

FOR CONSIDERATION By the Committee on Criminal Justice

591-02990-16

20167068pb

1 A bill to be entitled
2 An act relating to sentencing for capital felonies;
3 amending s. 775.082, F.S.; conforming a provision to
4 changes made by the act; amending s. 782.04, F.S.;
5 requiring the prosecutor to give notice to the
6 defendant and to file the notice with the court within
7 a certain timeframe if the prosecutor intends to seek
8 the death penalty; amending ss. 921.141 and 921.142,
9 F.S.; requiring juries to determine the existence of
10 aggravating factors, if any, in the penalty phase of
11 capital cases; specifying a standard of proof for such
12 factors; requiring unanimity for such findings;
13 requiring a jury to make a recommendation to the court
14 whether the defendant shall be sentenced to life
15 imprisonment or death; specifying considerations for
16 such a recommendation; requiring unanimity to support
17 a recommendation of a sentence of death; requiring a
18 sentence of life imprisonment without the possibility
19 of parole in certain circumstances; requiring the
20 court to enter an order meeting specified requirements
21 in each case in which it imposes a death sentence;
22 deleting provisions relating to advisory sentencing by
23 juries and findings by the court in support of
24 sentences of death; reenacting s. 794.011(2)(a), F.S.,
25 relating to sexual battery, to incorporate the
26 amendment made to s. 921.141, F.S., in a reference
27 thereto; reenacting s. 893.135(1)(b) through (l),
28 F.S., relating to trafficking in controlled
29 substances, to incorporate the amendment made to s.
30 921.142, F.S., in references thereto; providing
31 applicability; providing an effective date.
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591-02990-16

20167068pb

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

34
35 Section 1. Paragraph (a) of subsection (1) of section
36 775.082, Florida Statutes, is amended to read:

37 775.082 Penalties; applicability of sentencing structures;
38 mandatory minimum sentences for certain reoffenders previously
39 released from prison.—

40 (1) (a) Except as provided in paragraph (b), a person who
41 has been convicted of a capital felony shall be punished by
42 death if the proceeding held to determine sentence according to
43 the procedure set forth in s. 921.141 results in a determination
44 ~~findings by the court~~ that such person shall be punished by
45 death, otherwise such person shall be punished by life
46 imprisonment and shall be ineligible for parole.

47 Section 2. Subsection (1) of section 782.04, Florida
48 Statutes, is amended to read:

49 782.04 Murder.—

50 (1) (a) The unlawful killing of a human being:

51 1. When perpetrated from a premeditated design to effect
52 the death of the person killed or any human being;

53 2. When committed by a person engaged in the perpetration
54 of, or in the attempt to perpetrate, any:

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

56 b. Arson,

57 c. Sexual battery,

58 d. Robbery,

59 e. Burglary,

60 f. Kidnapping,

61 g. Escape,

591-02990-16

20167068pb

62 h. Aggravated child abuse,
63 i. Aggravated abuse of an elderly person or disabled adult,
64 j. Aircraft piracy,
65 k. Unlawful throwing, placing, or discharging of a
66 destructive device or bomb,
67 l. Carjacking,
68 m. Home-invasion robbery,
69 n. Aggravated stalking,
70 o. Murder of another human being,
71 p. Resisting an officer with violence to his or her person,
72 q. Aggravated fleeing or eluding with serious bodily injury
73 or death,
74 r. Felony that is an act of terrorism or is in furtherance
75 of an act of terrorism; or
76 3. Which resulted from the unlawful distribution of any
77 substance controlled under s. 893.03(1), cocaine as described in
78 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
79 compound, derivative, or preparation of opium, or methadone by a
80 person 18 years of age or older, when such drug is proven to be
81 the proximate cause of the death of the user,
82
83 is murder in the first degree and constitutes a capital felony,
84 punishable as provided in s. 775.082.

85 (b) In all cases under this section, the procedure set
86 forth in s. 921.141 shall be followed in order to determine
87 sentence of death or life imprisonment. If the prosecutor
88 intends to seek the death penalty, the prosecutor must give
89 notice to the defendant and file the notice with the court
90 within 45 days after arraignment. The notice must contain a list

591-02990-16

20167068pb

91 of the aggravating factors the state intends to prove and has
92 reason to believe it can prove beyond a reasonable doubt. The
93 court may allow the prosecutor to amend the notice upon a
94 showing of good cause.

95 Section 3. Section 921.141, Florida Statutes, is amended to
96 read:

97 921.141 Sentence of death or life imprisonment for capital
98 felonies; further proceedings to determine sentence.—

99 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
100 conviction or adjudication of guilt of a defendant of a capital
101 felony, the court shall conduct a separate sentencing proceeding
102 to determine whether the defendant should be sentenced to death
103 or life imprisonment as authorized by s. 775.082. The proceeding
104 shall be conducted by the trial judge before the trial jury as
105 soon as practicable. If, through impossibility or inability, the
106 trial jury is unable to reconvene for a hearing on the issue of
107 penalty, having determined the guilt of the accused, the trial
108 judge may summon a special juror or jurors as provided in
109 chapter 913 to determine the issue of the imposition of the
110 penalty. If the trial jury has been waived, or if the defendant
111 pleaded guilty, the sentencing proceeding shall be conducted
112 before a jury impaneled for that purpose, unless waived by the
113 defendant. In the proceeding, evidence may be presented as to
114 any matter that the court deems relevant to the nature of the
115 crime and the character of the defendant and shall include
116 matters relating to any of the aggravating factors enumerated in
117 subsection (6) and for which notice has been provided pursuant
118 to s. 782.04(1)(b) or mitigating circumstances enumerated in
119 subsection (7) ~~subsections (5) and (6).~~ Any such evidence that

591-02990-16

20167068pb

120 ~~which~~ the court deems to have probative value may be received,
121 regardless of its admissibility under the exclusionary rules of
122 evidence, provided the defendant is accorded a fair opportunity
123 to rebut any hearsay statements. However, this subsection shall
124 not be construed to authorize the introduction of any evidence
125 secured in violation of the Constitution of the United States or
126 the Constitution of the State of Florida. The state and the
127 defendant or the defendant's counsel shall be permitted to
128 present argument for or against sentence of death.

