

By Representative Bush

1                                   A bill to be entitled  
2           An act relating to capital punishment;  
3           abolishing the death penalty; providing for  
4           resentencing of certain persons previously  
5           sentenced to death; providing penalties for  
6           such persons of life imprisonment without  
7           eligibility for parole; amending s. 775.082,  
8           F.S., relating to penalties; eliminating the  
9           death penalty as an alternative to life  
10          imprisonment without eligibility for parole in  
11          capital cases; providing penalties; amending s.  
12          775.084, F.S., relating to violent career  
13          criminals and habitual felony offenders and  
14          habitual violent felony offenders; conforming  
15          language; removing provision relating to  
16          imposition of the death penalty; amending s.  
17          775.15, F.S., relating to time limitations;  
18          providing that crimes designated as capital  
19          felonies shall be considered life felonies for  
20          purposes of that section; conforming language;  
21          amending s. 782.04, F.S., relating to murder;  
22          conforming language; removing provision  
23          relating to determination of death sentence;  
24          amending s. 790.161, F.S., relating to offenses  
25          involving destructive devices; removing  
26          provision relating to death penalty; providing  
27          for resentencing of persons previously  
28          sentenced to death; providing penalties;  
29          amending s. 794.011, F.S., relating to sexual  
30          battery; eliminating a cross reference to  
31          conform to changes made by the act; amending s.

1 893.135, F.S., relating to mandatory sentences  
2 for trafficking offenses; eliminating cross  
3 references to conform to changes made by the  
4 act; repealing s. 913.13, F.S., relating to  
5 jurors in capital cases; repealing s. 921.141,  
6 F.S., relating to proceedings to determine  
7 whether death penalty is imposed for capital  
8 felonies; repealing s. 921.142, F.S., relating  
9 to proceedings to determine whether death  
10 penalty is imposed for capital drug trafficking  
11 felonies; repealing s. 922.07, F.S., relating  
12 to proceedings when person under sentence of  
13 death appears to be insane; amending s.  
14 925.035, F.S., relating to appointment and  
15 compensation of attorney in capital cases;  
16 conforming language; eliminating provisions  
17 relating to appeals from judgments imposing the  
18 death penalty; amending s. 948.01, F.S.;  
19 prohibiting court placement of capital offender  
20 on probation or into community control;  
21 eliminating reference to offenses punishable by  
22 death; repealing Rules 3.850, 3.851, and 3.852,  
23 Florida Rules of Criminal Procedure, relating  
24 to motion to vacate, set aside, or correct  
25 sentence, collateral relief after death  
26 sentence has been imposed, and capital  
27 postconviction public records production,  
28 respectively, to the extent of inconsistency  
29 with the act; providing a contingent effective  
30 date.  
31

1           WHEREAS, despite the restoration of capital punishment  
2 in this state, the death penalty has not been a cost-effective  
3 deterrent against the commission of capital offenses, and

4           WHEREAS, life imprisonment without eligibility for  
5 parole, to which courts already have sentenced numerous  
6 capital felons pursuant to s. 775.082(1), Florida Statutes,  
7 provides a more humane alternative to the death penalty for  
8 capital offenses, and

9           WHEREAS, execution of the sentence of life imprisonment  
10 without eligibility for parole also provides more opportunity  
11 to rectify miscarriages of justice in sentencing, in contrast  
12 to the death sentence which is irrevocable upon execution and  
13 cannot be undone even in cases of miscarriage of justice in  
14 execution, and

15           WHEREAS, making life imprisonment without eligibility  
16 for parole the exclusive punishment for capital offenses would  
17 effectively eliminate any potential for erroneous or arbitrary  
18 enforcement of the death penalty, and thereby foster uniform  
19 application of the law, even-handed administration of justice,  
20 and increased respect for the rule of law, NOW, THEREFORE,

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Death penalty abolished.--

25           (1) Notwithstanding any provision of law or rule to  
26 the contrary, capital punishment by means of the death penalty  
27 is hereby abolished in this state. Under no circumstances  
28 shall a person be punished by death under the laws of this  
29 state or sentenced to death by a court of this state.

30           (2) The court having jurisdiction over a person  
31 sentenced to death before the effective date of this act for

1 whom the death sentence has not yet been executed shall  
2 sentence such person to life imprisonment without eligibility  
3 for parole as provided in s. 775.082(1) and (2), Florida  
4 Statutes.

5 Section 2. Subsections (1) and (2) of section 775.082,  
6 Florida Statutes, are amended to read:

7 775.082 Penalties; mandatory minimum sentences for  
8 certain reoffenders previously released from prison.--

9 (1) A person who has been convicted of a capital  
10 felony ~~shall be punished by death if the proceeding held to~~  
11 ~~determine sentence according to the procedure set forth in s.~~  
12 ~~921.141 results in findings by the court that such person~~  
13 ~~shall be punished by death, otherwise such person shall be~~  
14 punished by life imprisonment and shall be ineligible for  
15 parole.

16 (2) ~~In the event the death penalty in a capital felony~~  
17 ~~is held to be unconstitutional by the Florida Supreme Court or~~  
18 ~~the United States Supreme Court, The court having jurisdiction~~  
19 over a person previously sentenced to death for a capital  
20 felony shall cause such person to be brought before the court,  
21 and the court shall sentence such person to life imprisonment  
22 as provided in subsection (1).

