s. 775.084.

1096
1097 For each instance of human trafficking of any individual under
1098 this subsection, a separate crime is committed and a separate
1099 punishment is authorized.

1100 Section 29. Subsection (6) of section 794.0115, Florida
1101 Statutes, is amended to read:

1102 794.0115 Dangerous sexual felony offender; mandatory

39-01294-15

20151322__

1103 sentencing.—

1104 (6) Notwithstanding s. 775.082(2) ~~s. 775.082(3)~~, chapter
1105 958, any other law, or any interpretation or construction
1106 thereof, a person subject to sentencing under this section must
1107 be sentenced to the mandatory term of imprisonment provided
1108 under this section. If the mandatory minimum term of
1109 imprisonment imposed under this section exceeds the maximum
1110 sentence authorized under s. 775.082, s. 775.084, or chapter
1111 921, the mandatory minimum term of imprisonment under this
1112 section must be imposed. If the mandatory minimum term of
1113 imprisonment under this section is less than the sentence that
1114 could be imposed under s. 775.082, s. 775.084, or chapter 921,
1115 the sentence imposed must include the mandatory minimum term of
1116 imprisonment under this section.

1117 Section 30. Paragraph (b) of subsection (5) of section
1118 800.04, Florida Statutes, is amended to read:

1119 800.04 Lewd or lascivious offenses committed upon or in the
1120 presence of persons less than 16 years of age.—

1121 (5) LEWD OR LASCIVIOUS MOLESTATION.—

1122 (b) An offender 18 years of age or older who commits lewd
1123 or lascivious molestation against a victim less than 12 years of
1124 age commits a life felony, punishable as provided in s.
1125 775.082(2)(a)4. ~~s. 775.082(3)(a)4.~~

1126 Section 31. Paragraph (c) of subsection (4) of section
1127 907.041, Florida Statutes, is amended to read:

1128 907.041 Pretrial detention and release.—

1129 (4) PRETRIAL DETENTION.—

1130 (c) The court may order pretrial detention if it finds a
1131 substantial probability, based on a defendant's past and present

39-01294-15

20151322__

1132 patterns of behavior, the criteria in s. 903.046, and any other
1133 relevant facts, that any of the following circumstances exist:

1134 1. The defendant has previously violated conditions of
1135 release and that no further conditions of release are reasonably
1136 likely to assure the defendant's appearance at subsequent
1137 proceedings;

1138 2. The defendant, with the intent to obstruct the judicial
1139 process, has threatened, intimidated, or injured any victim,
1140 potential witness, juror, or judicial officer, or has attempted
1141 or conspired to do so, and that no condition of release will
1142 reasonably prevent the obstruction of the judicial process;

1143 3. The defendant is charged with trafficking in controlled
1144 substances as defined by s. 893.135, that there is a substantial
1145 probability that the defendant has committed the offense, and
1146 that no conditions of release will reasonably assure the
1147 defendant's appearance at subsequent criminal proceedings;

1148 4. The defendant is charged with DUI manslaughter, as
1149 defined by s. 316.193, and that there is a substantial
1150 probability that the defendant committed the crime and that the
1151 defendant poses a threat of harm to the community; conditions
1152 that would support a finding by the court pursuant to this
1153 subparagraph that the defendant poses a threat of harm to the
1154 community include, but are not limited to, any of the following:

1155 a. The defendant has previously been convicted of any crime
1156 under s. 316.193, or of any crime in any other state or
1157 territory of the United States that is substantially similar to
1158 any crime under s. 316.193;

1159 b. The defendant was driving with a suspended driver
1160 license when the charged crime was committed; or

39-01294-15

20151322__

1161 c. The defendant has previously been found guilty of, or
1162 has had adjudication of guilt withheld for, driving while the
1163 defendant's driver license was suspended or revoked in violation
1164 of s. 322.34;

1165 5. The defendant poses the threat of harm to the community.
1166 The court may so conclude, if it finds that the defendant is
1167 presently charged with a dangerous crime, that there is a
1168 substantial probability that the defendant committed such crime,
1169 that the factual circumstances of the crime indicate a disregard
1170 for the safety of the community, and that there are no
1171 conditions of release reasonably sufficient to protect the
1172 community from the risk of physical harm to persons;

1173 6. The defendant was on probation, parole, or other release
1174 pending completion of sentence or on pretrial release for a
1175 dangerous crime at the time the current offense was committed;

