

By Senator Bullard

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1 A bill to be entitled
2 An act relating to the death penalty; amending s.
3 775.082, F.S.; deleting provisions providing for the
4 death penalty for capital felonies; deleting
5 provisions relating to the effect of a declaration by
6 a court of last resort that the death penalty in a
7 capital felony is unconstitutional; amending ss. 27.51
8 and 27.511, F.S.; deleting provisions relating to
9 representation in death penalty cases; repealing ss.
10 27.7001, 27.7002, 27.701, 27.702, 27.703, 27.704,
11 27.7045, 27.705, 27.706, 27.707, 27.708, 27.7081,
12 27.7091, 27.710, 27.711, and 27.715, F.S., relating to
13 capital collateral representation and constitutionally
14 deficient representation, respectively; amending s.
15 119.071, F.S.; deleting a public records exemption
16 relating to capital collateral proceedings; amending
17 s. 282.201, F.S.; conforming a provision to changes
18 made by the act; amending ss. 775.15 and 790.161,
19 F.S.; deleting provisions relating to the effect of a
20 declaration by a court of last resort declaring that
21 the death penalty in a capital felony is
22 unconstitutional; repealing s. 913.13, F.S., relating
23 to jurors in capital cases; repealing s. 921.137,
24 F.S., relating to prohibiting the imposition of the
25 death sentence upon a defendant with mental
26 retardation; repealing s. 921.141, F.S., relating to
27 determination of whether to impose a sentence of death
28 or life imprisonment for a capital felony; repealing
29 s. 921.142, F.S., relating to determination of whether

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30 to impose a sentence of death or life imprisonment for
31 a capital drug trafficking felony; amending ss.
32 782.04, 394.912, 782.065, 794.011, and 893.135, F.S.;
33 conforming provisions to changes made by the act;
34 repealing ss. 922.052, 922.06, 922.07, 922.08,
35 922.095, 922.10, 922.105, 922.108, 922.11, 922.111,
36 922.12, 922.14, 922.15, 924.055, 924.056, and 924.057,
37 F.S., relating to issuance of warrant of execution,
38 stay of execution of death sentence, proceedings when
39 person under sentence of death appears to be insane,
40 proceedings when person under sentence of death
41 appears to be pregnant, grounds for death warrant,
42 execution of death sentence, prohibition against
43 reduction of death sentence as a result of
44 determination that a method of execution is
45 unconstitutional, sentencing orders in capital cases,
46 regulation of execution, transfer to state prison for
47 safekeeping before death warrant issued, return of
48 warrant of execution issued by Governor, sentence of
49 death unexecuted for unjustifiable reasons, return of
50 warrant of execution issued by Supreme Court,
51 legislative intent concerning appeals and
52 postconviction proceedings in death penalty cases,
53 commencement of capital postconviction actions for
54 which sentence of death is imposed on or after January
55 14, 2000, and limitation on postconviction cases in
56 which the death sentence was imposed before January
57 14, 2000, respectively; amending s. 925.11, F.S.;

58 deleting provisions relating to preservation of DNA

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59 evidence in death penalty cases; amending s. 945.10,
60 F.S.; deleting a public records exemption for the
61 identity of executioners; providing an effective date.

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. Subsections (1) and (2) of section 775.082,
66 Florida Statutes, are amended to read:

67 775.082 Penalties; applicability of sentencing structures;
68 mandatory minimum sentences for certain reoffenders previously
69 released from prison.-

70 (1) A person who has been convicted of a capital felony
71 shall be ~~punished by death if the proceeding held to determine~~
72 ~~sentence according to the procedure set forth in s. 921.141~~
73 ~~results in findings by the court that such person shall be~~
74 ~~punished by death, otherwise such person shall be punished by~~
75 life imprisonment and shall be ineligible for parole.

76 ~~(2) In the event the death penalty in a capital felony is~~
77 ~~held to be unconstitutional by the Florida Supreme Court or the~~
78 ~~United States Supreme Court, the court having jurisdiction over~~
79 ~~a person previously sentenced to death for a capital felony~~
80 ~~shall cause such person to be brought before the court, and the~~
81 ~~court shall sentence such person to life imprisonment as~~
82 ~~provided in subsection (1). No sentence of death shall be~~
83 ~~reduced as a result of a determination that a method of~~
84 ~~execution is held to be unconstitutional under the State~~
85 ~~Constitution or the Constitution of the United States.~~

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

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88 27.51 Duties of public defender.—

89 (1) The public defender shall represent, without additional
90 compensation, any person determined to be indigent under s.

