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HB 7101, Engrossed 1

2016 Legislature

1
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; requiring the notice to specify
9 aggravating factors that state intends to prove;
10 providing for amendment of notice; amending ss.
11 921.141 and 921.142, F.S.; requiring juries to
12 determine the existence of aggravating factors, if
13 any, in the penalty phase of capital cases; specifying
14 a standard of proof for such factors; requiring
15 unanimity for such findings; requiring a jury to make
16 a recommendation to the court whether the defendant
17 shall be sentenced to life imprisonment or death;
18 specifying considerations for such a recommendation;
19 requiring a certain determination by at least 10
20 jurors to support a recommendation of a sentence of
21 death; requiring a sentence of life imprisonment
22 without the possibility of parole in certain
23 circumstances; requiring the court to enter an order
24 meeting specified requirements in each case in which
25 it imposes a death sentence; deleting provisions
26 relating to advisory sentencing by juries and findings



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27 by the court in support of sentences of death;
 28 reenacting s. 794.011(2)(a), F.S., relating to sexual
 29 battery, to incorporate the amendment made by the act
 30 to s. 921.141, F.S., in a reference thereto;
 31 reenacting s. 893.135(1)(b) through (l), F.S.,
 32 relating to trafficking in controlled substances, to
 33 incorporate the amendment made by the act to s.
 34 921.142, F.S., in references thereto; providing an
 35 effective date.
 36

37 Be It Enacted by the Legislature of the State of Florida:
 38

39 Section 1. Paragraph (a) of subsection (1) of section
 40 775.082, Florida Statutes, is amended to read:

41 775.082 Penalties; applicability of sentencing structures;
 42 mandatory minimum sentences for certain reoffenders previously
 43 released from prison.—

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

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



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53 | 782.04 Murder.—

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

55 | 1. When perpetrated from a premeditated design to effect

56 | the death of the person killed or any human being;

57 | 2. When committed by a person engaged in the perpetration

58 | of, or in the attempt to perpetrate, any:

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

60 | b. Arson,

61 | c. Sexual battery,

62 | d. Robbery,

63 | e. Burglary,

64 | f. Kidnapping,

65 | g. Escape,

66 | h. Aggravated child abuse,

67 | i. Aggravated abuse of an elderly person or disabled

68 | adult,

69 | j. Aircraft piracy,

70 | k. Unlawful throwing, placing, or discharging of a

71 | destructive device or bomb,

72 | l. Carjacking,

73 | m. Home-invasion robbery,

74 | n. Aggravated stalking,

75 | o. Murder of another human being,

76 | p. Resisting an officer with violence to his or her

77 | person,

78 | q. Aggravated fleeing or eluding with serious bodily



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79 injury or death,

80 r. Felony that is an act of terrorism or is in furtherance
81 of an act of terrorism; or

82 3. Which resulted from the unlawful distribution of any
83 substance controlled under s. 893.03(1), cocaine as described in
84 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
85 compound, derivative, or preparation of opium, or methadone by a
86 person 18 years of age or older, when such drug is proven to be
87 the proximate cause of the death of the user,

88
89 is murder in the first degree and constitutes a capital felony,
90 punishable as provided in s. 775.082.

91 (b) In all cases under this section, the procedure set
92 forth in s. 921.141 shall be followed in order to determine
93 sentence of death or life imprisonment. If the prosecutor
94 intends to seek the death penalty, the prosecutor must give
95 notice to the defendant and file the notice with the court
96 within 45 days after arraignment. The notice must contain a list
97 of the aggravating factors the state intends to prove and has
98 reason to believe it can prove beyond a reasonable doubt. The
99 court may allow the prosecutor to amend the notice upon a
100 showing of good cause.

101 Section 3. Section 921.141, Florida Statutes, is amended
102 to read:

103 921.141 Sentence of death or life imprisonment for capital
104 felonies; further proceedings to determine sentence.—



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105 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
106 conviction or adjudication of guilt of a defendant of a capital
107 felony, the court shall conduct a separate sentencing proceeding
108 to determine whether the defendant should be sentenced to death
109 or life imprisonment as authorized by s. 775.082. The proceeding
110 shall be conducted by the trial judge before the trial jury as
111 soon as practicable. If, through impossibility or inability, the
112 trial jury is unable to reconvene for a hearing on the issue of
113 penalty, having determined the guilt of the accused, the trial
114 judge may summon a special juror or jurors as provided in
115 chapter 913 to determine the issue of the imposition of the
116 penalty. If the trial jury has been waived, or if the defendant
117 pleaded guilty, the sentencing proceeding shall be conducted
118 before a jury impaneled for that purpose, unless waived by the
119 defendant. In the proceeding, evidence may be presented as to
120 any matter that the court deems relevant to the nature of the
121 crime and the character of the defendant and shall include
122 matters relating to any of the aggravating factors enumerated in
123 subsection (6) and for which notice has been provided pursuant
124 to s. 782.04(1)(b) or mitigating circumstances enumerated in
125 subsection (7) ~~subsections (5) and (6)~~. Any such evidence that
126 ~~which~~ the court deems to have probative value may be received,
127 regardless of its admissibility under the exclusionary rules of
128 evidence, provided the defendant is accorded a fair opportunity
129 to rebut any hearsay statements. However, this subsection shall
130 not be construed to authorize the introduction of any evidence



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131 secured in violation of the Constitution of the United States or
132 the Constitution of the State of Florida. The state and the
133 defendant or the defendant's counsel shall be permitted to
134 present argument for or against sentence of death.