129 (2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
130 subsection applies only if the defendant has not waived his or
131 her right to a sentencing proceeding by a jury.

132 (a) After hearing all of the evidence presented regarding
133 aggravating factors and mitigating circumstances, the jury shall
134 deliberate and determine if the state has proven, beyond a
135 reasonable doubt, the existence of at least one aggravating
136 factor set forth in subsection (6).

137 (b) The jury shall return findings identifying each
138 aggravating factor found to exist. A finding that an aggravating
139 factor exists must be unanimous. If the jury:

140 1. Does not unanimously find at least one aggravating
141 factor, the defendant is ineligible for a sentence of death.

142 2. Unanimously finds at least one aggravating factor, the
143 defendant is eligible for a sentence of death and the jury shall
144 make a recommendation to the court as to whether the defendant
145 shall be sentenced to life imprisonment without the possibility
146 of parole or to death. The recommendation shall be based on a
147 weighing of all of the following:

148 a. Whether sufficient aggravating factors exist.

591-02990-16

20167068pb

149 b. Whether sufficient mitigating circumstances exist which
150 outweigh the aggravating factors found to exist.

151 c. Based on the considerations in sub-subparagraphs a. and
152 b., whether the defendant should be sentenced to life
153 imprisonment without the possibility of parole or to death.

154 (c) If a unanimous jury determines that the defendant
155 should be sentenced to death, the jury's recommendation to the
156 court shall be a sentence of death. If a less than unanimous
157 jury determines that the defendant should be sentenced to death,
158 the jury's recommendation to the court shall be a sentence of
159 life imprisonment without the possibility of parole.

160 (3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

161 (a) If the jury has recommended a sentence of:

162 1. Life imprisonment without the possibility of parole, the
163 court shall impose the recommended sentence.

164 2. Death, the court, after considering each aggravating
165 factor found by the jury and all mitigating circumstances, may
166 impose a sentence of life imprisonment without the possibility
167 of parole or a sentence of death. The court may consider only an
168 aggravating factor that was unanimously found to exist by the
169 jury.

170 (b) If the defendant waived his or her right to a
171 sentencing proceeding by a jury, the court, after considering
172 all aggravating factors and mitigating circumstances, may impose
173 a sentence of life imprisonment without the possibility of
174 parole or a sentence of death. The court may impose a sentence
175 of death only if the court finds that at least one aggravating
176 factor has been proven to exist beyond a reasonable doubt.

177 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In

591-02990-16

20167068pb

178 each case in which the court imposes a sentence of death, the
179 court shall, considering the records of the trial and the
180 sentencing proceedings, enter a written order addressing the
181 aggravating factors set forth in subsection (6) found to exist,
182 the mitigating circumstances in subsection (7) reasonably
183 established by the evidence, whether there are sufficient
184 aggravating factors to warrant the death penalty, and whether
185 the mitigating circumstances reasonably established by the
186 evidence outweigh the aggravating factors. If the court does not
187 issue its order requiring the death sentence within 30 days
188 after the rendition of the judgment and sentence, the court
189 shall impose a sentence of life imprisonment without the
190 possibility of parole in accordance with s. 775.082.

191 ~~(2) ADVISORY SENTENCE BY THE JURY. After hearing all the~~
192 ~~evidence, the jury shall deliberate and render an advisory~~
193 ~~sentence to the court, based upon the following matters:~~

194 ~~(a) Whether sufficient aggravating circumstances exist as~~
195 ~~enumerated in subsection (5);~~

196 ~~(b) Whether sufficient mitigating circumstances exist which~~
197 ~~outweigh the aggravating circumstances found to exist; and~~

198 ~~(c) Based on these considerations, whether the defendant~~
199 ~~should be sentenced to life imprisonment or death.~~

200 ~~(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—~~
201 ~~Notwithstanding the recommendation of a majority of the jury,~~
202 ~~the court, after weighing the aggravating and mitigating~~
203 ~~circumstances, shall enter a sentence of life imprisonment or~~
204 ~~death, but if the court imposes a sentence of death, it shall~~
205 ~~set forth in writing its findings upon which the sentence of~~
206 ~~death is based as to the facts:~~

591-02990-16

20167068pb

207 ~~(a) That sufficient aggravating circumstances exist as~~
208 ~~enumerated in subsection (5), and~~

209 ~~(b) That there are insufficient mitigating circumstances to~~
210 ~~outweigh the aggravating circumstances.~~

211
212 ~~In each case in which the court imposes the death sentence, the~~
213 ~~determination of the court shall be supported by specific~~
214 ~~written findings of fact based upon the circumstances in~~
215 ~~subsections (5) and (6) and upon the records of the trial and~~
216 ~~the sentencing proceedings. If the court does not make the~~
217 ~~findings requiring the death sentence within 30 days after the~~
218 ~~rendition of the judgment and sentence, the court shall impose~~
219 ~~sentence of life imprisonment in accordance with s. 775.082.~~

220 ~~(5)~~(4) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
221 conviction and sentence of death shall be subject to automatic
222 review by the Supreme Court of Florida and disposition rendered
223 within 2 years after the filing of a notice of appeal. Such
224 review by the Supreme Court shall have priority over all other
225 cases and shall be heard in accordance with rules adopted
226 ~~promulgated~~ by the Supreme Court.

227 ~~(6)~~(5) AGGRAVATING FACTORS ~~CIRCUMSTANCES~~.—Aggravating
228 factors ~~circumstances~~ shall be limited to the following:

229 (a) The capital felony was committed by a person previously
230 convicted of a felony and under sentence of imprisonment or
231 placed on community control or on felony probation.

232 (b) The defendant was previously convicted of another
233 capital felony or of a felony involving the use or threat of
234 violence to the person.

235 (c) The defendant knowingly created a great risk of death

591-02990-16

20167068pb

236 to many persons.

237 (d) The capital felony was committed while the defendant
238 was engaged, or was an accomplice, in the commission of, or an
239 attempt to commit, or flight after committing or attempting to
240 commit, any: robbery; sexual battery; aggravated child abuse;
241 abuse of an elderly person or disabled adult resulting in great
242 bodily harm, permanent disability, or permanent disfigurement;
243 arson; burglary; kidnapping; aircraft piracy; or unlawful
244 throwing, placing, or discharging of a destructive device or
245 bomb.