23 (6) Nothing in this section shall be construed to  
24 alter the operation of any statute of this state authorizing a  
25 trial court, in its discretion, to impose a sentence of  
26 imprisonment for an indeterminate period within minimum and  
27 maximum limits as provided by law, except as provided in  
28 subsection (1).

29 (7) This section does not deprive the court of any  
30 authority conferred by law to decree a forfeiture of property,  
31 suspend or cancel a license, remove a person from office, or

1 impose any other civil penalty. Such a judgment or order may  
2 be included in the sentence.

3 (9) The purpose of this section is to provide uniform  
4 punishment for those crimes made punishable under this section  
5 and, to this end, a reference to this section constitutes a  
6 general reference under the doctrine of incorporation by  
7 reference.

8 Section 3. Paragraph (h) of subsection (4) of section  
9 775.084, Florida Statutes, is amended to read:

10 775.084 Violent career criminals; habitual felony  
11 offenders and habitual violent felony offenders; definitions;  
12 procedure; enhanced penalties.--

13 (4)

14 (h) The provisions of this section do not apply to  
15 capital felonies, ~~and a sentence authorized under this section~~  
16 ~~does not preclude the imposition of the death penalty for a~~  
17 ~~capital felony.~~

18 (6) The purpose of this section is to provide uniform  
19 punishment for those crimes made punishable under this  
20 section, and to this end, a reference to this section  
21 constitutes a general reference under the doctrine of  
22 incorporation by reference.

23 Section 4. Paragraph (a) of subsection (1) of section  
24 775.15, Florida Statutes, is amended to read:

25 775.15 Time limitations.--

26 (1)(a) A prosecution for a capital felony, a life  
27 felony, or a felony that resulted in a death may be commenced  
28 at any time. A prosecution for a felony that resulted in  
29 injury to any person, when such felony arises from the use of  
30 a "destructive device," as defined in s. 790.001, may be  
31 commenced within 10 years. ~~If the death penalty is held to be~~

1 ~~unconstitutional by the Florida Supreme Court or the United~~  
2 ~~States Supreme Court,~~ All crimes designated as capital  
3 felonies shall be considered life felonies for the purposes of  
4 this section, and prosecution for such crimes may be commenced  
5 at any time.

6 Section 5. Subsection (1) of section 782.04, Florida  
7 Statutes, is amended to read:

8 782.04 Murder.--

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

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

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

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

15 2.b. Arson,

16 3.e. Sexual battery,

17 4.d. Robbery,

18 5.e. Burglary,

19 6.f. Kidnapping,

20 7.g. Escape,

21 8.h. Aggravated child abuse,

22 9.i. Aggravated abuse of an elderly person or disabled  
23 adult,

24 10.j. Aircraft piracy,

25 11.k. Unlawful throwing, placing, or discharging of a  
26 destructive device or bomb,

27 12.t. Carjacking,

28 13.m. Home-invasion robbery,

29 14.n. Aggravated stalking, or

30 (c)3. Which resulted from the unlawful distribution of  
31 any substance controlled under s. 893.03(1), cocaine as

1 described in s. 893.03(2)(a)4., or opium or any synthetic or  
2 natural salt, compound, derivative, or preparation of opium by  
3 a person 18 years of age or older, when such drug is proven to  
4 be the proximate cause of the death of the user,

5  
6 is murder in the first degree and constitutes a capital  
7 felony, punishable as provided in s. 775.082.

8 ~~(b) In all cases under this section, the procedure set~~  
9 ~~forth in s. 921.141 shall be followed in order to determine~~  
10 ~~sentence of death or life imprisonment.~~

11 Section 6. Subsection (4) of section 790.161, Florida  
12 Statutes, is amended to read:

13 790.161 Making, possessing, throwing, projecting,  
14 placing, or discharging any destructive device or attempt so  
15 to do, felony; penalties.--A person who willfully and  
16 unlawfully makes, possesses, throws, projects, places,  
17 discharges, or attempts to make, possess, throw, project,  
18 place, or discharge any destructive device:

19 (4) If the act results in the death of another person,  
20 commits a capital felony, punishable as provided in s.  
21 775.082. ~~In the event the death penalty in a capital felony is~~  
22 ~~held to be unconstitutional by the Florida Supreme Court or~~  
23 ~~the United States Supreme Court, The court having jurisdiction~~  
24 over a person previously sentenced to death for a capital  
25 felony shall cause such person to be brought before the court,  
26 and the court shall sentence such person to life imprisonment  
27 if convicted of murder in the first degree or of a capital  
28 felony under this subsection, and such person shall be  
29 ineligible for parole.

30 Section 7. Paragraph (a) of subsection (2) of section  
31 794.011, Florida Statutes, is amended to read:

1           794.011 Sexual battery.--

2           (2)(a) A person 18 years of age or older who commits  
3 sexual battery upon, or in an attempt to commit sexual battery  
4 injures the sexual organs of, a person less than 12 years of  
5 age commits a capital felony, punishable as provided in s. ss.  
6 775.082 and 921.141.

7           Section 8. Subsection (1) of section 893.135, Florida  
8 Statutes, is amended to read:

9           893.135 Trafficking; mandatory sentences; suspension  
10 or reduction of sentences; conspiracy to engage in  
11 trafficking.--

12           (1) Except as authorized in this chapter or in chapter  
13 499 and notwithstanding the provisions of s. 893.13:

14           (a) Any person who knowingly sells, purchases,  
15 manufactures, delivers, or brings into this state, or who is  
16 knowingly in actual or constructive possession of, in excess  
17 of 50 pounds of cannabis commits a felony of the first degree,  
18 which felony shall be known as "trafficking in cannabis." If  
19 the quantity of cannabis involved:

20           1. Is in excess of 50 pounds, but less than 2,000  
21 pounds, such person shall be sentenced pursuant to the  
22 sentencing guidelines and pay a fine of \$25,000.

