

1 A bill to be entitled  
2 An act relating to controlled substances; amending s.  
3 782.04, F.S.; revising the elements that constitute  
4 the capital offense of murder in the first degree;  
5 revising the elements that constitute the offense of  
6 murder in the third degree and constitute a felony of  
7 the second degree; defining the term "substantial  
8 factor"; creating s. 893.131, F.S.; defining terms;  
9 providing criminal penalties for adults who unlawfully  
10 distribute specified substances or mixtures and an  
11 overdose or serious bodily injury of the user results;  
12 providing enhanced criminal penalties for repeat  
13 offenders; providing construction; amending s.  
14 921.0022, F.S.; ranking an offense on the offense  
15 severity ranking chart of the Criminal Punishment  
16 Code; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Paragraph (a) of subsection (1) and subsections  
21 (4) and (5) of section 782.04, Florida Statutes, are amended to  
22 read:

23 782.04 Murder.—

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

25 1. When perpetrated from a premeditated design to effect

26 | the death of the person killed or any human being;  
 27 |       2. When committed by a person engaged in the perpetration  
 28 | of, or in the attempt to perpetrate, any:  
 29 |       a. Trafficking offense prohibited by s. 893.135(1),  
 30 |       b. Arson,  
 31 |       c. Sexual battery,  
 32 |       d. Robbery,  
 33 |       e. Burglary,  
 34 |       f. Kidnapping,  
 35 |       g. Escape,  
 36 |       h. Aggravated child abuse,  
 37 |       i. Aggravated abuse of an elderly person or disabled  
 38 | adult,  
 39 |       j. Aircraft piracy,  
 40 |       k. Unlawful throwing, placing, or discharging of a  
 41 | destructive device or bomb,  
 42 |       l. Carjacking,  
 43 |       m. Home-invasion robbery,  
 44 |       n. Aggravated stalking,  
 45 |       o. Murder of another human being,  
 46 |       p. Resisting an officer with violence to his or her  
 47 | person,  
 48 |       q. Aggravated fleeing or eluding with serious bodily  
 49 | injury or death,  
 50 |       r. Felony that is an act of terrorism or is in furtherance

51 of an act of terrorism, including a felony under s. 775.30, s.  
 52 775.32, s. 775.33, s. 775.34, or s. 775.35, or  
 53 s. Human trafficking; or  
 54 3. Which resulted from the unlawful distribution by a  
 55 person 18 years of age or older of any of the following  
 56 substances, or mixture containing any of the following  
 57 substances, when such substance or mixture is proven to have  
 58 caused, or is proven to be a substantial factor in producing, be  
 59 ~~the proximate cause of~~ the death of the user:  
 60 a. A substance controlled under s. 893.03(1);  
 61 b. Cocaine, as described in s. 893.03(2)(a)4.;  
 62 c. Opium or any synthetic or natural salt, compound,  
 63 derivative, or preparation of opium;  
 64 d. Methadone;  
 65 e. Alfentanil, as described in s. 893.03(2)(b)1.;  
 66 f. Carfentanil, as described in s. 893.03(2)(b)6.;  
 67 g. Fentanyl, as described in s. 893.03(2)(b)9.;  
 68 h. Sufentanil, as described in s. 893.03(2)(b)30.;  
 69 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or  
 70 j. A controlled substance analog, as described in s.  
 71 893.0356, of any substance specified in sub-subparagraphs a.-i.,  
 72  
 73 is murder in the first degree and constitutes a capital felony,  
 74 punishable as provided in s. 775.082.  
 75 (4) The unlawful killing of a human being, when

76 | perpetrated without any design to effect death, by a person  
 77 | engaged in the perpetration of, or in the attempt to perpetrate,  
 78 | any felony other than any:

- 79 |       (a) Trafficking offense prohibited by s. 893.135(1),
- 80 |       (b) Arson,
- 81 |       (c) Sexual battery,
- 82 |       (d) Robbery,
- 83 |       (e) Burglary,
- 84 |       (f) Kidnapping,
- 85 |       (g) Escape,
- 86 |       (h) Aggravated child abuse,
- 87 |       (i) Aggravated abuse of an elderly person or disabled  
 88 | adult,
- 89 |       (j) Aircraft piracy,
- 90 |       (k) Unlawful throwing, placing, or discharging of a  
 91 | destructive device or bomb,
- 92 |       (l) Unlawful distribution of any substance listed in sub-  
 93 | subparagraphs (1)(a)3.a.-j. by a person 18 years of age or  
 94 | older, when such substance is proven to have caused, or is  
 95 | proven to have been a substantial factor in producing, ~~be the~~  
 96 | ~~proximate cause of~~ the death of the user,
- 97 |       (m) Carjacking,
- 98 |       (n) Home-invasion robbery,
- 99 |       (o) Aggravated stalking,
- 100 |       (p) Murder of another human being,