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

138 (a) After hearing all of the evidence presented regarding
139 aggravating factors and mitigating circumstances, the jury shall
140 deliberate and determine if the state has proven, beyond a
141 reasonable doubt, the existence of at least one aggravating
142 factor set forth in subsection (6).

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

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

148 2. Unanimously finds at least one aggravating factor, the
149 defendant is eligible for a sentence of death and the jury shall
150 make a recommendation to the court as to whether the defendant
151 shall be sentenced to life imprisonment without the possibility
152 of parole or to death. The recommendation shall be based on a
153 weighing of all of the following:

154 a. Whether sufficient aggravating factors exist.

155 b. Whether aggravating factors exist which outweigh the
156 mitigating circumstances found to exist.



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

160 (c) If at least 10 jurors determine that the defendant
161 should be sentenced to death, the jury's recommendation to the
162 court shall be a sentence of death. If fewer than 10 jurors
163 determine that the defendant should be sentenced to death,
164 the jury's recommendation to the court shall be a sentence of
165 life imprisonment without the possibility of parole.

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

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

168 1. Life imprisonment without the possibility of parole,
169 the court shall impose the recommended sentence.

170 2. Death, the court, after considering each aggravating
171 factor found by the jury and all mitigating circumstances, may
172 impose a sentence of life imprisonment without the possibility
173 of parole or a sentence of death. The court may consider only an
174 aggravating factor that was unanimously found to exist by the
175 jury.

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



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183 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
184 each case in which the court imposes a sentence of death, the
185 court shall, considering the records of the trial and the
186 sentencing proceedings, enter a written order addressing the
187 aggravating factors set forth in subsection (6) found to exist,
188 the mitigating circumstances in subsection (7) reasonably
189 established by the evidence, whether there are sufficient
190 aggravating factors to warrant the death penalty, and whether
191 the aggravating factors outweigh the mitigating circumstances
192 reasonably established by the evidence. If the court does not
193 issue its order requiring the death sentence within 30 days
194 after the rendition of the judgment and sentence, the court
195 shall impose a sentence of life imprisonment without the
196 possibility of parole in accordance with s. 775.082.

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

200 ~~(a) Whether sufficient aggravating circumstances exist as~~
201 ~~enumerated in subsection (5);~~

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

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

206 ~~(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—~~

207 ~~Notwithstanding the recommendation of a majority of the jury,~~
208 ~~the court, after weighing the aggravating and mitigating~~



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209 ~~circumstances, shall enter a sentence of life imprisonment or~~
210 ~~death, but if the court imposes a sentence of death, it shall~~
211 ~~set forth in writing its findings upon which the sentence of~~
212 ~~death is based as to the facts:~~

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

215 ~~(b) That there are insufficient mitigating circumstances~~
216 ~~to outweigh the aggravating circumstances.~~

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

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

233 (6)(5) AGGRAVATING FACTORS ~~CIRCUMSTANCES~~.—Aggravating
234 factors ~~circumstances~~ shall be limited to the following:



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235 (a) The capital felony was committed by a person
236 previously convicted of a felony and under sentence of
237 imprisonment or placed on community control or on felony
238 probation.

239 (b) The defendant was previously convicted of another
240 capital felony or of a felony involving the use or threat of
241 violence to the person.

242 (c) The defendant knowingly created a great risk of death
243 to many persons.

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

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

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

257 (g) The capital felony was committed to disrupt or hinder
258 the lawful exercise of any governmental function or the
259 enforcement of laws.

260 (h) The capital felony was especially heinous, atrocious,



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261 or cruel.

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

265 (j) The victim of the capital felony was a law enforcement
266 officer engaged in the performance of his or her official
267 duties.

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

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

274 (m) The victim of the capital felony was particularly
275 vulnerable due to advanced age or disability, or because the
276 defendant stood in a position of familial or custodial authority
277 over the victim.

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

280 (o) The capital felony was committed by a person
281 designated as a sexual predator pursuant to s. 775.21 or a
282 person previously designated as a sexual predator who had the
283 sexual predator designation removed.

284 (p) The capital felony was committed by a person subject
285 to an injunction issued pursuant to s. 741.30 or s. 784.046, or
286 a foreign protection order accorded full faith and credit



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287 pursuant to s. 741.315, and was committed against the petitioner
288 who obtained the injunction or protection order or any spouse,
289 child, sibling, or parent of the petitioner.

290 (7)~~(6)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
291 shall be the following:

292 (a) The defendant has no significant history of prior
293 criminal activity.

294 (b) The capital felony was committed while the defendant
295 was under the influence of extreme mental or emotional
296 disturbance.

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

299 (d) The defendant was an accomplice in the capital felony
300 committed by another person and his or her participation was
301 relatively minor.

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

304 (f) The capacity of the defendant to appreciate the
305 criminality of his or her conduct or to conform his or her
306 conduct to the requirements of law was substantially impaired.

