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Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Stafford offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 782.04, Florida Statutes, is amended to read:

782.04 Murder.--

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

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

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

- a. Trafficking offense prohibited by s. 893.135(1),
- b. Arson,
- c. Sexual battery,
- d. Robbery,
- e. Burglary,
- f. Kidnapping,
- g. Escape,

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- 1           h. Aggravated child abuse,
- 2           i. Aggravated abuse of an elderly person or disabled
- 3 adult,
- 4           j. Aircraft piracy,
- 5           k. Unlawful throwing, placing, or discharging of a
- 6 destructive device or bomb,
- 7           l. Carjacking,
- 8           m. Home-invasion robbery,
- 9           n. Aggravated stalking, ~~or~~
- 10          o. Murder of another human being; or
- 11          3. Which resulted from the unlawful distribution of
- 12 any substance controlled under s. 893.03(1), cocaine as
- 13 described in s. 893.03(2)(a)4., or opium or any synthetic or
- 14 natural salt, compound, derivative, or preparation of opium by
- 15 a person 18 years of age or older, when such drug is proven to
- 16 be the proximate cause of the death of the user,
- 17
- 18 is murder in the first degree and constitutes a capital
- 19 felony, punishable as provided in s. 775.082.
- 20          (b) In all cases under this section, the procedure set
- 21 forth in s. 921.141 shall be followed in order to determine
- 22 sentence of death or life imprisonment.
- 23          (2) The unlawful killing of a human being, when
- 24 perpetrated by any act imminently dangerous to another and
- 25 evincing a depraved mind regardless of human life, although
- 26 without any premeditated design to effect the death of any
- 27 particular individual, is murder in the second degree and
- 28 constitutes a felony of the first degree, punishable by
- 29 imprisonment for a term of years not exceeding life or as
- 30 provided in s. 775.082, s. 775.083, or s. 775.084.
- 31          (3) When a person is killed in the perpetration of, or

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- 1 in the attempt to perpetrate, any:
- 2 (a) Trafficking offense prohibited by s. 893.135(1),
- 3 (b) Arson,
- 4 (c) Sexual battery,
- 5 (d) Robbery,
- 6 (e) Burglary,
- 7 (f) Kidnapping,
- 8 (g) Escape,
- 9 (h) Aggravated child abuse,
- 10 (i) Aggravated abuse of an elderly person or disabled
- 11 adult,
- 12 (j) Aircraft piracy,
- 13 (k) Unlawful throwing, placing, or discharging of a
- 14 destructive device or bomb,
- 15 (l) Carjacking,
- 16 (m) Home-invasion robbery, ~~or~~
- 17 (n) Aggravated stalking, or
- 18 (o) Murder of another human being,

19

20 by a person other than the person engaged in the perpetration

21 of or in the attempt to perpetrate such felony, the person

22 perpetrating or attempting to perpetrate such felony is guilty

23 of murder in the second degree, which constitutes a felony of

24 the first degree, punishable by imprisonment for a term of

25 years not exceeding life or as provided in s. 775.082, s.

26 775.083, or s. 775.084.

27 (4) The unlawful killing of a human being, when

28 perpetrated without any design to effect death, by a person

29 engaged in the perpetration of, or in the attempt to

30 perpetrate, any felony other than any:

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

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- 1 (b) Arson,
- 2 (c) Sexual battery,
- 3 (d) Robbery,
- 4 (e) Burglary,
- 5 (f) Kidnapping,
- 6 (g) Escape,
- 7 (h) Aggravated child abuse,
- 8 (i) Aggravated abuse of an elderly person or disabled
- 9 adult,
- 10 (j) Aircraft piracy,
- 11 (k) Unlawful throwing, placing, or discharging of a
- 12 destructive device or bomb,
- 13 (l) Unlawful distribution of any substance controlled
- 14 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
- 15 or opium or any synthetic or natural salt, compound,
- 16 derivative, or preparation of opium by a person 18 years of
- 17 age or older, when such drug is proven to be the proximate
- 18 cause of the death of the user,
- 19 (m) Carjacking,
- 20 (n) Home-invasion robbery, ~~or~~
- 21 (o) Aggravated stalking, or
- 22 (p) Murder of another human being,

23

24 is murder in the third degree and constitutes a felony of the

25 second degree, punishable as provided in s. 775.082, s.

26 775.083, or s. 775.084.

27 Section 2. For the purpose of incorporating the

28 amendment made by this act to section 782.04, Florida

29 Statutes, in references thereto, paragraph (d) of subsection

30 (1) of section 39.464, Florida Statutes, is reenacted to read:

31 39.464 Grounds for termination of parental rights.--

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1           (1) The department, the guardian ad litem, a licensed  
2 child-placing agency, or any person who has knowledge of the  
3 facts alleged or who is informed of said facts and believes  
4 that they are true, may petition for the termination of  
5 parental rights under any of the following circumstances:

6           (d) When the parent of a child is incarcerated in a  
7 state or federal correctional institution and:

8           1. The period of time for which the parent is expected  
9 to be incarcerated will constitute a substantial portion of  
10 the period of time before the child will attain the age of 18  
11 years;

12           2. The incarcerated parent has been determined by the  
13 court to be a violent career criminal as defined in s.  
14 775.084, a habitual violent felony offender as defined in s.  
15 775.084, or a sexual predator as defined in s. 775.21; has  
16 been convicted of first degree or second degree murder in  
17 violation of s. 782.04 or a sexual battery that constitutes a  
18 capital, life, or first degree felony violation of s. 794.011;  
19 or has been convicted of an offense in another jurisdiction  
20 which is substantially similar to one of the offenses listed  
21 in this paragraph. As used in this section, the term  
22 "substantially similar offense" means any offense that is  
23 substantially similar in elements and penalties to one of  
24 those listed in this paragraph, and that is in violation of a  
25 law of any other jurisdiction, whether that of another state,  
26 the District of Columbia, the United States or any possession  
27 or territory thereof, or any foreign jurisdiction; and

28           3. The court determines by clear and convincing  
29 evidence that continuing the parental relationship with the  
30 incarcerated parent would be harmful to the child and, for  
31 this reason, that termination of the parental rights of the

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1 incarcerated parent is in the best interest of the child.

2 Section 3. For the purpose of incorporating the  
3 amendment made by this act to section 782.04, Florida  
4 Statutes, in references thereto, paragraph (b) of subsection  
5 (2) of section 435.03, Florida Statutes, is reenacted to read:

6 435.03 Level 1 screening standards.--

7 (2) Any person for whom employment screening is  
8 required by statute must not have been found guilty of,  
9 regardless of adjudication, or entered a plea of nolo  
10 contendere or guilty to, any offense prohibited under any of  
11 the following provisions of the Florida Statutes or under any  
12 similar statute of another jurisdiction:

13 (b) Section 782.04, relating to murder.