101 (q) Aggravated fleeing or eluding with serious bodily  
 102 injury or death,  
 103 (r) Resisting an officer with violence to his or her  
 104 person, or  
 105 (s) Felony that is an act of terrorism or is in  
 106 furtherance of an act of terrorism, including a felony under s.  
 107 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35,  
 108  
 109 is murder in the third degree and constitutes a felony of the  
 110 second degree, punishable as provided in s. 775.082, s. 775.083,  
 111 or s. 775.084.  
 112 (5) As used in this section, the term:  
 113 (a) "Substantial factor" means that the use of the  
 114 substance or mixture alone is sufficient to cause death,  
 115 regardless of whether any other substance or mixture used is  
 116 also sufficient to cause death.  
 117 (b) "Terrorism" means an activity that:  
 118 ~~(a)1.a.~~ Involves a violent act or an act dangerous to  
 119 human life which is a violation of the criminal laws of this  
 120 state or of the United States; or  
 121 ~~b.2.~~ Involves a violation of s. 815.06; and  
 122 2.(b) Is intended to:  
 123 ~~a.1.~~ Intimidate, injure, or coerce a civilian population;  
 124 ~~b.2.~~ Influence the policy of a government by intimidation  
 125 or coercion; or

126 ~~c.3.~~ Affect the conduct of government through destruction  
 127 of property, assassination, murder, kidnapping, or aircraft  
 128 piracy.

129 Section 2. Section 893.131, Florida Statutes, is created  
 130 to read:

131 893.131 Distribution of controlled substances resulting in  
 132 overdose or serious bodily injury.—

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

134 (a) "Distribute" has the same meaning as in s. 893.02, and  
 135 includes the direct or indirect delivery of a controlled  
 136 substance to a user.

137 (b) "Emergency opioid antagonist" has the same meaning as  
 138 in s. 381.887.

139 (c) "Medical care" means the administration of treatment  
 140 for the purposes of preserving or sustaining life or the  
 141 administration of an emergency opioid antagonist.

142 (b) "Overdose or serious bodily injury" means drug  
 143 toxicity or a physical condition that creates a substantial risk  
 144 of death or substantial loss or impairment of the function of  
 145 any bodily member or organ.

146 (d) "Substantial factor" means that the use of a substance  
 147 or mixture alone is sufficient to cause an overdose or serious  
 148 bodily injury, regardless of whether any other substance or  
 149 mixture used is also sufficient to cause an overdose or serious  
 150 bodily injury.

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

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

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

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

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

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

158 6. Fentanyl derivatives, as described in s.

159 893.03(1)(a)62.;

160 7. A controlled substance analog, as described in s.  
 161 893.0356, of any substance specified in subparagraphs 1.-6.; or

162 8. A mixture containing any substance specified in  
 163 subparagraphs 1.-7.,

164  
 165 and an overdose or serious bodily injury of the user results,  
 166 commits a felony of the second degree, punishable as provided in  
 167 s. 775.082, s. 775.083, or s. 775.084, when such substance or  
 168 mixture is proven to have caused or been a substantial factor in  
 169 causing the overdose or serious bodily injury of the user.

170 (b) A person 18 years of age or older who commits a  
 171 violation of paragraph (a) and who has previously been convicted  
 172 of a violation of paragraph (a) commits a felony of the first  
 173 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 174 775.084.

175 (3) The administration of medical care by an emergency

176 responder, including, but not limited to, a law enforcement  
 177 officer, a paramedic, or an emergency medical technician is  
 178 prima facie evidence that the person receiving medical care  
 179 experienced an overdose or serious bodily injury.

180 Section 3. Paragraph (f) of subsection (3) of section  
 181 921.0022, Florida Statutes, is amended to read:

182 921.0022 Criminal Punishment Code; offense severity  
 183 ranking chart.—

184 (3) OFFENSE SEVERITY RANKING CHART

185 (f) LEVEL 6

186

| Florida Statute  | Felony Degree | Description  |
|------------------|---------------|--|
| 316.027 (2) (b)  | 2nd           | Leaving the scene of a crash involving serious bodily injury.                    |
| 316.193 (2) (b)  | 3rd           | Felony DUI, 4th or subsequent conviction.  |
| 400.9935 (4) (c) | 2nd           | Operating a clinic, or offering services requiring licensure, without a license. |

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|     |               |     |  |
|-----|---------------|-----|--|
| 191 | 499.0051(2)   | 2nd | Knowing forgery of transaction history, transaction information, or transaction statement. |
| 192 | 499.0051(3)   | 2nd | Knowing purchase or receipt of prescription drug from unauthorized person.                 |
| 193 | 499.0051(4)   | 2nd | Knowing sale or transfer of prescription drug to unauthorized person.                      |
| 194 | 775.0875(1)   | 3rd | Taking firearm from law enforcement officer.   |
| 195 | 784.021(1)(a) | 3rd | Aggravated assault; deadly weapon without intent to kill.                                  |
| 196 | 784.021(1)(b) | 3rd | Aggravated assault; intent to commit felony.   |
| 197 | 784.041       | 3rd | Felony battery; domestic battery by strangulation.   |

