

By Senator Bracy

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1 A bill to be entitled
2 An act relating to the conditional medical release
3 program; amending s. 947.149, F.S.; defining the term
4 "inmate with a debilitating illness"; expanding
5 eligibility for conditional medical release to include
6 inmates with debilitating illnesses; providing
7 criteria for eligibility; requiring that certain
8 persons whose eligibility is verified by the
9 Commission on Offender Review be placed on conditional
10 medical release; requiring the Department of
11 Corrections to refer an eligible inmate to the
12 commission; requiring that the department's referral
13 for release include certain information; requiring the
14 commission to review the information and verify an
15 inmate's eligibility within a certain timeframe;
16 authorizing electronic monitoring for an inmate on
17 conditional medical release; reenacting ss.
18 316.1935(6), 775.084(4) (k), 775.087(2) (b) and (3) (b),
19 784.07(3), 790.235(1), 794.0115(7), 893.135(1) (b),
20 (c), and (g) and (3), 921.0024(2), 944.605(7) (b),
21 944.70(1) (b), 947.13(1) (h), and 947.141(1), (2), and
22 (7), F.S., all relating to authorized conditional
23 medical release granted under s. 947.149, F.S., to
24 incorporate the amendment made to s. 947.149, F.S., in
25 references thereto; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 947.149, Florida Statutes, is amended to

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30 read:

31 947.149 Conditional medical release.—

32 (1) The commission shall, in conjunction with the
33 department, establish the conditional medical release program.
34 An inmate is eligible for supervised ~~consideration for~~ release
35 under the conditional medical release program when the inmate,
36 because of an existing medical or physical condition, is
37 determined by the department to be within one of the following
38 designations:

39 (a) "Inmate with a debilitating illness," which means an
40 inmate who is determined to be suffering from a significant and
41 permanent nonterminal condition, disease, or syndrome that has
42 rendered the inmate so physically or cognitively debilitated or
43 incapacitated as to create a reasonable probability that he or
44 she does not present any danger to society.

45 (b) ~~(a)~~ "Permanently incapacitated inmate," which means an
46 inmate who has a condition caused by injury, disease, or illness
47 which, to a reasonable degree of medical certainty, renders the
48 inmate permanently and irreversibly physically incapacitated to
49 the extent that the inmate does not constitute a danger to
50 herself or himself or others.

51 (c) ~~(b)~~ "Terminally ill inmate," which means an inmate who
52 has a condition caused by injury, disease, or illness which, to
53 a reasonable degree of medical certainty, renders the inmate
54 terminally ill to the extent that there can be no recovery and
55 death is imminent, so that the inmate does not constitute a
56 danger to herself or himself or others.

57 (2) To be eligible, an inmate must also be determined by
58 the department to meet all of the following criteria:

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- 59 (a) Has served at least 50 percent of his or her sentence.
60 (b) Has been convicted of a felony.
61 (c) Has no current or prior conviction for a capital or
62 first degree felony, for a sexual offense, or for an offense
63 involving a child.
64 (d) Has not received a disciplinary report within the
65 previous 6 months.
66 (e) Has never received a disciplinary report for a violent
67 act.
68 (f) Has renounced any gang affiliation.
69 (3)-(2) Notwithstanding any provision to the contrary, any
70 person determined eligible under this section and sentenced to
71 the custody of the department must ~~may~~, upon referral by the
72 department and verification of eligibility by the commission, be
73 placed on ~~considered for~~ conditional medical release by the
74 commission, ~~in addition to any parole consideration for which~~
75 ~~the inmate may be considered, except that conditional medical~~
76 ~~release is not authorized for an inmate who is under sentence of~~
77 ~~death.~~
78 (4) An ~~No~~ inmate does not have ~~has~~ a right to conditional
79 medical release or to a medical evaluation to determine
80 eligibility for such release.
81 (5) (a)-(3) The commission has the authority and whether or
82 ~~not to grant conditional medical release and establish~~
83 ~~additional conditions of conditional medical release rests~~
84 ~~solely within the discretion of the commission, in accordance~~
85 ~~with the provisions of this section, together with the authority~~
86 to approve the release plan proposed by the department to
87 include necessary medical care and attention.

