

1 A bill to be entitled
2 An act relating to criminal justice; amending
3 s. 782.04, F.S.; redefining the offense of
4 capital murder in the first degree to include
5 the act of unlawfully killing a human being
6 while perpetrating, or attempting to
7 perpetrate, the murder of another human being;
8 providing penalties; providing that a person
9 who perpetrates or attempts to perpetrate a
10 murder commits felony murder in the second
11 degree when a person is killed by someone other
12 than the perpetrator; providing penalties;
13 adding murder to the list of felony offenses
14 which do not constitute third-degree felony
15 murder; reenacting ss. 39.464(1)(d),
16 435.03(2)(b), 435.04(2)(b), 775.0823(1) and
17 (2), 921.0022(3)(i), 943.325(1), and
18 947.146(3), F.S., relating to the termination
19 of parental rights, screening standards,
20 violent offenses against law enforcement
21 officers and others, the Criminal Punishment
22 Code, blood testing, and the Control Release
23 Authority, to incorporate the amendment to
24 782.04, F.S., in references thereto; amending
25 ss. 782.071, 782.072, F.S.; increasing the
26 penalties imposed for committing the offense of
27 vehicular homicide or vessel homicide;
28 increasing the penalties imposed for committing
29 vehicular homicide or vessel homicide and
30 failing to give information and render aid when
31 the offender knew, or should have known, that

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

1 unless certain conditions are met; providing
2 for severability; providing an appropriation
3 from specified trust funds to the Correctional
4 Privatization Commission to develop two
5 invitations to bid, as defined in ch. 287,
6 F.S., for the design, acquisition,
7 construction, and operation of one adult prison
8 and one facility for youthful offenders;
9 providing requirements for the invitation to
10 bid; authorizing the Correctional Privatization
11 Commission to award contracts; superseding
12 proviso language with respect to specific
13 appropriations that are duplicative or in
14 conflict by repeal; providing an effective
15 date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 782.04, Florida Statutes, is
20 amended to read:

21 782.04 Murder.--

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

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

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

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

28 b. Arson,

29 c. Sexual battery,

30 d. Robbery,

31 e. Burglary,

- 1 f. Kidnapping,
- 2 g. Escape,
- 3 h. Aggravated child abuse,
- 4 i. Aggravated abuse of an elderly person or disabled
- 5 adult,
- 6 j. Aircraft piracy,
- 7 k. Unlawful throwing, placing, or discharging of a
- 8 destructive device or bomb,
- 9 l. Carjacking,
- 10 m. Home-invasion robbery,
- 11 n. Aggravated stalking, ~~or~~
- 12 o. Murder of another human being; or
- 13 3. Which resulted from the unlawful distribution of
- 14 any substance controlled under s. 893.03(1), cocaine as
- 15 described in s. 893.03(2)(a)4., or opium or any synthetic or
- 16 natural salt, compound, derivative, or preparation of opium by
- 17 a person 18 years of age or older, when such drug is proven to
- 18 be the proximate cause of the death of the user,
- 19
- 20 is murder in the first degree and constitutes a capital
- 21 felony, punishable as provided in s. 775.082.
- 22 (b) In all cases under this section, the procedure set
- 23 forth in s. 921.141 shall be followed in order to determine
- 24 sentence of death or life imprisonment.
- 25 (2) The unlawful killing of a human being, when
- 26 perpetrated by any act imminently dangerous to another and
- 27 evincing a depraved mind regardless of human life, although
- 28 without any premeditated design to effect the death of any
- 29 particular individual, is murder in the second degree and
- 30 constitutes a felony of the first degree, punishable by
- 31

1 imprisonment for a term of years not exceeding life or as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 (3) When a person is killed in the perpetration of, or
4 in the attempt to perpetrate, any:

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

6 (b) Arson,

7 (c) Sexual battery,

8 (d) Robbery,

9 (e) Burglary,

10 (f) Kidnapping,

11 (g) Escape,

12 (h) Aggravated child abuse,

13 (i) Aggravated abuse of an elderly person or disabled
14 adult,

15 (j) Aircraft piracy,

16 (k) Unlawful throwing, placing, or discharging of a
17 destructive device or bomb,