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

308 (h) The existence of any other factors in the defendant's
309 background that would mitigate against imposition of the death
310 penalty.

311 (8)~~(7)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
312 provided evidence of the existence of one or more aggravating



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313 factors ~~circumstances~~ as described in subsection (6) ~~(5)~~, the
314 prosecution may introduce, and subsequently argue, victim impact
315 evidence to the jury. Such evidence shall be designed to
316 demonstrate the victim's uniqueness as an individual human being
317 and the resultant loss to the community's members by the
318 victim's death. Characterizations and opinions about the crime,
319 the defendant, and the appropriate sentence shall not be
320 permitted as a part of victim impact evidence.

321 (9) ~~(8)~~ APPLICABILITY.—This section does not apply to a
322 person convicted or adjudicated guilty of a capital drug
323 trafficking felony under s. 893.135.

324 Section 4. Section 921.142, Florida Statutes, is amended
325 to read:

326 921.142 Sentence of death or life imprisonment for capital
327 drug trafficking felonies; further proceedings to determine
328 sentence.—

329 (1) FINDINGS.—The Legislature finds that trafficking in
330 cocaine or opiates carries a grave risk of death or danger to
331 the public; that a reckless disregard for human life is implicit
332 in knowingly trafficking in cocaine or opiates; and that persons
333 who traffic in cocaine or opiates may be determined by the trier
334 of fact to have a culpable mental state of reckless indifference
335 or disregard for human life.

336 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
337 conviction or adjudication of guilt of a defendant of a capital
338 felony under s. 893.135, the court shall conduct a separate



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339 sentencing proceeding to determine whether the defendant should
340 be sentenced to death or life imprisonment as authorized by s.
341 775.082. The proceeding shall be conducted by the trial judge
342 before the trial jury as soon as practicable. If, through
343 impossibility or inability, the trial jury is unable to
344 reconvene for a hearing on the issue of penalty, having
345 determined the guilt of the accused, the trial judge may summon
346 a special juror or jurors as provided in chapter 913 to
347 determine the issue of the imposition of the penalty. If the
348 trial jury has been waived, or if the defendant pleaded guilty,
349 the sentencing proceeding shall be conducted before a jury
350 impaneled for that purpose, unless waived by the defendant. In
351 the proceeding, evidence may be presented as to any matter that
352 the court deems relevant to the nature of the crime and the
353 character of the defendant and shall include matters relating to
354 any of the aggravating factors enumerated in subsection (7) and
355 for which notice has been provided pursuant to s. 782.04(1)(b)
356 or mitigating circumstances enumerated in subsection (8)
357 ~~subsections (6) and (7)~~. Any such evidence that ~~which~~ the court
358 deems to have probative value may be received, regardless of its
359 admissibility under the exclusionary rules of evidence, provided
360 the defendant is accorded a fair opportunity to rebut any
361 hearsay statements. However, this subsection shall not be
362 construed to authorize the introduction of any evidence secured
363 in violation of the Constitution of the United States or the
364 Constitution of the State of Florida. The state and the



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365 | defendant or the defendant's counsel shall be permitted to
366 | present argument for or against sentence of death.

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

370 | (a) After hearing all of the evidence presented regarding
371 | aggravating factors and mitigating circumstances, the jury shall
372 | deliberate and determine if the state has proven, beyond a
373 | reasonable doubt, the existence of at least one aggravating
374 | factor set forth in subsection (7).

375 | (b) The jury shall return findings identifying each
376 | aggravating factor found to exist. A finding that an aggravating
377 | factor exists must be unanimous. If the jury:

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

380 | 2. Unanimously finds at least one aggravating factor, the
381 | defendant is eligible for a sentence of death and the jury shall
382 | make a recommendation to the court as to whether the defendant
383 | shall be sentenced to life imprisonment without the possibility
384 | of parole or to death. The recommendation shall be based on a
385 | weighing of all of the following:

386 | a. Whether sufficient aggravating factors exist.

387 | b. Whether aggravating factors exist which outweigh the
388 | mitigating circumstances found to exist.

389 | c. Based on the considerations in sub-subparagraphs a. and
390 | b., whether the defendant should be sentenced to life



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391 imprisonment without the possibility of parole or to death.

392 (c) If at least 10 jurors determine that the defendant
 393 should be sentenced to death, the jury's recommendation to the
 394 court shall be a sentence of death. If fewer than 10 jurors
 395 determine that the defendant should be sentenced to death,
 396 the jury's recommendation to the court shall be a sentence of
 397 life imprisonment without the possibility of parole.

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

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

400 1. Life imprisonment without the possibility of parole,
 401 the court shall impose the recommended sentence.

402 2. Death, the court, after considering each aggravating
 403 factor found by the jury and all mitigating circumstances, may
 404 impose a sentence of life imprisonment without the possibility
 405 of parole or a sentence of death. The court may consider only an
 406 aggravating factor that was unanimously found to exist by the
 407 jury.

408 (b) If the defendant waived his or her right to a
 409 sentencing proceeding by a jury, the court, after considering
 410 all aggravating factors and mitigating circumstances, may impose
 411 a sentence of life imprisonment without the possibility of
 412 parole or a sentence of death. The court may impose a sentence
 413 of death only if the court finds at least one aggravating factor
 414 has been proven to exist beyond a reasonable doubt.