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88 (b) The department shall identify inmates who may be
89 eligible for conditional medical release based upon available
90 medical information and ~~must shall~~ refer them to the commission
91 if they are eligible under this section for consideration. In
92 considering an inmate for conditional medical release, the
93 commission may require that additional medical evidence be
94 produced or that additional medical examinations be conducted,
95 and may require such other investigations to be made as may be
96 warranted.

97 (c) The department's referral of the inmate to the
98 commission must include all of the following information:

99 1. The proposed conditional medical release plan.
100 2. Any relevant medical history, including current medical
101 prognosis.

102 3. Prison experience and criminal history. The criminal
103 history must include all of the following:

104 a. The inmate's claim of innocence, if any.
105 b. The degree to which the inmate accepts responsibility
106 for his or her actions leading to the conviction of the crime.

107 c. How any claim of responsibility has affected the
108 inmate's feelings of remorse.

109 4. Any history of substance abuse and mental health issues.

110 5. Any disciplinary action taken against the inmate while
111 in prison.

112 6. Any participation in prison work and other prison
113 programs.

114 7. Any other information the department deems necessary.

115 (d) In verifying the inmate's eligibility for conditional
116 medical release, the commission shall review the information

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117 provided by the department.

118 (e) The commission must finish its verification of an
119 inmate's eligibility within 60 days after the department refers
120 the inmate for conditional medical release.

121 (6) ~~(4)~~ The conditional medical release term of an inmate
122 released on conditional medical release is for the remainder of
123 the inmate's sentence, without diminution of sentence for good
124 behavior. Supervision of the medical releasee must include
125 periodic medical evaluations at intervals included in the
126 recommended release plan and approved ~~determined~~ by the
127 commission at the time of release. Supervision may also include
128 electronic monitoring.

129 (7) (a) ~~(5) (a)~~ If it is discovered during the conditional
130 medical release that the medical or physical condition of the
131 medical releasee has improved to the extent that she or he would
132 no longer be eligible for conditional medical release under this
133 section, the commission may order that the releasee be returned
134 to the custody of the department for a conditional medical
135 release revocation hearing, in accordance with s. 947.141. If
136 conditional medical release is revoked due to improvement in the
137 medical or physical condition of the releasee, she or he shall
138 serve the balance of her or his sentence with credit for the
139 time served on conditional medical release and without
140 forfeiture of any gain-time accrued prior to conditional medical
141 release. If the person whose conditional medical release is
142 revoked due to an improvement in medical or physical condition
143 would otherwise be eligible for parole or any other release
144 program, the person may be considered for such release program
145 pursuant to law.

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146 (b) In addition to revocation of conditional medical
147 release pursuant to paragraph (a), conditional medical release
148 may also be revoked for violation of any condition of the
149 release established by the commission, in accordance with s.
150 947.141, and the releasee's gain-time may be forfeited pursuant
151 to s. 944.28(1).

152 (8)~~(6)~~ The department and the commission shall adopt rules
153 as necessary to implement the conditional medical release
154 program.

155 Section 2. For the purpose of incorporating the amendment
156 made by this act to section 947.149, Florida Statutes, in a
157 reference thereto, subsection (6) of section 316.1935, Florida
158 Statutes, is reenacted to read:

159 316.1935 Fleeing or attempting to elude a law enforcement
160 officer; aggravated fleeing or eluding.—

161 (6) Notwithstanding s. 948.01, no court may suspend, defer,
162 or withhold adjudication of guilt or imposition of sentence for
163 any violation of this section. A person convicted and sentenced
164 to a mandatory minimum term of incarceration under paragraph
165 (3)(b) or paragraph (4)(b) is not eligible for statutory gain-
166 time under s. 944.275 or any form of discretionary early
167 release, other than pardon or executive clemency or conditional
168 medical release under s. 947.149, prior to serving the mandatory
169 minimum sentence.

