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LEGISLATIVE ACTION

Senate

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House

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The Committee on Fiscal Policy (Brodeur) recommended the following:

1           **Senate Substitute for Amendment (773068) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Paragraph (a) of subsection (1) and subsections  
7 (4) and (5) of section 782.04, Florida Statutes, are amended to  
8 read:

9           782.04 Murder.—

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



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



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40 substances, or mixture containing any of the following  
41 substances, when such substance or mixture is proven to have  
42 caused, or is proven to be a substantial factor in producing, be  
43 ~~the proximate cause of~~ the death of the user:

- 44 a. A substance controlled under s. 893.03(1);
- 45 b. Cocaine, as described in s. 893.03(2)(a)4.;
- 46 c. Opium or any synthetic or natural salt, compound,  
47 derivative, or preparation of opium;
- 48 d. Methadone;
- 49 e. Alfentanil, as described in s. 893.03(2)(b)1.;
- 50 f. Carfentanil, as described in s. 893.03(2)(b)6.;
- 51 g. Fentanyl, as described in s. 893.03(2)(b)9.;
- 52 h. Sufentanil, as described in s. 893.03(2)(b)30.;
- 53 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
- 54 j. A controlled substance analog, as described in s.  
55 893.0356, of any substance specified in sub-subparagraphs a.-i.,  
56

57 is murder in the first degree and constitutes a capital felony,  
58 punishable as provided in s. 775.082.

59 (4) The unlawful killing of a human being, when perpetrated  
60 without any design to effect death, by a person engaged in the  
61 perpetration of, or in the attempt to perpetrate, any felony  
62 other than any:

- 63 (a) Trafficking offense prohibited by s. 893.135(1),
- 64 (b) Arson,
- 65 (c) Sexual battery,
- 66 (d) Robbery,
- 67 (e) Burglary,
- 68 (f) Kidnapping,



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- 69 (g) Escape,  
70 (h) Aggravated child abuse,  
71 (i) Aggravated abuse of an elderly person or disabled  
72 adult,  
73 (j) Aircraft piracy,  
74 (k) Unlawful throwing, placing, or discharging of a  
75 destructive device or bomb,  
76 (l) Unlawful distribution of any substance listed in sub-  
77 subparagraphs (1)(a)3.a.-j. by a person 18 years of age or  
78 older, when such substance is proven to have caused, or is  
79 proven to have been a substantial factor in producing, ~~be the~~  
80 ~~proximate cause of~~ the death 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 (5) As used in this section, the term:  
97 (a) "Substantial factor" means that the use of the



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98 substance or mixture alone is sufficient to cause death,  
99 regardless of whether any other substance or mixture used is  
100 also sufficient to cause death.

101 (b) "Terrorism" means an activity that:

102 ~~(a)1.a.~~ Involves a violent act or an act dangerous to human  
103 life which is a violation of the criminal laws of this state or  
104 of the United States; or

105 ~~b.2.~~ Involves a violation of s. 815.06; and

106 ~~2.(b)~~ Is intended to:

107 ~~a.1.~~ Intimidate, injure, or coerce a civilian population;

108 ~~b.2.~~ Influence the policy of a government by intimidation  
109 or coercion; or

110 ~~c.3.~~ Affect the conduct of government through destruction  
111 of property, assassination, murder, kidnapping, or aircraft  
112 piracy.

113 Section 2. Section 893.131, Florida Statutes, is created to  
114 read:

115 893.131 Distribution of controlled substances resulting in  
116 injury or overdose.—

117 (1) As used in this section, the term:

118 (a) "Emergency opioid antagonist" has the same meaning as  
119 in s. 381.887.

120 (b) "Injury or overdose" means drug toxicity or the  
121 temporary loss of locomotor activity, motor coordination, or  
122 consciousness or cognitive impairment.

123 (c) "Medical care" means the administration of treatment  
124 for the purposes of preserving or sustaining life or the  
125 administration of an emergency opioid antagonist.

126 (d) "Substantial factor" means that the use of a substance



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127 or mixture alone is sufficient to cause an injury or overdose,  
128 regardless of whether any other substance or mixture used is  
129 also sufficient to cause an injury or overdose.

130 (2)(a) Except as provided in paragraph (b), a person 18  
131 years of age or older who unlawfully distributes:

132 1. Heroin, as described in s. 893.03(1)(b)11.;

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

134 3. Carfentanil, as described in s. 893.03(2)(b)6.;

135 4. Fentanyl, as described in s. 893.03(2)(b)9.;

136 5. Sufentanil, as described in s. 893.03(2)(b)30.;

137 6. Fentanyl derivatives, as described in s.