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



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

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

432 ~~(a) Whether sufficient aggravating circumstances exist as~~
433 ~~enumerated in subsection (6);~~

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

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

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

439 ~~Notwithstanding the recommendation of a majority of the jury,~~
440 ~~the court, after weighing the aggravating and mitigating~~
441 ~~circumstances, shall enter a sentence of life imprisonment or~~
442 ~~death, but if the court imposes a sentence of death, it shall~~



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443 ~~set forth in writing its findings upon which the sentence of~~
 444 ~~death is based as to the facts:~~

445 ~~(a) That sufficient aggravating circumstances exist as~~
 446 ~~enumerated in subsection (6), and~~

447 ~~(b) That there are insufficient mitigating circumstances~~
 448 ~~to outweigh the aggravating circumstances.~~

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

459 (6)~~(5)~~ REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
 460 conviction and sentence of death shall be subject to automatic
 461 review and disposition rendered by the Supreme Court of Florida
 462 within 2 years after the filing of a notice of appeal. Such
 463 review by the Supreme Court shall have priority over all other
 464 cases and shall be heard in accordance with rules promulgated by
 465 the Supreme Court.

466 (7)~~(6)~~ AGGRAVATING FACTORS CIRCUMSTANCES.—Aggravating
 467 factors ~~circumstances~~ shall be limited to the following:

468 (a) The capital felony was committed by a person under a



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469 sentence of imprisonment.

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

474 (c) The defendant knowingly created grave risk of death to
475 one or more persons such that participation in the offense
476 constituted reckless indifference or disregard for human life.

477 (d) The defendant used a firearm or knowingly directed,
478 advised, authorized, or assisted another to use a firearm to
479 threaten, intimidate, assault, or injure a person in committing
480 the offense or in furtherance of the offense.

481 (e) The offense involved the distribution of controlled
482 substances to persons under the age of 18 years, the
483 distribution of controlled substances within school zones, or
484 the use or employment of persons under the age of 18 years in
485 aid of distribution of controlled substances.

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

488 (g) The defendant:

- 489 1. Intentionally killed the victim;
- 490 2. Intentionally inflicted serious bodily injury that
491 ~~which~~ resulted in the death of the victim; or
- 492 3. Intentionally engaged in conduct intending that the
493 victim be killed or that lethal force be employed against the
494 victim, which resulted in the death of the victim.



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495 (h) The defendant committed the offense as consideration
 496 for the receipt, or in the expectation of the receipt, of
 497 anything of pecuniary value.

498 (i) The defendant committed the offense after planning and
 499 premeditation.

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

503 (8)~~(7)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
 504 shall include the following:

505 (a) The defendant has no significant history of prior
 506 criminal activity.

507 (b) The capital felony was committed while the defendant
 508 was under the influence of extreme mental or emotional
 509 disturbance.

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

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

515 (e) The capacity of the defendant to appreciate the
 516 criminality of her or his conduct or to conform her or his
 517 conduct to the requirements of law was substantially impaired.

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

519 (g) The defendant could not have reasonably foreseen that
 520 her or his conduct in the course of the commission of the



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521 offense would cause or would create a grave risk of death to one
522 or more persons.

523 (h) The existence of any other factors in the defendant's
524 background that would mitigate against imposition of the death
525 penalty.

526 (9)~~(8)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
527 provided evidence of the existence of one or more aggravating
528 factors ~~circumstances~~ as described in subsection (7) ~~(6)~~, the
529 prosecution may introduce, and subsequently argue, victim impact
530 evidence. Such evidence shall be designed to demonstrate the
531 victim's uniqueness as an individual human being and the
532 resultant loss to the community's members by the victim's death.
533 Characterizations and opinions about the crime, the defendant,
534 and the appropriate sentence shall not be permitted as a part of
535 victim impact evidence.

536 Section 5. For the purpose of incorporating the amendment
537 made by this act to section 921.141, Florida Statutes, in a
538 reference thereto, paragraph (a) of subsection (2) of section
539 794.011, Florida Statutes, is reenacted to read:

540 794.011 Sexual battery.—

541 (2) (a) A person 18 years of age or older who commits
542 sexual battery upon, or in an attempt to commit sexual battery
543 injures the sexual organs of, a person less than 12 years of age
544 commits a capital felony, punishable as provided in ss. 775.082
545 and 921.141.

546 Section 6. For the purpose of incorporating the amendment



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547 made by this act to section 921.142, Florida Statutes, in
548 references thereto, paragraphs (b), (c), (d), (e), (f), (g),
549 (h), (i), (j), (k), and (l) of subsection (1) of section
550 893.135, Florida Statutes, are reenacted to read:

551 893.135 Trafficking; mandatory sentences; suspension or
552 reduction of sentences; conspiracy to engage in trafficking.—

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

555 (b)1. Any person who knowingly sells, purchases,
556 manufactures, delivers, or brings into this state, or who is
557 knowingly in actual or constructive possession of, 28 grams or
558 more of cocaine, as described in s. 893.03(2)(a)4., or of any
559 mixture containing cocaine, but less than 150 kilograms of
560 cocaine or any such mixture, commits a felony of the first
561 degree, which felony shall be known as "trafficking in cocaine,"
562 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
563 If the quantity involved:

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

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

572 c. Is 400 grams or more, but less than 150 kilograms, such



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573 person shall be sentenced to a mandatory minimum term of
574 imprisonment of 15 calendar years and pay a fine of \$250,000.