91 27.52 and:

92 (d) Sought by petition filed in such court to be
93 involuntarily placed as a mentally ill person under part I of
94 chapter 394, involuntarily committed as a sexually violent
95 predator under part V of chapter 394, or involuntarily admitted
96 to residential services as a person with developmental
97 disabilities under chapter 393. A public defender shall not
98 represent any plaintiff in a civil action brought under the
99 Florida Rules of Civil Procedure, the Federal Rules of Civil
100 Procedure, or the federal statutes, or represent a petitioner in
101 a rule challenge under chapter 120, unless specifically
102 authorized by statute; or

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

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

107 Section 3. Paragraphs (e), (f), and (g) of subsection (5)
108 and subsection (8) of section 27.511, Florida Statutes, are
109 amended to read:

110 27.511 Offices of criminal conflict and civil regional
111 counsel; legislative intent; qualifications; appointment;
112 duties.—

113 (5) When the Office of the Public Defender, at any time
114 during the representation of two or more defendants, determines
115 that the interests of those accused are so adverse or hostile
116 that they cannot all be counseled by the public defender or his

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117 or her staff without a conflict of interest, or that none can be
118 counseled by the public defender or his or her staff because of
119 a conflict of interest, and the court grants the public
120 defender's motion to withdraw, the office of criminal conflict
121 and civil regional counsel shall be appointed and shall provide
122 legal services, without additional compensation, to any person
123 determined to be indigent under s. 27.52, who is:

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

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

128 (f)~~(g)~~ Seeking correction, reduction, or modification of a
129 sentence under Rule 3.800, Florida Rules of Criminal Procedure,
130 or seeking postconviction relief under Rule 3.850, Florida Rules
131 of Criminal Procedure, if, in either case, the court determines
132 that appointment of counsel is necessary to protect a person's
133 due process rights.

134 (8) The public defender for the judicial circuit specified
135 in s. 27.51(4) shall, after the record on appeal is transmitted
136 to the appellate court by the office of criminal conflict and
137 civil regional counsel which handled the trial and if requested
138 by the regional counsel for the indicated appellate district,
139 handle all circuit court appeals authorized pursuant to
140 paragraph (5) (e)~~(f)~~ within the state courts system and any
141 authorized appeals to the federal courts required of the
142 official making the request. If the public defender certifies to
143 the court that the public defender has a conflict consistent
144 with the criteria prescribed in s. 27.5303 and moves to
145 withdraw, the regional counsel shall handle the appeal, unless

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146 the regional counsel has a conflict, in which case the court
 147 shall appoint private counsel pursuant to s. 27.40.

148 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,
 149 27.703, 27.704, 27.7045, 27.705, 27.706, 27.707, 27.708,
 150 27.7081, 27.7091, 27.710, 27.711, and 27.715, Florida Statutes,
 151 are repealed.

152 Section 5. Paragraph (d) of subsection (1) of section
 153 119.071, Florida Statutes, is amended to read:

154 119.071 General exemptions from inspection or copying of
 155 public records.—

156 (1) AGENCY ADMINISTRATION.—

157 (d)1. A public record that was prepared by an agency
 158 attorney (including an attorney employed or retained by the
 159 agency or employed or retained by another public officer or
 160 agency to protect or represent the interests of the agency
 161 having custody of the record) or prepared at the attorney's
 162 express direction, that reflects a mental impression,
 163 conclusion, litigation strategy, or legal theory of the attorney
 164 or the agency, and that was prepared exclusively for civil or
 165 criminal litigation or for adversarial administrative
 166 proceedings, or that was prepared in anticipation of imminent
 167 civil or criminal litigation or imminent adversarial
 168 administrative proceedings, is exempt from s. 119.07(1) and s.
 169 24(a), Art. I of the State Constitution until the conclusion of
 170 the litigation or adversarial administrative proceedings. ~~For~~
 171 ~~purposes of capital collateral litigation as set forth in s.~~
 172 ~~27.7001, the Attorney General's office is entitled to claim this~~
 173 ~~exemption for those public records prepared for direct appeal as~~
 174 ~~well as for all capital collateral litigation after direct~~

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175 ~~appeal until execution of sentence or imposition of a life~~
 176 ~~sentence.~~

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

188 Section 6. Paragraph (k) of subsection (4) of section
 189 282.201, Florida Statutes, is amended to read:

190 282.201 State data center system; agency duties and
 191 limitations.—A state data center system that includes all
 192 primary data centers, other nonprimary data centers, and
 193 computing facilities, and that provides an enterprise
 194 information technology service as defined in s. 282.0041, is
 195 established.