23           2. Is 2,000 pounds or more, but less than 10,000  
24 pounds, such person shall be sentenced pursuant to the  
25 sentencing guidelines and pay a fine of \$50,000.

26           3. Is 10,000 pounds or more, such person shall be  
27 sentenced to a mandatory minimum term of imprisonment of 15  
28 calendar years and pay a fine of \$200,000.

29           (b)1. Any person who knowingly sells, purchases,  
30 manufactures, delivers, or brings into this state, or who is  
31 knowingly in actual or constructive possession of, 28 grams or



1 more of cocaine, as described in s. 893.03(2)(a)4., or of any  
2 mixture containing cocaine, but less than 150 kilograms of  
3 cocaine or any such mixture, commits a felony of the first  
4 degree, which felony shall be known as "trafficking in  
5 cocaine." If the quantity involved:

6 a. Is 28 grams or more, but less than 200 grams, such  
7 person shall be sentenced pursuant to the sentencing  
8 guidelines and pay a fine of \$50,000.

9 b. Is 200 grams or more, but less than 400 grams, such  
10 person shall be sentenced pursuant to the sentencing  
11 guidelines and pay a fine of \$100,000.

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

15 2. Any person who knowingly sells, purchases,  
16 manufactures, delivers, or brings into this state, or who is  
17 knowingly in actual or constructive possession of, 150  
18 kilograms or more, but less than 300 kilograms, of cocaine, as  
19 described in s. 893.03(2)(a)4., commits the first degree  
20 felony of trafficking in cocaine. A person who has been  
21 convicted of the first degree felony of trafficking in cocaine  
22 under this subparagraph shall be punished by life imprisonment  
23 and is ineligible for any form of discretionary early release  
24 except pardon or executive clemency or conditional medical  
25 release under s. 947.149. However, if the court determines  
26 that, in addition to committing any act specified in this  
27 paragraph:

28 a. The person intentionally killed an individual or  
29 counseled, commanded, induced, procured, or caused the  
30 intentional killing of an individual and such killing was the  
31 result; or

1           b. The person's conduct in committing that act led to  
2 a natural, though not inevitable, lethal result,  
3  
4 such person commits the capital felony of trafficking in  
5 cocaine, punishable as provided in s. ss. 775.082 and ~~921.142~~.  
6 Any person sentenced for a capital felony under this paragraph  
7 shall also be sentenced to pay the maximum fine provided under  
8 subparagraph 1.

9           3. Any person who knowingly brings into this state 300  
10 kilograms or more of cocaine, as described in s.  
11 893.03(2)(a)4., and who knows that the probable result of such  
12 importation would be the death of any person, commits capital  
13 importation of cocaine, a capital felony punishable as  
14 provided in s. ss. 775.082 and ~~921.142~~. Any person sentenced  
15 for a capital felony under this paragraph shall also be  
16 sentenced to pay the maximum fine provided under subparagraph  
17 1.

18           (c)1. Any person who knowingly sells, purchases,  
19 manufactures, delivers, or brings into this state, or who is  
20 knowingly in actual or constructive possession of, 4 grams or  
21 more of any morphine, opium, oxycodone, hydrocodone,  
22 hydromorphone, or any salt, derivative, isomer, or salt of an  
23 isomer thereof, including heroin, as described in s.  
24 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture  
25 containing any such substance, but less than 30 kilograms of  
26 such substance or mixture, commits a felony of the first  
27 degree, which felony shall be known as "trafficking in illegal  
28 drugs." If the quantity involved:

29           a. Is 4 grams or more, but less than 14 grams, such  
30 person shall be sentenced pursuant to the sentencing  
31 guidelines and pay a fine of \$50,000.

1           b. Is 14 grams or more, but less than 28 grams, such  
2 person shall be sentenced pursuant to the sentencing  
3 guidelines and pay a fine of \$100,000.

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

7           2. Any person who knowingly sells, purchases,  
8 manufactures, delivers, or brings into this state, or who is  
9 knowingly in actual or constructive possession of, 30  
10 kilograms or more, but less than 60 kilograms, of any  
11 morphine, opium, oxycodone, hydrocodone, hydromorphone, or any  
12 salt, derivative, isomer, or salt of an isomer thereof,  
13 including heroin, as described in s. 893.03(1)(b) or (2)(a),  
14 or 30 kilograms or more, but less than 60 kilograms, of any  
15 mixture containing any such substance, commits the first  
16 degree felony of trafficking in illegal drugs. A person who  
17 has been convicted of the first degree felony of trafficking  
18 in illegal drugs under this subparagraph shall be punished by  
19 life imprisonment and is ineligible for any form of  
20 discretionary early release except pardon or executive  
21 clemency or conditional medical release under s. 947.149.  
22 However, if the court determines that, in addition to  
23 committing any act specified in this paragraph:

24           a. The person intentionally killed an individual or  
25 counseled, commanded, induced, procured, or caused the  
26 intentional killing of an individual and such killing was the  
27 result; or

28           b. The person's conduct in committing that act led to  
29 a natural, though not inevitable, lethal result,  
30  
31

1 such person commits the capital felony of trafficking in  
2 illegal drugs, punishable as provided in s. 893.03(1)(b) and  
3 ~~921.142~~. Any person sentenced for a capital felony under this  
4 paragraph shall also be sentenced to pay the maximum fine  
5 provided under subparagraph 1.