246 (e) The capital felony was committed for the purpose of
247 avoiding or preventing a lawful arrest or effecting an escape
248 from custody.

249 (f) The capital felony was committed for pecuniary gain.

250 (g) The capital felony was committed to disrupt or hinder
251 the lawful exercise of any governmental function or the
252 enforcement of laws.

253 (h) The capital felony was especially heinous, atrocious,
254 or cruel.

255 (i) The capital felony was a homicide and was committed in
256 a cold, calculated, and premeditated manner without any pretense
257 of moral or legal justification.

258 (j) The victim of the capital felony was a law enforcement
259 officer engaged in the performance of his or her official
260 duties.

261 (k) The victim of the capital felony was an elected or
262 appointed public official engaged in the performance of his or
263 her official duties if the motive for the capital felony was
264 related, in whole or in part, to the victim's official capacity.

591-02990-16

20167068pb

265 (l) The victim of the capital felony was a person less than
266 12 years of age.

267 (m) The victim of the capital felony was particularly
268 vulnerable due to advanced age or disability, or because the
269 defendant stood in a position of familial or custodial authority
270 over the victim.

271 (n) The capital felony was committed by a criminal gang
272 member, as defined in s. 874.03.

273 (o) The capital felony was committed by a person designated
274 as a sexual predator pursuant to s. 775.21 or a person
275 previously designated as a sexual predator who had the sexual
276 predator designation removed.

277 (p) The capital felony was committed by a person subject to
278 an injunction issued pursuant to s. 741.30 or s. 784.046, or a
279 foreign protection order accorded full faith and credit pursuant
280 to s. 741.315, and was committed against the petitioner who
281 obtained the injunction or protection order or any spouse,
282 child, sibling, or parent of the petitioner.

283 (7)~~(6)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
284 shall be the following:

285 (a) The defendant has no significant history of prior
286 criminal activity.

287 (b) The capital felony was committed while the defendant
288 was under the influence of extreme mental or emotional
289 disturbance.

290 (c) The victim was a participant in the defendant's conduct
291 or consented to the act.

292 (d) The defendant was an accomplice in the capital felony
293 committed by another person and his or her participation was

591-02990-16

20167068pb

294 relatively minor.

295 (e) The defendant acted under extreme duress or under the
296 substantial domination of another person.

297 (f) The capacity of the defendant to appreciate the
298 criminality of his or her conduct or to conform his or her
299 conduct to the requirements of law was substantially impaired.

300 (g) The age of the defendant at the time of the crime.

301 (h) The existence of any other factors in the defendant's
302 background that would mitigate against imposition of the death
303 penalty.

304 (8)~~(7)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
305 provided evidence of the existence of one or more aggravating
306 factors ~~circumstances~~ as described in subsection (6) ~~(5)~~, the
307 prosecution may introduce, and subsequently argue, victim impact
308 evidence to the jury. Such evidence shall be designed to
309 demonstrate the victim's uniqueness as an individual human being
310 and the resultant loss to the community's members by the
311 victim's death. Characterizations and opinions about the crime,
312 the defendant, and the appropriate sentence shall not be
313 permitted as a part of victim impact evidence.

314 (9)~~(8)~~ APPLICABILITY.—This section does not apply to a
315 person convicted or adjudicated guilty of a capital drug
316 trafficking felony under s. 893.135.

317 Section 4. Section 921.142, Florida Statutes, is amended to
318 read:

319 921.142 Sentence of death or life imprisonment for capital
320 drug trafficking felonies; further proceedings to determine
321 sentence.—

322 (1) FINDINGS.—The Legislature finds that trafficking in

591-02990-16

20167068pb

323 cocaine or opiates carries a grave risk of death or danger to
324 the public; that a reckless disregard for human life is implicit
325 in knowingly trafficking in cocaine or opiates; and that persons
326 who traffic in cocaine or opiates may be determined by the trier
327 of fact to have a culpable mental state of reckless indifference
328 or disregard for human life.

329 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
330 conviction or adjudication of guilt of a defendant of a capital
331 felony under s. 893.135, the court shall conduct a separate
332 sentencing proceeding to determine whether the defendant should
333 be sentenced to death or life imprisonment as authorized by s.
334 775.082. The proceeding shall be conducted by the trial judge
335 before the trial jury as soon as practicable. If, through
336 impossibility or inability, the trial jury is unable to
337 reconvene for a hearing on the issue of penalty, having
338 determined the guilt of the accused, the trial judge may summon
339 a special juror or jurors as provided in chapter 913 to
340 determine the issue of the imposition of the penalty. If the
341 trial jury has been waived, or if the defendant pleaded guilty,
342 the sentencing proceeding shall be conducted before a jury
343 impaneled for that purpose, unless waived by the defendant. In
344 the proceeding, evidence may be presented as to any matter that
345 the court deems relevant to the nature of the crime and the
346 character of the defendant and shall include matters relating to
347 any of the aggravating factors enumerated in subsection (7) and
348 for which notice has been provided pursuant to s. 782.04(1)(b)
349 or mitigating circumstances enumerated in subsection (8)
350 ~~subsections (6) and (7)~~. Any such evidence that ~~which~~ the court
351 deems to have probative value may be received, regardless of its

591-02990-16

20167068pb

352 admissibility under the exclusionary rules of evidence, provided
353 the defendant is accorded a fair opportunity to rebut any
354 hearsay statements. However, this subsection shall not be
355 construed to authorize the introduction of any evidence secured
356 in violation of the Constitution of the United States or the
357 Constitution of the State of Florida. The state and the
358 defendant or the defendant's counsel shall be permitted to
359 present argument for or against sentence of death.

360 (3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
361 subsection applies only if the defendant has not waived his or
362 her right to a sentencing proceeding by a jury.

363 (a) After hearing all of the evidence presented regarding
364 aggravating factors and mitigating circumstances, the jury shall
365 deliberate and determine if the state has proven, beyond a
366 reasonable doubt, the existence of at least one aggravating
367 factor set forth in subsection (7).