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

197 (k) The Department of Law Enforcement, the Department of
 198 the Lottery's Gaming System, Systems Design and Development in
 199 the Office of Policy and Budget, and the State Board of
 200 Administration, state attorneys, public defenders, criminal
 201 conflict and civil regional counsel, ~~capital collateral regional~~
 202 ~~counsel~~, the Florida Clerks of Court Operations Corporation, and
 203 the Florida Housing Finance Corporation are exempt from data

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204 center consolidation under this section.

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

207 775.15 Time limitations; general time limitations;
208 exceptions.—

209 (1) A prosecution for a capital felony, a life felony, or a
210 felony that resulted in a death may be commenced at any time. ~~If~~
211 ~~the death penalty is held to be unconstitutional by the Florida~~
212 ~~Supreme Court or the United States Supreme Court, all crimes~~
213 ~~designated as capital felonies shall be considered life felonies~~
214 ~~for the purposes of this section, and prosecution for such~~
215 ~~crimes may be commenced at any time.~~

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

218 790.161 Making, possessing, throwing, projecting, placing,
219 or discharging any destructive device or attempt so to do,
220 felony; penalties.—A person who willfully and unlawfully makes,
221 possesses, throws, projects, places, discharges, or attempts to
222 make, possess, throw, project, place, or discharge any
223 destructive device:

224 (4) If the act results in the death of another person,
225 commits a capital felony, punishable as provided in s. 775.082.
226 ~~In the event the death penalty in a capital felony is held to be~~
227 ~~unconstitutional by the Florida Supreme Court or the United~~
228 ~~States Supreme Court, the court having jurisdiction over a~~
229 ~~person previously sentenced to death for a capital felony shall~~
230 ~~cause such person to be brought before the court, and the court~~
231 ~~shall sentence such person to life imprisonment if convicted of~~
232 ~~murder in the first degree or of a capital felony under this~~

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233 ~~subsection, and such person shall be ineligible for parole. No~~
 234 ~~sentence of death shall be reduced as a result of a~~
 235 ~~determination that a method of execution is held to be~~
 236 ~~unconstitutional under the State Constitution or the~~
 237 ~~Constitution of the United States.~~

238 Section 9. Section 913.13, Florida Statutes, is repealed.

239 Section 10. Section 921.137, Florida Statutes, is repealed.

240 Section 11. Sections 921.141 and 921.142, Florida Statutes,
 241 are repealed.

242 Section 12. Subsection (1) of section 782.04, Florida
 243 Statutes, is amended to read:

244 782.04 Murder.—

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

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

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

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

251 2.b. Arson,

252 3.e. Sexual battery,

253 4.d. Robbery,

254 5.e. Burglary,

255 6.f. Kidnapping,

256 7.g. Escape,

257 8.h. Aggravated child abuse,

258 9.i. Aggravated abuse of an elderly person or disabled
 259 adult,

260 10.j. Aircraft piracy,

261 11.k. Unlawful throwing, placing, or discharging of a

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262 destructive device or bomb,
 263 12.~~1.~~ Carjacking,
 264 13.~~m.~~ Home-invasion robbery,
 265 14.~~n.~~ Aggravated stalking,
 266 15.~~o.~~ Murder of another human being,
 267 16.~~p.~~ Resisting an officer with violence to his or her
 268 person,
 269 17.~~q.~~ Aggravated fleeing or eluding with serious bodily
 270 injury or death,
 271 18.~~r.~~ Felony that is an act of terrorism or is in
 272 furtherance of an act of terrorism; or
 273 (c)3. Which resulted from the unlawful distribution of any
 274 substance controlled under s. 893.03(1), cocaine as described in
 275 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 276 compound, derivative, or preparation of opium, or methadone by a
 277 person 18 years of age or older, when such drug is proven to be
 278 the proximate cause of the death of the user,
 279
 280 is murder in the first degree and constitutes a capital felony,
 281 punishable as provided in s. 775.082.
 282 ~~(b) In all cases under this section, the procedure set~~
 283 ~~forth in s. 921.141 shall be followed in order to determine~~
 284 ~~sentence of death or life imprisonment.~~
 285 Section 13. Paragraph (a) of subsection (9) of section
 286 394.912, Florida Statutes, is amended to read:
 287 394.912 Definitions.—As used in this part, the term:
 288 (9) "Sexually violent offense" means:
 289 (a) Murder of a human being while engaged in sexual battery
 290 in violation of s. 782.04(1)(b) ~~782.04(1)(a)2.~~;

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291 Section 14. Subsection (1) of section 782.065, Florida
292 Statutes, is amended to read:

293 782.065 Murder; law enforcement officer, correctional
294 officer, correctional probation officer.—Notwithstanding ss.
295 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
296 shall be sentenced to life imprisonment without eligibility for
297 release upon findings by the trier of fact that, beyond a
298 reasonable doubt:

299 (1) The defendant committed murder in the first degree in
300 violation of s. 782.04(1) and a death sentence was not imposed;
301 murder in the second or third degree in violation of s.
302 782.04(2), (3), or (4); attempted murder in the first or second
303 degree in violation of s. 782.04(1)(a) ~~782.04(1)(a)1.~~ or (2); or
304 attempted felony murder in violation of s. 782.051; and

305 Section 15. Paragraph (a) of subsection (2) of section
306 794.011, Florida Statutes, is amended to read:

307 794.011 Sexual battery.—

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

313 Section 16. Paragraphs (b) through (l) of subsection (1) of
314 section 893.135, Florida Statutes, are amended to read:

315 893.135 Trafficking; mandatory sentences; suspension or
316 reduction of sentences; conspiracy to engage in trafficking.—

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

319 (b)1. Any person who knowingly sells, purchases,

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

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

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

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

339 2. Any person who knowingly sells, purchases, manufactures,
340 delivers, or brings into this state, or who is knowingly in
341 actual or constructive possession of, 150 kilograms or more of
342 cocaine, as described in s. 893.03(2)(a)4., commits the first
343 degree felony of trafficking in cocaine. A person who has been
344 convicted of the first degree felony of trafficking in cocaine
345 under this subparagraph shall be punished by life imprisonment
346 and is ineligible for any form of discretionary early release
347 except pardon or executive clemency or conditional medical
348 release under s. 947.149. However, if the court determines that,

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349 in addition to committing any act specified in this paragraph:

350 a. The person intentionally killed an individual or
351 counseled, commanded, induced, procured, or caused the
352 intentional killing of an individual and such killing was the
353 result; or

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

356
357 such person commits the capital felony of trafficking in
358 cocaine, punishable as provided in s. ss. 775.082 and ~~921.142~~.
359 Any person sentenced for a capital felony under this paragraph
360 shall also be sentenced to pay the maximum fine provided under
361 subparagraph 1.

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

370 (c)1. Any person who knowingly sells, purchases,
371 manufactures, delivers, or brings into this state, or who is
372 knowingly in actual or constructive possession of, 4 grams or
373 more of any morphine, opium, oxycodone, hydrocodone,
374 hydromorphone, or any salt, derivative, isomer, or salt of an
375 isomer thereof, including heroin, as described in s.
376 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
377 of any mixture containing any such substance, but less than 30

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378 kilograms of such substance or mixture, commits a felony of the
379 first degree, which felony shall be known as "trafficking in
380 illegal drugs," punishable as provided in s. 775.082, s.
381 775.083, or s. 775.084. If the quantity involved:

382 a. Is 4 grams or more, but less than 14 grams, such person
383 shall be sentenced to a mandatory minimum term of imprisonment
384 of 3 years, and the defendant shall be ordered to pay a fine of
385 \$50,000.

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

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

393 2. Any person who knowingly sells, purchases, manufactures,
394 delivers, or brings into this state, or who is knowingly in
395 actual or constructive possession of, 30 kilograms or more of
396 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
397 any salt, derivative, isomer, or salt of an isomer thereof,
398 including heroin, as described in s. 893.03(1)(b), (2)(a),
399 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
400 containing any such substance, commits the first degree felony
401 of trafficking in illegal drugs. A person who has been convicted
402 of the first degree felony of trafficking in illegal drugs under
403 this subparagraph shall be punished by life imprisonment and is
404 ineligible for any form of discretionary early release except
405 pardon or executive clemency or conditional medical release
406 under s. 947.149. However, if the court determines that, in

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407 addition to committing any act specified in this paragraph:

408 a. The person intentionally killed an individual or
409 counseled, commanded, induced, procured, or caused the
410 intentional killing of an individual and such killing was the
411 result; or

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

414

415 such person commits the capital felony of trafficking in illegal
416 drugs, punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any
417 person sentenced for a capital felony under this paragraph shall
418 also be sentenced to pay the maximum fine provided under
419 subparagraph 1.

420 3. Any person who knowingly brings into this state 60
421 kilograms or more of any morphine, opium, oxycodone,
422 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
423 salt of an isomer thereof, including heroin, as described in s.
424 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
425 more of any mixture containing any such substance, and who knows
426 that the probable result of such importation would be the death
427 of any person, commits capital importation of illegal drugs, a
428 capital felony punishable as provided in s. ss. 775.082 ~~and~~
429 ~~921.142~~. Any person sentenced for a capital felony under this
430 paragraph shall also be sentenced to pay the maximum fine
431 provided under subparagraph 1.