6           3. Any person who knowingly brings into this state 60  
7 kilograms or more of any morphine, opium, oxycodone,  
8 hydrocodone, hydromorphone, or any salt, derivative, isomer,  
9 or salt of an isomer thereof, including heroin, as described  
10 in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any  
11 mixture containing any such substance, and who knows that the  
12 probable result of such importation would be the death of any  
13 person, commits capital importation of illegal drugs, a  
14 capital felony punishable as provided in s. 893.03(1)(b) and  
15 ~~921.142~~. Any person sentenced for a capital felony under this  
16 paragraph shall also be sentenced to pay the maximum fine  
17 provided under subparagraph 1.

18           (d)1. Any person who knowingly sells, purchases,  
19 manufactures, delivers, or brings into this state, or who is  
20 knowingly in actual or constructive possession of, 28 grams or  
21 more of phencyclidine or of any mixture containing  
22 phencyclidine, as described in s. 893.03(2)(b), commits a  
23 felony of the first degree, which felony shall be known as  
24 "trafficking in phencyclidine." If the quantity involved:

25           a. Is 28 grams or more, but less than 200 grams, such  
26 person shall be sentenced pursuant to the sentencing  
27 guidelines and pay a fine of \$50,000.

28           b. Is 200 grams or more, but less than 400 grams, such  
29 person shall be sentenced pursuant to the sentencing  
30 guidelines and pay a fine of \$100,000.

31

1           c. Is 400 grams or more, but less than 800 grams, such  
2 person shall be sentenced to a mandatory minimum term of  
3 imprisonment of 15 calendar years and pay a fine of \$250,000.

4           2. Any person who knowingly brings into this state 800  
5 grams or more of phencyclidine or of any mixture containing  
6 phencyclidine, as described in s. 893.03(2)(b), and who knows  
7 that the probable result of such importation would be the  
8 death of any person commits capital importation of  
9 phencyclidine, a capital felony punishable as provided in s.  
10 ~~ss.~~775.082 and ~~921.142~~. Any person sentenced for a capital  
11 felony under this paragraph shall also be sentenced to pay the  
12 maximum fine provided under subparagraph 1.

13           (e)1. Any person who knowingly sells, purchases,  
14 manufactures, delivers, or brings into this state, or who is  
15 knowingly in actual or constructive possession of, 200 grams  
16 or more of methaqualone or of any mixture containing  
17 methaqualone, as described in s. 893.03(1)(d), commits a  
18 felony of the first degree, which felony shall be known as  
19 "trafficking in methaqualone." If the quantity involved:

20           a. Is 200 grams or more, but less than 5 kilograms,  
21 such person shall be sentenced pursuant to the sentencing  
22 guidelines and pay a fine of \$50,000.

23           b. Is 5 kilograms or more, but less than 25 kilograms,  
24 such person shall be sentenced pursuant to the sentencing  
25 guidelines and pay a fine of \$100,000.

26           c. Is 25 kilograms or more, but less than 50  
27 kilograms, such person shall be sentenced to a mandatory  
28 minimum term of imprisonment of 15 calendar years and pay a  
29 fine of \$250,000.

30           2. Any person who knowingly brings into this state 50  
31 kilograms or more of methaqualone or of any mixture containing

1 methaqualone, as described in s. 893.03(1)(d), and who knows  
2 that the probable result of such importation would be the  
3 death of any person commits capital importation of  
4 methaqualone, a capital felony punishable as provided in s.  
5 ~~ss.~~775.082 and ~~921.142~~. Any person sentenced for a capital  
6 felony under this paragraph shall also be sentenced to pay the  
7 maximum fine provided under subparagraph 1.

8 (f)1. Any person who knowingly sells, purchases,  
9 manufactures, delivers, or brings into this state, or who is  
10 knowingly in actual or constructive possession of, 14 grams or  
11 more of amphetamine, as described in s. 893.03(2)(c)2., or  
12 methamphetamine, as described in s. 893.03(2)(c)4., or of any  
13 mixture containing amphetamine or methamphetamine, or  
14 phenylacetone, phenylacetic acid, or ephedrine in conjunction  
15 with other chemicals and equipment utilized in the manufacture  
16 of amphetamine or methamphetamine, commits a felony of the  
17 first degree, which felony shall be known as "trafficking in  
18 amphetamine." If the quantity involved:

19 a. Is 14 grams or more, but less than 28 grams, such  
20 person shall be sentenced pursuant to the sentencing  
21 guidelines and pay a fine of \$50,000.

22 b. Is 28 grams or more, but less than 200 grams, such  
23 person shall be sentenced pursuant to the sentencing  
24 guidelines and pay a fine of \$100,000.

25 c. Is 200 grams or more, but less than 400 grams, such  
26 person shall be sentenced to a mandatory minimum term of  
27 imprisonment of 15 calendar years and pay a fine of \$250,000.