170 Section 3. For the purpose of incorporating the amendment
171 made by this act to section 947.149, Florida Statutes, in a
172 reference thereto, paragraph (k) of subsection (4) of section
173 775.084, Florida Statutes, is reenacted to read:

174 775.084 Violent career criminals; habitual felony offenders

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175 and habitual violent felony offenders; three-time violent felony
176 offenders; definitions; procedure; enhanced penalties or
177 mandatory minimum prison terms.-

178 (4)

179 (k)1. A defendant sentenced under this section as a
180 habitual felony offender, a habitual violent felony offender, or
181 a violent career criminal is eligible for gain-time granted by
182 the Department of Corrections as provided in s. 944.275(4)(b).

183 2. For an offense committed on or after October 1, 1995, a
184 defendant sentenced under this section as a violent career
185 criminal is not eligible for any form of discretionary early
186 release, other than pardon or executive clemency, or conditional
187 medical release granted pursuant to s. 947.149.

188 3. For an offense committed on or after July 1, 1999, a
189 defendant sentenced under this section as a three-time violent
190 felony offender shall be released only by expiration of sentence
191 and shall not be eligible for parole, control release, or any
192 form of early release.

193 Section 4. For the purpose of incorporating the amendment
194 made by this act to section 947.149, Florida Statutes, in a
195 reference thereto, paragraph (b) of subsection (2) and paragraph
196 (b) of subsection (3) of section 775.087, Florida Statutes, are
197 reenacted to read:

198 775.087 Possession or use of weapon; aggravated battery;
199 felony reclassification; minimum sentence.-

200 (2)

201 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
202 (a)3. does not prevent a court from imposing a longer sentence
203 of incarceration as authorized by law in addition to the minimum

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204 mandatory sentence, or from imposing a sentence of death
205 pursuant to other applicable law. Subparagraph (a)1.,
206 subparagraph (a)2., or subparagraph (a)3. does not authorize a
207 court to impose a lesser sentence than otherwise required by
208 law.

209

210 Notwithstanding s. 948.01, adjudication of guilt or imposition
211 of sentence shall not be suspended, deferred, or withheld, and
212 the defendant is not eligible for statutory gain-time under s.
213 944.275 or any form of discretionary early release, other than
214 pardon or executive clemency, or conditional medical release
215 under s. 947.149, prior to serving the minimum sentence.

216 (3)

217 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
218 (a)3. does not prevent a court from imposing a longer sentence
219 of incarceration as authorized by law in addition to the minimum
220 mandatory sentence, or from imposing a sentence of death
221 pursuant to other applicable law. Subparagraph (a)1.,
222 subparagraph (a)2., or subparagraph (a)3. does not authorize a
223 court to impose a lesser sentence than otherwise required by
224 law.

225

226 Notwithstanding s. 948.01, adjudication of guilt or imposition
227 of sentence shall not be suspended, deferred, or withheld, and
228 the defendant is not eligible for statutory gain-time under s.
229 944.275 or any form of discretionary early release, other than
230 pardon or executive clemency, or conditional medical release
231 under s. 947.149, prior to serving the minimum sentence.

232 Section 5. For the purpose of incorporating the amendment

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233 made by this act to section 947.149, Florida Statutes, in a
234 reference thereto, subsection (3) of section 784.07, Florida
235 Statutes, is reenacted to read:

236 784.07 Assault or battery of law enforcement officers,
237 firefighters, emergency medical care providers, public transit
238 employees or agents, or other specified officers;
239 reclassification of offenses; minimum sentences.-

240 (3) Any person who is convicted of a battery under
241 paragraph (2)(b) and, during the commission of the offense, such
242 person possessed:

243 (a) A "firearm" or "destructive device" as those terms are
244 defined in s. 790.001, shall be sentenced to a minimum term of
245 imprisonment of 3 years.

246 (b) A semiautomatic firearm and its high-capacity
247 detachable box magazine, as defined in s. 775.087(3), or a
248 machine gun as defined in s. 790.001, shall be sentenced to a
249 minimum term of imprisonment of 8 years.