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

587 a. The person intentionally killed an individual or
588 counseled, commanded, induced, procured, or caused the
589 intentional killing of an individual and such killing was the
590 result; or

591 b. The person's conduct in committing that act led to a
592 natural, though not inevitable, lethal result,
593
594 such person commits the capital felony of trafficking in
595 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
596 person sentenced for a capital felony under this paragraph shall
597 also be sentenced to pay the maximum fine provided under
598 subparagraph 1.



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599 3. Any person who knowingly brings into this state 300
600 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
601 and who knows that the probable result of such importation would
602 be the death of any person, commits capital importation of
603 cocaine, a capital felony punishable as provided in ss. 775.082
604 and 921.142. Any person sentenced for a capital felony under
605 this paragraph shall also be sentenced to pay the maximum fine
606 provided under subparagraph 1.

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

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

622 b. Is 14 grams or more, but less than 28 grams, such
623 person shall be sentenced to a mandatory minimum term of
624 imprisonment of 15 years and shall be ordered to pay a fine of



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625 | \$100,000.

626 | c. Is 28 grams or more, but less than 30 kilograms, such
627 | person shall be sentenced to a mandatory minimum term of
628 | imprisonment of 25 years and shall be ordered to pay a fine of
629 | \$500,000.

630 | 2. A person who knowingly sells, purchases, manufactures,
631 | delivers, or brings into this state, or who is knowingly in
632 | actual or constructive possession of, 14 grams or more of
633 | hydrocodone, or any salt, derivative, isomer, or salt of an
634 | isomer thereof, or 14 grams or more of any mixture containing
635 | any such substance, commits a felony of the first degree, which
636 | felony shall be known as "trafficking in hydrocodone,"
637 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
638 | If the quantity involved:

639 | a. Is 14 grams or more, but less than 28 grams, such
640 | person shall be sentenced to a mandatory minimum term of
641 | imprisonment of 3 years and shall be ordered to pay a fine of
642 | \$50,000.

643 | b. Is 28 grams or more, but less than 50 grams, such
644 | person shall be sentenced to a mandatory minimum term of
645 | imprisonment of 7 years and shall be ordered to pay a fine of
646 | \$100,000.

647 | c. Is 50 grams or more, but less than 200 grams, such
648 | person shall be sentenced to a mandatory minimum term of
649 | imprisonment of 15 years and shall be ordered to pay a fine of
650 | \$500,000.



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651 d. Is 200 grams or more, but less than 30 kilograms, such
652 person shall be sentenced to a mandatory minimum term of
653 imprisonment of 25 years and shall be ordered to pay a fine of
654 \$750,000.

655 3. A person who knowingly sells, purchases, manufactures,
656 delivers, or brings into this state, or who is knowingly in
657 actual or constructive possession of, 7 grams or more of
658 oxycodone, or any salt, derivative, isomer, or salt of an isomer
659 thereof, or 7 grams or more of any mixture containing any such
660 substance, commits a felony of the first degree, which felony
661 shall be known as "trafficking in oxycodone," punishable as
662 provided in s. 775.082, s. 775.083, or s. 775.084. If the
663 quantity involved:

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

667 b. Is 14 grams or more, but less than 25 grams, such
668 person shall be sentenced to a mandatory minimum term of
669 imprisonment of 7 years and shall be ordered to pay a fine of
670 \$100,000.

671 c. Is 25 grams or more, but less than 100 grams, such
672 person shall be sentenced to a mandatory minimum term of
673 imprisonment of 15 years and shall be ordered to pay a fine of
674 \$500,000.

675 d. Is 100 grams or more, but less than 30 kilograms, such
676 person shall be sentenced to a mandatory minimum term of



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677 imprisonment of 25 years and shall be ordered to pay a fine of
678 \$750,000.

679 4. A person who knowingly sells, purchases, manufactures,
680 delivers, or brings into this state, or who is knowingly in
681 actual or constructive possession of, 30 kilograms or more of
682 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
683 any salt, derivative, isomer, or salt of an isomer thereof,
684 including heroin, as described in s. 893.03(1)(b), (2)(a),
685 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
686 containing any such substance, commits the first degree felony
687 of trafficking in illegal drugs. A person who has been convicted
688 of the first degree felony of trafficking in illegal drugs under
689 this subparagraph shall be punished by life imprisonment and is
690 ineligible for any form of discretionary early release except
691 pardon or executive clemency or conditional medical release
692 under s. 947.149. However, if the court determines that, in
693 addition to committing any act specified in this paragraph:

694 a. The person intentionally killed an individual or
695 counseled, commanded, induced, procured, or caused the
696 intentional killing of an individual and such killing was the
697 result; or

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

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701 such person commits the capital felony of trafficking in illegal
702 drugs, punishable as provided in ss. 775.082 and 921.142. A



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703 person sentenced for a capital felony under this paragraph shall
704 also be sentenced to pay the maximum fine provided under
705 subparagraph 1.