368 (b) The jury shall return findings identifying each
369 aggravating factor found to exist. A finding that an aggravating
370 factor exists must be unanimous. If the jury:

371 1. Does not unanimously find at least one aggravating
372 factor, the defendant is ineligible for a sentence of death.

373 2. Unanimously finds at least one aggravating factor, the
374 defendant is eligible for a sentence of death and the jury shall
375 make a recommendation to the court as to whether the defendant
376 shall be sentenced to life imprisonment without the possibility
377 of parole or to death. The recommendation shall be based on a
378 weighing of all of the following:

379 a. Whether sufficient aggravating factors exist.

380 b. Whether sufficient mitigating circumstances exist which

591-02990-16

20167068pb

381 outweigh the aggravating factors found to exist.

382 c. Based on the considerations in sub-subparagraphs a. and
383 b., whether the defendant should be sentenced to life
384 imprisonment without the possibility of parole or to death.

385 (c) If a unanimous jury determines that the defendant
386 should be sentenced to death, the jury's recommendation to the
387 court shall be a sentence of death. If less than a unanimous
388 jury determines that the defendant should be sentenced to death,
389 the jury's recommendation to the court shall be a sentence of
390 life imprisonment without the possibility of parole.

391 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

392 (a) If the jury has recommended a sentence of:

393 1. Life imprisonment without the possibility of parole, the
394 court shall impose the recommended sentence.

395 2. Death, the court, after considering each aggravating
396 factor found by the jury and all mitigating circumstances, may
397 impose a sentence of life imprisonment without the possibility
398 of parole or a sentence of death. The court may consider only an
399 aggravating factor that was unanimously found to exist by the
400 jury.

401 (b) If the defendant waived his or her right to a
402 sentencing proceeding by a jury, the court, after considering
403 all aggravating factors and mitigating circumstances, may impose
404 a sentence of life imprisonment without the possibility of
405 parole or a sentence of death. The court may impose a sentence
406 of death only if the court finds at least one aggravating factor
407 has been proven to exist beyond a reasonable doubt.

408 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
409 each case in which the court imposes a death sentence, the court

591-02990-16

20167068pb

410 shall, considering the records of the trial and the sentencing
411 proceedings, enter a written order addressing the aggravating
412 factors set forth in subsection (7) found to exist, the
413 mitigating circumstances in subsection (8) reasonably
414 established by the evidence, whether there are sufficient
415 aggravating factors to warrant the death penalty, and whether
416 the mitigating circumstances reasonably established by the
417 evidence outweigh the aggravating factors. If the court does not
418 issue its order requiring the death sentence within 30 days
419 after the rendition of the judgment and sentence, the court
420 shall impose a sentence of life imprisonment without the
421 possibility of parole in accordance with s. 775.082.

422 ~~(3) ADVISORY SENTENCE BY THE JURY.—After hearing all the~~
423 ~~evidence, the jury shall deliberate and render an advisory~~
424 ~~sentence to the court, based upon the following matters:~~

425 ~~(a) Whether sufficient aggravating circumstances exist as~~
426 ~~enumerated in subsection (6);~~

427 ~~(b) Whether sufficient mitigating circumstances exist which~~
428 ~~outweigh the aggravating circumstances found to exist; and~~

429 ~~(c) Based on these considerations, whether the defendant~~
430 ~~should be sentenced to life imprisonment or death.~~

431 ~~(4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—~~

432 ~~Notwithstanding the recommendation of a majority of the jury,~~
433 ~~the court, after weighing the aggravating and mitigating~~
434 ~~circumstances, shall enter a sentence of life imprisonment or~~
435 ~~death, but if the court imposes a sentence of death, it shall~~
436 ~~set forth in writing its findings upon which the sentence of~~
437 ~~death is based as to the facts:~~

438 ~~(a) That sufficient aggravating circumstances exist as~~

591-02990-16

20167068pb

439 ~~enumerated in subsection (6), and~~

440 ~~(b) That there are insufficient mitigating circumstances to~~
441 ~~outweigh the aggravating circumstances.~~

442
443 ~~In each case in which the court imposes the death sentence, the~~
444 ~~determination of the court shall be supported by specific~~
445 ~~written findings of fact based upon the circumstances in~~
446 ~~subsections (6) and (7) and upon the records of the trial and~~
447 ~~the sentencing proceedings. If the court does not make the~~
448 ~~findings requiring the death sentence within 30 days after the~~
449 ~~rendition of the judgment and sentence, the court shall impose~~
450 ~~sentence of life imprisonment in accordance with s. 775.082, and~~
451 ~~that person shall be ineligible for parole.~~

452 ~~(6)~~(5) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
453 conviction and sentence of death shall be subject to automatic
454 review and disposition rendered by the Supreme Court of Florida
455 within 2 years after the filing of a notice of appeal. Such
456 review by the Supreme Court shall have priority over all other
457 cases and shall be heard in accordance with rules promulgated by
458 the Supreme Court.

459 ~~(7)~~(6) AGGRAVATING FACTORS ~~CIRCUMSTANCES~~.—Aggravating
460 factors ~~circumstances~~ shall be limited to the following:

461 (a) The capital felony was committed by a person under a
462 sentence of imprisonment.

463 (b) The defendant was previously convicted of another
464 capital felony or of a state or federal offense involving the
465 distribution of a controlled substance which ~~that~~ is punishable
466 by a sentence of at least 1 year of imprisonment.

467 (c) The defendant knowingly created grave risk of death to

591-02990-16

20167068pb

468 one or more persons such that participation in the offense
469 constituted reckless indifference or disregard for human life.

470 (d) The defendant used a firearm or knowingly directed,
471 advised, authorized, or assisted another to use a firearm to
472 threaten, intimidate, assault, or injure a person in committing
473 the offense or in furtherance of the offense.

474 (e) The offense involved the distribution of controlled
475 substances to persons under the age of 18 years, the
476 distribution of controlled substances within school zones, or
477 the use or employment of persons under the age of 18 years in
478 aid of distribution of controlled substances.

479 (f) The offense involved distribution of controlled
480 substances known to contain a potentially lethal adulterant.