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|-----|-----------------|-----|---|
| 198 | 784.048 (3)     | 3rd | Aggravated stalking; credible threat.                               |
| 199 | 784.048 (5)     | 3rd | Aggravated stalking of person under 16.                             |
| 200 | 784.07 (2) (c)  | 2nd | Aggravated assault on law enforcement officer.                      |
| 201 | 784.074 (1) (b) | 2nd | Aggravated assault on sexually violent predators facility staff.    |
| 202 | 784.08 (2) (b)  | 2nd | Aggravated assault on a person 65 years of age or older.            |
| 203 | 784.081 (2)     | 2nd | Aggravated assault on specified official or employee.               |
| 204 | 784.082 (2)     | 2nd | Aggravated assault by detained person on visitor or other detainee. |
|     | 784.083 (2)     | 2nd | Aggravated assault on code inspector.                               |

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|-----|-----------------|-----|--|
| 205 | 787.02 (2)      | 3rd | False imprisonment; restraining with purpose other than those in s. 787.01.  |
| 206 | 790.115 (2) (d) | 2nd | Discharging firearm or weapon on school property.  |
| 207 | 790.161 (2)     | 2nd | Make, possess, or throw destructive device with intent to do bodily harm or damage property.   |
| 208 | 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. |
| 209 | 790.19          | 2nd | Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.   |
| 210 | 794.011 (8) (a) | 3rd | Solicitation of minor to   |

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participate in sexual activity  
by custodial adult.

211

794.05(1) 2nd Unlawful sexual activity with  
specified minor.

212

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.

213

800.04(6)(b) 2nd Lewd or lascivious conduct;  
offender 18 years of age or  
older.

214

806.031(2) 2nd Arson resulting in great bodily  
harm to firefighter or any  
other person.

215

810.02(3)(c) 2nd Burglary of occupied structure;  
unarmed; no assault or battery.

216

810.145(8)(b) 2nd Video voyeurism; certain minor  
victims; 2nd or subsequent  
offense.

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|-----|--------------------|-----|---|
| 217 | 812.014 (2) (b) 1. | 2nd | Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.               |
| 218 | 812.014 (6)        | 2nd | Theft; property stolen \$3,000 or more; coordination of others.                                     |
| 219 | 812.015 (9) (a)    | 2nd | Retail theft; property stolen \$750 or more; second or subsequent conviction.                       |
| 220 | 812.015 (9) (b)    | 2nd | Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others. |
| 221 | 812.015 (9) (d)    | 2nd | Retail theft; multiple thefts within specified period.  |
| 222 | 812.13 (2) (c)     | 2nd | Robbery, no firearm or other weapon (strong-arm robbery).   |
| 223 | 817.4821 (5)       | 2nd | Possess cloning paraphernalia   |

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with intent to create cloned  
cellular telephones.

224

817.49(2)(b)2.            2nd    Willful making of a false  
report of a crime resulting in  
death.

225

817.505(4)(b)            2nd    Patient brokering; 10 or more  
patients.

226

825.102(1)                3rd    Abuse of an elderly person or  
disabled adult.

227

825.102(3)(c)            3rd    Neglect of an elderly person or  
disabled adult.

228

825.1025(3)              3rd    Lewd or lascivious molestation  
of an elderly person or  
disabled adult.

229

825.103(3)(c)            3rd    Exploiting an elderly person or  
disabled adult and property is  
valued at less than \$10,000.

230

827.03(2)(c)             3rd    Abuse of a child.

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|     |                  |     |   |
|-----|------------------|-----|---|
| 231 | 827.03(2)(d)     | 3rd | Neglect of a child.   |
| 232 | 827.071(2) & (3) | 2nd | Use or induce a child in a sexual performance, or promote or direct such performance.                             |
| 233 | 828.126(3)       | 3rd | Sexual activities involving animals.  |
| 234 | 836.05           | 2nd | Threats; extortion.   |
| 235 | 836.10           | 2nd | Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.       |
| 236 | 843.12           | 3rd | Aids or assists person to escape.   |
| 237 | 847.011          | 3rd | Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors. |
| 238 |                  |     |   |

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|-----|------------------|------------|--|
| 239 | 847.012          | 3rd        | Knowingly using a minor in the production of materials harmful to minors.  |
| 240 | 847.0135(2)      | 3rd        | Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.                           |
| 241 | <u>893.131</u>   | <u>2nd</u> | <u>Distribution of controlled substances resulting in overdose or serious bodily injury.</u>                     |
| 242 | 914.23           | 2nd        | Retaliation against a witness, victim, or informant, with bodily injury.   |
| 243 | 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 upon or inflicting cruel or inhuman treatment on an inmate or offender on community |



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supervision, resulting in great  
bodily harm.

244

944.40                      2nd    Escapes.

245

944.46                      3rd    Harboring, concealing, aiding  
   escaped prisoners.

246

944.47(1) (a) 5.          2nd    Introduction of contraband  
   (firearm, weapon, or explosive)  
   into correctional facility.

247

951.22(1) (i)              3rd    Firearm or weapon introduced  
   into county detention facility.

248

249

Section 4. This act shall take effect July 1, 2023.