706 5. A person who knowingly brings into this state 60
707 kilograms or more of any morphine, opium, oxycodone,
708 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
709 salt of an isomer thereof, including heroin, as described in s.
710 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
711 more of any mixture containing any such substance, and who knows
712 that the probable result of such importation would be the death
713 of a person, commits capital importation of illegal drugs, a
714 capital felony punishable as provided in ss. 775.082 and
715 921.142. A person sentenced for a capital felony under this
716 paragraph shall also be sentenced to pay the maximum fine
717 provided under subparagraph 1.

718 (d)1. Any person who knowingly sells, purchases,
719 manufactures, delivers, or brings into this state, or who is
720 knowingly in actual or constructive possession of, 28 grams or
721 more of phencyclidine or of any mixture containing
722 phencyclidine, as described in s. 893.03(2)(b), commits a felony
723 of the first degree, which felony shall be known as "trafficking
724 in phencyclidine," punishable as provided in s. 775.082, s.
725 775.083, or s. 775.084. If the quantity involved:

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



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729 pay a fine of \$50,000.

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

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

737 2. Any person who knowingly brings into this state 800
738 grams or more of phencyclidine or of any mixture containing
739 phencyclidine, as described in s. 893.03(2)(b), and who knows
740 that the probable result of such importation would be the death
741 of any person commits capital importation of phencyclidine, a
742 capital felony punishable as provided in ss. 775.082 and
743 921.142. Any person sentenced for a capital felony under this
744 paragraph shall also be sentenced to pay the maximum fine
745 provided under subparagraph 1.

746 (e)1. Any person who knowingly sells, purchases,
747 manufactures, delivers, or brings into this state, or who is
748 knowingly in actual or constructive possession of, 200 grams or
749 more of methaqualone or of any mixture containing methaqualone,
750 as described in s. 893.03(1)(d), commits a felony of the first
751 degree, which felony shall be known as "trafficking in
752 methaqualone," punishable as provided in s. 775.082, s. 775.083,
753 or s. 775.084. If the quantity involved:

754 a. Is 200 grams or more, but less than 5 kilograms, such



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755 person shall be sentenced to a mandatory minimum term of
756 imprisonment of 3 years, and the defendant shall be ordered to
757 pay a fine of \$50,000.

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

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

765 2. Any person who knowingly brings into this state 50
766 kilograms or more of methaqualone or of any mixture containing
767 methaqualone, as described in s. 893.03(1)(d), and who knows
768 that the probable result of such importation would be the death
769 of any person commits capital importation of methaqualone, a
770 capital felony punishable as provided in ss. 775.082 and
771 921.142. Any person sentenced for a capital felony under this
772 paragraph shall also be sentenced to pay the maximum fine
773 provided under subparagraph 1.

774 (f)1. Any person who knowingly sells, purchases,
775 manufactures, delivers, or brings into this state, or who is
776 knowingly in actual or constructive possession of, 14 grams or
777 more of amphetamine, as described in s. 893.03(2)(c)2., or
778 methamphetamine, as described in s. 893.03(2)(c)4., or of any
779 mixture containing amphetamine or methamphetamine, or
780 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine



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781 in conjunction with other chemicals and equipment utilized in
782 the manufacture of amphetamine or methamphetamine, commits a
783 felony of the first degree, which felony shall be known as
784 "trafficking in amphetamine," punishable as provided in s.
785 775.082, s. 775.083, or s. 775.084. If the quantity involved:
786 a. Is 14 grams or more, but less than 28 grams, such
787 person shall be sentenced to a mandatory minimum term of
788 imprisonment of 3 years, and the defendant shall be ordered to
789 pay a fine of \$50,000.
790 b. Is 28 grams or more, but less than 200 grams, such
791 person shall be sentenced to a mandatory minimum term of
792 imprisonment of 7 years, and the defendant shall be ordered to
793 pay a fine of \$100,000.
794 c. Is 200 grams or more, such person shall be sentenced to
795 a mandatory minimum term of imprisonment of 15 calendar years
796 and pay a fine of \$250,000.
797 2. Any person who knowingly manufactures or brings into
798 this state 400 grams or more of amphetamine, as described in s.
799 893.03(2)(c)2., or methamphetamine, as described in s.
800 893.03(2)(c)4., or of any mixture containing amphetamine or
801 methamphetamine, or phenylacetone, phenylacetic acid,
802 pseudoephedrine, or ephedrine in conjunction with other
803 chemicals and equipment used in the manufacture of amphetamine
804 or methamphetamine, and who knows that the probable result of
805 such manufacture or importation would be the death of any person
806 commits capital manufacture or importation of amphetamine, a



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807 capital felony punishable as provided in ss. 775.082 and
808 921.142. Any person sentenced for a capital felony under this
809 paragraph shall also be sentenced to pay the maximum fine
810 provided under subparagraph 1.