18 (l) Carjacking,

19 (m) Home-invasion robbery, ~~or~~

20 (n) Aggravated stalking, or

21 (o) Murder of another human being,

22
23 by a person other than the person engaged in the perpetration
24 of or in the attempt to perpetrate such felony, the person
25 perpetrating or attempting to perpetrate such felony is guilty
26 of murder in the second degree, which constitutes a felony of
27 the first degree, punishable by imprisonment for a term of
28 years not exceeding life or as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 (4) The unlawful killing of a human being, when
31 perpetrated without any design to effect death, by a person

1 engaged in the perpetration of, or in the attempt to
2 perpetrate, any felony other than any:

- 3 (a) Trafficking offense prohibited by s. 893.135(1),
- 4 (b) Arson,
- 5 (c) Sexual battery,
- 6 (d) Robbery,
- 7 (e) Burglary,
- 8 (f) Kidnapping,
- 9 (g) Escape,
- 10 (h) Aggravated child abuse,
- 11 (i) Aggravated abuse of an elderly person or disabled
12 adult,
- 13 (j) Aircraft piracy,
- 14 (k) Unlawful throwing, placing, or discharging of a
15 destructive device or bomb,
- 16 (l) Unlawful distribution of any substance controlled
17 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
18 or opium or any synthetic or natural salt, compound,
19 derivative, or preparation of opium by a person 18 years of
20 age or older, when such drug is proven to be the proximate
21 cause of the death of the user,
- 22 (m) Carjacking,
- 23 (n) Home-invasion robbery, ~~or~~
- 24 (o) Aggravated stalking, or
- 25 (p) Murder of another human being,

26

27 is murder in the third degree and constitutes a felony of the
28 second degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 Section 2. For the purpose of incorporating the
31 amendment made by this act to section 782.04, Florida

1 Statutes, in references thereto, paragraph (d) of subsection
2 (1) of section 39.464, Florida Statutes, is reenacted to read:

3 39.464 Grounds for termination of parental rights.--

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

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

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

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

31

1 3. The court determines by clear and convincing
2 evidence that continuing the parental relationship with the
3 incarcerated parent would be harmful to the child and, for
4 this reason, that termination of the parental rights of the
5 incarcerated parent is in the best interest of the child.

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

10 435.03 Level 1 screening standards.--

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

17 (b) Section 782.04, relating to murder.

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

22 435.04 Level 2 screening standards.--

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

30 (b) Section 782.04, relating to murder.

31

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

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

22 (1) For murder in the first degree as described in s.
23 782.04(1), if the death sentence is not imposed, a sentence of
24 imprisonment for life without eligibility for release.

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

28
29 Notwithstanding the provisions of s. 948.01, with respect to
30 any person who is found to have violated this section,
31

1 adjudication of guilt or imposition of sentence shall not be
 2 suspended, deferred, or withheld.

3 Section 6. For the purpose of incorporating the
 4 amendment made by this act to section 782.04, Florida
 5 Statutes, in references thereto, paragraph (i) of subsection
 6 (3) of section 921.0022, Florida Statutes, as created by
 7 section 5 of chapter 97-194, Laws of Florida, is reenacted to
 8 read:

9 921.0022 Criminal Punishment Code; offense severity
 10 ranking chart.--

11 (3) OFFENSE SEVERITY RANKING CHART

13	Florida	Felony	
14	Statute	Degree	Description
16			(i) LEVEL 9
17	316.193		
18	(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
19			
20	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
21			
22	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
23			
24			
25			
26	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
27			
28	782.07(3)	1st	Aggravated manslaughter of a child.
29			
30	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
31			