14 Section 4. For the purpose of incorporating the  
15 amendment made by this act to section 782.04, Florida  
16 Statutes, in references thereto, paragraph (b) of subsection  
17 (2) of section 435.04, Florida Statutes, is reenacted to read:

18 435.04 Level 2 screening standards.--

19 (2) The security background investigations under this  
20 section must ensure that no persons subject to the provisions  
21 of this section have been found guilty of, regardless of  
22 adjudication, or entered a plea of nolo contendere or guilty  
23 to, any offense prohibited under any of the following  
24 provisions of the Florida Statutes or under any similar  
25 statute of another jurisdiction:

26 (b) Section 782.04, relating to murder.

27 Section 5. For the purpose of incorporating the  
28 amendment made by this act to section 782.04, Florida  
29 Statutes, in references thereto, subsections (1) and (2) of  
30 section 775.0823, Florida Statutes, as amended by section 11  
31 of chapter 97-194, Laws of Florida, are reenacted to read:

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1           775.0823 Violent offenses committed against law  
2 enforcement officers, correctional officers, state attorneys,  
3 assistant state attorneys, justices, or judges.--Any provision  
4 of law to the contrary notwithstanding, the Legislature does  
5 hereby provide for an increase and certainty of penalty for  
6 any person convicted of a violent offense against any law  
7 enforcement or correctional officer, as defined in s.  
8 943.10(1), (2), (3), (6), (7), (8), or (9); against any state  
9 attorney elected pursuant to s. 27.01 or assistant state  
10 attorney appointed under s. 27.181; or against any justice or  
11 judge of a court described in Art. V of the State  
12 Constitution, which offense arises out of or in the scope of  
13 the officer's duty as a law enforcement or correctional  
14 officer, the state attorney's or assistant state attorney's  
15 duty as a prosecutor or investigator, or the justice's or  
16 judge's duty as a judicial officer, as follows:

17           (1) For murder in the first degree as described in s.  
18 782.04(1), if the death sentence is not imposed, a sentence of  
19 imprisonment for life without eligibility for release.

20           (2) For attempted murder in the first degree as  
21 described in s. 782.04(1), a sentence pursuant to the Criminal  
22 Punishment Code.

23  
24 Notwithstanding the provisions of s. 948.01, with respect to  
25 any person who is found to have violated this section,  
26 adjudication of guilt or imposition of sentence shall not be  
27 suspended, deferred, or withheld.

28           Section 6. For the purpose of incorporating the  
29 amendment made by this act to section 782.04, Florida  
30 Statutes, in references thereto, paragraph (i) of subsection  
31 (3) of section 921.0022, Florida Statutes, as created by

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1 section 5 of chapter 97-194, Laws of Florida, is reenacted to  
2 read:

3 921.0022 Criminal Punishment Code; offense severity  
4 ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

6	7 Florida	8 Felony	
9	10 Statute	11 Degree	12 Description
13			(i) LEVEL 9
14	316.193		
15	(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
16	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
17	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
18	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
19	782.07(3)	1st	Aggravated manslaughter of a child.
20	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
21	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
22	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political



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1			function.
2	787.02(3)(a)	1st	False imprisonment; child under
3			age 13; perpetrator also commits
4			child abuse, sexual battery,
5			lewd, or lascivious act, etc.
6	790.161	1st	Attempted capital destructive
7			device offense.
8	794.011(2)	1st	Attempted sexual battery; victim
9			less than 12 years of age.
10	794.011(2)	Life	Sexual battery; offender younger
11			than 18 years and commits sexual
12			battery on a person less than 12
13			years.
14	794.011(4)	1st	Sexual battery; victim 12 years
15			or older, certain circumstances.
16	794.011(8)(b)	1st	Sexual battery; engage in sexual
17			conduct with minor 12 to 18 years
18			by person in familial or
19			custodial authority.
20	812.13(2)(a)	1st,PBL	Robbery with firearm or other
21			deadly weapon.
22	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
23			deadly weapon.
24	847.0145(1)	1st	Selling, or otherwise
25			transferring custody or control,
26			of a minor.
27	847.0145(2)	1st	Purchasing, or otherwise
28			obtaining custody or control, of
29			a minor.
30	859.01	1st	Poisoning food, drink, medicine,
31			or water with intent to kill or

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- 1 injure another person.
- 2 893.135 1st Attempted capital trafficking
- 3 offense.
- 4 893.135(1)(a)3. 1st Trafficking in cannabis, more
- 5 than 10,000 lbs.
- 6 893.135
- 7 (1)(b)1.c. 1st Trafficking in cocaine, more than
- 8 400 grams, less than 150
- 9 kilograms.
- 10 893.135
- 11 (1)(c)1.c. 1st Trafficking in illegal drugs,
- 12 more than 28 grams, less than 30
- 13 kilograms.
- 14 893.135
- 15 (1)(d)1.c. 1st Trafficking in phencyclidine,
- 16 more than 400 grams.
- 17 893.135
- 18 (1)(e)1.c. 1st Trafficking in methaqualone, more
- 19 than 25 kilograms.
- 20 893.135
- 21 (1)(f)1.c. 1st Trafficking in amphetamine, more
- 22 than 200 grams.

23 Section 7. For the purpose of incorporating the  
 24 amendment made by this act to section 782.04, Florida  
 25 Statutes, in references thereto, subsection (1) of section  
 26 943.325, Florida Statutes, is reenacted to read:

27 943.325 Blood specimen testing for DNA analysis.--  
 28 (1)(a) Any person convicted, or who was previously  
 29 convicted and is still incarcerated, in this state for any  
 30 offense or attempted offense defined in chapter 794, chapter  
 31 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who

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1 is within the confines of the legal state boundaries, shall be  
2 required to submit two specimens of blood to a Department of  
3 Law Enforcement designated testing facility as directed by the  
4 department.

5 (b) For the purpose of this section, the term "any  
6 person" shall include both juveniles and adults committed to  
7 or under the supervision of the Department of Corrections or  
8 the Department of Juvenile Justice.

9 Section 8. For the purpose of incorporating the  
10 amendment made by this act to section 782.04, Florida  
11 Statutes, in references thereto, subsection (3) of section  
12 947.146, Florida Statutes, as amended by section 31 of chapter  
13 97-194, Laws of Florida, is reenacted to read:

14 947.146 Control Release Authority.--

15 (3) Within 120 days prior to the date the state  
16 correctional system is projected pursuant to s. 216.136 to  
17 exceed 99 percent of total capacity, the authority shall  
18 determine eligibility for and establish a control release date  
19 for an appropriate number of parole ineligible inmates  
20 committed to the department and incarcerated within the state  
21 who have been determined by the authority to be eligible for  
22 discretionary early release pursuant to this section. In  
23 establishing control release dates, it is the intent of the  
24 Legislature that the authority prioritize consideration of  
25 eligible inmates closest to their tentative release date. The  
26 authority shall rely upon commitment data on the offender  
27 information system maintained by the department to initially  
28 identify inmates who are to be reviewed for control release  
29 consideration. The authority may use a method of objective  
30 risk assessment in determining if an eligible inmate should be  
31 released. Such assessment shall be a part of the department's