28 2. Any person who knowingly brings into this state 400  
29 grams or more of amphetamine, as described in s.  
30 893.03(2)(c)2., or methamphetamine, as described in s.  
31 893.03(2)(c)4., or of any mixture containing amphetamine or

1 methamphetamine, or phenylacetone, phenylacetic acid, or  
2 ephedrine in conjunction with other chemicals and equipment  
3 utilized in the manufacture of amphetamine or methamphetamine,  
4 and who knows that the probable result of such importation  
5 would be the death of any person commits capital importation  
6 of amphetamine, a capital felony punishable as provided in s.  
7 ~~ss.775.082 and 921.142~~. Any person sentenced for a capital  
8 felony under this paragraph shall also be sentenced to pay the  
9 maximum fine provided under subparagraph 1.

10 (g)1. Any person who knowingly sells, purchases,  
11 manufactures, delivers, or brings into this state, or who is  
12 knowingly in actual or constructive possession of, 4 grams or  
13 more of flunitrazepam or any mixture containing flunitrazepam  
14 as described in s. 893.03(1)(a) commits a felony of the first  
15 degree, which felony shall be known as "trafficking in  
16 flunitrazepam." If the quantity involved:

17 a. Is 4 grams or more but less than 14 grams, such  
18 person shall be sentenced pursuant to the sentencing  
19 guidelines and pay a fine of \$50,000.

20 b. Is 14 grams or more but less than 28 grams, such  
21 person shall be sentenced pursuant to the sentencing  
22 guidelines and pay a fine of \$100,000.

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

26 2. Any person who knowingly sells, purchases,  
27 manufactures, delivers, or brings into this state or who is  
28 knowingly in actual or constructive possession of 30 kilograms  
29 or more of flunitrazepam or any mixture containing  
30 flunitrazepam as described in s. 893.03(1)(a) commits the  
31 first degree felony of trafficking in flunitrazepam. A person

1 who has been convicted of the first degree felony of  
2 trafficking in flunitrazepam under this subparagraph shall be  
3 punished by life imprisonment and is ineligible for any form  
4 of discretionary early release except pardon or executive  
5 clemency or conditional medical release under s. 947.149.  
6 However, if the court determines that, in addition to  
7 committing any act specified in this paragraph:  
8       a. The person intentionally killed an individual or  
9 counseled, commanded, induced, procured, or caused the  
10 intentional killing of an individual and such killing was the  
11 result; or  
12       b. The person's conduct in committing that act led to  
13 a natural, though not inevitable, lethal result,  
14  
15 such person commits the capital felony of trafficking in  
16 flunitrazepam, punishable as provided in s. 775.082 and  
17 ~~921.142~~. Any person sentenced for a capital felony under this  
18 paragraph shall also be sentenced to pay the maximum fine  
19 provided under subparagraph 1.  
20       Section 9. Effective October 1, 1998, subsection (1)  
21 of section 893.135, Florida Statutes, as amended by chapter  
22 97-194, Laws of Florida, is amended to read:  
23       893.135 Trafficking; mandatory sentences; suspension  
24 or reduction of sentences; conspiracy to engage in  
25 trafficking.--  
26       (1) Except as authorized in this chapter or in chapter  
27 499 and notwithstanding the provisions of s. 893.13:  
28       (a) Any person who knowingly sells, purchases,  
29 manufactures, delivers, or brings into this state, or who is  
30 knowingly in actual or constructive possession of, in excess  
31 of 50 pounds of cannabis commits a felony of the first degree,



1 which felony shall be known as "trafficking in cannabis." If  
2 the quantity of cannabis involved:

3 1. Is in excess of 50 pounds, but less than 2,000  
4 pounds, such person shall be sentenced pursuant to the  
5 sentencing guidelines and pay a fine of \$25,000.

6 2. Is 2,000 pounds or more, but less than 10,000  
7 pounds, such person shall be sentenced pursuant to the  
8 sentencing guidelines and pay a fine of \$50,000.

9 3. Is 10,000 pounds or more, such person shall be  
10 sentenced to a mandatory minimum term of imprisonment of 15  
11 calendar years and pay a fine of \$200,000.

12 (b)1. Any person who knowingly sells, purchases,  
13 manufactures, delivers, or brings into this state, or who is  
14 knowingly in actual or constructive possession of, 28 grams or  
15 more of cocaine, as described in s. 893.03(2)(a)4., or of any  
16 mixture containing cocaine, but less than 150 kilograms of  
17 cocaine or any such mixture, commits a felony of the first  
18 degree, which felony shall be known as "trafficking in  
19 cocaine." If the quantity involved:

20 a. Is 28 grams or more, but less than 200 grams, such  
21 person shall be sentenced pursuant to the sentencing  
22 guidelines and pay a fine of \$50,000.

23 b. Is 200 grams or more, but less than 400 grams, such  
24 person shall be sentenced pursuant to the sentencing  
25 guidelines and pay a fine of \$100,000.

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

29 2. Any person who knowingly sells, purchases,  
30 manufactures, delivers, or brings into this state, or who is  
31 knowingly in actual or constructive possession of, 150

1 kilograms or more, but less than 300 kilograms, of cocaine, as  
2 described in s. 893.03(2)(a)4., commits the first degree  
3 felony of trafficking in cocaine. A person who has been  
4 convicted of the first degree felony of trafficking in cocaine  
5 under this subparagraph shall be punished by life imprisonment  
6 and is ineligible for any form of discretionary early release  
7 except pardon or executive clemency or conditional medical  
8 release under s. 947.149. However, if the court determines  
9 that, in addition to committing any act specified in this  
10 paragraph:

11       a. The person intentionally killed an individual or  
12 counseled, commanded, induced, procured, or caused the  
13 intentional killing of an individual and such killing was the  
14 result; or

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

17  
18 such person commits the capital felony of trafficking in  
19 cocaine, punishable as provided in s. 775.082 and ~~921.142~~.  
20 Any person sentenced for a capital felony under this paragraph  
21 shall also be sentenced to pay the maximum fine provided under  
22 subparagraph 1.