250
251 Notwithstanding s. 948.01, adjudication of guilt or imposition
252 of sentence shall not be suspended, deferred, or withheld, and
253 the defendant is not eligible for statutory gain-time under s.
254 944.275 or any form of discretionary early release, other than
255 pardon or executive clemency, or conditional medical release
256 under s. 947.149, prior to serving the minimum sentence.

257 Section 6. For the purpose of incorporating the amendment
258 made by this act to section 947.149, Florida Statutes, in a
259 reference thereto, subsection (1) of section 790.235, Florida
260 Statutes, is reenacted to read:

261 790.235 Possession of firearm or ammunition by violent

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262 career criminal unlawful; penalty.—

263 (1) Any person who meets the violent career criminal
264 criteria under s. 775.084(1)(d), regardless of whether such
265 person is or has previously been sentenced as a violent career
266 criminal, who owns or has in his or her care, custody,
267 possession, or control any firearm, ammunition, or electric
268 weapon or device, or carries a concealed weapon, including a
269 tear gas gun or chemical weapon or device, commits a felony of
270 the first degree, punishable as provided in s. 775.082, s.
271 775.083, or s. 775.084. A person convicted of a violation of
272 this section shall be sentenced to a mandatory minimum of 15
273 years' imprisonment; however, if the person would be sentenced
274 to a longer term of imprisonment under s. 775.084(4)(d), the
275 person must be sentenced under that provision. A person
276 convicted of a violation of this section is not eligible for any
277 form of discretionary early release, other than pardon,
278 executive clemency, or conditional medical release under s.
279 947.149.

280 Section 7. For the purpose of incorporating the amendment
281 made by this act to section 947.149, Florida Statutes, in a
282 reference thereto, subsection (7) of section 794.0115, Florida
283 Statutes, is reenacted to read:

284 794.0115 Dangerous sexual felony offender; mandatory
285 sentencing.—

286 (7) A defendant sentenced to a mandatory minimum term of
287 imprisonment under this section is not eligible for statutory
288 gain-time under s. 944.275 or any form of discretionary early
289 release, other than pardon or executive clemency, or conditional
290 medical release under s. 947.149, before serving the minimum

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291 sentence.

292 Section 8. For the purpose of incorporating the amendment
293 made by this act to section 947.149, Florida Statutes, in a
294 reference thereto, paragraphs (b), (c), and (g) of subsection
295 (1) and subsection (3) of section 893.135, Florida Statutes, are
296 reenacted to read:

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

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

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

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

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

318 c. Is 400 grams or more, but less than 150 kilograms, such
319 person shall be sentenced to a mandatory minimum term of

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320 imprisonment of 15 calendar years and pay a fine of \$250,000.

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

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

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

338
339 such person commits the capital felony of trafficking in
340 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
341 person sentenced for a capital felony under this paragraph shall
342 also be sentenced to pay the maximum fine provided under
343 subparagraph 1.

344 3. Any person who knowingly brings into this state 300
345 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
346 and who knows that the probable result of such importation would
347 be the death of any person, commits capital importation of
348 cocaine, a capital felony punishable as provided in ss. 775.082

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349 and 921.142. Any person sentenced for a capital felony under
350 this paragraph shall also be sentenced to pay the maximum fine
351 provided under subparagraph 1.

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

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

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

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

374 2. A person who knowingly sells, purchases, manufactures,
375 delivers, or brings into this state, or who is knowingly in
376 actual or constructive possession of, 14 grams or more of
377 hydrocodone, as described in s. 893.03(2)(a)1.j., codeine, as

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378 described in s. 893.03(2)(a)1.g., or any salt thereof, or 14
379 grams or more of any mixture containing any such substance,
380 commits a felony of the first degree, which felony shall be
381 known as "trafficking in hydrocodone," punishable as provided in
382 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

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

389 c. Is 50 grams or more, but less than 200 grams, such
390 person shall be sentenced to a mandatory minimum term of
391 imprisonment of 15 years and shall be ordered to pay a fine of
392 \$500,000.

393 d. Is 200 grams or more, but less than 30 kilograms, such
394 person shall be sentenced to a mandatory minimum term of
395 imprisonment of 25 years and shall be ordered to pay a fine of
396 \$750,000.