432 (d)1. Any person who knowingly sells, purchases,
433 manufactures, delivers, or brings into this state, or who is
434 knowingly in actual or constructive possession of, 28 grams or
435 more of phencyclidine or of any mixture containing

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436 phencyclidine, as described in s. 893.03(2)(b), commits a felony
437 of the first degree, which felony shall be known as "trafficking
438 in phencyclidine," punishable as provided in s. 775.082, s.
439 775.083, or s. 775.084. If the quantity involved:

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

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

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

451 2. Any person who knowingly brings into this state 800
452 grams or more of phencyclidine or of any mixture containing
453 phencyclidine, as described in s. 893.03(2)(b), and who knows
454 that the probable result of such importation would be the death
455 of any person commits capital importation of phencyclidine, a
456 capital felony punishable as provided in s. ss. 775.082 and
457 921.142. Any person sentenced for a capital felony under this
458 paragraph shall also be sentenced to pay the maximum fine
459 provided under subparagraph 1.

460 (e)1. Any person who knowingly sells, purchases,
461 manufactures, delivers, or brings into this state, or who is
462 knowingly in actual or constructive possession of, 200 grams or
463 more of methaqualone or of any mixture containing methaqualone,
464 as described in s. 893.03(1)(d), commits a felony of the first

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465 degree, which felony shall be known as "trafficking in
466 methaqualone," punishable as provided in s. 775.082, s. 775.083,
467 or s. 775.084. If the quantity involved:

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

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

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

479 2. Any person who knowingly brings into this state 50
480 kilograms or more of methaqualone or of any mixture containing
481 methaqualone, as described in s. 893.03(1)(d), and who knows
482 that the probable result of such importation would be the death
483 of any person commits capital importation of methaqualone, a
484 capital felony punishable as provided in s. 775.082 ~~and~~
485 ~~921.142~~. Any person sentenced for a capital felony under this
486 paragraph shall also be sentenced to pay the maximum fine
487 provided under subparagraph 1.

488 (f)1. Any person who knowingly sells, purchases,
489 manufactures, delivers, or brings into this state, or who is
490 knowingly in actual or constructive possession of, 14 grams or
491 more of amphetamine, as described in s. 893.03(2)(c)2., or
492 methamphetamine, as described in s. 893.03(2)(c)4., or of any
493 mixture containing amphetamine or methamphetamine, or

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494 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
495 in conjunction with other chemicals and equipment utilized in
496 the manufacture of amphetamine or methamphetamine, commits a
497 felony of the first degree, which felony shall be known as
498 "trafficking in amphetamine," punishable as provided in s.
499 775.082, s. 775.083, or s. 775.084. If the quantity involved:
500 a. Is 14 grams or more, but less than 28 grams, such person
501 shall be sentenced to a mandatory minimum term of imprisonment
502 of 3 years, and the defendant shall be ordered to pay a fine of
503 \$50,000.
504 b. Is 28 grams or more, but less than 200 grams, such
505 person shall be sentenced to a mandatory minimum term of
506 imprisonment of 7 years, and the defendant shall be ordered to
507 pay a fine of \$100,000.
508 c. Is 200 grams or more, such person shall be sentenced to
509 a mandatory minimum term of imprisonment of 15 calendar years
510 and pay a fine of \$250,000.
511 2. Any person who knowingly manufactures or brings into
512 this state 400 grams or more of amphetamine, as described in s.
513 893.03(2)(c)2., or methamphetamine, as described in s.
514 893.03(2)(c)4., or of any mixture containing amphetamine or
515 methamphetamine, or phenylacetone, phenylacetic acid,
516 pseudoephedrine, or ephedrine in conjunction with other
517 chemicals and equipment used in the manufacture of amphetamine
518 or methamphetamine, and who knows that the probable result of
519 such manufacture or importation would be the death of any person
520 commits capital manufacture or importation of amphetamine, a
521 capital felony punishable as provided in s. ss. 775.082 ~~and~~
522 ~~921.142~~. Any person sentenced for a capital felony under this

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523 paragraph shall also be sentenced to pay the maximum fine
524 provided under subparagraph 1.