23       3. Any person who knowingly brings into this state 300  
24 kilograms or more of cocaine, as described in s.  
25 893.03(2)(a)4., and who knows that the probable result of such  
26 importation would be the death of any person, commits capital  
27 importation of cocaine, a capital felony punishable as  
28 provided in s. 775.082 and ~~921.142~~. Any person sentenced  
29 for a capital felony under this paragraph shall also be  
30 sentenced to pay the maximum fine provided under subparagraph  
31 1.

1           (c)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 4 grams or  
4 more of any morphine, opium, oxycodone, hydrocodone,  
5 hydromorphone, or any salt, derivative, isomer, or salt of an  
6 isomer thereof, including heroin, as described in s.  
7 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture  
8 containing any such substance, but less than 30 kilograms of  
9 such substance or mixture, commits a felony of the first  
10 degree, which felony shall be known as "trafficking in illegal  
11 drugs." If the quantity involved:  
12           a. Is 4 grams or more, but less than 14 grams, such  
13 person shall be sentenced pursuant to the sentencing  
14 guidelines and pay a fine of \$50,000.  
15           b. Is 14 grams or more, but less than 28 grams, such  
16 person shall be sentenced pursuant to the sentencing  
17 guidelines and pay a fine of \$100,000.  
18           c. Is 28 grams or more, but less than 30 kilograms,  
19 such person shall be sentenced to a mandatory minimum term of  
20 imprisonment of 25 calendar years and pay a fine of \$500,000.  
21           2. Any person who knowingly sells, purchases,  
22 manufactures, delivers, or brings into this state, or who is  
23 knowingly in actual or constructive possession of, 30  
24 kilograms or more, but less than 60 kilograms, of any  
25 morphine, opium, oxycodone, hydrocodone, hydromorphone, or any  
26 salt, derivative, isomer, or salt of an isomer thereof,  
27 including heroin, as described in s. 893.03(1)(b) or (2)(a),  
28 or 30 kilograms or more, but less than 60 kilograms, of any  
29 mixture containing any such substance, commits the first  
30 degree felony of trafficking in illegal drugs. A person who  
31 has been convicted of the first degree felony of trafficking

1 in illegal drugs under this subparagraph shall be punished by  
2 life imprisonment and is ineligible for any form of  
3 discretionary early release except pardon or executive  
4 clemency or conditional medical release under s. 947.149.  
5 However, if the court determines that, in addition to  
6 committing any act specified in this paragraph:  
7       a. The person intentionally killed an individual or  
8 counseled, commanded, induced, procured, or caused the  
9 intentional killing of an individual and such killing was the  
10 result; or  
11       b. The person's conduct in committing that act led to  
12 a natural, though not inevitable, lethal result,  
13  
14 such person commits the capital felony of trafficking in  
15 illegal drugs, punishable as provided in s. 775.082 and  
16 ~~921.142~~. Any person sentenced for a capital felony under this  
17 paragraph shall also be sentenced to pay the maximum fine  
18 provided under subparagraph 1.  
19       3. Any person who knowingly brings into this state 60  
20 kilograms or more of any morphine, opium, oxycodone,  
21 hydrocodone, hydromorphone, or any salt, derivative, isomer,  
22 or salt of an isomer thereof, including heroin, as described  
23 in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any  
24 mixture containing any such substance, and who knows that the  
25 probable result of such importation would be the death of any  
26 person, commits capital importation of illegal drugs, a  
27 capital felony punishable as provided in s. 775.082 and  
28 ~~921.142~~. Any person sentenced for a capital felony under this  
29 paragraph shall also be sentenced to pay the maximum fine  
30 provided under subparagraph 1.  
31

1           (d)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 28 grams or  
4 more of phencyclidine or of any mixture containing  
5 phencyclidine, as described in s. 893.03(2)(b), commits a  
6 felony of the first degree, which felony shall be known as  
7 "trafficking in phencyclidine." If the quantity involved:  
8           a. Is 28 grams or more, but less than 200 grams, such  
9 person shall be sentenced pursuant to the sentencing  
10 guidelines and pay a fine of \$50,000.  
11           b. Is 200 grams or more, but less than 400 grams, such  
12 person shall be sentenced pursuant to the sentencing  
13 guidelines and pay a fine of \$100,000.  
14           c. Is 400 grams or more, but less than 800 grams, such  
15 person shall be sentenced to a mandatory minimum term of  
16 imprisonment of 15 calendar years and pay a fine of \$250,000.  
17           2. Any person who knowingly brings into this state 800  
18 grams or more of phencyclidine or of any mixture containing  
19 phencyclidine, as described in s. 893.03(2)(b), and who knows  
20 that the probable result of such importation would be the  
21 death of any person commits capital importation of  
22 phencyclidine, a capital felony punishable as provided in s.  
23 ~~ss. 775.082 and 921.142~~. Any person sentenced for a capital  
24 felony under this paragraph shall also be sentenced to pay the  
25 maximum fine provided under subparagraph 1.  
26           (e)1. Any person who knowingly sells, purchases,  
27 manufactures, delivers, or brings into this state, or who is  
28 knowingly in actual or constructive possession of, 200 grams  
29 or more of methaqualone or of any mixture containing  
30 methaqualone, as described in s. 893.03(1)(d), commits a  
31

