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LEGISLATIVE ACTION

Senate

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House

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Senator Brodeur moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (a) of subsection (1) and subsection  
(4) of section 782.04, Florida Statutes, are amended to read:

782.04 Murder.—

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

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

2. When committed by a person engaged in the perpetration



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12 of, or in the attempt to perpetrate, any:  
13       a. Trafficking offense prohibited by s. 893.135(1),  
14       b. Arson,  
15       c. Sexual battery,  
16       d. Robbery,  
17       e. Burglary,  
18       f. Kidnapping,  
19       g. Escape,  
20       h. Aggravated child abuse,  
21       i. Aggravated abuse of an elderly person or disabled adult,  
22       j. Aircraft piracy,  
23       k. Unlawful throwing, placing, or discharging of a  
24 destructive device or bomb,  
25       l. Carjacking,  
26       m. Home-invasion robbery,  
27       n. Aggravated stalking,  
28       o. Murder of another human being,  
29       p. Resisting an officer with violence to his or her person,  
30       q. Aggravated fleeing or eluding with serious bodily injury  
31 or death,  
32       r. Felony that is an act of terrorism or is in furtherance  
33 of an act of terrorism, including a felony under s. 775.30, s.  
34 775.32, s. 775.33, s. 775.34, or s. 775.35, or  
35       s. Human trafficking; or  
36       3. Which resulted from the unlawful distribution by a  
37 person 18 years of age or older of any of the following  
38 substances, or mixture containing any of the following  
39 substances, when such substance or mixture is proven to be the  
40 proximate cause of the death of the user:



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- 41 a. A substance controlled under s. 893.03(1);  
42 b. Cocaine, as described in s. 893.03(2)(a)4.;  
43 c. Opium or any synthetic or natural salt, compound,  
44 derivative, or preparation of opium;  
45 d. Methadone;  
46 e. Alfentanil, as described in s. 893.03(2)(b)1.;  
47 f. Carfentanil, as described in s. 893.03(2)(b)6.;  
48 g. Fentanyl, as described in s. 893.03(2)(b)9.;  
49 h. Sufentanil, as described in s. 893.03(2)(b)30.; ~~or~~  
50 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or  
51 j. A controlled substance analog, as described in s.  
52 893.0356, of any substance specified in sub-subparagraphs a.-i.  
53 ~~sub-subparagraphs a.-h.~~,  
54  
55 is murder in the first degree and constitutes a capital felony,  
56 punishable as provided in s. 775.082.  
57 (4) The unlawful killing of a human being, when perpetrated  
58 without any design to effect death, by a person engaged in the  
59 perpetration of, or in the attempt to perpetrate, any felony  
60 other than any:  
61 (a) Trafficking offense prohibited by s. 893.135(1),  
62 (b) Arson,  
63 (c) Sexual battery,  
64 (d) Robbery,  
65 (e) Burglary,  
66 (f) Kidnapping,  
67 (g) Escape,  
68 (h) Aggravated child abuse,  
69 (i) Aggravated abuse of an elderly person or disabled



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70 adult,  
71 (j) Aircraft piracy,  
72 (k) Unlawful throwing, placing, or discharging of a  
73 destructive device or bomb,  
74 (l) Unlawful distribution of any substance listed in sub-  
75 subparagraphs (1) (a) 3.a.-j. controlled under s. 893.03(1),  
76 cocaine as described in s. 893.03(2) (a) 4., or opium or any  
77 synthetic or natural salt, compound, derivative, or preparation  
78 of opium by a person 18 years of age or older, when such  
79 substance drug is proven to be the proximate cause of the death  
80 of the user,  
81 (m) Carjacking,  
82 (n) Home-invasion robbery,  
83 (o) Aggravated stalking,  
84 (p) Murder of another human being,  
85 (q) Aggravated fleeing or eluding with serious bodily  
86 injury or death,  
87 (r) Resisting an officer with violence to his or her  
88 person, or  
89 (s) Felony that is an act of terrorism or is in furtherance  
90 of an act of terrorism, including a felony under s. 775.30, s.  
91 775.32, s. 775.33, s. 775.34, or s. 775.35,  
92  
93 is murder in the third degree and constitutes a felony of the  
94 second degree, punishable as provided in s. 775.082, s. 775.083,  
95 or s. 775.084.  
96 Section 2. Paragraph (h) of subsection (1) of section  
97 893.13, Florida Statutes, is amended to read:  
98 893.13 Prohibited acts; penalties.—



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99 (1)