481 (g) The defendant:

482 1. Intentionally killed the victim;

483 2. Intentionally inflicted serious bodily injury that ~~which~~
484 resulted in the death of the victim; or

485 3. Intentionally engaged in conduct intending that the
486 victim be killed or that lethal force be employed against the
487 victim, which resulted in the death of the victim.

488 (h) The defendant committed the offense as consideration
489 for the receipt, or in the expectation of the receipt, of
490 anything of pecuniary value.

491 (i) The defendant committed the offense after planning and
492 premeditation.

493 (j) The defendant committed the offense in a heinous,
494 cruel, or depraved manner in that the offense involved torture
495 or serious physical abuse to the victim.

496 (8) ~~(7)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances

591-02990-16

20167068pb

497 shall include the following:

498 (a) The defendant has no significant history of prior
499 criminal activity.

500 (b) The capital felony was committed while the defendant
501 was under the influence of extreme mental or emotional
502 disturbance.

503 (c) The defendant was an accomplice in the capital felony
504 committed by another person, and the defendant's participation
505 was relatively minor.

506 (d) The defendant was under extreme duress or under the
507 substantial domination of another person.

508 (e) The capacity of the defendant to appreciate the
509 criminality of her or his conduct or to conform her or his
510 conduct to the requirements of law was substantially impaired.

511 (f) The age of the defendant at the time of the offense.

512 (g) The defendant could not have reasonably foreseen that
513 her or his conduct in the course of the commission of the
514 offense would cause or would create a grave risk of death to one
515 or more persons.

516 (h) The existence of any other factors in the defendant's
517 background that would mitigate against imposition of the death
518 penalty.

519 (9) ~~(8)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
520 provided evidence of the existence of one or more aggravating
521 factors ~~circumstances~~ as described in subsection (7) ~~(6)~~, the
522 prosecution may introduce, and subsequently argue, victim impact
523 evidence. Such evidence shall be designed to demonstrate the
524 victim's uniqueness as an individual human being and the
525 resultant loss to the community's members by the victim's death.

591-02990-16

20167068pb

526 Characterizations and opinions about the crime, the defendant,
527 and the appropriate sentence shall not be permitted as a part of
528 victim impact evidence.

529 Section 5. For the purpose of incorporating the amendment
530 made by this act to section 921.141, Florida Statutes, in a
531 reference thereto, paragraph (a) of subsection (2) of section
532 794.011, Florida Statutes, is reenacted to read:

533 794.011 Sexual battery.—

534 (2) (a) A person 18 years of age or older who commits sexual
535 battery upon, or in an attempt to commit sexual battery injures
536 the sexual organs of, a person less than 12 years of age commits
537 a capital felony, punishable as provided in ss. 775.082 and
538 921.141.

539 Section 6. For the purpose of incorporating the amendment
540 made by this act to section 921.142, Florida Statutes, in
541 references thereto, paragraphs (b) through (l) of subsection (1)
542 of section 893.135, Florida Statutes, are reenacted to read:

543 893.135 Trafficking; mandatory sentences; suspension or
544 reduction of sentences; conspiracy to engage in trafficking.—

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

547 (b)1. Any person who knowingly sells, purchases,
548 manufactures, delivers, or brings into this state, or who is
549 knowingly in actual or constructive possession of, 28 grams or
550 more of cocaine, as described in s. 893.03(2)(a)4., or of any
551 mixture containing cocaine, but less than 150 kilograms of
552 cocaine or any such mixture, commits a felony of the first
553 degree, which felony shall be known as "trafficking in cocaine,"
554 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

591-02990-16

20167068pb

555 If the quantity involved:

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

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

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

567 2. Any person who knowingly sells, purchases, manufactures,
568 delivers, or brings into this state, or who is knowingly in
569 actual or constructive possession of, 150 kilograms or more of
570 cocaine, as described in s. 893.03(2)(a)4., commits the first
571 degree felony of trafficking in cocaine. A person who has been
572 convicted of the first degree felony of trafficking in cocaine
573 under this subparagraph shall be punished by life imprisonment
574 and is ineligible for any form of discretionary early release
575 except pardon or executive clemency or conditional medical
576 release under s. 947.149. However, if the court determines that,
577 in addition to committing any act specified in this paragraph:

578 a. The person intentionally killed an individual or
579 counseled, commanded, induced, procured, or caused the
580 intentional killing of an individual and such killing was the
581 result; or

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

591-02990-16

20167068pb

584

585 such person commits the capital felony of trafficking in
586 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
587 person sentenced for a capital felony under this paragraph shall
588 also be sentenced to pay the maximum fine provided under
589 subparagraph 1.

590 3. Any person who knowingly brings into this state 300
591 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
592 and who knows that the probable result of such importation would
593 be the death of any person, commits capital importation of
594 cocaine, a capital felony punishable as provided in ss. 775.082
595 and 921.142. Any person sentenced for a capital felony under
596 this paragraph shall also be sentenced to pay the maximum fine
597 provided under subparagraph 1.

598 (c)1. A person who knowingly sells, purchases,
599 manufactures, delivers, or brings into this state, or who is
600 knowingly in actual or constructive possession of, 4 grams or
601 more of any morphine, opium, hydromorphone, or any salt,
602 derivative, isomer, or salt of an isomer thereof, including
603 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
604 (3)(c)4., or 4 grams or more of any mixture containing any such
605 substance, but less than 30 kilograms of such substance or
606 mixture, commits a felony of the first degree, which felony
607 shall be known as "trafficking in illegal drugs," punishable as
608 provided in s. 775.082, s. 775.083, or s. 775.084. If the
609 quantity involved:

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

591-02990-16

20167068pb

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

616 c. Is 28 grams or more, but less than 30 kilograms, such
617 person shall be sentenced to a mandatory minimum term of
618 imprisonment of 25 years and shall be ordered to pay a fine of
619 \$500,000.

620 2. A person who knowingly sells, purchases, manufactures,
621 delivers, or brings into this state, or who is knowingly in
622 actual or constructive possession of, 14 grams or more of
623 hydrocodone, or any salt, derivative, isomer, or salt of an
624 isomer thereof, or 14 grams or more of any mixture containing
625 any such substance, commits a felony of the first degree, which
626 felony shall be known as "trafficking in hydrocodone,"
627 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
628 If the quantity involved:

629 a. Is 14 grams or more, but less than 28 grams, such person
630 shall be sentenced to a mandatory minimum term of imprisonment
631 of 3 years and shall be ordered to pay a fine of \$50,000.