1 felony of the first degree, which felony shall be known as  
2 "trafficking in methaqualone." If the quantity involved:  
3 a. Is 200 grams or more, but less than 5 kilograms,  
4 such person shall be sentenced pursuant to the sentencing  
5 guidelines and pay a fine of \$50,000.  
6 b. Is 5 kilograms or more, but less than 25 kilograms,  
7 such person shall be sentenced pursuant to the sentencing  
8 guidelines and pay a fine of \$100,000.  
9 c. Is 25 kilograms or more, but less than 50  
10 kilograms, such person shall be sentenced to a mandatory  
11 minimum term of imprisonment of 15 calendar years and pay a  
12 fine of \$250,000.  
13 2. Any person who knowingly brings into this state 50  
14 kilograms or more of methaqualone or of any mixture containing  
15 methaqualone, as described in s. 893.03(1)(d), and who knows  
16 that the probable result of such importation would be the  
17 death of any person commits capital importation of  
18 methaqualone, a capital felony punishable as provided in s.  
19 ~~ss.~~ 775.082 and 921.142. Any person sentenced for a capital  
20 felony under this paragraph shall also be sentenced to pay the  
21 maximum fine provided under subparagraph 1.  
22 (f)1. Any person who knowingly sells, purchases,  
23 manufactures, delivers, or brings into this state, or who is  
24 knowingly in actual or constructive possession of, 14 grams or  
25 more of amphetamine, as described in s. 893.03(2)(c)2., or  
26 methamphetamine, as described in s. 893.03(2)(c)4., or of any  
27 mixture containing amphetamine or methamphetamine, or  
28 phenylacetone, phenylacetic acid, or ephedrine in conjunction  
29 with other chemicals and equipment utilized in the manufacture  
30 of amphetamine or methamphetamine, commits a felony of the  
31

1 first degree, which felony shall be known as "trafficking in  
2 amphetamine." If the quantity involved:  
3 a. Is 14 grams or more, but less than 28 grams, such  
4 person shall be sentenced pursuant to the sentencing  
5 guidelines and pay a fine of \$50,000.  
6 b. Is 28 grams or more, but less than 200 grams, such  
7 person shall be sentenced pursuant to the sentencing  
8 guidelines and pay a fine of \$100,000.  
9 c. Is 200 grams or more, but less than 400 grams, such  
10 person shall be sentenced to a mandatory minimum term of  
11 imprisonment of 15 calendar years and pay a fine of \$250,000.  
12 2. Any person who knowingly brings into this state 400  
13 grams or more of amphetamine, as described in s.  
14 893.03(2)(c)2., or methamphetamine, as described in s.  
15 893.03(2)(c)4., or of any mixture containing amphetamine or  
16 methamphetamine, or phenylacetone, phenylacetic acid, or  
17 ephedrine in conjunction with other chemicals and equipment  
18 utilized in the manufacture of amphetamine or methamphetamine,  
19 and who knows that the probable result of such importation  
20 would be the death of any person commits capital importation  
21 of amphetamine, a capital felony punishable as provided in s.  
22 ~~ss. 775.082 and 921.142~~. Any person sentenced for a capital  
23 felony under this paragraph shall also be sentenced to pay the  
24 maximum fine provided under subparagraph 1.  
25 (g)1. Any person who knowingly sells, purchases,  
26 manufactures, delivers, or brings into this state, or who is  
27 knowingly in actual or constructive possession of, 4 grams or  
28 more of flunitrazepam or any mixture containing flunitrazepam  
29 as described in s. 893.03(1)(a) commits a felony of the first  
30 degree, which felony shall be known as "trafficking in  
31 flunitrazepam." If the quantity involved:

1           a. Is 4 grams or more but less than 14 grams, such  
2 person shall be sentenced pursuant to the sentencing  
3 guidelines and pay a fine of \$50,000.

4           b. Is 14 grams or more but less than 28 grams, such  
5 person shall be sentenced pursuant to the sentencing  
6 guidelines and pay a fine of \$100,000.

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

10          2. Any person who knowingly sells, purchases,  
11 manufactures, delivers, or brings into this state or who is  
12 knowingly in actual or constructive possession of 30 kilograms  
13 or more of flunitrazepam or any mixture containing  
14 flunitrazepam as described in s. 893.03(1)(a) commits the  
15 first degree felony of trafficking in flunitrazepam. A person  
16 who has been convicted of the first degree felony of  
17 trafficking in flunitrazepam under this subparagraph shall be  
18 punished by life imprisonment and is ineligible for any form  
19 of discretionary early release except pardon or executive  
20 clemency or conditional medical release under s. 947.149.  
21 However, if the court determines that, in addition to  
22 committing any act specified in this paragraph:

23           a. The person intentionally killed an individual or  
24 counseled, commanded, induced, procured, or caused the  
25 intentional killing of an individual and such killing was the  
26 result; or

27           b. The person's conduct in committing that act led to  
28 a natural, though not inevitable, lethal result,  
29  
30 such person commits the capital felony of trafficking in  
31 flunitrazepam, punishable as provided in s. 775.082 and



1 ~~921.142~~. Any person sentenced for a capital felony under this  
2 paragraph shall also be sentenced to pay the maximum fine  
3 provided under subparagraph 1.