811 (g)1. Any person who knowingly sells, purchases,
812 manufactures, delivers, or brings into this state, or who is
813 knowingly in actual or constructive possession of, 4 grams or
814 more of flunitrazepam or any mixture containing flunitrazepam as
815 described in s. 893.03(1)(a) commits a felony of the first
816 degree, which felony shall be known as "trafficking in
817 flunitrazepam," punishable as provided in s. 775.082, s.
818 775.083, or s. 775.084. If the quantity involved:

819 a. Is 4 grams or more but less than 14 grams, such person
820 shall be sentenced to a mandatory minimum term of imprisonment
821 of 3 years, and the defendant shall be ordered to pay a fine of
822 \$50,000.

823 b. Is 14 grams or more but less than 28 grams, such person
824 shall be sentenced to a mandatory minimum term of imprisonment
825 of 7 years, and the defendant shall be ordered to pay a fine of
826 \$100,000.

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

830 2. Any person who knowingly sells, purchases,
831 manufactures, delivers, or brings into this state or who is
832 knowingly in actual or constructive possession of 30 kilograms



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833 or more of flunitrazepam or any mixture containing flunitrazepam
834 as described in s. 893.03(1)(a) commits the first degree felony
835 of trafficking in flunitrazepam. A person who has been convicted
836 of the first degree felony of trafficking in flunitrazepam under
837 this subparagraph shall be punished by life imprisonment and is
838 ineligible for any form of discretionary early release except
839 pardon or executive clemency or conditional medical release
840 under s. 947.149. However, if the court determines that, in
841 addition to committing any act specified in this paragraph:

842 a. The person intentionally killed an individual or
843 counseled, commanded, induced, procured, or caused the
844 intentional killing of an individual and such killing was the
845 result; or

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

848
849 such person commits the capital felony of trafficking in
850 flunitrazepam, punishable as provided in ss. 775.082 and
851 921.142. Any person sentenced for a capital felony under this
852 paragraph shall also be sentenced to pay the maximum fine
853 provided under subparagraph 1.

854 (h)1. Any person who knowingly sells, purchases,
855 manufactures, delivers, or brings into this state, or who is
856 knowingly in actual or constructive possession of, 1 kilogram or
857 more of gamma-hydroxybutyric acid (GHB), as described in s.
858 893.03(1)(d), or any mixture containing gamma-hydroxybutyric



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859 acid (GHB), commits a felony of the first degree, which felony
860 shall be known as "trafficking in gamma-hydroxybutyric acid
861 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
862 775.084. If the quantity involved:

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

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

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

874 2. Any person who knowingly manufactures or brings into
875 this state 150 kilograms or more of gamma-hydroxybutyric acid
876 (GHB), as described in s. 893.03(1)(d), or any mixture
877 containing gamma-hydroxybutyric acid (GHB), and who knows that
878 the probable result of such manufacture or importation would be
879 the death of any person commits capital manufacture or
880 importation of gamma-hydroxybutyric acid (GHB), a capital felony
881 punishable as provided in ss. 775.082 and 921.142. Any person
882 sentenced for a capital felony under this paragraph shall also
883 be sentenced to pay the maximum fine provided under subparagraph
884 1.



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885 (i)1. Any person who knowingly sells, purchases,
886 manufactures, delivers, or brings into this state, or who is
887 knowingly in actual or constructive possession of, 1 kilogram or
888 more of gamma-butyrolactone (GBL), as described in s.
889 893.03(1)(d), or any mixture containing gamma-butyrolactone
890 (GBL), commits a felony of the first degree, which felony shall
891 be known as "trafficking in gamma-butyrolactone (GBL),"
892 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
893 If the quantity involved:

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

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

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

905 2. Any person who knowingly manufactures or brings into
906 the state 150 kilograms or more of gamma-butyrolactone (GBL), as
907 described in s. 893.03(1)(d), or any mixture containing gamma-
908 butyrolactone (GBL), and who knows that the probable result of
909 such manufacture or importation would be the death of any person
910 commits capital manufacture or importation of gamma-



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911 butyrolactone (GBL), a capital felony punishable as provided in
912 ss. 775.082 and 921.142. Any person sentenced for a capital
913 felony under this paragraph shall also be sentenced to pay the
914 maximum fine provided under subparagraph 1.

915 (j)1. Any person who knowingly sells, purchases,
916 manufactures, delivers, or brings into this state, or who is
917 knowingly in actual or constructive possession of, 1 kilogram or
918 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
919 any mixture containing 1,4-Butanediol, commits a felony of the
920 first degree, which felony shall be known as "trafficking in
921 1,4-Butanediol," punishable as provided in s. 775.082, s.
922 775.083, or s. 775.084. If the quantity involved:

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

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

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

934 2. Any person who knowingly manufactures or brings into
935 this state 150 kilograms or more of 1,4-Butanediol as described
936 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,



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937 and who knows that the probable result of such manufacture or
 938 importation would be the death of any person commits capital
 939 manufacture or importation of 1,4-Butanediol, a capital felony
 940 punishable as provided in ss. 775.082 and 921.142. Any person
 941 sentenced for a capital felony under this paragraph shall also
 942 be sentenced to pay the maximum fine provided under subparagraph
 943 1.

944 (k)1. A person who knowingly sells, purchases,
 945 manufactures, delivers, or brings into this state, or who is
 946 knowingly in actual or constructive possession of, 10 grams or
 947 more of any of the following substances described in s.