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1 management information system. However, the authority shall  
2 have sole responsibility for determining control release  
3 eligibility, establishing a control release date, and  
4 effectuating the release of a sufficient number of inmates to  
5 maintain the inmate population between 99 percent and 100  
6 percent of total capacity. Inmates who are ineligible for  
7 control release are inmates who are parole eligible or inmates  
8 who:

9 (a) Are serving a sentence that includes a mandatory  
10 minimum provision for a capital offense or drug trafficking  
11 offense and have not served the number of days equal to the  
12 mandatory minimum term less any jail-time credit awarded by  
13 the court;

14 (b) Are serving the mandatory minimum portion of a  
15 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

16 (c) Are convicted, or have been previously convicted,  
17 of committing or attempting to commit sexual battery, incest,  
18 or any of the following lewd or indecent assaults or acts:  
19 masturbating in public; exposing the sexual organs in a  
20 perverted manner; or nonconsensual handling or fondling of the  
21 sexual organs of another person;

22 (d) Are convicted, or have been previously convicted,  
23 of committing or attempting to commit assault, aggravated  
24 assault, battery, or aggravated battery, and a sex act was  
25 attempted or completed during commission of such offense;

26 (e) Are convicted, or have been previously convicted,  
27 of committing or attempting to commit kidnapping, burglary, or  
28 murder, and the offense was committed with the intent to  
29 commit sexual battery or a sex act was attempted or completed  
30 during commission of the offense;

31 (f) Are convicted, or have been previously convicted,

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1 of committing or attempting to commit false imprisonment upon  
2 a child under the age of 13 and, in the course of committing  
3 the offense, the inmate committed aggravated child abuse,  
4 sexual battery against the child, or a lewd, lascivious, or  
5 indecent assault or act upon or in the presence of the child;

6 (g) Are sentenced, have previously been sentenced, or  
7 have been sentenced at any time under s. 775.084, or have been  
8 sentenced at any time in another jurisdiction as a habitual  
9 offender;

10 (h) Are convicted, or have been previously convicted,  
11 of committing or attempting to commit assault, aggravated  
12 assault, battery, aggravated battery, kidnapping,  
13 manslaughter, or murder against an officer as defined in s.  
14 943.10(1), (2), (3), (6), (7), (8), or (9); against a state  
15 attorney or assistant state attorney; or against a justice or  
16 judge of a court described in Art. V of the State  
17 Constitution; or against an officer, judge, or state attorney  
18 employed in a comparable position by any other jurisdiction;  
19 or

20 (i) Are convicted, or have been previously convicted,  
21 of committing or attempting to commit murder in the first,  
22 second, or third degree under s. 782.04(1), (2), (3), or (4),  
23 or have ever been convicted of any degree of murder or  
24 attempted murder in another jurisdiction;

25 (j) Are convicted, or have been previously convicted,  
26 of DUI manslaughter under s. 316.193(3)(c)3., and are  
27 sentenced, or have been sentenced at any time, as a habitual  
28 offender for such offense, or have been sentenced at any time  
29 in another jurisdiction as a habitual offender for such  
30 offense;

31 (k)1. Are serving a sentence for an offense committed

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1 on or after January 1, 1994, for a violation of the Law  
2 Enforcement Protection Act under s. 775.0823(2), (3), (4), or  
3 (5), and the subtotal of the offender's sentence points is  
4 multiplied pursuant to former s. 921.0014 or s. 921.0024;

5 2. Are serving a sentence for an offense committed on  
6 or after October 1, 1995, for a violation of the Law  
7 Enforcement Protection Act under s. 775.0823(2), (3), (4),  
8 (5), (6), (7), or (8), and the subtotal of the offender's  
9 sentence points is multiplied pursuant to former s. 921.0014  
10 or s. 921.0024;

11 (1) Are serving a sentence for an offense committed on  
12 or after January 1, 1994, for possession of a firearm,  
13 semiautomatic firearm, or machine gun in which additional  
14 points are added to the subtotal of the offender's sentence  
15 points pursuant to former s. 921.0014 or s. 921.0024; or

16 (m) Are convicted, or have been previously convicted,  
17 of committing or attempting to commit manslaughter,  
18 kidnapping, robbery, carjacking, home-invasion robbery, or a  
19 burglary under s. 810.02(2).

20  
21 In making control release eligibility determinations under  
22 this subsection, the authority may rely on any document  
23 leading to or generated during the course of the criminal  
24 proceedings, including, but not limited to, any presentence or  
25 postsentence investigation or any information contained in  
26 arrest reports relating to circumstances of the offense.

27 Section 9. Sections 9 and 10 of this act may be cited  
28 as the "Jeff Mitchell Act."

29 Section 10. Subsections (4) and (5) of section  
30 921.141, Florida Statutes, are amended to read:

31 921.141 Sentence of death or life imprisonment for

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1 capital felonies; further proceedings to determine sentence.--  
2 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--Upon  
3 conviction or adjudication of guilt of a defendant of a  
4 capital felony, the court shall conduct a separate sentencing  
5 proceeding to determine whether the defendant should be  
6 sentenced to death or life imprisonment as authorized by s.  
7 775.082. The proceeding shall be conducted by the trial judge  
8 before the trial jury as soon as practicable. If, through  
9 impossibility or inability, the trial jury is unable to  
10 reconvene for a hearing on the issue of penalty, having  
11 determined the guilt of the accused, the trial judge may  
12 summon a special juror or jurors as provided in chapter 913 to  
13 determine the issue of the imposition of the penalty. If the  
14 trial jury has been waived, or if the defendant pleaded  
15 guilty, the sentencing proceeding shall be conducted before a  
16 jury impaneled for that purpose, unless waived by the  
17 defendant. In the proceeding, evidence may be presented as to  
18 any matter that the court deems relevant to the nature of the  
19 crime and the character of the defendant and shall include  
20 matters relating to any of the aggravating or mitigating  
21 circumstances enumerated in subsections (5) and (6). Any such  
22 evidence which the court deems to have probative value may be  
23 received, regardless of its admissibility under the  
24 exclusionary rules of evidence, provided the defendant is  
25 accorded a fair opportunity to rebut any hearsay statements.  
26 However, this subsection shall not be construed to authorize  
27 the introduction of any evidence secured in violation of the  
28 Constitution of the United States or the Constitution of the  
29 State of Florida. The state and the defendant or the  
30 defendant's counsel shall be permitted to present argument for  
31 or against sentence of death.

1 (2) ADVISORY SENTENCE BY THE JURY.--After hearing all  
2 the evidence, the jury shall deliberate and render an advisory  
3 sentence to the court, based upon the following matters:

4 (a) Whether sufficient aggravating circumstances exist  
5 as enumerated in subsection (5);

6 (b) Whether sufficient mitigating circumstances exist  
7 which outweigh the aggravating circumstances found to exist;  
8 and

9 (c) Based on these considerations, whether the  
10 defendant should be sentenced to life imprisonment or death.