525 (g)1. Any person who knowingly sells, purchases,
526 manufactures, delivers, or brings into this state, or who is
527 knowingly in actual or constructive possession of, 4 grams or
528 more of flunitrazepam or any mixture containing flunitrazepam as
529 described in s. 893.03(1)(a) commits a felony of the first
530 degree, which felony shall be known as "trafficking in
531 flunitrazepam," punishable as provided in s. 775.082, s.
532 775.083, or s. 775.084. If the quantity involved:

533 a. Is 4 grams or more but less than 14 grams, such person
534 shall be sentenced to a mandatory minimum term of imprisonment
535 of 3 years, and the defendant shall be ordered to pay a fine of
536 \$50,000.

537 b. Is 14 grams or more but less than 28 grams, such person
538 shall be sentenced to a mandatory minimum term of imprisonment
539 of 7 years, and the defendant shall be ordered to pay a fine of
540 \$100,000.

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

544 2. Any person who knowingly sells, purchases, manufactures,
545 delivers, or brings into this state or who is knowingly in
546 actual or constructive possession of 30 kilograms or more of
547 flunitrazepam or any mixture containing flunitrazepam as
548 described in s. 893.03(1)(a) commits the first degree felony of
549 trafficking in flunitrazepam. A person who has been convicted of
550 the first degree felony of trafficking in flunitrazepam under
551 this subparagraph shall be punished by life imprisonment and is

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552 ineligible for any form of discretionary early release except
553 pardon or executive clemency or conditional medical release
554 under s. 947.149. However, if the court determines that, in
555 addition to committing any act specified in this paragraph:

556 a. The person intentionally killed an individual or
557 counseled, commanded, induced, procured, or caused the
558 intentional killing of an individual and such killing was the
559 result; or

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

562
563 such person commits the capital felony of trafficking in
564 flunitrazepam, punishable as provided in s. ss. 775.082 ~~and~~
565 ~~921.142~~. Any person sentenced for a capital felony under this
566 paragraph shall also be sentenced to pay the maximum fine
567 provided under subparagraph 1.

568 (h)1. Any person who knowingly sells, purchases,
569 manufactures, delivers, or brings into this state, or who is
570 knowingly in actual or constructive possession of, 1 kilogram or
571 more of gamma-hydroxybutyric acid (GHB), as described in s.
572 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
573 acid (GHB), commits a felony of the first degree, which felony
574 shall be known as "trafficking in gamma-hydroxybutyric acid
575 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
576 775.084. If the quantity involved:

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

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

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

588 2. Any person who knowingly manufactures or brings into
589 this state 150 kilograms or more of gamma-hydroxybutyric acid
590 (GHB), as described in s. 893.03(1)(d), or any mixture
591 containing gamma-hydroxybutyric acid (GHB), and who knows that
592 the probable result of such manufacture or importation would be
593 the death of any person commits capital manufacture or
594 importation of gamma-hydroxybutyric acid (GHB), a capital felony
595 punishable as provided in s. ss. 775.082 and 921.142. Any person
596 sentenced for a capital felony under this paragraph shall also
597 be sentenced to pay the maximum fine provided under subparagraph
598 1.

599 (i)1. Any person who knowingly sells, purchases,
600 manufactures, delivers, or brings into this state, or who is
601 knowingly in actual or constructive possession of, 1 kilogram or
602 more of gamma-butyrolactone (GBL), as described in s.
603 893.03(1)(d), or any mixture containing gamma-butyrolactone
604 (GBL), commits a felony of the first degree, which felony shall
605 be known as "trafficking in gamma-butyrolactone (GBL),"
606 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
607 If the quantity involved:

608 a. Is 1 kilogram or more but less than 5 kilograms, such
609 person shall be sentenced to a mandatory minimum term of

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610 imprisonment of 3 years, and the defendant shall be ordered to
611 pay a fine of \$50,000.

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

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

619 2. Any person who knowingly manufactures or brings into the
620 state 150 kilograms or more of gamma-butyrolactone (GBL), as
621 described in s. 893.03(1)(d), or any mixture containing gamma-
622 butyrolactone (GBL), and who knows that the probable result of
623 such manufacture or importation would be the death of any person
624 commits capital manufacture or importation of gamma-
625 butyrolactone (GBL), a capital felony punishable as provided in
626 s. ss. 775.082 and 921.142. Any person sentenced for a capital
627 felony under this paragraph shall also be sentenced to pay the
628 maximum fine provided under subparagraph 1.

629 (j)1. Any person who knowingly sells, purchases,
630 manufactures, delivers, or brings into this state, or who is
631 knowingly in actual or constructive possession of, 1 kilogram or
632 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
633 any mixture containing 1,4-Butanediol, commits a felony of the
634 first degree, which felony shall be known as "trafficking in
635 1,4-Butanediol," punishable as provided in s. 775.082, s.
636 775.083, or s. 775.084. If the quantity involved:

637 a. Is 1 kilogram or more, but less than 5 kilograms, such
638 person shall be sentenced to a mandatory minimum term of

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639 imprisonment of 3 years, and the defendant shall be ordered to
640 pay a fine of \$50,000.