948 893.03(1) (c):

- 949 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 950 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 951 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 952 d. 2,5-Dimethoxyamphetamine;
- 953 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 954 f. N-ethylamphetamine;
- 955 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 956 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 957 i. 4-methoxyamphetamine;
- 958 j. 4-methoxymethamphetamine;
- 959 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 960 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 961 m. 3,4-Methylenedioxyamphetamine;
- 962 n. N,N-dimethylamphetamine;



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- 963 | o. 3,4,5-Trimethoxyamphetamine;
964 | p. 3,4-Methylenedioxymethcathinone;
965 | q. 3,4-Methylenedioxypropylone (MDPV); or
966 | r. Methylenedioxymethcathinone,
967 |
968 | individually or analogs thereto or isomers thereto or in any
969 | combination of or any mixture containing any substance listed in
970 | sub-subparagraphs a.-r., commits a felony of the first degree,
971 | which felony shall be known as "trafficking in Phenethylamines,"
972 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
973 | 2. If the quantity involved:
974 | a. Is 10 grams or more, but less than 200 grams, such
975 | person shall be sentenced to a mandatory minimum term of
976 | imprisonment of 3 years and shall be ordered to pay a fine of
977 | \$50,000.
978 | b. Is 200 grams or more, but less than 400 grams, such
979 | person shall be sentenced to a mandatory minimum term of
980 | imprisonment of 7 years and shall be ordered to pay a fine of
981 | \$100,000.
982 | c. Is 400 grams or more, such person shall be sentenced to
983 | a mandatory minimum term of imprisonment of 15 years and shall
984 | be ordered to pay a fine of \$250,000.
985 | 3. A person who knowingly manufactures or brings into this
986 | state 30 kilograms or more of any of the following substances
987 | described in s. 893.03(1)(c):
988 | a. 3,4-Methylenedioxymethamphetamine (MDMA);



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- 989 | b. 4-Bromo-2,5-dimethoxyamphetamine;
- 990 | c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 991 | d. 2,5-Dimethoxyamphetamine;
- 992 | e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 993 | f. N-ethylamphetamine;
- 994 | g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 995 | h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 996 | i. 4-methoxyamphetamine;
- 997 | j. 4-methoxymethamphetamine;
- 998 | k. 4-Methyl-2,5-dimethoxyamphetamine;
- 999 | l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 1000 | m. 3,4-Methylenedioxyamphetamine;
- 1001 | n. N,N-dimethylamphetamine;
- 1002 | o. 3,4,5-Trimethoxyamphetamine;
- 1003 | p. 3,4-Methylenedioxymethcathinone;
- 1004 | q. 3,4-Methylenedioxypyrovalerone (MDPV); or
- 1005 | r. Methylnmethcathinone,

1006 |
 1007 | individually or analogs thereto or isomers thereto or in any
 1008 | combination of or any mixture containing any substance listed in
 1009 | sub-subparagraphs a.-r., and who knows that the probable result
 1010 | of such manufacture or importation would be the death of any
 1011 | person commits capital manufacture or importation of
 1012 | Phenethylamines, a capital felony punishable as provided in ss.
 1013 | 775.082 and 921.142. A person sentenced for a capital felony
 1014 | under this paragraph shall also be sentenced to pay the maximum



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1015 fine provided under subparagraph 1.

1016 (1)1. Any person who knowingly sells, purchases,

1017 manufactures, delivers, or brings into this state, or who is

1018 knowingly in actual or constructive possession of, 1 gram or

1019 more of lysergic acid diethylamide (LSD) as described in s.

1020 893.03(1)(c), or of any mixture containing lysergic acid

1021 diethylamide (LSD), commits a felony of the first degree, which

1022 felony shall be known as "trafficking in lysergic acid

1023 diethylamide (LSD)," punishable as provided in s. 775.082, s.

1024 775.083, or s. 775.084. If the quantity involved:

1025 a. Is 1 gram or more, but less than 5 grams, such person

1026 shall be sentenced to a mandatory minimum term of imprisonment

1027 of 3 years, and the defendant shall be ordered to pay a fine of

1028 \$50,000.

1029 b. Is 5 grams or more, but less than 7 grams, such person

1030 shall be sentenced to a mandatory minimum term of imprisonment

1031 of 7 years, and the defendant shall be ordered to pay a fine of

1032 \$100,000.

1033 c. Is 7 grams or more, such person shall be sentenced to a

1034 mandatory minimum term of imprisonment of 15 calendar years and

1035 pay a fine of \$500,000.

1036 2. Any person who knowingly manufactures or brings into

1037 this state 7 grams or more of lysergic acid diethylamide (LSD)

1038 as described in s. 893.03(1)(c), or any mixture containing

1039 lysergic acid diethylamide (LSD), and who knows that the

1040 probable result of such manufacture or importation would be the



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1041 death of any person commits capital manufacture or importation
1042 of lysergic acid diethylamide (LSD), a capital felony punishable
1043 as provided in ss. 775.082 and 921.142. Any person sentenced for
1044 a capital felony under this paragraph shall also be sentenced to
1045 pay the maximum fine provided under subparagraph 1.

1046 Section 7. This act shall take effect upon becoming a law.