1176 7. The defendant has violated one or more conditions of
1177 pretrial release or bond for the offense currently before the
1178 court and the violation, in the discretion of the court,
1179 supports a finding that no conditions of release can reasonably
1180 protect the community from risk of physical harm to persons or
1181 assure the presence of the accused at trial; or

1182 8.a. The defendant has ever been sentenced pursuant to s.
1183 775.082(8) ~~s. 775.082(9)~~ or s. 775.084 as a prison releasee
1184 reoffender, habitual violent felony offender, three-time violent
1185 felony offender, or violent career criminal, or the state
1186 attorney files a notice seeking that the defendant be sentenced
1187 pursuant to s. 775.082(8) ~~s. 775.082(9)~~ or s. 775.084, as a
1188 prison releasee reoffender, habitual violent felony offender,
1189 three-time violent felony offender, or violent career criminal;

39-01294-15

20151322__

1190 b. There is a substantial probability that the defendant
1191 committed the offense; and

1192 c. There are no conditions of release that can reasonably
1193 protect the community from risk of physical harm or ensure the
1194 presence of the accused at trial.

1195 Section 32. Subsection (1) of section 921.1401, Florida
1196 Statutes, is amended to read:

1197 921.1401 Sentence of life imprisonment for persons who are
1198 under the age of 18 years at the time of the offense; sentencing
1199 proceedings.-

1200 (1) Upon conviction or adjudication of guilt of an offense
1201 described in s. 775.082(1)(b), s. 775.082(2)(a)5. ~~s.~~
1202 ~~775.082(3)(a)5.,~~ s. 775.082(2)(b)2. ~~s. 775.082(3)(b)2.,~~ or s.
1203 775.082(2)(c) ~~s. 775.082(3)(e)~~ which was committed on or after
1204 July 1, 2014, the court may conduct a separate sentencing
1205 hearing to determine if a term of imprisonment for life or a
1206 term of years equal to life imprisonment is an appropriate
1207 sentence.

1208 Section 33. Paragraphs (b), (c), and (d) of subsection (2)
1209 of section 921.1402, Florida Statutes, are amended to read:

1210 921.1402 Review of sentences for persons convicted of
1211 specified offenses committed while under the age of 18 years.-

1212 (2)

1213 (b) A juvenile offender sentenced to a term of more than 25
1214 years under s. 775.082(2)(a)5.a. ~~s. 775.082(3)(a)5.a.~~ or s.
1215 775.082(2)(b)2.a. ~~s. 775.082(3)(b)2.a.~~ is entitled to a review
1216 of his or her sentence after 25 years.

1217 (c) A juvenile offender sentenced to a term of more than 15
1218 years under s. 775.082(1)(b)2., s. 775.082(2)(a)5.b. ~~s.~~

39-01294-15

20151322__

1219 ~~775.082(3)(a)5.b.~~, or s. 775.082(2)(b)2.b. ~~s. 775.082(3)(b)2.b.~~
 1220 is entitled to a review of his or her sentence after 15 years.

1221 (d) A juvenile offender sentenced to a term of 20 years or
 1222 more under s. 775.082(2)(c) ~~s. 775.082(3)(e)~~ is entitled to a
 1223 review of his or her sentence after 20 years. If the juvenile
 1224 offender is not resentenced at the initial review hearing, he or
 1225 she is eligible for one subsequent review hearing 10 years after
 1226 the initial review hearing.

1227 Section 34. Paragraph (c) of subsection (3) of section
 1228 944.17, Florida Statutes, is amended to read:

1229 944.17 Commitments and classification; transfers.—

1230 (3)

1231 (c)1. When the highest ranking offense for which the
 1232 prisoner is convicted is a felony, the trial court shall
 1233 sentence the prisoner pursuant to the Criminal Punishment Code
 1234 in chapter 921.

1235 2. When the highest ranking offense for which the prisoner
 1236 is convicted is a misdemeanor, the trial court shall sentence
 1237 the prisoner pursuant to s. 775.082(3) ~~s. 775.082(4)~~.

1238 Section 35. Paragraph (e) of subsection (4) of section
 1239 944.275, Florida Statutes, is amended to read:

1240 944.275 Gain-time.—

1241 (4)

1242 (e) Notwithstanding subparagraph (b)3., for sentences
 1243 imposed for offenses committed on or after October 1, 2014, the
 1244 department may not grant incentive gain-time if the offense is a
 1245 violation of s. 782.04(1)(b)3. ~~s. 782.04(1)(a)2.e.~~; s.
 1246 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,
 1247 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.