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

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

648 2. Any person who knowingly manufactures or brings into
649 this state 150 kilograms or more of 1,4-Butanediol as described
650 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
651 and who knows that the probable result of such manufacture or
652 importation would be the death of any person commits capital
653 manufacture or importation of 1,4-Butanediol, a capital felony
654 punishable as provided in s. ss. 775.082 and ~~921.142~~. Any person
655 sentenced for a capital felony under this paragraph shall also
656 be sentenced to pay the maximum fine provided under subparagraph
657 1.

658 (k)1. Any person who knowingly sells, purchases,
659 manufactures, delivers, or brings into this state, or who is
660 knowingly in actual or constructive possession of, 10 grams or
661 more of any of the following substances described in s.
662 893.03(1)(c):

- 663 a. 3,4-Methylenedioxymethamphetamine (MDMA);
664 b. 4-Bromo-2,5-dimethoxyamphetamine;
665 c. 4-Bromo-2,5-dimethoxyphenethylamine;
666 d. 2,5-Dimethoxyamphetamine;
667 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

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- 668 f. N-ethylamphetamine;
- 669 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 670 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 671 i. 4-methoxyamphetamine;
- 672 j. 4-methoxymethamphetamine;
- 673 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 674 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 675 m. 3,4-Methylenedioxyamphetamine;
- 676 n. N,N-dimethylamphetamine; or
- 677 o. 3,4,5-Trimethoxyamphetamine,
- 678
- 679 individually or in any combination of or any mixture containing
- 680 any substance listed in sub-subparagraphs a.-o., commits a
- 681 felony of the first degree, which felony shall be known as
- 682 "trafficking in Phenethylamines," punishable as provided in s.
- 683 775.082, s. 775.083, or s. 775.084.
- 684 2. If the quantity involved:
- 685 a. Is 10 grams or more but less than 200 grams, such person
- 686 shall be sentenced to a mandatory minimum term of imprisonment
- 687 of 3 years, and the defendant shall be ordered to pay a fine of
- 688 \$50,000.
- 689 b. Is 200 grams or more, but less than 400 grams, such
- 690 person shall be sentenced to a mandatory minimum term of
- 691 imprisonment of 7 years, and the defendant shall be ordered to
- 692 pay a fine of \$100,000.
- 693 c. Is 400 grams or more, such person shall be sentenced to
- 694 a mandatory minimum term of imprisonment of 15 calendar years
- 695 and pay a fine of \$250,000.
- 696 3. Any person who knowingly manufactures or brings into

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697 this state 30 kilograms or more of any of the following
698 substances described in s. 893.03(1)(c):

- 699 a. 3,4-Methylenedioxyamphetamine (MDMA);
700 b. 4-Bromo-2,5-dimethoxyamphetamine;
701 c. 4-Bromo-2,5-dimethoxyphenethylamine;
702 d. 2,5-Dimethoxyamphetamine;
703 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
704 f. N-ethylamphetamine;
705 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
706 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
707 i. 4-methoxyamphetamine;
708 j. 4-methoxymethamphetamine;
709 k. 4-Methyl-2,5-dimethoxyamphetamine;
710 l. 3,4-Methylenedioxy-N-ethylamphetamine;
711 m. 3,4-Methylenedioxyamphetamine;
712 n. N,N-dimethylamphetamine; or
713 o. 3,4,5-Trimethoxyamphetamine,

714

715 individually or in any combination of or any mixture containing
716 any substance listed in sub-subparagraphs a.-o., and who knows
717 that the probable result of such manufacture or importation
718 would be the death of any person commits capital manufacture or
719 importation of Phenethylamines, a capital felony punishable as
720 provided in s. 775.082 and ~~921.142~~. Any person sentenced for
721 a capital felony under this paragraph shall also be sentenced to
722 pay the maximum fine provided under subparagraph 1.

723 (1)1. Any person who knowingly sells, purchases,
724 manufactures, delivers, or brings into this state, or who is
725 knowingly in actual or constructive possession of, 1 gram or

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726 more of lysergic acid diethylamide (LSD) as described in s.
727 893.03(1)(c), or of any mixture containing lysergic acid
728 diethylamide (LSD), commits a felony of the first degree, which
729 felony shall be known as "trafficking in lysergic acid
730 diethylamide (LSD)," punishable as provided in s. 775.082, s.
731 775.083, or s. 775.084. If the quantity involved:

732 a. Is 1 gram or more, but less than 5 grams, such person
733 shall be sentenced to a mandatory minimum term of imprisonment
734 of 3 years, and the defendant shall be ordered to pay a fine of
735 \$50,000.

