

By the Committees on Fiscal Policy, Criminal Justice and
Senator Brown-Waite

309-2064-00

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.02, F.S.; defining the term
4 "mixture" for purposes of ch. 893, F.S.;
5 amending s. 893.03, F.S.; deleting Dronabinol
6 from the substances listed under Schedule II;
7 adding Dronabinol to the controlled substances
8 listed in Schedule III; adding 1,4-Butanediol
9 to the controlled substances listed under
10 Schedule II; deleting certain mixtures
11 containing hydrocodone from the substances
12 listed under Schedule III; amending s. 893.13,
13 F.S.; providing enhanced penalties for the
14 sale, manufacture, or possession of
15 methamphetamine; providing enhanced penalties
16 for possessing methamphetamine within a
17 specified distance of a school, park, or public
18 housing facility; providing enhanced penalties
19 for purchasing or using a minor to sell or
20 deliver methamphetamine; amending s. 893.135,
21 F.S.; revising certain penalties imposed for
22 trafficking in controlled substances; deleting
23 certain provisions requiring that an offender
24 be sentenced under the Criminal Punishment
25 Code; prohibiting the sale, purchase,
26 manufacture, or delivery of
27 gamma-hydroxybutyric acid (GHB); providing
28 penalties; prohibiting the sale, purchase,
29 manufacture, or delivery of 1,4-Butanediol;
30 providing penalties; prohibiting the sale,
31 purchase, manufacture, or delivery of various

1 | drugs known as "phenethylamines"; providing
2 | penalties; amending s. 775.087, F.S.; including
3 | the offenses of trafficking in
4 | gamma-hydroxybutyric acid (GHB), trafficking in
5 | 1,4-Butanediol, and trafficking in
6 | phenethylamines within provisions that impose
7 | enhanced penalties for offenses committed while
8 | possessing a firearm, destructive device,
9 | semiautomatic firearm, or machine gun; amending
10 | s. 893.145, F.S.; including certain objects
11 | used for unlawfully inhaling or introducing
12 | nitrous oxide into the human body within the
13 | definition of the term "drug paraphernalia";
14 | amending s. 921.0022, F.S., relating to the
15 | offense severity ranking chart of the Criminal
16 | Punishment Code; conforming provisions to
17 | changes made by the act; amending s. 948.034,
18 | F.S.; deleting provisions authorizing the court
19 | to sentence an offender convicted of specified
20 | repeat felony drug offenses to a term of
21 | probation in lieu of imprisonment; reenacting
22 | ss. 39.01(30)(a), 316.193(5), 327.35(5), F.S.,
23 | relating to harm to a child and driving or
24 | boating under the influence, to incorporate the
25 | amendment to s. 893.03, F.S., in references
26 | thereto; reenacting ss. 397.451(7), 414.095(1),
27 | F.S., relating to background checks and
28 | eligibility for the WAGES Program, to
29 | incorporate the amendments to s. 893.135, F.S.,
30 | in references thereto; reenacting s.
31 | 440.102(11)(b), F.S., relating to the drug-free

1 workplace program, to incorporate the amendment
2 to s. 893.03, F.S., in references thereto;
3 reenacting ss. 772.12(2), 782.04(1)(a), (3) and
4 (4), F.S., relating to the Drug Dealer
5 Liability Act and the offense of murder, to
6 incorporate the amendments to section 893.135,
7 F.S., in references thereto; reenacting ss.
8 817.563, 831.31, 856.015(1)(d), 893.0356(2)(a),
9 893.12(2)(b), (c), and (d), F.S., relating to
10 the sale of counterfeit controlled substances,
11 open house parties, controlled substance
12 analogs, and the seizure and forfeiture of
13 contraband, to incorporate the amendment to s.
14 893.03, F.S., in references thereto; reenacting
15 ss. 893.1351(1), 903.133, 907.041(4)(b),
16 921.0024(1)(b), 921.142(2), 943.0585, 943.059,
17 F.S., relating to trafficking offenses, bail,
18 pretrial detention and release, the Criminal
19 Punishment Code worksheet, capital trafficking
20 offenses, and expunction and sealing of
21 criminal history records, to incorporate the
22 amendments to 893.135, F.S., in references
23 thereto; providing an effective date.