397 3. A person who knowingly sells, purchases, manufactures,
398 delivers, or brings into this state, or who is knowingly in
399 actual or constructive possession of, 7 grams or more of
400 oxycodone, as described in s. 893.03(2)(a)1.o., or any salt
401 thereof, or 7 grams or more of any mixture containing any such
402 substance, commits a felony of the first degree, which felony
403 shall be known as "trafficking in oxycodone," punishable as
404 provided in s. 775.082, s. 775.083, or s. 775.084. If the
405 quantity involved:

406 a. Is 7 grams or more, but less than 14 grams, such person

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407 shall be sentenced to a mandatory minimum term of imprisonment
408 of 3 years and shall be ordered to pay a fine of \$50,000.

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

412 c. Is 25 grams or more, but less than 100 grams, such
413 person shall be sentenced to a mandatory minimum term of
414 imprisonment of 15 years and shall be ordered to pay a fine of
415 \$500,000.

416 d. Is 100 grams or more, but less than 30 kilograms, such
417 person shall be sentenced to a mandatory minimum term of
418 imprisonment of 25 years and shall be ordered to pay a fine of
419 \$750,000.

420 4.a. A person who knowingly sells, purchases, manufactures,
421 delivers, or brings into this state, or who is knowingly in
422 actual or constructive possession of, 4 grams or more of:

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

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

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

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

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

428 893.03(1)(a)62.;

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

430 893.0356, of any substance described in sub-sub-subparagraphs

431 (I)-(V); or

432 (VII) A mixture containing any substance described in sub-
433 sub-subparagraphs (I)-(VI),

434
435 commits a felony of the first degree, which felony shall be

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436 known as "trafficking in fentanyl," punishable as provided in s.
437 775.082, s. 775.083, or s. 775.084.

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

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

442 (II) Is 14 grams or more, but less than 28 grams, such
443 person shall be sentenced to a mandatory minimum term of
444 imprisonment of 15 years, and shall be ordered to pay a fine of
445 \$100,000.

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

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

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465 a. The person intentionally killed an individual or
466 counseled, commanded, induced, procured, or caused the
467 intentional killing of an individual and such killing was the
468 result; or

469 b. The person's conduct in committing that act led to a
470 natural, though not inevitable, lethal result,
471
472 such person commits the capital felony of trafficking in illegal
473 drugs, punishable as provided in ss. 775.082 and 921.142. A
474 person sentenced for a capital felony under this paragraph shall
475 also be sentenced to pay the maximum fine provided under
476 subparagraph 1.

477 6. A person who knowingly brings into this state 60
478 kilograms or more of any morphine, opium, oxycodone,
479 hydrocodone, codeine, hydromorphone, or any salt, derivative,
480 isomer, or salt of an isomer thereof, including heroin, as
481 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
482 60 kilograms or more of any mixture containing any such
483 substance, and who knows that the probable result of such
484 importation would be the death of a person, commits capital
485 importation of illegal drugs, a capital felony punishable as
486 provided in ss. 775.082 and 921.142. A person sentenced for a
487 capital felony under this paragraph shall also be sentenced to
488 pay the maximum fine provided under subparagraph 1.

489 (g)1. Any person who knowingly sells, purchases,
490 manufactures, delivers, or brings into this state, or who is
491 knowingly in actual or constructive possession of, 4 grams or
492 more of flunitrazepam or any mixture containing flunitrazepam as
493 described in s. 893.03(1)(a) commits a felony of the first

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494 degree, which felony shall be known as "trafficking in
495 flunitrazepam," punishable as provided in s. 775.082, s.
496 775.083, or s. 775.084. If the quantity involved:

497 a. Is 4 grams or more but less than 14 grams, such person
498 shall be sentenced to a mandatory minimum term of imprisonment
499 of 3 years, and the defendant shall be ordered to pay a fine of
500 \$50,000.

501 b. Is 14 grams or more but less than 28 grams, such person
502 shall be sentenced to a mandatory minimum term of imprisonment
503 of 7 years, and the defendant shall be ordered to pay a fine of
504 \$100,000.