39-01294-15

20151322__

1248 847.0135(5).

1249 Section 36. Subsection (1) of section 944.608, Florida
1250 Statutes, is amended to read:

1251 944.608 Notification to Department of Law Enforcement of
1252 information on career offenders.—

1253 (1) As used in this section, the term "career offender"
1254 means a person who is in the custody or control of, or under the
1255 supervision of, the department or is in the custody or control
1256 of, or under the supervision of, a private correctional
1257 facility, and who is designated as a habitual violent felony
1258 offender, a violent career criminal, or a three-time violent
1259 felony offender under s. 775.084 or as a prison releasee
1260 reoffender under s. 775.082(8) ~~s. 775.082(9)~~.

1261 Section 37. Subsection (1) of section 944.609, Florida
1262 Statutes, is amended to read:

1263 944.609 Career offenders; notification upon release.—

1264 (1) As used in this section, the term "career offender"
1265 means a person who is in the custody or control of, or under the
1266 supervision of, the department or is in the custody or control
1267 of, or under the supervision of a private correctional facility,
1268 who is designated as a habitual violent felony offender, a
1269 violent career criminal, or a three-time violent felony offender
1270 under s. 775.084 or as a prison releasee reoffender under s.
1271 775.082(8) ~~s. 775.082(9)~~.

1272 Section 38. Subsection (6) of section 944.705, Florida
1273 Statutes, is amended to read:

1274 944.705 Release orientation program.—

1275 (6) (a) The department shall notify every inmate, in no less
1276 than 18-point type in the inmate's release documents, that the

39-01294-15

20151322__

1277 inmate may be sentenced pursuant to s. 775.082(8) ~~s. 775.082(9)~~
1278 if the inmate commits any felony offense described in s.
1279 775.082(8) ~~s. 775.082(9)~~ within 3 years after the inmate's
1280 release. This notice must be prefaced by the word "WARNING" in
1281 boldfaced type.

1282 (b) Nothing in this section precludes the sentencing of a
1283 person pursuant to s. 775.082(8) ~~s. 775.082(9)~~, nor shall
1284 evidence that the department failed to provide this notice
1285 prohibit a person from being sentenced pursuant to s. 775.082(8)
1286 ~~s. 775.082(9)~~. The state shall not be required to demonstrate
1287 that a person received any notice from the department in order
1288 for the court to impose a sentence pursuant to s. 775.082(8) ~~s.~~
1289 ~~775.082(9)~~.

1290 Section 39. Subsection (4) of section 948.012, Florida
1291 Statutes, is amended to read:

1292 948.012 Split sentence of probation or community control
1293 and imprisonment.-

1294 (4) Effective for offenses committed on or after September
1295 1, 2005, the court must impose a split sentence pursuant to
1296 subsection (1) for any person who is convicted of a life felony
1297 for lewd and lascivious molestation pursuant to s. 800.04(5)(b)
1298 if the court imposes a term of years in accordance with s.
1299 775.082(2)(a)4.a.(II) ~~s. 775.082(3)(a)4.a.(II)~~ rather than life
1300 imprisonment. The probation or community control portion of the
1301 split sentence imposed by the court for a defendant must extend
1302 for the duration of the defendant's natural life and include a
1303 condition that he or she be electronically monitored.

1304 (5)(a) Effective for offenses committed on or after October
1305 1, 2014, if the court imposes a term of years in accordance with

39-01294-15

20151322__

1306 s. 775.082 which is less than the maximum sentence for the
1307 offense, the court must impose a split sentence pursuant to
1308 subsection (1) for any person who is convicted of a violation
1309 of:

- 1310 1. Section 782.04(1)(b)3. ~~Section 782.04(1)(a)2.c.;~~
- 1311 2. Section 787.01(3)(a)2. or 3.;
- 1312 3. Section 787.02(3)(a)2. or 3.;
- 1313 4. Section 794.011, excluding s. 794.011(10);
- 1314 5. Section 800.04;
- 1315 6. Section 825.1025; or
- 1316 7. Section 847.0135(5).
- 1317 Section 40. This act shall take effect July 1, 2015.