11 (3) FINDINGS IN SUPPORT OF SENTENCE OF  
12 DEATH.--Notwithstanding the recommendation of a majority of  
13 the jury, the court, after weighing the aggravating and  
14 mitigating circumstances, shall enter a sentence of life  
15 imprisonment or death, but if the court imposes a sentence of  
16 death, it shall set forth in writing its findings upon which  
17 the sentence of death is based as to the facts:

18 (a) That sufficient aggravating circumstances exist as  
19 enumerated in subsection (5), and

20 (b) That there are insufficient mitigating  
21 circumstances to outweigh the aggravating circumstances.

22  
23 In each case in which the court imposes the death sentence,  
24 the determination of the court shall be supported by specific  
25 written findings of fact based upon the circumstances in  
26 subsections (5) and (6) and upon the records of the trial and  
27 the sentencing proceedings. If the court does not make the  
28 findings requiring the death sentence within 30 days after the  
29 rendition of the judgment and sentence, the court shall impose  
30 sentence of life imprisonment in accordance with s. 775.082.

31 (4) REVIEW OF JUDGMENT AND SENTENCE.--The judgment of



1 conviction and sentence of death shall be subject to automatic  
2 review by the Supreme Court of Florida and disposition  
3 rendered within 2 years after the filing of a notice of  
4 appeal. Such review by the Supreme Court shall have priority  
5 over all other cases and shall be heard in accordance with  
6 rules promulgated by the Supreme Court.

7 (a) In any case in which the court has imposed the  
8 death sentence, the judgment of conviction and sentence of  
9 death shall not be held invalid, overturned, reduced, or  
10 otherwise affected because a codefendant in the same case  
11 accepted a plea offer from the state in exchange for trial  
12 testimony, or an agreement to testify, and was not sentenced  
13 to death.

14 (b) No criteria for review by the court regarding  
15 aggravating or mitigating circumstances shall be utilized  
16 except as authorized in this section. The court shall not  
17 engage in any form of proportionality review of a death  
18 sentence, including, but not limited to, review of a capital  
19 case based on comparable aggravating or mitigating  
20 circumstances in other capital cases, based on comparable  
21 factors in the defendant's background in other capital cases,  
22 or based on the rate of imposition or execution of the death  
23 sentence in other capital cases.

24 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating  
25 circumstances shall be limited to the following:

26 (a) The capital felony was committed by a person  
27 previously convicted of a felony and under sentence of  
28 imprisonment or placed on community control or on felony  
29 probation.

30 (b) The defendant was previously convicted of another  
31 capital felony or of a felony involving the use or threat of

1 violence to the person.

2 (c) The defendant knowingly created a great risk of  
3 death to many persons.

4 (d) The capital felony was committed while the  
5 defendant was engaged, or was an accomplice, in the commission  
6 of, or an attempt to commit, or flight after committing or  
7 attempting to commit, any: robbery; sexual battery; aggravated  
8 child abuse; abuse of an elderly person or disabled adult  
9 resulting in great bodily harm, permanent disability, or  
10 permanent disfigurement; arson; burglary; kidnapping; aircraft  
11 piracy; or unlawful throwing, placing, or discharging of a  
12 destructive device or bomb.

13 (e) The capital felony was committed for the purpose  
14 of avoiding or preventing a lawful arrest or effecting an  
15 escape from custody.

16 (f) The capital felony was committed for pecuniary  
17 gain.

18 (g) The capital felony was committed to disrupt or  
19 hinder the lawful exercise of any governmental function or the  
20 enforcement of laws.

21 (h) The capital felony was especially heinous,  
22 atrocious, or cruel.

23 (i) The capital felony was a homicide and was  
24 committed in a cold, calculated, and premeditated manner  
25 without any pretense of moral or legal justification.

26 (j) During the course of committing the capital  
27 felony, the defendant inflicted multiple physical injuries  
28 upon the victim.

29 (k) The defendant mutilated, dismembered, or sexually  
30 abused the victim's body, during or after commission of the  
31 capital felony.

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1            (l)~~(j)~~ The victim of the capital felony was a law  
2 enforcement officer engaged in the performance of his or her  
3 official duties.

4            (m)~~(k)~~ The victim of the capital felony was an elected  
5 or appointed public official engaged in the performance of his  
6 or her official duties if the motive for the capital felony  
7 was related, in whole or in part, to the victim's official  
8 capacity.

9            (n)~~(l)~~ The victim of the capital felony was a person  
10 less than 12 years of age.

11           (o)~~(m)~~ The victim of the capital felony was  
12 particularly vulnerable due to advanced age or disability, or  
13 because the defendant stood in a position of familial or  
14 custodial authority over the victim.

15           (p) The victim had an injunction for protection in  
16 effect against the defendant when the capital felony was  
17 committed.

18           (q) The victim was aware of the impending homicide and  
19 asked that his or her life be spared or otherwise requested  
20 that the homicide not occur.

21           (r)~~(n)~~ The capital felony was committed by a criminal  
22 street gang member, as defined in s. 874.03.

23           (6) MITIGATING CIRCUMSTANCES.--Mitigating  
24 circumstances shall be the following:

25           (a) The defendant has no significant history of prior  
26 criminal activity.

27           (b) The capital felony was committed while the  
28 defendant was under the influence of extreme mental or  
29 emotional disturbance.

30           (c) The victim was a participant in the defendant's  
31 conduct or consented to the act.

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1           (d) The defendant was an accomplice in the capital  
2 felony committed by another person and his or her  
3 participation was relatively minor.

4           (e) The defendant acted under extreme duress or under  
5 the substantial domination of another person.

6           (f) The capacity of the defendant to appreciate the  
7 criminality of his or her conduct or to conform his or her  
8 conduct to the requirements of law was substantially impaired.

9           (g) The age of the defendant at the time of the crime.

10          (h) The existence of any other factors in the  
11 defendant's background that would mitigate against imposition  
12 of the death penalty.

13

14 However, the court shall not engage in any form of  
15 proportionality review of a death sentence, as prohibited in  
16 subsection (4).

17          (7) VICTIM IMPACT EVIDENCE.--Once the prosecution has  
18 provided evidence of the existence of one or more aggravating  
19 circumstances as described in subsection (5), the prosecution  
20 may introduce, and subsequently argue, victim impact evidence.  
21 Such evidence shall be designed to demonstrate the victim's  
22 uniqueness as an individual human being and the resultant loss  
23 to the community's members by the victim's death.  
24 Characterizations and opinions about the crime, the defendant,  
25 and the appropriate sentence shall not be permitted as a part  
26 of victim impact evidence.

27          (8) APPLICABILITY.--This section does not apply to a  
28 person convicted or adjudicated guilty of a capital drug  
29 trafficking felony under s. 893.135.

30          Section 11. Section 782.071, Florida Statutes, is  
31 amended to read:

1           782.071 Vehicular homicide.--"Vehicular homicide" is  
 2 the killing of a human being by the operation of a motor  
 3 vehicle by another in a reckless manner likely to cause the  
 4 death of, or great bodily harm to, another. Vehicular homicide  
 5 is:

6           (1) A felony of the second ~~third~~ degree, punishable as  
 7 provided in s. 775.082, s. 775.083, or s. 775.084.