24

25 Be It Enacted by the Legislature of the State of Florida:

26

27 Section 1. Subsection (4) of section 893.02, Florida
28 Statutes, is reenacted, and present subsections (14) through
29 (20) of that section are redesignated as subsections (15)
30 through (21), respectively, and a new subsection (14) is added
31 to that section, to read:

1 893.02 Definitions.--The following words and phrases
2 as used in this chapter shall have the following meanings,
3 unless the context otherwise requires:

4 (4) "Controlled substance" means any substance named
5 or described in Schedules I through V of s. 893.03. Laws
6 controlling the manufacture, distribution, preparation,
7 dispensing, or administration of such substances are drug
8 abuse laws.

9 (14) "Mixture" means any physical combination of two
10 or more substances.

11 Section 2. Paragraphs (a) and (b) of subsection (2)
12 and paragraph (c) of subsection (3) of section 893.03, Florida
13 Statutes, are amended, and paragraph (f) is added to
14 subsection (3) of that section, to read:

15 893.03 Standards and schedules.--The substances
16 enumerated in this section are controlled by this chapter.
17 The controlled substances listed or to be listed in Schedules
18 I, II, III, IV, and V are included by whatever official,
19 common, usual, chemical, or trade name designated. The
20 provisions of this section shall not be construed to include
21 within any of the schedules contained in this section any
22 excluded drugs listed within the purview of 21 C.F.R. s.
23 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
24 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
25 styled "Exempted Prescription Products"; or 21 C.F.R. s.
26 1308.34, styled "Exempt Anabolic Steroid Products."

27 (2) SCHEDULE II.--A substance in Schedule II has a
28 high potential for abuse and has a currently accepted but
29 severely restricted medical use in treatment in the United
30 States, and abuse of the substance may lead to severe
31

1 psychological or physical dependence. The following
2 substances are controlled in Schedule II:

3 (a) Unless specifically excepted or unless listed in
4 another schedule, any of the following substances, whether
5 produced directly or indirectly by extraction from substances
6 of vegetable origin or independently by means of chemical
7 synthesis:

8 1. Opium and any salt, compound, derivative, or
9 preparation of opium, except nalmefene or isoquinoline
10 alkaloids of opium, including, but not limited to the
11 following:

- 12 a. Raw opium.
- 13 b. Opium extracts.
- 14 c. Opium fluid extracts.
- 15 d. Powdered opium.
- 16 e. Granulated opium.
- 17 f. Tincture of opium.
- 18 g. Codeine.
- 19 h. Ethylmorphine.
- 20 i. Etorphine hydrochloride.
- 21 j. Hydrocodone.
- 22 k. Hydromorphone.
- 23 l. Levo-alpha-acetylmethadol (also known as
24 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
- 25 m. Metopon (methyldihydromorphinone).
- 26 n. Morphine.
- 27 o. Oxycodone.
- 28 p. Oxymorphone.
- 29 q. Thebaine.

30 2. Any salt, compound, derivative, or preparation of a
31 substance which is chemically equivalent to or identical with

1 any of the substances referred to in subparagraph 1., except
2 that these substances shall not include the isoquinoline
3 alkaloids of opium.

4 3. Any part of the plant of the species *Papaver*
5 *somniferum*, L.

6 4. Cocaine or ecgonine, including any of their
7 stereoisomers, and any salt, compound, derivative, or
8 preparation of cocaine or ecgonine.