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

635 c. Is 50 grams or more, but less than 200 grams, such
636 person shall be sentenced to a mandatory minimum term of
637 imprisonment of 15 years and shall be ordered to pay a fine of
638 \$500,000.

639 d. Is 200 grams or more, but less than 30 kilograms, such
640 person shall be sentenced to a mandatory minimum term of
641 imprisonment of 25 years and shall be ordered to pay a fine of

591-02990-16

20167068pb

642 \$750,000.

643 3. A person who knowingly sells, purchases, manufactures,
644 delivers, or brings into this state, or who is knowingly in
645 actual or constructive possession of, 7 grams or more of
646 oxycodone, or any salt, derivative, isomer, or salt of an isomer
647 thereof, or 7 grams or more of any mixture containing any such
648 substance, commits a felony of the first degree, which felony
649 shall be known as "trafficking in oxycodone," punishable as
650 provided in s. 775.082, s. 775.083, or s. 775.084. If the
651 quantity involved:

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

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

658 c. Is 25 grams or more, but less than 100 grams, such
659 person shall be sentenced to a mandatory minimum term of
660 imprisonment of 15 years and shall be ordered to pay a fine of
661 \$500,000.

662 d. Is 100 grams or more, but less than 30 kilograms, such
663 person shall be sentenced to a mandatory minimum term of
664 imprisonment of 25 years and shall be ordered to pay a fine of
665 \$750,000.

666 4. A person who knowingly sells, purchases, manufactures,
667 delivers, or brings into this state, or who is knowingly in
668 actual or constructive possession of, 30 kilograms or more of
669 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
670 any salt, derivative, isomer, or salt of an isomer thereof,

591-02990-16

20167068pb

671 including heroin, as described in s. 893.03(1)(b), (2)(a),
672 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
673 containing any such substance, commits the first degree felony
674 of trafficking in illegal drugs. A person who has been convicted
675 of the first degree felony of trafficking in illegal drugs under
676 this subparagraph shall be punished by life imprisonment and is
677 ineligible for any form of discretionary early release except
678 pardon or executive clemency or conditional medical release
679 under s. 947.149. However, if the court determines that, in
680 addition to committing any act specified in this paragraph:

681 a. The person intentionally killed an individual or
682 counseled, commanded, induced, procured, or caused the
683 intentional killing of an individual and such killing was the
684 result; or

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

687
688 such person commits the capital felony of trafficking in illegal
689 drugs, punishable as provided in ss. 775.082 and 921.142. A
690 person sentenced for a capital felony under this paragraph shall
691 also be sentenced to pay the maximum fine provided under
692 subparagraph 1.

693 5. A person who knowingly brings into this state 60
694 kilograms or more of any morphine, opium, oxycodone,
695 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
696 salt of an isomer thereof, including heroin, as described in s.
697 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
698 more of any mixture containing any such substance, and who knows
699 that the probable result of such importation would be the death

591-02990-16

20167068pb

700 of a person, commits capital importation of illegal drugs, a
701 capital felony punishable as provided in ss. 775.082 and
702 921.142. A person sentenced for a capital felony under this
703 paragraph shall also be sentenced to pay the maximum fine
704 provided under subparagraph 1.

705 (d)1. Any person who knowingly sells, purchases,
706 manufactures, delivers, or brings into this state, or who is
707 knowingly in actual or constructive possession of, 28 grams or
708 more of phencyclidine or of any mixture containing
709 phencyclidine, as described in s. 893.03(2)(b), commits a felony
710 of the first degree, which felony shall be known as "trafficking
711 in phencyclidine," punishable as provided in s. 775.082, s.
712 775.083, or s. 775.084. If the quantity involved:

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

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

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

724 2. Any person who knowingly brings into this state 800
725 grams or more of phencyclidine or of any mixture containing
726 phencyclidine, as described in s. 893.03(2)(b), and who knows
727 that the probable result of such importation would be the death
728 of any person commits capital importation of phencyclidine, a

591-02990-16

20167068pb

729 capital felony punishable as provided in ss. 775.082 and
730 921.142. Any person sentenced for a capital felony under this
731 paragraph shall also be sentenced to pay the maximum fine
732 provided under subparagraph 1.

733 (e)1. Any person who knowingly sells, purchases,
734 manufactures, delivers, or brings into this state, or who is
735 knowingly in actual or constructive possession of, 200 grams or
736 more of methaqualone or of any mixture containing methaqualone,
737 as described in s. 893.03(1)(d), commits a felony of the first
738 degree, which felony shall be known as "trafficking in
739 methaqualone," punishable as provided in s. 775.082, s. 775.083,
740 or s. 775.084. If the quantity involved:

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

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

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

752 2. Any person who knowingly brings into this state 50
753 kilograms or more of methaqualone or of any mixture containing
754 methaqualone, as described in s. 893.03(1)(d), and who knows
755 that the probable result of such importation would be the death
756 of any person commits capital importation of methaqualone, a
757 capital felony punishable as provided in ss. 775.082 and

591-02990-16

20167068pb

758 921.142. Any person sentenced for a capital felony under this
759 paragraph shall also be sentenced to pay the maximum fine
760 provided under subparagraph 1.

761 (f)1. Any person who knowingly sells, purchases,
762 manufactures, delivers, or brings into this state, or who is
763 knowingly in actual or constructive possession of, 14 grams or
764 more of amphetamine, as described in s. 893.03(2)(c)2., or
765 methamphetamine, as described in s. 893.03(2)(c)4., or of any
766 mixture containing amphetamine or methamphetamine, or
767 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
768 in conjunction with other chemicals and equipment utilized in
769 the manufacture of amphetamine or methamphetamine, commits a
770 felony of the first degree, which felony shall be known as
771 "trafficking in amphetamine," punishable as provided in s.
772 775.082, s. 775.083, or s. 775.084. If the quantity involved:

773 a. Is 14 grams or more, but less than 28 grams, such person
774 shall be sentenced to a mandatory minimum term of imprisonment
775 of 3 years, and the defendant shall be ordered to pay a fine of
776 \$50,000.