736 b. Is 5 grams or more, but less than 7 grams, such person
737 shall be sentenced to a mandatory minimum term of imprisonment
738 of 7 years, and the defendant shall be ordered to pay a fine of
739 \$100,000.

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

743 2. Any person who knowingly manufactures or brings into
744 this state 7 grams or more of lysergic acid diethylamide (LSD)
745 as described in s. 893.03(1)(c), or any mixture containing
746 lysergic acid diethylamide (LSD), and who knows that the
747 probable result of such manufacture or importation would be the
748 death of any person commits capital manufacture or importation
749 of lysergic acid diethylamide (LSD), a capital felony punishable
750 as provided in s. ss. 775.082 and 921.142. Any person sentenced
751 for a capital felony under this paragraph shall also be
752 sentenced to pay the maximum fine provided under subparagraph 1.

753 Section 17. Sections 922.052, 922.06, 922.07, 922.08,
754 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,

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755 922.14, 922.15, 924.055, 924.056, and 924.057, Florida Statutes,
756 are repealed.

757 Section 18. Subsection (4) of section 925.11, Florida
758 Statutes, is amended to read:

759 925.11 Postsentencing DNA testing.—

760 (4) PRESERVATION OF EVIDENCE.—

761 ~~(a)~~ Governmental entities that may be in possession of any
762 physical evidence in the case, including, but not limited to,
763 any investigating law enforcement agency, the clerk of the
764 court, the prosecuting authority, or the Department of Law
765 Enforcement shall maintain any physical evidence collected at
766 the time of the crime for which a postsentencing testing of DNA
767 may be requested.

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

774 Section 19. Paragraphs (g) and (h) of subsection (1) and
775 subsection (2) of section 945.10, Florida Statutes, are amended
776 to read:

777 945.10 Confidential information.—

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

782 ~~(g) Information which identifies an executioner, or any~~
783 ~~person prescribing, preparing, compounding, dispensing, or~~

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784 ~~administering a lethal injection.~~

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

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

790 (a) Information specified in paragraphs (1)(b), (d), and
791 (f) to the Office of the Governor, the Legislature, the Parole
792 Commission, the Department of Children and Family Services, a
793 private correctional facility or program that operates under a
794 contract, the Department of Legal Affairs, a state attorney, the
795 court, or a law enforcement agency. A request for records or
796 information pursuant to this paragraph need not be in writing.

797 (b) Information specified in paragraphs (1)(c), (e), and
798 (g) ~~(h)~~ to the Office of the Governor, the Legislature, the
799 Parole Commission, the Department of Children and Family
800 Services, a private correctional facility or program that
801 operates under contract, the Department of Legal Affairs, a
802 state attorney, the court, or a law enforcement agency. A
803 request for records or information pursuant to this paragraph
804 must be in writing and a statement provided demonstrating a need
805 for the records or information.

806 (c) Information specified in paragraph (1)(b) to an
807 attorney representing an inmate under sentence of death, except
808 those portions of the records containing a victim's statement or
809 address, or the statement or address of a relative of the
810 victim. A request for records of information pursuant to this
811 paragraph must be in writing and a statement provided
812 demonstrating a need for the records or information.

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813 (d) Information specified in paragraph (1)(b) to a public
814 defender representing a defendant, except those portions of the
815 records containing a victim's statement or address, or the
816 statement or address of a relative of the victim. A request for
817 records or information pursuant to this paragraph need not be in
818 writing.

819 (e) Information specified in paragraph (1)(b) to state or
820 local governmental agencies. A request for records or
821 information pursuant to this paragraph must be in writing and a
822 statement provided demonstrating a need for the records or
823 information.

824 (f) Information specified in paragraph (1)(b) to a person
825 conducting legitimate research. A request for records and
826 information pursuant to this paragraph must be in writing, the
827 person requesting the records or information must sign a
828 confidentiality agreement, and the department must approve the
829 request in writing.

830 (g) Information specified in paragraph (1)(a) to the
831 Department of Health and the county health department where an
832 inmate plans to reside if he or she has tested positive for the
833 presence of the antibody or antigen to human immunodeficiency
834 virus infection.

835
836 Records and information released under this subsection remain
837 confidential and exempt from the provisions of s. 119.07(1) and
838 s. 24(a), Art. I of the State Constitution when held by the
839 receiving person or entity.

840 Section 20. This act shall take effect July 1, 2014.