9 ~~5. Dronabinol (synthetic THC) in sesame oil and~~
10 ~~encapsulated in a soft gelatin capsule in a U.S. Food and Drug~~
11 ~~Administration approved drug product.~~

12 (b) Unless specifically excepted or unless listed in
13 another schedule, any of the following substances, including
14 their isomers, esters, ethers, salts, and salts of isomers,
15 esters, and ethers, whenever the existence of such isomers,
16 esters, ethers, and salts is possible within the specific
17 chemical designation:

- 18 1. Alfentanil.
- 19 2. Alphaprodine.
- 20 3. Anileridine.
- 21 4. Bezitramide.
- 22 5. Bulk propoxyphene (nondosage forms).
- 23 6. 1,4-Butanediol.
- 24 ~~7.6. Carfentanil.~~
- 25 ~~8.7. Dihydrocodeine.~~
- 26 ~~9.8. Diphenoxylate.~~
- 27 ~~10.9. Fentanyl.~~
- 28 ~~11.10. Gamma-hydroxybutyric acid (GHB).~~
- 29 ~~12.11. Isomethadone.~~
- 30 ~~13.12. Levomethorphan.~~
- 31 ~~14.13. Levorphanol.~~

- 1 ~~15.14.~~ Metazocine.
2 ~~16.15.~~ Methadone.
3 ~~17.16.~~ Methadone-Intermediate,4-cyano-2-
4 dimethylamino-4,4-diphenylbutane.
5 ~~18.17.~~ Moramide-Intermediate,2-methyl-3-
6 morpholino-1,1-diphenylpropane-carboxylic acid.
7 ~~19.18.~~ Nabilone.
8 ~~20.19.~~ Pethidine (meperidine).
9 ~~21.20.~~ Pethidine-Intermediate-A,4-cyano-1-
10 methyl-4-piperidine.
11 ~~22.21.~~ Pethidine-Intermediate-B,ethyl-4-
12 phenylpiperidine-4-carboxylate.
13 ~~23.22.~~ Pethidine-Intermediate-C,1-methyl-4-
14 phenylpiperidine-4-carboxylic acid.
15 ~~24.23.~~ Phenazocine.
16 ~~25.24.~~ Phencyclidine.
17 ~~26.25.~~ 1-Phenylcyclohexylamine.
18 ~~27.26.~~ Piminodine.
19 ~~28.27.~~ 1-Piperidinocyclohexanecarbonitrile.
20 ~~29.28.~~ Racemethorphan.
21 ~~30.29.~~ Racemorphan.
22 ~~31.30.~~ Sufentanil.

23 (3) SCHEDULE III.--A substance in Schedule III has a
24 potential for abuse less than the substances contained in
25 Schedules I and II and has a currently accepted medical use in
26 treatment in the United States, and abuse of the substance may
27 lead to moderate or low physical dependence or high
28 psychological dependence or, in the case of anabolic steroids,
29 may lead to physical damage. The following substances are
30 controlled in Schedule III:

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1 (c) Unless specifically excepted or unless listed in
2 another schedule, any material, compound, mixture, or
3 preparation containing limited quantities of any of the
4 following controlled substances or any salts thereof:

5 1. Not more than 1.8 grams of codeine per 100
6 milliliters or not more than 90 milligrams per dosage unit,
7 with an equal or greater quantity of an isoquinoline alkaloid
8 of opium.

9 2. Not more than 1.8 grams of codeine per 100
10 milliliters or not more than 90 milligrams per dosage unit,
11 with recognized therapeutic amounts of one or more active
12 ingredients which are not controlled substances.

13 ~~3. Not more than 300 milligrams of hydrocodone per 100~~
14 ~~milliliters or not more than 15 milligrams per dosage unit,~~
15 ~~with a fourfold or greater quantity of an isoquinoline~~
16 ~~alkaloid of opium.~~

17 ~~4. Not more than 300 milligrams of hydrocodone per 100~~
18 ~~milliliters or not more than 15 milligrams per dosage unit,~~
19 ~~with recognized therapeutic amounts of one or more active~~
20 ~~ingredients which are not controlled substances.~~

21 3.5. Not more than 1.8 grams of dihydrocodeine per 100
22 milliliters or not more than 90 milligrams per dosage unit,
23 with recognized therapeutic amounts of one or more active
24 ingredients which are not controlled substances.