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

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

784 2. Any person who knowingly manufactures or brings into
785 this state 400 grams or more of amphetamine, as described in s.
786 893.03(2)(c)2., or methamphetamine, as described in s.

591-02990-16

20167068pb

787 893.03(2)(c)4., or of any mixture containing amphetamine or
788 methamphetamine, or phenylacetone, phenylacetic acid,
789 pseudoephedrine, or ephedrine in conjunction with other
790 chemicals and equipment used in the manufacture of amphetamine
791 or methamphetamine, and who knows that the probable result of
792 such manufacture or importation would be the death of any person
793 commits capital manufacture or importation of amphetamine, a
794 capital felony punishable as provided in ss. 775.082 and
795 921.142. Any person sentenced for a capital felony under this
796 paragraph shall also be sentenced to pay the maximum fine
797 provided under subparagraph 1.

798 (g)1. Any person who knowingly sells, purchases,
799 manufactures, delivers, or brings into this state, or who is
800 knowingly in actual or constructive possession of, 4 grams or
801 more of flunitrazepam or any mixture containing flunitrazepam as
802 described in s. 893.03(1)(a) commits a felony of the first
803 degree, which felony shall be known as "trafficking in
804 flunitrazepam," punishable as provided in s. 775.082, s.
805 775.083, or s. 775.084. If the quantity involved:

806 a. Is 4 grams or more but less than 14 grams, such person
807 shall be sentenced to a mandatory minimum term of imprisonment
808 of 3 years, and the defendant shall be ordered to pay a fine of
809 \$50,000.

810 b. Is 14 grams or more but less than 28 grams, such person
811 shall be sentenced to a mandatory minimum term of imprisonment
812 of 7 years, and the defendant shall be ordered to pay a fine of
813 \$100,000.

814 c. Is 28 grams or more but less than 30 kilograms, such
815 person shall be sentenced to a mandatory minimum term of

591-02990-16

20167068pb

816 imprisonment of 25 calendar years and pay a fine of \$500,000.

817 2. Any person who knowingly sells, purchases, manufactures,
818 delivers, or brings into this state or who is knowingly in
819 actual or constructive possession of 30 kilograms or more of
820 flunitrazepam or any mixture containing flunitrazepam as
821 described in s. 893.03(1)(a) commits the first degree felony of
822 trafficking in flunitrazepam. A person who has been convicted of
823 the first degree felony of trafficking in flunitrazepam under
824 this subparagraph shall be punished by life imprisonment and is
825 ineligible for any form of discretionary early release except
826 pardon or executive clemency or conditional medical release
827 under s. 947.149. However, if the court determines that, in
828 addition to committing any act specified in this paragraph:

829 a. The person intentionally killed an individual or
830 counseled, commanded, induced, procured, or caused the
831 intentional killing of an individual and such killing was the
832 result; or

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

835
836 such person commits the capital felony of trafficking in
837 flunitrazepam, punishable as provided in ss. 775.082 and
838 921.142. Any person sentenced for a capital felony under this
839 paragraph shall also be sentenced to pay the maximum fine
840 provided under subparagraph 1.

841 (h)1. Any person who knowingly sells, purchases,
842 manufactures, delivers, or brings into this state, or who is
843 knowingly in actual or constructive possession of, 1 kilogram or
844 more of gamma-hydroxybutyric acid (GHB), as described in s.

591-02990-16

20167068pb

845 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
846 acid (GHB), commits a felony of the first degree, which felony
847 shall be known as "trafficking in gamma-hydroxybutyric acid
848 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
849 775.084. If the quantity involved:

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

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

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

861 2. Any person who knowingly manufactures or brings into
862 this state 150 kilograms or more of gamma-hydroxybutyric acid
863 (GHB), as described in s. 893.03(1)(d), or any mixture
864 containing gamma-hydroxybutyric acid (GHB), and who knows that
865 the probable result of such manufacture or importation would be
866 the death of any person commits capital manufacture or
867 importation of gamma-hydroxybutyric acid (GHB), a capital felony
868 punishable as provided in ss. 775.082 and 921.142. Any person
869 sentenced for a capital felony under this paragraph shall also
870 be sentenced to pay the maximum fine provided under subparagraph
871 1.

872 (i)1. Any person who knowingly sells, purchases,
873 manufactures, delivers, or brings into this state, or who is

591-02990-16

20167068pb

874 knowingly in actual or constructive possession of, 1 kilogram or
875 more of gamma-butyrolactone (GBL), as described in s.
876 893.03(1)(d), or any mixture containing gamma-butyrolactone
877 (GBL), commits a felony of the first degree, which felony shall
878 be known as "trafficking in gamma-butyrolactone (GBL),"
879 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
880 If the quantity involved:

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

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

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

892 2. Any person who knowingly manufactures or brings into the
893 state 150 kilograms or more of gamma-butyrolactone (GBL), as
894 described in s. 893.03(1)(d), or any mixture containing gamma-
895 butyrolactone (GBL), and who knows that the probable result of
896 such manufacture or importation would be the death of any person
897 commits capital manufacture or importation of gamma-
898 butyrolactone (GBL), a capital felony punishable as provided in
899 ss. 775.082 and 921.142. Any person sentenced for a capital
900 felony under this paragraph shall also be sentenced to pay the
901 maximum fine provided under subparagraph 1.

902 (j)1. Any person who knowingly sells, purchases,

591-02990-16

20167068pb

903 manufactures, delivers, or brings into this state, or who is
904 knowingly in actual or constructive possession of, 1 kilogram or
905 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
906 any mixture containing 1,4-Butanediol, commits a felony of the
907 first degree, which felony shall be known as "trafficking in
908 1,4-Butanediol," punishable as provided in s. 775.082, s.
909 775.083, or s. 775.084. If the quantity involved:

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

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

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

921 2. Any person who knowingly manufactures or brings into
922 this state 150 kilograms or more of 1,4-Butanediol as described
923 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
924 and who knows that the probable result of such manufacture or
925 importation would be the death of any person commits capital
926 manufacture or importation of 1,4-Butanediol, a capital felony
927 punishable as provided in ss. 775.082 and 921.142. Any person
928 sentenced for a capital felony under this paragraph shall also
929 be sentenced to pay the maximum fine provided under subparagraph
930 1.