1	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
2			or facilitate commission of any
3			felony.
4	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
5			interfere with performance of any
6			governmental or political
7			function.
8	787.02(3)(a)	1st	False imprisonment; child under
9			age 13; perpetrator also commits
10			child abuse, sexual battery,
11			lewd, or lascivious act, etc.
12	790.161	1st	Attempted capital destructive
13			device offense.
14	794.011(2)	1st	Attempted sexual battery; victim
15			less than 12 years of age.
16	794.011(2)	Life	Sexual battery; offender younger
17			than 18 years and commits sexual
18			battery on a person less than 12
19			years.
20	794.011(4)	1st	Sexual battery; victim 12 years
21			or older, certain circumstances.
22	794.011(8)(b)	1st	Sexual battery; engage in sexual
23			conduct with minor 12 to 18 years
24			by person in familial or
25			custodial authority.
26	812.13(2)(a)	1st,PBL	Robbery with firearm or other
27			deadly weapon.
28	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
29			deadly weapon.
30			
31			

1	847.0145(1)	1st	Selling, or otherwise
2			transferring custody or control,
3			of a minor.
4	847.0145(2)	1st	Purchasing, or otherwise
5			obtaining custody or control, of
6			a minor.
7	859.01	1st	Poisoning food, drink, medicine,
8			or water with intent to kill or
9			injure another person.
10	893.135	1st	Attempted capital trafficking
11			offense.
12	893.135(1)(a)3.	1st	Trafficking in cannabis, more
13			than 10,000 lbs.
14	893.135		
15	(1)(b)1.c.	1st	Trafficking in cocaine, more than
16			400 grams, less than 150
17			kilograms.
18	893.135		
19	(1)(c)1.c.	1st	Trafficking in illegal drugs,
20			more than 28 grams, less than 30
21			kilograms.
22	893.135		
23	(1)(d)1.c.	1st	Trafficking in phencyclidine,
24			more than 400 grams.
25	893.135		
26	(1)(e)1.c.	1st	Trafficking in methaqualone, more
27			than 25 kilograms.
28	893.135		
29	(1)(f)1.c.	1st	Trafficking in amphetamine, more
30			than 200 grams.
31			

1 Section 7. For the purpose of incorporating the
2 amendment made by this act to section 782.04, Florida
3 Statutes, in references thereto, subsection (1) of section
4 943.325, Florida Statutes, is reenacted to read:

5 943.325 Blood specimen testing for DNA analysis.--

6 (1)(a) Any person convicted, or who was previously
7 convicted and is still incarcerated, in this state for any
8 offense or attempted offense defined in chapter 794, chapter
9 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who
10 is within the confines of the legal state boundaries, shall be
11 required to submit two specimens of blood to a Department of
12 Law Enforcement designated testing facility as directed by the
13 department.

14 (b) For the purpose of this section, the term "any
15 person" shall include both juveniles and adults committed to
16 or under the supervision of the Department of Corrections or
17 the Department of Juvenile Justice.

18 Section 8. For the purpose of incorporating the
19 amendment made by this act to section 782.04, Florida
20 Statutes, in references thereto, subsection (3) of section
21 947.146, Florida Statutes, as amended by section 31 of chapter
22 97-194, Laws of Florida, is reenacted to read:

23 947.146 Control Release Authority.--

24 (3) Within 120 days prior to the date the state
25 correctional system is projected pursuant to s. 216.136 to
26 exceed 99 percent of total capacity, the authority shall
27 determine eligibility for and establish a control release date
28 for an appropriate number of parole ineligible inmates
29 committed to the department and incarcerated within the state
30 who have been determined by the authority to be eligible for
31 discretionary early release pursuant to this section. In

1 establishing control release dates, it is the intent of the
 2 Legislature that the authority prioritize consideration of
 3 eligible inmates closest to their tentative release date. The
 4 authority shall rely upon commitment data on the offender
 5 information system maintained by the department to initially
 6 identify inmates who are to be reviewed for control release
 7 consideration. The authority may use a method of objective
 8 risk assessment in determining if an eligible inmate should be
 9 released. Such assessment shall be a part of the department's
 10 management information system. However, the authority shall
 11 have sole responsibility for determining control release
 12 eligibility, establishing a control release date, and
 13 effectuating the release of a sufficient number of inmates to
 14 maintain the inmate population between 99 percent and 100
 15 percent of total capacity. Inmates who are ineligible for
 16 control release are inmates who are parole eligible or inmates
 17 who:

18 (a) Are serving a sentence that includes a mandatory
 19 minimum provision for a capital offense or drug trafficking
 20 offense and have not served the number of days equal to the
 21 mandatory minimum term less any jail-time credit awarded by
 22 the court;

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

25 (c) Are convicted, or have been previously convicted,
 26 of committing or attempting to commit sexual battery, incest,
 27 or any of the following lewd or indecent assaults or acts:
 28 masturbating in public; exposing the sexual organs in a
 29 perverted manner; or nonconsensual handling or fondling of the
 30 sexual organs of another person;

31

1 (d) Are convicted, or have been previously convicted,
2 of committing or attempting to commit assault, aggravated
3 assault, battery, or aggravated battery, and a sex act was
4 attempted or completed during commission of such offense;

5 (e) Are convicted, or have been previously convicted,
6 of committing or attempting to commit kidnapping, burglary, or
7 murder, and the offense was committed with the intent to
8 commit sexual battery or a sex act was attempted or completed
9 during commission of the offense;

10 (f) Are convicted, or have been previously convicted,
11 of committing or attempting to commit false imprisonment upon
12 a child under the age of 13 and, in the course of committing
13 the offense, the inmate committed aggravated child abuse,
14 sexual battery against the child, or a lewd, lascivious, or
15 indecent assault or act upon or in the presence of the child;

16 (g) Are sentenced, have previously been sentenced, or
17 have been sentenced at any time under s. 775.084, or have been
18 sentenced at any time in another jurisdiction as a habitual
19 offender;

20 (h) Are convicted, or have been previously convicted,
21 of committing or attempting to commit assault, aggravated
22 assault, battery, aggravated battery, kidnapping,
23 manslaughter, or murder against an officer as defined in s.
24 943.10(1), (2), (3), (6), (7), (8), or (9); against a state
25 attorney or assistant state attorney; or against a justice or
26 judge of a court described in Art. V of the State
27 Constitution; or against an officer, judge, or state attorney
28 employed in a comparable position by any other jurisdiction;
29 or

30 (i) Are convicted, or have been previously convicted,
31 of committing or attempting to commit murder in the first,

1 second, or third degree under s. 782.04(1), (2), (3), or (4),
2 or have ever been convicted of any degree of murder or
3 attempted murder in another jurisdiction;

4 (j) Are convicted, or have been previously convicted,
5 of DUI manslaughter under s. 316.193(3)(c)3., and are
6 sentenced, or have been sentenced at any time, as a habitual
7 offender for such offense, or have been sentenced at any time
8 in another jurisdiction as a habitual offender for such
9 offense;

10 (k)1. Are serving a sentence for an offense committed
11 on or after January 1, 1994, for a violation of the Law
12 Enforcement Protection Act under s. 775.0823(2), (3), (4), or
13 (5), and the subtotal of the offender's sentence points is
14 multiplied pursuant to former s. 921.0014 or s. 921.0024;

15 2. Are serving a sentence for an offense committed on
16 or after October 1, 1995, for a violation of the Law
17 Enforcement Protection Act under s. 775.0823(2), (3), (4),
18 (5), (6), (7), or (8), and the subtotal of the offender's
19 sentence points is multiplied pursuant to former s. 921.0014
20 or s. 921.0024;

21 (l) Are serving a sentence for an offense committed on
22 or after January 1, 1994, for possession of a firearm,
23 semiautomatic firearm, or machine gun in which additional
24 points are added to the subtotal of the offender's sentence
25 points pursuant to former s. 921.0014 or s. 921.0024; or

26 (m) Are convicted, or have been previously convicted,
27 of committing or attempting to commit manslaughter,
28 kidnapping, robbery, carjacking, home-invasion robbery, or a
29 burglary under s. 810.02(2).