25 4.6. Not more than 300 milligrams of ethylmorphine per
26 100 milliliters or not more than 15 milligrams per dosage
27 unit, with one or more active, nonnarcotic ingredients in
28 recognized therapeutic amounts.

29 5.7. Not more than 50 milligrams of morphine per 100
30 milliliters or per 100 grams, with recognized therapeutic
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1 amounts of one or more active ingredients which are not
2 controlled substances.

3 (f) Dronabinol (synthetic THC) in sesame oil and
4 encapsulated in a soft gelatin capsule in a drug product
5 approved by the U.S. Food and Drug Administration.

6 Section 3. Section 893.13, Florida Statutes, is
7 amended to read:

8 893.13 Prohibited acts; penalties.--

9 (1)(a) Except as authorized by this chapter and
10 chapter 499, it is unlawful for any person to sell,
11 manufacture, or deliver, or possess with intent to sell,
12 manufacture, or deliver, a controlled substance. Any person
13 who violates this provision with respect to:

14 1. A controlled substance named or described in s.
15 893.03(1)(a), (1)(b), (1)(d), (2)(a), ~~or~~ (2)(b), or (2)(c)4.,
16 commits a felony of the second degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084.

18 2. A controlled substance named or described in s.
19 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
20 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c)~~, (3), or (4)
21 commits a felony of the third degree, punishable as provided
22 in s. 775.082, s. 775.083, or s. 775.084.

23 3. A controlled substance named or described in s.
24 893.03(5) commits a misdemeanor of the first degree,
25 punishable as provided in s. 775.082 or s. 775.083.

26 (b) Except as provided in this chapter, it is unlawful
27 to sell or deliver in excess of 10 grams of any substance
28 named or described in s. 893.03(1)(a) or (1)(b), or any
29 combination thereof, or any mixture containing any such
30 substance. Any person who violates this paragraph commits a
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1 felony of the first degree, punishable as provided in s.
2 775.082, s. 775.083, or s. 775.084.

3 (c) Except as authorized by this chapter, it is
4 unlawful for any person to sell, manufacture, or deliver, or
5 possess with intent to sell, manufacture, or deliver a
6 controlled substance in, on, or within 1,000 feet of the real
7 property comprising a child care facility as defined in s.
8 402.302 or a public or private elementary, middle, or
9 secondary school between the hours of 6 a.m. and 12 a.m. Any
10 person who violates this paragraph with respect to:

11 1. A controlled substance named or described in s.
12 893.03(1)(a), (1)(b), (1)(d), (2)(a), ~~or (2)(b)~~, or (2)(c)4.,
13 commits a felony of the first degree, punishable as provided
14 in s. 775.082, s. 775.083, or s. 775.084. The defendant must
15 be sentenced to a minimum term of imprisonment of 3 calendar
16 years unless the offense was committed within 1,000 feet of
17 the real property comprising a child care facility as defined
18 in s. 402.302.

19 2. A controlled substance named or described in s.
20 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
21 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c)~~, (3), or (4)
22 commits a felony of the second degree, punishable as provided
23 in s. 775.082, s. 775.083, or s. 775.084.

24 3. Any other controlled substance, except as lawfully
25 sold, manufactured, or delivered, must be sentenced to pay a
26 \$500 fine and to serve 100 hours of public service in addition
27 to any other penalty prescribed by law.

28
29 This paragraph does not apply to a child care facility unless
30 the owner or operator of the facility posts a sign that is not
31 less than 2 square feet in size with a word legend identifying

1 the facility as a licensed child care facility and that is
2 posted on the property of the child care facility in a
3 conspicuous place where the sign is reasonably visible to the
4 public.