8           (2) A felony of the first ~~second~~ degree, punishable as  
 9 provided in s. 775.082, s. 775.083, or s. 775.084, if:

10           (a) At the time of the accident, the person knew, or  
 11 should have known, that the accident occurred; and

12           (b) The person failed to give information and render  
 13 aid as required by s. 316.062.

14  
 15 This subsection does not require that the person knew that the  
 16 accident resulted in injury or death.

17           Section 12. Section 782.072, Florida Statutes, is  
 18 amended to read:

19           782.072 Vessel homicide.--"Vessel homicide" is the  
 20 killing of a human being by the operation of a vessel as  
 21 defined in s. 327.02 by another in a reckless manner likely to  
 22 cause the death of, or great bodily harm to, another. Vessel  
 23 homicide is:

24           (1) A felony of the second ~~third~~ degree, punishable as  
 25 provided in s. 775.082, s. 775.083, or s. 775.084.

26           (2) A felony of the first ~~second~~ degree, punishable as  
 27 provided in s. 775.082, s. 775.083, or s. 775.084, if:

28           (a) At the time of the accident, the person knew, or  
 29 should have known, that the accident occurred; and

30           (b) The person failed to give information and render  
 31 aid as required by s. 327.30(1).

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This subsection does not require that the person knew that the accident resulted in injury or death.

Section 13. Paragraphs (g) and (h) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:  
921.0022 Criminal Punishment Code; offense severity ranking chart.--

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	<u>2nd</u> <del>3rd</del>	Killing of human being by the operation of a motor vehicle in a

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1			reckless manner (vehicular
2			homicide).
3	782.072	<u>2nd</u> <del>3rd</del>	Killing of a human being by the
4			operation of a vessel in a
5			reckless manner (vessel
6			homicide).
7	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
8			causing great bodily harm or
9			disfigurement.
10	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
11			weapon.
12	784.045(1)(b)	2nd	Aggravated battery; perpetrator
13			aware victim pregnant.
14	784.048(4)	3rd	Aggravated stalking; violation of
15			injunction or court order.
16	784.07(2)(d)	1st	Aggravated battery on law
17			enforcement officer.
18	784.08(2)(a)	1st	Aggravated battery on a person 65
19			years of age or older.
20	784.081(1)	1st	Aggravated battery on specified
21			official or employee.
22	784.082(1)	1st	Aggravated battery by detained
23			person on visitor or other
24			detainee.
25	790.07(4)	1st	Specified weapons violation
26			subsequent to previous conviction
27			of s. 790.07(1) or (2).
28	790.16(1)	1st	Discharge of a machine gun under
29			specified circumstances.
30	796.03	2nd	Procuring any person under 16
31			years for prostitution.

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Amendment No. \_\_\_\_ (for drafter's use only)

1	800.04	2nd	Handle, fondle, or assault child
2			under 16 years in lewd,
3			lascivious, or indecent manner.
4	806.01(2)	2nd	Maliciously damage structure by
5			fire or explosive.
6	810.02(3)(a)	2nd	Burglary of occupied dwelling;
7			unarmed; no assault or battery.
8	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
9			unarmed; no assault or battery.
10	810.02(3)(d)	2nd	Burglary of occupied conveyance;
11			unarmed; no assault or battery.
12	812.014(2)(a)	1st	Property stolen, valued at
13			\$100,000 or more; property stolen
14			while causing other property
15			damage; 1st degree grand theft.
16	812.019(2)	1st	Stolen property; initiates,
17			organizes, plans, etc., the theft
18			of property and traffics in
19			stolen property.
20	812.133(2)(b)	1st	Carjacking; no firearm, deadly
21			weapon, or other weapon.
22	825.102(3)(b)	2nd	Neglecting an elderly person or
23			disabled adult causing great
24			bodily harm, disability, or
25			disfigurement.
26	825.1025(2)	2nd	Lewd or lascivious battery upon
27			an elderly person or disabled
28			adult.
29	825.103(2)(b)	2nd	Exploiting an elderly person or
30			disabled adult and property is
31			valued at \$20,000 or more, but



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1			less than \$100,000.
2	827.03(3)(b)	2nd	Neglect of a child causing great
3			bodily harm, disability, or
4			disfigurement.
5	827.04(4)	3rd	Impregnation of a child under 16
6			years of age by person 21 years
7			of age or older.
8	872.06	2nd	Abuse of a dead human body.
9	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
10			cocaine (or other s.
11			893.03(1)(a), (1)(b), (1)(d),
12			(2)(a), or (2)(b) drugs) within
13			1,000 feet of a school.
14	893.13(4)(a)	1st	Deliver to minor cocaine (or
15			other s. 893.03(1)(a), (1)(b),
16			(1)(d), (2)(a), or (2)(b) drugs).
17	893.135(1)(a)1.	1st	Trafficking in cannabis, more
18			than 50 lbs., less than 2,000
19			lbs.
20	893.135		
21	(1)(b)1.a.	1st	Trafficking in cocaine, more than
22			28 grams, less than 200 grams.
23	893.135		
24	(1)(c)1.a.	1st	Trafficking in illegal drugs,
25			more than 4 grams, less than 14
26			grams.
27	893.135		
28	(1)(d)1.	1st	Trafficking in phencyclidine,
29			more than 28 grams, less than 200
30			grams.
31			

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Amendment No. \_\_\_\_ (for drafter's use only)

1	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
2			than 200 grams, less than 5
3			kilograms.
4	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
5			than 14 grams, less than 28
6			grams.
7			(h) LEVEL 8
8	316.193		
9	(3)(c)3.a.	2nd	DUI manslaughter.
10	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
11	777.03(2)(a)	1st	Accessory after the fact, capital
12			felony.
13	782.04(4)	2nd	Killing of human without design
14			when engaged in act or attempt of
15			any felony other than arson,
16			sexual battery, robbery,
17			burglary, kidnapping, aircraft
18			piracy, or unlawfully discharging
19			bomb.
20	782.071(2)	<u>1st</u> <del>2nd</del>	Committing vehicular homicide and
21			failing to render aid or give
22			information.
23	782.072(2)	<u>1st</u> <del>2nd</del>	Committing vessel homicide and
24			failing to render aid or give
25			information.
26	790.161(3)	1st	Discharging a destructive device
27			which results in bodily harm or
28			property damage.
29	794.011(5)	2nd	Sexual battery, victim 12 years
30			or over, offender does not use
31			physical force likely to cause

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1			serious injury.
2	806.01(1)	1st	Maliciously damage dwelling or
3			structure by fire or explosive,
4			believing person in structure.
5	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
6	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
7			or dangerous weapon.
8	810.02(2)(c)	1st	Burglary of a dwelling or
9			structure causing structural
10			damage or \$1,000 or more property
11			damage.
12	812.13(2)(b)	1st	Robbery with a weapon.
13	812.135(2)	1st	Home-invasion robbery.
14	825.102(2)	2nd	Aggravated abuse of an elderly
15			person or disabled adult.
16	825.103(2)(a)	1st	Exploiting an elderly person or
17			disabled adult and property is
18			valued at \$100,000 or more.
19	827.03(2)	2nd	Aggravated child abuse.
20	860.121(2)(c)	1st	Shooting at or throwing any
21			object in path of railroad
22			vehicle resulting in great bodily
23			harm.
24	860.16	1st	Aircraft piracy.
25	893.13(1)(b)	1st	Sell or deliver in excess of 10
26			grams of any substance specified
27			in s. 893.03(1)(a) or (b).
28	893.13(2)(b)	1st	Purchase in excess of 10 grams of
29			any substance specified in s.
30			893.03(1)(a) or (b).
31			