138 893.03(1)(a)62.;

139 7. A controlled substance analog, as described in s.

140 893.0356, of any substance specified in subparagraphs 1.-6.; or

141 8. A mixture containing any substance specified in

142 subparagraphs 1.-7.,

143

144 and an injury or overdose of the user results, commits a felony

145 of the second degree, punishable as provided in s. 775.082, s.

146 775.083, or s. 775.084, when such substance or mixture is proven

147 to have caused or been a substantial factor in causing the

148 injury or overdose of the user.

149 (b) A person 18 years of age or older who commits a

150 violation of paragraph (a) and who has previously been convicted

151 of a violation of paragraph (a) commits a felony of the first

152 degree, punishable as provided in s. 775.082, s. 775.083, or s.

153 775.084.

154 (3) A person violates this section if he or she, either

155 directly or indirectly through another person, distributed to



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156 the user who was injured or who overdosed the substance or  
157 mixture specified in subparagraphs (2) (a) 1.-8.

158 (4) The administration of medical care by an emergency  
159 responder, including, but not limited to, a law enforcement  
160 officer, a paramedic, or an emergency medical technician, or the  
161 administration of an emergency opioid antagonist by such  
162 emergency responder, is prima facie evidence that the person  
163 receiving medical care was injured or overdosed.

164 (5) A person who experiences, or has a good faith belief  
165 that he or she is experiencing, an alcohol-related or a drug-  
166 related overdose and receives medical assistance, or a person  
167 acting in good faith who seeks medical assistance for an  
168 individual experiencing, or believed to be experiencing, an  
169 alcohol-related or a drug-related overdose, is afforded the  
170 protections provided under s. 893.21.

171 Section 3. Paragraph (f) of subsection (3) of section  
172 921.0022, Florida Statutes, is amended to read:

173 921.0022 Criminal Punishment Code; offense severity ranking  
174 chart.-

175 (3) OFFENSE SEVERITY RANKING CHART

176 (f) LEVEL 6

177

Florida Statute	Felony Degree	Description
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178

316.027(2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
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180	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
181	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
182	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
183	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
184	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
185	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
186	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
187	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.





188	784.041	3rd	Felony battery; domestic battery by strangulation.
189	784.048 (3)	3rd	Aggravated stalking; credible threat.
190	784.048 (5)	3rd	Aggravated stalking of person under 16.
191	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
192	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
193	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
194	784.081 (2)	2nd	Aggravated assault on specified official or employee.
195	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
196	784.083 (2)	2nd	Aggravated assault on code inspector.



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197	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
198	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
199	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
200	790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
201	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
202	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
	794.05(1)	2nd	Unlawful sexual activity with specified minor.



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203	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
204	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
205	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
206	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
207	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
208	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
209	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
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211	812.015 (9) (a)	2nd	Retail theft; property stolen \$750 or more; second or subsequent conviction.
212	812.015 (9) (b)	2nd	Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.
213	812.015 (9) (d)	2nd	Retail theft; multiple thefts within specified period.
214	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
215	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
216	817.49 (2) (b) 2.	2nd	Willful making of a false report of a crime resulting in death.
217	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
218	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.



219	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
220	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
221	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
222	827.03 (2) (c)	3rd	Abuse of a child.
223	827.03 (2) (d)	3rd	Neglect of a child.
224	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
225	828.126 (3)	3rd	Sexual activities involving animals.
226	836.05	2nd	Threats; extortion.
227	836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.



228	843.12	3rd	Aids or assists person to escape.
229	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
230	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
231	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
232	<u>893.131(2)(a)</u>	<u>2nd</u>	<u>Distribution of controlled substances resulting in injury or overdose.</u>
233	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
234	918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
	944.35(3)(a)2.	3rd	Committing malicious battery





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251 the capital offense of murder in the first degree;  
252 revising the elements that constitute the offense of  
253 murder in the third degree and constitute a felony of  
254 the second degree; defining the term "substantial  
255 factor"; creating s. 893.131, F.S.; defining terms;  
256 providing criminal penalties for adults who unlawfully  
257 distribute specified substances or mixtures and an  
258 injury or overdose of the user results; providing  
259 enhanced criminal penalties for repeat offenders;  
260 providing applicability and construction; amending s.  
261 921.0022, F.S.; ranking an offense on the offense  
262 severity ranking chart of the Criminal Punishment  
263 Code; providing an effective date.