100 (h) Except as authorized by this chapter, a person may not  
101 sell, manufacture, or deliver, or possess with intent to sell,  
102 manufacture, or deliver, a controlled substance in, on, or  
103 within 1,000 feet of the real property comprising a mental  
104 health facility, as that term is used in chapter 394; a health  
105 care facility licensed under chapter 395 which provides  
106 substance abuse treatment; a licensed service provider as  
107 defined in s. 397.311; a facility providing services that  
108 include clinical treatment, intervention, or prevention as  
109 described in s. 397.311(26); a recovery residence as defined in  
110 s. 397.311; an assisted living facility, as defined ~~that term is~~  
111 used in chapter 429; or a pain management clinic as defined in  
112 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who  
113 violates this paragraph with respect to:

114 1. A controlled substance named or described in s.  
115 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.  
116 commits a felony of the first degree, punishable as provided in  
117 s. 775.082, s. 775.083, or s. 775.084.

118 2. A controlled substance named or described in s.  
119 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,  
120 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of  
121 the second degree, punishable as provided in s. 775.082, s.  
122 775.083, or s. 775.084.

123 3. Any other controlled substance, except as lawfully sold,  
124 manufactured, or delivered, must be sentenced to pay a \$500 fine  
125 and to serve 100 hours of public service in addition to any  
126 other penalty prescribed by law.

127 Section 3. Paragraph (c) of subsection (1) of section



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128 893.135, Florida Statutes, is amended to read:

129 893.135 Trafficking; mandatory sentences; suspension or  
130 reduction of sentences; conspiracy to engage in trafficking.—

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

133 (c)1. A person who knowingly sells, purchases,  
134 manufactures, delivers, or brings into this state, or who is  
135 knowingly in actual or constructive possession of, 4 grams or  
136 more of any morphine, opium, hydromorphone, or any salt,  
137 derivative, isomer, or salt of an isomer thereof, including  
138 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or  
139 (3)(c)4., or 4 grams or more of any mixture containing any such  
140 substance, but less than 30 kilograms of such substance or  
141 mixture, commits a felony of the first degree, which felony  
142 shall be known as "trafficking in illegal drugs," punishable as  
143 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
144 quantity involved:

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

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

151 c. Is 28 grams or more, but less than 30 kilograms, such  
152 person shall be sentenced to a mandatory minimum term of  
153 imprisonment of 25 years and shall be ordered to pay a fine of  
154 \$500,000.

155 2. A person who knowingly sells, purchases, manufactures,  
156 delivers, or brings into this state, or who is knowingly in



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157 actual or constructive possession of, 28 grams or more of  
158 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as  
159 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28  
160 grams or more of any mixture containing any such substance,  
161 commits a felony of the first degree, which felony shall be  
162 known as "trafficking in hydrocodone," punishable as provided in  
163 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

167       b. Is 50 grams or more, but less than 100 grams, such  
168 person shall be sentenced to a mandatory minimum term of  
169 imprisonment of 7 years and shall be ordered to pay a fine of  
170 \$100,000.

171       c. Is 100 grams or more, but less than 300 grams, such  
172 person shall be sentenced to a mandatory minimum term of  
173 imprisonment of 15 years and shall be ordered to pay a fine of  
174 \$500,000.

175       d. Is 300 grams or more, but less than 30 kilograms, such  
176 person shall be sentenced to a mandatory minimum term of  
177 imprisonment of 25 years and shall be ordered to pay a fine of  
178 \$750,000.

179       3. A person who knowingly sells, purchases, manufactures,  
180 delivers, or brings into this state, or who is knowingly in  
181 actual or constructive possession of, 7 grams or more of  
182 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt  
183 thereof, or 7 grams or more of any mixture containing any such  
184 substance, commits a felony of the first degree, which felony  
185 shall be known as "trafficking in oxycodone," punishable as



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186 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
187 quantity involved:

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

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

194 c. Is 25 grams or more, but less than 100 grams, such  
195 person shall be sentenced to a mandatory minimum term of  
196 imprisonment of 15 years and shall be ordered to pay a fine of  
197 \$500,000.

198 d. Is 100 grams or more, but less than 30 kilograms, such  
199 person shall be sentenced to a mandatory minimum term of  
200 imprisonment of 25 years and shall be ordered to pay a fine of  
201 \$750,000.

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

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

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

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

208 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

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

210 893.03(1)(a)62.;

211 (VI) A controlled substance analog, as described in s.  
212 893.0356, of any substance described in sub-sub-subparagraphs  
213 (I)-(V); or

214 (VII) A mixture containing any substance described in sub-





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215 sub-subparagraphs (I)-(VI),  
216  
217 commits a felony of the first degree, which felony shall be  
218 known as "trafficking in dangerous fentanyl or fentanyl  
219 analogues," punishable as provided in s. 775.082, s. 775.083, or  
220 s. 775.084.