5 (d) Except as authorized by this chapter, it is
6 unlawful for any person to sell, manufacture, or deliver, or
7 possess with intent to sell, manufacture, or deliver, a
8 controlled substance in, on, or within 200 feet of the real
9 property comprising a public or private college, university,
10 or other postsecondary educational institution, or within 200
11 feet of any public park. Any person who violates this
12 paragraph with respect to:

13 1. A controlled substance named or described in s.
14 893.03(1)(a), (1)(b), (1)(d), (2)(a), ~~or (2)(b)~~, or (2)(c)4.,
15 commits a felony of the first degree, punishable as provided
16 in s. 775.082, s. 775.083, or s. 775.084.

17 2. A controlled substance named or described in s.
18 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
19 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c)~~, (3), or (4)
20 commits a felony of the second degree, punishable as provided
21 in s. 775.082, s. 775.083, or s. 775.084.

22 3. Any other controlled substance, except as lawfully
23 sold, manufactured, or delivered, must be sentenced to pay a
24 \$500 fine and to serve 100 hours of public service in addition
25 to any other penalty prescribed by law.

26 (e) Except as authorized by this chapter, it is
27 unlawful for any person to sell, manufacture, or deliver, or
28 possess with intent to sell, manufacture, or deliver, a
29 controlled substance not authorized by law in, on, or within
30 1,000 feet of a physical place for worship at which a church
31 or religious organization regularly conducts religious

1 services or within 1,000 feet of a convenience business as
2 defined in s. 812.171. Any person who violates this paragraph
3 with respect to:

4 1. A controlled substance named or described in s.
5 893.03(1)(a), (1)(b), (1)(d), (2)(a), ~~or (2)(b)~~, or (2)(c)4.,
6 commits a felony of the first degree, punishable as provided
7 in s. 775.082, s. 775.083, or s. 775.084.

8 2. A controlled substance named or described in s.
9 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
10 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c)~~, (3), or (4)
11 commits a felony of the second degree, punishable as provided
12 in s. 775.082, s. 775.083, or s. 775.084.

13 3. Any other controlled substance, except as lawfully
14 sold, manufactured, or delivered, must be sentenced to pay a
15 \$500 fine and to serve 100 hours of public service in addition
16 to any other penalty prescribed by law.

17 (f) Except as authorized by this chapter, it is
18 unlawful for any person to sell, manufacture, or deliver, or
19 possess with intent to sell, manufacture, or deliver, a
20 controlled substance in, on, or within 200 feet of the real
21 property comprising a public housing facility at any time. For
22 purposes of this section, the term "real property comprising a
23 public housing facility" means real property, as defined in s.
24 421.03(12), of a public corporation created as a housing
25 authority pursuant to part I of chapter 421. Any person who
26 violates this paragraph with respect to:

27 1. A controlled substance named or described in s.
28 893.03(1)(a), (1)(b), (1)(d), (2)(a), ~~or (2)(b)~~, (2)(c)4.,
29 commits a felony of the first degree, punishable as provided
30 in s. 775.082, s. 775.083, or s. 775.084.

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1 2. A controlled substance named or described in s.
2 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
3 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c)~~, (3), or (4)
4 commits a felony of the second degree, punishable as provided
5 in s. 775.082, s. 775.083, or s. 775.084.

6 3. Any other controlled substance, except as lawfully
7 sold, manufactured, or delivered, must be sentenced to pay a
8 \$500 fine and to serve 100 hours of public service in addition
9 to any other penalty prescribed by law.

10 (2)(a) Except as authorized by this chapter and
11 chapter 499, it is unlawful for any person to purchase, or
12 possess with intent to purchase, a controlled substance. Any
13 person who violates this provision with respect to:

14 1. A controlled substance named or described in s.
15 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b), or (2)(c)4.,
16 commits a felony of the second degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084.

18 2. A controlled substance named or described in s.
19 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
20 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c)~~, (3), or (4)
21 commits a felony of the third degree, punishable as provided
22 in s. 775.082, s. 775.083, or s. 775.084.