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Amendment No. \_\_\_\_ (for drafter's use only)

1	893.13(6)(c)	1st	Possess in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.135(1)(a)2.	1st	Trafficking in cannabis, more
5			than 2,000 lbs., less than 10,000
6			lbs.
7	893.135		
8	(1)(b)1.b.	1st	Trafficking in cocaine, more than
9			200 grams, less than 400 grams.
10	893.135		
11	(1)(c)1.b.	1st	Trafficking in illegal drugs,
12			more than 14 grams, less than 28
13			grams.
14	893.135		
15	(1)(d)1.b.	1st	Trafficking in phencyclidine,
16			more than 200 grams, less than
17			400 grams.
18	893.135		
19	(1)(e)1.b.	1st	Trafficking in methaqualone, more
20			than 5 kilograms, less than 25
21			kilograms.
22	893.135		
23	(1)(f)1.b.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	895.03(1)	1st	Use or invest proceeds derived
27			from pattern of racketeering
28			activity.
29	895.03(2)	1st	Acquire or maintain through
30			racketeering activity any
31			interest in or control of any

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Amendment No. \_\_\_\_ (for drafter's use only)

1                                     enterprise or real property.  
2 895.03(3)                     1st       Conduct or participate in any  
3                                     enterprise through pattern of  
4                                     racketeering activity.

5             Section 14. Paragraph (a) of subsection (9) of section  
6 960.13, Florida Statutes, is amended to read:

7             960.13 Awards.--

8             (9)(a) An award may not exceed\$10,000 for treatment  
9 or a total of \$15,000 for all compensable cost or losses,  
10 unless the department makes a written finding that a crime  
11 directly caused major medical expenses or catastrophic  
12 economic losses to a victim. However, awards for treatment may  
13 not exceed \$10,000. The department may adopt rules that, by  
14 rule adopted pursuant to chapter 120, establish criteria  
15 governing awards for major medical expenses and catastrophic  
16 economic losses and may adopt rules that establish limits  
17 below \$15,000 for awards for particular types of costs or  
18 losses. Any application filed on or after October 1, 1996,  
19 shall be governed under this section.

20             Section 15. Section 782.071, Florida Statutes, is  
21 amended to read:

22             782.071 Vehicular homicide.--"Vehicular homicide" is  
23 the killing of a human being, or the killing of a viable fetus  
24 by any injury to the mother caused by the operation of a motor  
25 vehicle by another in a reckless manner likely to cause the  
26 death of, or great bodily harm to, another. Vehicular homicide  
27 is:

28             (1) A felony of the third degree, punishable as  
29 provided in s. 775.082, s. 775.083, or s. 775.084.

30             (2) A felony of the second degree, punishable as  
31 provided in s. 775.082, s. 775.083, or s. 775.084, if:

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1 (a) At the time of the accident, the person knew, or  
2 should have known, that the accident occurred; and

3 (b) The person failed to give information and render  
4 aid as required by s. 316.062.

5  
6 This subsection does not require that the person knew that the  
7 accident resulted in injury or death.

8 (3) For purposes of this section, a fetus is viable  
9 when it becomes capable of meaningful life outside the womb  
10 through standard medical measures.

11 (4) A right of action for civil damages shall exist  
12 under s. 768.19, under all circumstances, for all deaths  
13 described in this section.

14 Section 16. Paragraph (g) of subsection (3) of section  
15 921.0022, Florida Statutes, is amended, and paragraph (h) of  
16 subsection (3) of that section is reenacted, to read:

17 921.0022 Criminal Punishment Code; offense severity  
18 ranking chart.--

19 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	Description
Statute	Degree	
(g) LEVEL 7		
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.

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Amendment No. \_\_\_\_ (for drafter's use only)

1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	782.07(1)	2nd	Killing of a human being by the
8			act, procurement, or culpable
9			negligence of another
10			(manslaughter).
11	782.071	3rd	Killing of human being <u>or viable</u>
12			<u>fetus</u> by the operation of a motor
13			vehicle in a reckless manner
14			(vehicular homicide).
15	782.072	3rd	Killing of a human being by the
16			operation of a vessel in a
17			reckless manner (vessel
18			homicide).
19	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
20			causing great bodily harm or
21			disfigurement.
22	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
23			weapon.
24	784.045(1)(b)	2nd	Aggravated battery; perpetrator
25			aware victim pregnant.
26	784.048(4)	3rd	Aggravated stalking; violation of
27			injunction or court order.
28	784.07(2)(d)	1st	Aggravated battery on law
29			enforcement officer.
30	784.08(2)(a)	1st	Aggravated battery on a person 65
31			years of age or older.

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1	784.081(1)	1st	Aggravated battery on specified
2			official or employee.
3	784.082(1)	1st	Aggravated battery by detained
4			person on visitor or other
5			detainee.
6	790.07(4)	1st	Specified weapons violation
7			subsequent to previous conviction
8			of s. 790.07(1) or (2).
9	790.16(1)	1st	Discharge of a machine gun under
10			specified circumstances.
11	796.03	2nd	Procuring any person under 16
12			years for prostitution.
13	800.04	2nd	Handle, fondle, or assault child
14			under 16 years in lewd,
15			lascivious, or indecent manner.
16	806.01(2)	2nd	Maliciously damage structure by
17			fire or explosive.
18	810.02(3)(a)	2nd	Burglary of occupied dwelling;
19			unarmed; no assault or battery.
20	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
21			unarmed; no assault or battery.
22	810.02(3)(d)	2nd	Burglary of occupied conveyance;
23			unarmed; no assault or battery.
24	812.014(2)(a)	1st	Property stolen, valued at
25			\$100,000 or more; property stolen
26			while causing other property
27			damage; 1st degree grand theft.
28	812.019(2)	1st	Stolen property; initiates,
29			organizes, plans, etc., the theft
30			of property and traffics in
31			stolen property.



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Amendment No. \_\_\_\_ (for drafter's use only)

1	812.133(2)(b)	1st	Carjacking; no firearm, deadly
2			weapon, or other weapon.
3	825.102(3)(b)	2nd	Neglecting an elderly person or
4			disabled adult causing great
5			bodily harm, disability, or
6			disfigurement.
7	825.1025(2)	2nd	Lewd or lascivious battery upon
8			an elderly person or disabled
9			adult.
10	825.103(2)(b)	2nd	Exploiting an elderly person or
11			disabled adult and property is
12			valued at \$20,000 or more, but
13			less than \$100,000.
14	827.03(3)(b)	2nd	Neglect of a child causing great
15			bodily harm, disability, or
16			disfigurement.
17	827.04(4)	3rd	Impregnation of a child under 16
18			years of age by person 21 years
19			of age or older.
20	872.06	2nd	Abuse of a dead human body.
21	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
22			cocaine (or other s.
23			893.03(1)(a), (1)(b), (1)(d),
24			(2)(a), or (2)(b) drugs) within
25			1,000 feet of a school.
26	893.13(4)(a)	1st	Deliver to minor cocaine (or
27			other s. 893.03(1)(a), (1)(b),
28			(1)(d), (2)(a), or (2)(b) drugs).
29	893.135(1)(a)1.	1st	Trafficking in cannabis, more
30			than 50 lbs., less than 2,000
31			lbs.