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

222 (I) Is 4 grams or more, but less than 14 grams, such person  
223 shall be sentenced to a mandatory minimum term of imprisonment  
224 of 7 ~~3~~ years, and shall be ordered to pay a fine of \$50,000.

225 (II) Is 14 grams or more, but less than 28 grams, such  
226 person shall be sentenced to a mandatory minimum term of  
227 imprisonment of 20 ~~15~~ years, and shall be ordered to pay a fine  
228 of \$100,000.

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

232 5. A person who knowingly sells, purchases, manufactures,  
233 delivers, or brings into this state, or who is knowingly in  
234 actual or constructive possession of, 30 kilograms or more of  
235 any morphine, opium, oxycodone, hydrocodone, codeine,  
236 hydromorphone, or any salt, derivative, isomer, or salt of an  
237 isomer thereof, including heroin, as described in s.  
238 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or  
239 more of any mixture containing any such substance, commits the  
240 first degree felony of trafficking in illegal drugs. A person  
241 who has been convicted of the first degree felony of trafficking  
242 in illegal drugs under this subparagraph shall be punished by  
243 life imprisonment and is ineligible for any form of



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244 discretionary early release except pardon or executive clemency  
245 or conditional medical release under s. 947.149. However, if the  
246 court determines that, in addition to committing any act  
247 specified in this paragraph:

248       a. The person intentionally killed an individual or  
249 counseled, commanded, induced, procured, or caused the  
250 intentional killing of an individual and such killing was the  
251 result; or

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

254  
255 such person commits the capital felony of trafficking in illegal  
256 drugs, punishable as provided in ss. 775.082 and 921.142. A  
257 person sentenced for a capital felony under this paragraph shall  
258 also be sentenced to pay the maximum fine provided under  
259 subparagraph 1.

260       6. A person who knowingly brings into this state 60  
261 kilograms or more of any morphine, opium, oxycodone,  
262 hydrocodone, codeine, hydromorphone, or any salt, derivative,  
263 isomer, or salt of an isomer thereof, including heroin, as  
264 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or  
265 60 kilograms or more of any mixture containing any such  
266 substance, and who knows that the probable result of such  
267 importation would be the death of a person, commits capital  
268 importation of illegal drugs, a capital felony punishable as  
269 provided in ss. 775.082 and 921.142. A person sentenced for a  
270 capital felony under this paragraph shall also be sentenced to  
271 pay the maximum fine provided under subparagraph 1.

272       Section 4. Subsection (4) of section 893.145, Florida



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273 Statutes, is amended to read:

274       893.145 "Drug paraphernalia" defined.—The term "drug  
275 paraphernalia" means all equipment, products, and materials of  
276 any kind which are used, intended for use, or designed for use  
277 in planting, propagating, cultivating, growing, harvesting,  
278 manufacturing, compounding, converting, producing, processing,  
279 preparing, testing, analyzing, packaging, repackaging, storing,  
280 containing, concealing, transporting, injecting, ingesting,  
281 inhaling, or otherwise introducing into the human body a  
282 controlled substance in violation of this chapter or s. 877.111.  
283 Drug paraphernalia is deemed to be contraband which shall be  
284 subject to civil forfeiture. The term includes, but is not  
285 limited to:

286       (4) Testing equipment used, intended for use, or designed  
287 for use in identifying, or in analyzing the strength,  
288 effectiveness, or purity of, controlled substances, excluding  
289 narcotic drug testing products that are used to determine  
290 whether a controlled substance contains fentanyl as described in  
291 s. 893.03(2)(b)9. or a controlled substance analog, as defined  
292 in s. 893.0356, of fentanyl.

293       Section 5. This act shall take effect October 1, 2022.

294

295 ===== T I T L E   A M E N D M E N T =====

296 And the title is amended as follows:

297       Delete everything before the enacting clause  
298 and insert:

299                               A bill to be entitled

300       An act relating to controlled substances; amending s.

301       782.04, F.S.; revising the elements that constitute



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302 the capital offense of murder in the first degree;  
303 revising the elements that constitute the felony  
304 offense of murder in the third degree; amending s.  
305 893.13, F.S.; prohibiting specified activities  
306 involving controlled substances within 1,000 feet of  
307 additional specified facilities; providing criminal  
308 penalties; amending s. 893.135, F.S.; renaming what  
309 the violation of specified offenses are known as from  
310 "trafficking in fentanyl" to "trafficking in dangerous  
311 fentanyl or fentanyl analogues"; increasing the  
312 mandatory minimum terms of imprisonment for specified  
313 offenses; amending s. 893.145, F.S.; revising the  
314 definition of the term "drug paraphernalia"; providing  
315 an effective date.