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

508 2. Any person who knowingly sells, purchases, manufactures,
509 delivers, or brings into this state or who is knowingly in
510 actual or constructive possession of 30 kilograms or more of
511 flunitrazepam or any mixture containing flunitrazepam as
512 described in s. 893.03(1)(a) commits the first degree felony of
513 trafficking in flunitrazepam. A person who has been convicted of
514 the first degree felony of trafficking in flunitrazepam under
515 this subparagraph shall be punished by life imprisonment and is
516 ineligible for any form of discretionary early release except
517 pardon or executive clemency or conditional medical release
518 under s. 947.149. However, if the court determines that, in
519 addition to committing any act specified in this paragraph:

520 a. The person intentionally killed an individual or
521 counseled, commanded, induced, procured, or caused the
522 intentional killing of an individual and such killing was the

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523 result; or

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

526
527 such person commits the capital felony of trafficking in
528 flunitrazepam, punishable as provided in ss. 775.082 and
529 921.142. Any person sentenced for a capital felony under this
530 paragraph shall also be sentenced to pay the maximum fine
531 provided under subparagraph 1.

532 (3) Notwithstanding the provisions of s. 948.01, with
533 respect to any person who is found to have violated this
534 section, adjudication of guilt or imposition of sentence shall
535 not be suspended, deferred, or withheld, nor shall such person
536 be eligible for parole prior to serving the mandatory minimum
537 term of imprisonment prescribed by this section. A person
538 sentenced to a mandatory minimum term of imprisonment under this
539 section is not eligible for any form of discretionary early
540 release, except pardon or executive clemency or conditional
541 medical release under s. 947.149, prior to serving the mandatory
542 minimum term of imprisonment.

543 Section 9. For the purpose of incorporating the amendment
544 made by this act to section 947.149, Florida Statutes, in a
545 reference thereto, subsection (2) of section 921.0024, Florida
546 Statutes, is reenacted to read:

547 921.0024 Criminal Punishment Code; worksheet computations;
548 scoresheets.-

549 (2) The lowest permissible sentence is the minimum sentence
550 that may be imposed by the trial court, absent a valid reason
551 for departure. The lowest permissible sentence is any nonstate

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552 prison sanction in which the total sentence points equals or is
553 less than 44 points, unless the court determines within its
554 discretion that a prison sentence, which may be up to the
555 statutory maximums for the offenses committed, is appropriate.
556 When the total sentence points exceeds 44 points, the lowest
557 permissible sentence in prison months shall be calculated by
558 subtracting 28 points from the total sentence points and
559 decreasing the remaining total by 25 percent. The total sentence
560 points shall be calculated only as a means of determining the
561 lowest permissible sentence. The permissible range for
562 sentencing shall be the lowest permissible sentence up to and
563 including the statutory maximum, as defined in s. 775.082, for
564 the primary offense and any additional offenses before the court
565 for sentencing. The sentencing court may impose such sentences
566 concurrently or consecutively. However, any sentence to state
567 prison must exceed 1 year. If the lowest permissible sentence
568 under the code exceeds the statutory maximum sentence as
569 provided in s. 775.082, the sentence required by the code must
570 be imposed. If the total sentence points are greater than or
571 equal to 363, the court may sentence the offender to life
572 imprisonment. An offender sentenced to life imprisonment under
573 this section is not eligible for any form of discretionary early
574 release, except executive clemency or conditional medical
575 release under s. 947.149.

576 Section 10. For the purpose of incorporating the amendment
577 made by this act to section 947.149, Florida Statutes, in a
578 reference thereto, paragraph (b) of subsection (7) of section
579 944.605, Florida Statutes, is reenacted to read:

580 944.605 Inmate release; notification; identification card.-

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- 581 (7)
- 582 (b) Paragraph (a) does not apply to inmates who:
- 583 1. The department determines have a valid driver license or
- 584 state identification card, except that the department shall
- 585 provide these inmates with a replacement state identification
- 586 card or replacement driver license, if necessary.
- 587 2. Have an active detainer, unless the department
- 588 determines that cancellation of the detainer is likely or that
- 589 the incarceration for which the detainer was issued will be less
- 590 than 12 months in duration.
- 591 3. Are released due to an emergency release or a
- 592 conditional medical release under s. 947.149.
- 593 4. Are not in the physical custody of the department at or
- 594 within 180 days before release.
- 595 5. Are subject to sex offender residency restrictions, and
- 596 who, upon release under such restrictions, do not have a
- 597 qualifying address.
- 598 Section 11. For the purpose of incorporating the amendment
- 599 made by this act to section 947.149, Florida Statutes, in a
- 600 reference thereto, paragraph (b) of subsection (1) of section
- 601 944.70, Florida Statutes, is reenacted to read:
- 602 944.70 Conditions for release from incarceration.—
- 603 (1)
- 604 (b) A person who is convicted of a crime committed on or
- 605 after January 1, 1994, may be released from incarceration only:
- 606 1. Upon expiration of the person's sentence;
- 607 2. Upon expiration of the person's sentence as reduced by
- 608 accumulated meritorious or incentive gain-time;
- 609 3. As directed by an executive order granting clemency;

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610 4. Upon placement in a conditional release program pursuant
611 to s. 947.1405 or a conditional medical release program pursuant
612 to s. 947.149; or

613 5. Upon the granting of control release, including
614 emergency control release, pursuant to s. 947.146.

615 Section 12. For the purpose of incorporating the amendment
616 made by this act to section 947.149, Florida Statutes, in a
617 reference thereto, paragraph (h) of subsection (1) of section
618 947.13, Florida Statutes, is reenacted to read:

619 947.13 Powers and duties of commission.—

620 (1) The commission shall have the powers and perform the
621 duties of:

622 (h) Determining what persons will be released on
623 conditional medical release under s. 947.149, establishing the
624 conditions of conditional medical release, and determining
625 whether a person has violated the conditions of conditional
626 medical release and taking action with respect to such a
627 violation.

628 Section 13. For the purpose of incorporating the amendment
629 made by this act to section 947.149, Florida Statutes, in a
630 reference thereto, subsections (1), (2), and (7) of section
631 947.141, Florida Statutes, are reenacted to read:

632 947.141 Violations of conditional release, control release,
633 or conditional medical release or addiction-recovery
634 supervision.—

635 (1) If a member of the commission or a duly authorized
636 representative of the commission has reasonable grounds to
637 believe that an offender who is on release supervision under s.
638 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated

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639 the terms and conditions of the release in a material respect,
640 such member or representative may cause a warrant to be issued
641 for the arrest of the releasee; if the offender was found to be
642 a sexual predator, the warrant must be issued.

643 (2) Upon the arrest on a felony charge of an offender who
644 is on release supervision under s. 947.1405, s. 947.146, s.
645 947.149, or s. 944.4731, the offender must be detained without
646 bond until the initial appearance of the offender at which a
647 judicial determination of probable cause is made. If the trial
648 court judge determines that there was no probable cause for the
649 arrest, the offender may be released. If the trial court judge
650 determines that there was probable cause for the arrest, such
651 determination also constitutes reasonable grounds to believe
652 that the offender violated the conditions of the release. Within
653 24 hours after the trial court judge's finding of probable
654 cause, the detention facility administrator or designee shall
655 notify the commission and the department of the finding and
656 transmit to each a facsimile copy of the probable cause
657 affidavit or the sworn offense report upon which the trial court
658 judge's probable cause determination is based. The offender must
659 continue to be detained without bond for a period not exceeding
660 72 hours excluding weekends and holidays after the date of the
661 probable cause determination, pending a decision by the
662 commission whether to issue a warrant charging the offender with
663 violation of the conditions of release. Upon the issuance of the
664 commission's warrant, the offender must continue to be held in
665 custody pending a revocation hearing held in accordance with
666 this section.

667 (7) If a law enforcement officer has probable cause to

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668 believe that an offender who is on release supervision under s.
669 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
670 the terms and conditions of his or her release by committing a
671 felony offense, the officer shall arrest the offender without a
672 warrant, and a warrant need not be issued in the case.

673 Section 14. This act shall take effect July 1, 2018.