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Amendment No. \_\_\_\_ (for drafter's use only)

- 1 893.135
- 2 (1)(b)1.a. 1st Trafficking in cocaine, more than
- 3 28 grams, less than 200 grams.
- 4 893.135
- 5 (1)(c)1.a. 1st Trafficking in illegal drugs,
- 6 more than 4 grams, less than 14
- 7 grams.
- 8 893.135
- 9 (1)(d)1. 1st Trafficking in phencyclidine,
- 10 more than 28 grams, less than 200
- 11 grams.
- 12 893.135(1)(e)1. 1st Trafficking in methaqualone, more
- 13 than 200 grams, less than 5
- 14 kilograms.
- 15 893.135(1)(f)1. 1st Trafficking in amphetamine, more
- 16 than 14 grams, less than 28
- 17 grams.
- 18 (h) LEVEL 8
- 19 316.193
- 20 (3)(c)3.a. 2nd DUI manslaughter.
- 21 327.35(3)(c)3. 2nd Vessel BUI manslaughter.
- 22 777.03(2)(a) 1st Accessory after the fact, capital
- 23 felony.
- 24 782.04(4) 2nd Killing of human without design
- 25 when engaged in act or attempt of
- 26 any felony other than arson,
- 27 sexual battery, robbery,
- 28 burglary, kidnapping, aircraft
- 29 piracy, or unlawfully discharging
- 30 bomb.
- 31

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Amendment No. \_\_\_\_ (for drafter's use only)

1	782.071(2)	2nd	Committing vehicular homicide and
2			failing to render aid or give
3			information.
4	782.072(2)	2nd	Committing vessel homicide and
5			failing to render aid or give
6			information.
7	790.161(3)	1st	Discharging a destructive device
8			which results in bodily harm or
9			property damage.
10	794.011(5)	2nd	Sexual battery, victim 12 years
11			or over, offender does not use
12			physical force likely to cause
13			serious injury.
14	806.01(1)	1st	Maliciously damage dwelling or
15			structure by fire or explosive,
16			believing person in structure.
17	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
18	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
19			or dangerous weapon.
20	810.02(2)(c)	1st	Burglary of a dwelling or
21			structure causing structural
22			damage or \$1,000 or more property
23			damage.
24	812.13(2)(b)	1st	Robbery with a weapon.
25	812.135(2)	1st	Home-invasion robbery.
26	825.102(2)	2nd	Aggravated abuse of an elderly
27			person or disabled adult.
28	825.103(2)(a)	1st	Exploiting an elderly person or
29			disabled adult and property is
30			valued at \$100,000 or more.
31	827.03(2)	2nd	Aggravated child abuse.

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Amendment No. \_\_\_\_ (for drafter's use only)

1	860.121(2)(c)	1st	Shooting at or throwing any
2			object in path of railroad
3			vehicle resulting in great bodily
4			harm.
5	860.16	1st	Aircraft piracy.
6	893.13(1)(b)	1st	Sell or deliver in excess of 10
7			grams of any substance specified
8			in s. 893.03(1)(a) or (b).
9	893.13(2)(b)	1st	Purchase in excess of 10 grams of
10			any substance specified in s.
11			893.03(1)(a) or (b).
12	893.13(6)(c)	1st	Possess in excess of 10 grams of
13			any substance specified in s.
14			893.03(1)(a) or (b).
15	893.135(1)(a)2.	1st	Trafficking in cannabis, more
16			than 2,000 lbs., less than 10,000
17			lbs.
18	893.135		
19	(1)(b)1.b.	1st	Trafficking in cocaine, more than
20			200 grams, less than 400 grams.
21	893.135		
22	(1)(c)1.b.	1st	Trafficking in illegal drugs,
23			more than 14 grams, less than 28
24			grams.
25	893.135		
26	(1)(d)1.b.	1st	Trafficking in phencyclidine,
27			more than 200 grams, less than
28			400 grams.
29	893.135		
30	(1)(e)1.b.	1st	Trafficking in methaqualone, more
31			than 5 kilograms, less than 25

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Amendment No. \_\_\_\_ (for drafter's use only)

- 1 kilograms.
- 2 893.135
- 3 (1)(f)1.b. 1st Trafficking in amphetamine, more
- 4 than 28 grams, less than 200
- 5 grams.
- 6 895.03(1) 1st Use or invest proceeds derived
- 7 from pattern of racketeering
- 8 activity.
- 9 895.03(2) 1st Acquire or maintain through
- 10 racketeering activity any
- 11 interest in or control of any
- 12 enterprise or real property.
- 13 895.03(3) 1st Conduct or participate in any
- 14 enterprise through pattern of
- 15 racketeering activity.

16 Section 17. For the purpose of incorporating the  
 17 amendment made by this act to section 782.071, Florida  
 18 Statutes, in a reference thereto, paragraph (b) of subsection  
 19 (3) of section 960.03, Florida Statutes, is reenacted to read:

20 960.03 Definitions.--As used in ss. 960.01-960.28,  
 21 unless the context otherwise requires, the term:

- 22 (3) "Crime" means:
- 23 (b) A violation of s. 316.193, s. 316.027(1), or s.
- 24 782.071(2), which results in physical injury or death;
- 25 however, no other act involving the operation of a motor
- 26 vehicle, boat, or aircraft which results in injury or death
- 27 shall constitute a crime for the purpose of this chapter
- 28 unless the injury or death was intentionally inflicted through
- 29 the use of such vehicle, boat, or aircraft or unless such
- 30 vehicle, boat, or aircraft is an implement of a crime to which
- 31 this act applies.

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Bill No. HB 4233

Amendment No. \_\_\_\_ (for drafter's use only)

1           Section 18. Subsection (3) is added to section 27.709,  
2 Florida Statutes, to read: 27.709 Commission on the  
3 Administration of Justice in Capital Cases.--

4           (3) The Commission on the Administration of Justice in  
5 Capital Cases shall conduct a study to evaluate whether the  
6 elimination of state postconviction proceedings in death  
7 penalty cases will reduce delays in carrying out a sentence of  
8 death in capital cases. In conducting the study the Commission  
9 shall take public testimony from any interested party. The  
10 Commission shall review the average number of postconviction  
11 motions and writs filed in capital cases, prior legislative  
12 and judicial attempts to reduce delays in capital cases, and  
13 the length of time required for capital postconviction claims  
14 in state and federal court. The Commission shall consider  
15 average delays in capital cases, whether those delays have  
16 increased in the last 10 years, and the reasons for any  
17 increase in delays. The study shall include a report which  
18 addresses the legal, fiscal, and practical considerations  
19 concerning the elimination of state postconviction  
20 proceedings, and the recommendation of the Commission. Public  
21 notice shall be provided, in a manner agreed to by the  
22 Commission, for all hearings where the Commission intends to  
23 hear public testimony concerning the elimination of state  
24 postconviction proceedings in death penalty cases for purposes  
25 of this study. The report shall be submitted to the Speaker  
26 of the House of Representatives, the President of the Senate,  
27 and minority leaders in the House and the Senate by December  
28 1, 1998.