4 Section 10. Section 913.13, Florida Statutes, is  
5 hereby repealed.

6 Section 11. Section 921.141, Florida Statutes, is  
7 hereby repealed.

8 Section 12. Section 921.142, Florida Statutes, is  
9 hereby repealed.

10 Section 13. Section 922.07, Florida Statutes, is  
11 hereby repealed.

12 Section 14. Section 925.035, Florida Statutes, is  
13 amended to read:

14 925.035 Appointment and compensation of an attorney in  
15 capital cases; ~~appeals from judgments imposing the death~~  
16 ~~penalty.--~~

17 (1) If the court determines that the defendant in a  
18 capital case is insolvent and desires counsel, it shall  
19 appoint a public defender to represent the defendant. If the  
20 public defender appointed to represent two or more defendants  
21 found to be insolvent determines that neither the public  
22 defender nor her or his staff can counsel all of the accused  
23 without conflict of interest, it shall be the public  
24 defender's duty to move the court to appoint one or more  
25 members of The Florida Bar, who are in no way affiliated with  
26 the public defender in her or his capacity as such or in her  
27 or his private practice, to represent those accused. The  
28 attorney shall be allowed compensation, as provided for in s.  
29 925.036 for representing a defendant.

30 ~~(2) If the defendant is convicted and the death~~  
31 ~~sentence is imposed, the appointed attorney shall prosecute an~~

1 ~~appeal to the Supreme Court. The attorney shall be~~  
2 ~~compensated as provided for in s. 925.036. If the attorney~~  
3 ~~first appointed is unable to prosecute the appeal, the court~~  
4 ~~shall appoint another attorney and the attorney shall be~~  
5 ~~compensated as provided for in s. 925.036.~~

6 (2)~~(3)~~ If there is a second trial of the same case,  
7 the appointed attorney shall be compensated as provided for in  
8 s. 925.036.

9 ~~(4) If the death sentence is imposed and is affirmed~~  
10 ~~on appeal to the Supreme Court, the appointed attorney shall~~  
11 ~~be allowed compensation, not to exceed \$1,000, for attorney's~~  
12 ~~fees and costs incurred in representing the defendant as to an~~  
13 ~~application for executive clemency, such compensation to be~~  
14 ~~paid out of general revenue from funds budgeted to the~~  
15 ~~Department of Corrections. The public defender or an attorney~~  
16 ~~appointed pursuant to this section may be appointed by the~~  
17 ~~trial court that rendered the judgment imposing the death~~  
18 ~~penalty, to represent an indigent defendant who has applied~~  
19 ~~for executive clemency as relief from the execution of the~~  
20 ~~judgment imposing the death penalty.~~

21 (3)~~(5)~~ When the appointed attorney in a capital case  
22 has completed the duties imposed by this section, the attorney  
23 shall file a written report in the trial court stating the  
24 duties performed by her or him and apply for discharge.

25 (4)~~(6)~~ All compensation and costs provided for in this  
26 section, ~~except as provided in subsection (4),~~ shall be paid  
27 by the county in which the trial is held unless the trial was  
28 moved to that county on the ground that a fair and impartial  
29 trial could not be held in another county, in which event the  
30 compensation and costs shall be paid by the original county  
31 from which the cause was removed.

1           Section 15. Subsection (1) of section 948.01, Florida  
2 Statutes, is amended to read:

3           948.01 When court may place defendant on probation or  
4 into community control.--

5           (1) Any court of the state having original  
6 jurisdiction of criminal actions may at a time to be  
7 determined by the court, either with or without an  
8 adjudication of the guilt of the defendant, hear and determine  
9 the question of the probation of a defendant in a criminal  
10 case, except for a capital ~~an~~ offense ~~punishable by death~~, who  
11 has been found guilty by the verdict of a jury, has entered a  
12 plea of guilty or a plea of nolo contendere, or has been found  
13 guilty by the court trying the case without a jury. If the  
14 court places the defendant on probation or into community  
15 control for a felony, the department shall provide immediate  
16 supervision by an officer employed in compliance with the  
17 minimum qualifications for officers as provided in s. 943.13.  
18 In no circumstances shall a private entity provide  
19 probationary or supervision services to felony or misdemeanor  
20 offenders sentenced or placed on probation or other  
21 supervision by the circuit court.

22           Section 16. Rules 3.850, 3.851, and 3.852, Florida  
23 Rules of Criminal Procedure, are hereby repealed to the extent  
24 that they are inconsistent with the provisions of this act.

25           Section 17. This act shall take effect upon becoming a  
26 law, except that section 16 shall take effect only if this act  
27 is passed by the affirmative vote of two-thirds of the  
28 membership of each house of the Legislature.

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HOUSE SUMMARY

Abolishes the death penalty. Provides for resentencing of certain persons previously sentenced to death. Provides penalties for such persons of life imprisonment without eligibility for parole. Provides for crimes designated as capital felonies to be considered life felonies for purposes of specified provisions relating to time limitations. Revises or repeals numerous provisions, to conform to changes made by the act.

Repeals Rules 3.850, 3.851, and 3.852, Florida Rules of Criminal Procedure, relating to motion to vacate, set aside, or correct sentence, collateral relief after death sentence has been imposed, and capital postconviction public records production, respectively, to the extent that the rules are inconsistent with the act. See bill for details.

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