30
31

1 In making control release eligibility determinations under
2 this subsection, the authority may rely on any document
3 leading to or generated during the course of the criminal
4 proceedings, including, but not limited to, any presentence or
5 postsentence investigation or any information contained in
6 arrest reports relating to circumstances of the offense.

7 Section 9. Section 782.071, Florida Statutes, is
8 amended to read:

9 782.071 Vehicular homicide.--"Vehicular homicide" is
10 the killing of a human being, or the killing of a viable fetus
11 by any injury to the mother caused by the operation of a motor
12 vehicle by another in a reckless manner likely to cause the
13 death of, or great bodily harm to, another. Vehicular homicide
14 is:

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

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

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

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

23
24 This subsection does not require that the person knew that the
25 accident resulted in injury or death.

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

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

1 Section 10. Paragraph (g) of subsection (3) of section
 2 921.0022, Florida Statutes, is amended, and paragraph (h) of
 3 subsection (3) of that section is reenacted, to read:

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

6 (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	3rd	Killing of human being <u>or viable fetus</u> by the operation of a motor vehicle in a reckless manner (vehicular homicide).

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

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			
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1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(4)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	872.06	2nd	Abuse of a dead human body.
12	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), or (2)(b) drugs) within
16			1,000 feet of a school.
17	893.13(4)(a)	1st	Deliver to minor cocaine (or
18			other s. 893.03(1)(a), (1)(b),
19			(1)(d), (2)(a), or (2)(b) drugs).
20	893.135(1)(a)1.	1st	Trafficking in cannabis, more
21			than 50 lbs., less than 2,000
22			lbs.
23	893.135		
24	(1)(b)1.a.	1st	Trafficking in cocaine, more than
25			28 grams, less than 200 grams.
26	893.135		
27	(1)(c)1.a.	1st	Trafficking in illegal drugs,
28			more than 4 grams, less than 14
29			grams.
30			
31			

1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11			(h) LEVEL 8
12	316.193		
13	(3)(c)3.a.	2nd	DUI manslaughter.
14	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
15	777.03(2)(a)	1st	Accessory after the fact, capital
16			felony.
17	782.04(4)	2nd	Killing of human without design
18			when engaged in act or attempt of
19			any felony other than arson,
20			sexual battery, robbery,
21			burglary, kidnapping, aircraft
22			piracy, or unlawfully discharging
23			bomb.
24	782.071(2)	2nd	Committing vehicular homicide and
25			failing to render aid or give
26			information.
27	782.072(2)	2nd	Committing vessel homicide and
28			failing to render aid or give
29			information.
30			
31			

1	790.161(3)	1st	Discharging a destructive device
2			which results in bodily harm or
3			property damage.
4	794.011(5)	2nd	Sexual battery, victim 12 years
5			or over, offender does not use
6			physical force likely to cause
7			serious injury.
8	806.01(1)	1st	Maliciously damage dwelling or
9			structure by fire or explosive,
10			believing person in structure.
11	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
12	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
13			or dangerous weapon.
14	810.02(2)(c)	1st	Burglary of a dwelling or
15			structure causing structural
16			damage or \$1,000 or more property
17			damage.
18	812.13(2)(b)	1st	Robbery with a weapon.
19	812.135(2)	1st	Home-invasion robbery.
20	825.102(2)	2nd	Aggravated abuse of an elderly
21			person or disabled adult.
22	825.103(2)(a)	1st	Exploiting an elderly person or
23			disabled adult and property is
24			valued at \$100,000 or more.
25	827.03(2)	2nd	Aggravated child abuse.
26	860.121(2)(c)	1st	Shooting at or throwing any
27			object in path of railroad
28			vehicle resulting in great bodily
29			harm.
30	860.16	1st	Aircraft piracy.
31			

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

- 1 895.03(1) 1st Use or invest proceeds derived
2 from pattern of racketeering
3 activity.
4 895.03(2) 1st Acquire or maintain through
5 racketeering activity any
6 interest in or control of any
7 enterprise or real property.
8 895.03(3) 1st Conduct or participate in any
9 enterprise through pattern of
10 racketeering activity.