29           Section 19. The proviso language immediately  
30 preceding Specific Appropriation 962 and the proviso language  
31 following Specific Appropriation 620 in the Conference Report

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Bill No. HB 4233

Amendment No. \_\_\_\_ (for drafter's use only)

1 On House Bill 4201 which is the General Appropriations Act for  
2 fiscal year 1998-1999, shall not be deemed, in whole or in  
3 part, to be repealed, nullified or modified in any way by  
4 legislation passed during the 1998 regular session of the  
5 Legislature unless the legislation makes specific reference to  
6 this section. If either the proviso language immediately  
7 preceding Specific Appropriation 962 and the proviso language  
8 following Specific Appropriation 620 in the Conference Report  
9 On House Bill 4201 are repealed or amended by substantive  
10 legislation passed during the 1998 regular session of the  
11 Legislature, then both sections of proviso are hereby  
12 reenacted in full and shall have their full effect as written  
13 in the Conference Report On House Bill 4201. This section is  
14 hereby repealed on June 30, 1999.

15 Section 20. If any provision of this act or the  
16 application thereof to any person or circumstance is held  
17 invalid, the invalidity shall not affect other provisions or  
18 applications of the act which can be given effect without the  
19 invalid provision or application, and to this end the  
20 provisions of this act are declared severable.

21 Section 21. This act shall take effect October 1 of  
22 the year in which enacted.

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25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 remove from the title of the bill: the entire title

28

29 and insert in lieu thereof:

30 A bill to be entitled

31 An act relating to criminal offenses; amending

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Bill No. HB 4233

Amendment No. \_\_\_\_ (for drafter's use only)

1 s. 782.04, F.S.; redefining the offense of  
2 capital murder in the first degree to include  
3 the act of unlawfully killing a human being  
4 while perpetrating, or attempting to  
5 perpetrate, the murder of another human being;  
6 providing penalties; providing that a person  
7 who perpetrates or attempts to perpetrate a  
8 murder commits felony murder in the second  
9 degree when a person is killed by someone other  
10 than the perpetrator; providing penalties;  
11 adding murder to the list of felony offenses  
12 which do not constitute third-degree felony  
13 murder; reenacting ss. 39.464(1)(d),  
14 435.03(2)(b), 435.04(2)(b), 775.0823(1) and  
15 (2), 921.0022(3)(i), 943.325(1), and  
16 947.146(3), F.S., relating to the termination  
17 of parental rights, screening standards,  
18 violent offenses against law enforcement  
19 officers and others, the Criminal Punishment  
20 Code, blood testing, and the Control Release  
21 Authority, to incorporate the amendment to  
22 782.04, F.S., in references thereto; creating  
23 the "Jeff Mitchell Act"; amending s. 921.141,  
24 F.S., relating to further proceedings to  
25 determine sentence of death or life  
26 imprisonment for capital felonies; providing  
27 that the judgment of conviction and sentence of  
28 death imposed in a capital case are not subject  
29 to being held invalid, overturned, reduced, or  
30 otherwise affected because a codefendant in the  
31 same case accepted a plea offer in exchange for



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Bill No. HB 4233

Amendment No. \_\_\_\_ (for drafter's use only)

1 trial testimony, or an agreement to testify,  
2 and was not sentenced to death; prohibiting the  
3 Florida Supreme Court from engaging in any form  
4 of proportionality review of a death sentence;  
5 providing that criteria for review regarding  
6 aggravating or mitigating circumstances shall  
7 not be utilized except as authorized under  
8 specified provisions; providing additional  
9 aggravating circumstances to be weighed by the  
10 court; providing for an aggravating  
11 circumstance that the capital felony was  
12 committed when the victim had an injunction for  
13 protection in effect against the defendant;  
14 providing for an aggravating circumstance that  
15 the defendant inflicted multiple physical  
16 injuries upon the victim; providing for an  
17 aggravating circumstance that the defendant  
18 mutilated, dismembered, or sexually abused the  
19 victim's body, during or after commission of  
20 the capital felony; providing for an  
21 aggravating circumstance that the victim of a  
22 homicide had asked that his or her life be  
23 spared; amending ss. 782.071, 782.072, F.S.;  
24 increasing the penalties imposed for committing  
25 the offense of vehicular homicide or vessel  
26 homicide; increasing the penalties imposed for  
27 committing vehicular homicide or vessel  
28 homicide and failing to give information and  
29 render aid when the offender knew, or should  
30 have known, that the accident occurred;  
31 amending s. 921.0022, F.S., relating to the

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Bill No. HB 4233

Amendment No. \_\_\_\_ (for drafter's use only)

1 Criminal Punishment Code; conforming references  
2 to changes made by the act; amending s. 960.13,  
3 F.S.; limiting crimes compensation awards under  
4 certain circumstances; authorizing the  
5 Department of Legal Affairs to adopt certain  
6 rules; amending s. 782.071, F.S.; redefining  
7 the offense of "vehicular homicide" to include  
8 the killing of a viable fetus by any injury to  
9 the mother caused by the operation of a motor  
10 vehicle by another; providing penalties;  
11 specifying when a fetus is viable; providing a  
12 right of action for civil damages; reenacting  
13 ss. 921.0022(3)(h) and 960.03(3), F.S.,  
14 relating to the offense severity ranking chart  
15 and the definition of "crime" with respect to  
16 the Florida Crimes Compensation Act,  
17 respectively, to incorporate said amendment in  
18 references; amending s. 921.0022, F.S.,  
19 relating to the offense severity ranking chart,  
20 to conform terminology; amending s. 27.709,  
21 F.S.; providing that the Commission on the  
22 Administration of Justice in Capital Cases  
23 shall conduct a study concerning the  
24 elimination of state postconviction proceedings  
25 in death penalty cases; providing that certain  
26 proviso language contained in the Conference  
27 Report On House Bill 4201 may not be modified  
28 through substantive legislation passed during  
29 the 1998 regular session of the Legislature  
30 unless certain conditions are met; providing  
31 that certain proviso language contained in the

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Bill No. HB 4233

Amendment No. \_\_\_\_ (for drafter's use only)

1 Conference Report On House Bill 4201 is  
2 reenacted if repealed or amended by substantive  
3 legislation passed during the 1998 regular  
4 session of the Legislature; providing for  
5 repeal of section on June 30, 1999; providing  
6 for severability; providing an effective date.  
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