931 (k)1. A person who knowingly sells, purchases,

591-02990-16

20167068pb

932 manufactures, delivers, or brings into this state, or who is
933 knowingly in actual or constructive possession of, 10 grams or
934 more of any of the following substances described in s.

935 893.03(1)(c):

- 936 a. 3,4-Methylenedioxymethamphetamine (MDMA);
937 b. 4-Bromo-2,5-dimethoxyamphetamine;
938 c. 4-Bromo-2,5-dimethoxyphenethylamine;
939 d. 2,5-Dimethoxyamphetamine;
940 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
941 f. N-ethylamphetamine;
942 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
943 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
944 i. 4-methoxyamphetamine;
945 j. 4-methoxymethamphetamine;
946 k. 4-Methyl-2,5-dimethoxyamphetamine;
947 l. 3,4-Methylenedioxy-N-ethylamphetamine;
948 m. 3,4-Methylenedioxyamphetamine;
949 n. N,N-dimethylamphetamine;
950 o. 3,4,5-Trimethoxyamphetamine;
951 p. 3,4-Methylenedioxymethcathinone;
952 q. 3,4-Methylenedioxypyrovalerone (MDPV); or
953 r. Methylmethcathinone,

954
955 individually or analogs thereto or isomers thereto or in any
956 combination of or any mixture containing any substance listed in
957 sub-subparagraphs a.-r., commits a felony of the first degree,
958 which felony shall be known as "trafficking in Phenethylamines,"
959 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

960 2. If the quantity involved:

591-02990-16

20167068pb

961 a. Is 10 grams or more, but less than 200 grams, such
962 person shall be sentenced to a mandatory minimum term of
963 imprisonment of 3 years and shall be ordered to pay a fine of
964 \$50,000.

965 b. Is 200 grams or more, but less than 400 grams, such
966 person shall be sentenced to a mandatory minimum term of
967 imprisonment of 7 years and shall be ordered to pay a fine of
968 \$100,000.

969 c. Is 400 grams or more, such person shall be sentenced to
970 a mandatory minimum term of imprisonment of 15 years and shall
971 be ordered to pay a fine of \$250,000.

972 3. A person who knowingly manufactures or brings into this
973 state 30 kilograms or more of any of the following substances
974 described in s. 893.03(1)(c):

- 975 a. 3,4-Methylenedioxymethamphetamine (MDMA);
976 b. 4-Bromo-2,5-dimethoxyamphetamine;
977 c. 4-Bromo-2,5-dimethoxyphenethylamine;
978 d. 2,5-Dimethoxyamphetamine;
979 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
980 f. N-ethylamphetamine;
981 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
982 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
983 i. 4-methoxyamphetamine;
984 j. 4-methoxymethamphetamine;
985 k. 4-Methyl-2,5-dimethoxyamphetamine;
986 l. 3,4-Methylenedioxy-N-ethylamphetamine;
987 m. 3,4-Methylenedioxyamphetamine;
988 n. N,N-dimethylamphetamine;
989 o. 3,4,5-Trimethoxyamphetamine;

591-02990-16

20167068pb

990 p. 3,4-Methylenedioxy methcathinone;

991 q. 3,4-Methylenedioxy pyrovalerone (MDPV); or

992 r. Methy methcathinone,

993

994 individually or analogs thereto or isomers thereto or in any
995 combination of or any mixture containing any substance listed in
996 sub-subparagraphs a.-r., and who knows that the probable result
997 of such manufacture or importation would be the death of any
998 person commits capital manufacture or importation of
999 Phenethylamines, a capital felony punishable as provided in ss.
1000 775.082 and 921.142. A person sentenced for a capital felony
1001 under this paragraph shall also be sentenced to pay the maximum
1002 fine provided under subparagraph 1.

1003 (1)1. Any person who knowingly sells, purchases,
1004 manufactures, delivers, or brings into this state, or who is
1005 knowingly in actual or constructive possession of, 1 gram or
1006 more of lysergic acid diethylamide (LSD) as described in s.
1007 893.03(1)(c), or of any mixture containing lysergic acid
1008 diethylamide (LSD), commits a felony of the first degree, which
1009 felony shall be known as "trafficking in lysergic acid
1010 diethylamide (LSD)," punishable as provided in s. 775.082, s.
1011 775.083, or s. 775.084. If the quantity involved:

1012 a. Is 1 gram or more, but less than 5 grams, such person
1013 shall be sentenced to a mandatory minimum term of imprisonment
1014 of 3 years, and the defendant shall be ordered to pay a fine of
1015 \$50,000.

1016 b. Is 5 grams or more, but less than 7 grams, such person
1017 shall be sentenced to a mandatory minimum term of imprisonment
1018 of 7 years, and the defendant shall be ordered to pay a fine of

591-02990-16

20167068pb

1019 \$100,000.

1020 c. Is 7 grams or more, such person shall be sentenced to a
1021 mandatory minimum term of imprisonment of 15 calendar years and
1022 pay a fine of \$500,000.

1023 2. Any person who knowingly manufactures or brings into
1024 this state 7 grams or more of lysergic acid diethylamide (LSD)
1025 as described in s. 893.03(1)(c), or any mixture containing
1026 lysergic acid diethylamide (LSD), and who knows that the
1027 probable result of such manufacture or importation would be the
1028 death of any person commits capital manufacture or importation
1029 of lysergic acid diethylamide (LSD), a capital felony punishable
1030 as provided in ss. 775.082 and 921.142. Any person sentenced for
1031 a capital felony under this paragraph shall also be sentenced to
1032 pay the maximum fine provided under subparagraph 1.

1033 Section 7. The amendments made by this act to ss. 775.082,
1034 782.04, 921.141, and 921.142, Florida Statutes, shall apply only
1035 to criminal acts that occur on or after the effective date of
1036 this act.

1037 Section 8. This act shall take effect upon becoming a law.