11 Section 11. For the purpose of incorporating the
12 amendment made by this act to section 782.071, Florida
13 Statutes, in a reference thereto, paragraph (b) of subsection
14 (3) of section 960.03, Florida Statutes, is reenacted to read:

15 960.03 Definitions.--As used in ss. 960.01-960.28,
16 unless the context otherwise requires, the term:

17 (3) "Crime" means:

18 (b) A violation of s. 316.193, s. 316.027(1), or s.
19 782.071(2), which results in physical injury or death;
20 however, no other act involving the operation of a motor
21 vehicle, boat, or aircraft which results in injury or death
22 shall constitute a crime for the purpose of this chapter
23 unless the injury or death was intentionally inflicted through
24 the use of such vehicle, boat, or aircraft or unless such
25 vehicle, boat, or aircraft is an implement of a crime to which
26 this act applies.

27 Section 12. Subsection (3) is added to section 27.709,
28 Florida Statutes, to read: 27.709 Commission on the
29 Administration of Justice in Capital Cases.--

30 (3) The Commission on the Administration of Justice in
31 Capital Cases shall conduct a study to evaluate whether the

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

24 Section 13. If any provision of this act or the
25 application thereof to any person or circumstance is held
26 invalid, the invalidity shall not affect other provisions or
27 applications of the act which can be given effect without the
28 invalid provision or application, and to this end the
29 provisions of this act are declared severable.

30 Section 14. The Correctional Privatization Commission,
31 using the \$100,000 from the General Revenue Fund provided in

1 Specific Appropriation 589 of the Conference Report on House
2 Bill 4201 to the Correctional Privatization Commission for the
3 purpose of developing two invitations to bid, shall develop
4 the two invitations to bid as defined in chapter 287, Florida
5 Statutes, pursuant to the following provisions:

6 (1) The first invitation to bid shall be for the
7 designing, acquiring, constructing, and operating of one
8 1,497-bed adult prison designed to house offenders at all
9 security levels. In no case may a contract be awarded pursuant
10 to the first invitation to bid for a project in which the
11 fixed capital outlay costs will exceed \$27,600,000.

12 Notwithstanding any provision of chapter 216, Florida
13 Statutes, to the contrary and with express reference to
14 section 216.351, Florida Statutes, the Executive Office of the
15 Governor shall transfer \$1,166,219 from the General Revenue
16 Fund and \$4,833,781 from the Grants and Donations Trust Fund
17 from Specific Appropriation 598 to Specific Appropriation 589
18 for the first-year fixed capital outlay costs of the project.

19 (2) The second invitation to bid must be designed for
20 the designing, acquiring, constructing, and operating of a
21 350-bed youthful offender facility. In no case may a contract
22 be awarded pursuant to the second invitation to bid for a
23 project in which the fixed capital outlay costs would exceed
24 \$8,950,000. Funding for the fixed capital outlay costs of any
25 contract awarded pursuant to the second invitation to bid
26 shall be subject to legislative appropriation during the 1999
27 Regular Session.

28
29 The Correctional Privatization Commission may award contracts
30 pursuant to the two invitations to bid to the lowest
31 cost-responsive bidders. The authority to issue two

1 invitations to bid and contracts contained in this section
2 shall be in lieu of the authority to issue two invitations to
3 bid and contracts provided in the proviso language following
4 Specific Appropriation 589 of the Conference Report on House
5 Bill 4201. Further, to the extent that the proviso language
6 following Specific Appropriation 589 of the Conference Report
7 on House Bill 4201 is duplicative of the provisions of this
8 section or in conflict thereof, those specific provisions of
9 the proviso language are repealed.

10 Section 15. This act shall take effect October 1,
11 1998.