

1                   A bill to be entitled  
2           An act relating to controlled substance offenses;  
3           amending s. 782.04, F.S.; revising the elements that  
4           constitute the capital offense of murder in the first  
5           degree; defining the term "substantial factor";  
6           amending s. 893.13, F.S.; prohibiting specified  
7           activities involving controlled substances within  
8           1,000 feet of additional specified facilities;  
9           providing criminal penalties; providing an effective  
10          date.

11  
12   Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Paragraph (a) of subsection (1) of section  
15   782.04, Florida Statutes, is amended to read:

16           782.04 Murder.—

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

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

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

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

23           b. Arson,

24           c. Sexual battery,

25           d. Robbery,

- 26 e. Burglary,
- 27 f. Kidnapping,
- 28 g. Escape,
- 29 h. Aggravated child abuse,
- 30 i. Aggravated abuse of an elderly person or disabled
- 31 adult,
- 32 j. Aircraft piracy,
- 33 k. Unlawful throwing, placing, or discharging of a
- 34 destructive device or bomb,
- 35 l. Carjacking,
- 36 m. Home-invasion robbery,
- 37 n. Aggravated stalking,
- 38 o. Murder of another human being,
- 39 p. Resisting an officer with violence to his or her
- 40 person,
- 41 q. Aggravated fleeing or eluding with serious bodily
- 42 injury or death,
- 43 r. Felony that is an act of terrorism or is in furtherance
- 44 of an act of terrorism, including a felony under s. 775.30, s.
- 45 775.32, s. 775.33, s. 775.34, or s. 775.35, or
- 46 s. Human trafficking; or
- 47 3. Which resulted from the unlawful distribution by a
- 48 person 18 years of age or older of any of the following
- 49 substances, or mixture containing any of the following
- 50 substances, when such substance or mixture is proven to have

51 caused, or is proven to have been a substantial factor in  
 52 producing, ~~be the proximate cause of~~ the death of the user:

- 53 a. A substance controlled under s. 893.03(1);
- 54 b. Cocaine, as described in s. 893.03(2)(a)4.;
- 55 c. Opium or any synthetic or natural salt, compound,
- 56 derivative, or preparation of opium;
- 57 d. Methadone;
- 58 e. Alfentanil, as described in s. 893.03(2)(b)1.;
- 59 f. Carfentanil, as described in s. 893.03(2)(b)6.;
- 60 g. Fentanyl, as described in s. 893.03(2)(b)9.;
- 61 h. Sufentanil, as described in s. 893.03(2)(b)30.; ~~or~~
- 62 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
- 63 j. A controlled substance analog, as described in s.
- 64 893.0356, of any substance specified in sub-subparagraphs a.-i.
- 65 ~~sub-subparagraphs a.-h.,~~

66  
 67 is murder in the first degree and constitutes a capital felony,  
 68 punishable as provided in s. 775.082. As used in this paragraph,  
 69 the term "substantial factor" means that the use of the  
 70 substance or mixture alone is sufficient to cause death,  
 71 regardless of whether any other substance or mixture used is  
 72 also sufficient to cause death.

73 Section 2. Paragraph (h) of subsection (1) of section  
 74 893.13, Florida Statutes, is amended to read:

75 893.13 Prohibited acts; penalties.—

76 (1)

77 (h) Except as authorized by this chapter, a person may not  
 78 sell, manufacture, or deliver, or possess with intent to sell,  
 79 manufacture, or deliver, a controlled substance in, on, or  
 80 within 1,000 feet of the real property comprising a mental  
 81 health facility, as that term is used in chapter 394; a health  
 82 care facility licensed under chapter 395 which provides  
 83 substance abuse treatment; a licensed service provider as  
 84 defined in s. 397.311; a facility providing services that  
 85 include clinical treatment, intervention, or prevention as  
 86 described in s. 397.311(26); a recovery residence as defined in  
 87 s. 397.311; an assisted living facility, as defined ~~that term is~~  
 88 ~~used~~ in chapter 429; or a pain management clinic as defined in  
 89 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who  
 90 violates this paragraph with respect to:

91 1. A controlled substance named or described in s.  
 92 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.  
 93 commits a felony of the first degree, punishable as provided in  
 94 s. 775.082, s. 775.083, or s. 775.084.

95 2. A controlled substance named or described in s.  
 96 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,  
 97 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of  
 98 the second degree, punishable as provided in s. 775.082, s.  
 99 775.083, or s. 775.084.

100 3. Any other controlled substance, except as lawfully

HB 95

2022

101 | sold, manufactured, or delivered, must be sentenced to pay a  
102 | \$500 fine and to serve 100 hours of public service in addition  
103 | to any other penalty prescribed by law.

104 |       Section 3. This act shall take effect October 1, 2022.