23 3. A controlled substance named or described in s.
24 893.03(5) commits a misdemeanor of the first degree,
25 punishable as provided in s. 775.082 or s. 775.083.

26 (b) Except as provided in this chapter, it is unlawful
27 to purchase in excess of 10 grams of any substance named or
28 described in s. 893.03(1)(a) or (1)(b), or any combination
29 thereof, or any mixture containing any such substance. Any
30 person who violates this paragraph commits a felony of the
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1 first degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 (3) Any person who delivers, without consideration,
4 not more than 20 grams of cannabis, as defined in this
5 chapter, commits a misdemeanor of the first degree, punishable
6 as provided in s. 775.082 or s. 775.083. For the purposes of
7 this paragraph, "cannabis" does not include the resin
8 extracted from the plants of the genus Cannabis or any
9 compound manufacture, salt, derivative, mixture, or
10 preparation of such resin.

11 (4) Except as authorized by this chapter, it is
12 unlawful for any person 18 years of age or older to deliver
13 any controlled substance to a person under the age of 18
14 years, or to use or hire a person under the age of 18 years as
15 an agent or employee in the sale or delivery of such a
16 substance, or to use such person to assist in avoiding
17 detection or apprehension for a violation of this chapter.
18 Any person who violates this provision with respect to:

19 (a) A controlled substance named or described in s.
20 893.03(1)(a), (1)(b), (1)(d), (2)(a), ~~or (2)(b)~~, or (2)(c)4.,
21 commits a felony of the first degree, punishable as provided
22 in s. 775.082, s. 775.083, or s. 775.084.

23 (b) A controlled substance named or described in s.
24 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
25 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c)~~, (3), or (4)
26 commits a felony of the second degree, punishable as provided
27 in s. 775.082, s. 775.083, or s. 775.084.

28
29 Imposition of sentence may not be suspended or deferred, nor
30 shall the person so convicted be placed on probation.

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1 (5) It is unlawful for any person to bring into this
2 state any controlled substance unless the possession of such
3 controlled substance is authorized by this chapter or unless
4 such person is licensed to do so by the appropriate federal
5 agency. Any person who violates this provision with respect
6 to:

7 (a) A controlled substance named or described in s.
8 893.03(1)(a), (1)(b), (1)(d), (2)(a), ~~or (2)(b),~~ or (2)(c)4.,
9 commits a felony of the second degree, punishable as provided
10 in s. 775.082, s. 775.083, or s. 775.084.

11 (b) A controlled substance named or described in s.
12 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
13 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.~~(2)(c),~~ (3), or (4)
14 commits a felony of the third degree, punishable as provided
15 in s. 775.082, s. 775.083, or s. 775.084.

16 (c) A controlled substance named or described in s.
17 893.03(5) commits a misdemeanor of the first degree,
18 punishable as provided in s. 775.082 or s. 775.083.

19 (6)(a) It is unlawful for any person to be in actual
20 or constructive possession of a controlled substance unless
21 such controlled substance was lawfully obtained from a
22 practitioner or pursuant to a valid prescription or order of a
23 practitioner while acting in the course of his or her
24 professional practice or to be in actual or constructive
25 possession of a controlled substance except as otherwise
26 authorized by this chapter. Any person who violates this
27 provision commits a felony of the third degree, punishable as
28 provided in s. 775.082, s. 775.083, or s. 775.084.

29 (b) If the offense is the possession of not more than
30 20 grams of cannabis, as defined in this chapter, the person
31 commits a misdemeanor of the first degree, punishable as

1 provided in s. 775.082 or s. 775.083. For the purposes of
2 this subsection, "cannabis" does not include the resin
3 extracted from the plants of the genus Cannabis, or any
4 compound manufacture, salt, derivative, mixture, or
5 preparation of such resin.

6 (c) Except as provided in this chapter, it is unlawful
7 to possess in excess of 10 grams of any substance named or
8 described in s. 893.03(1)(a) or (1)(b), or any combination
9 thereof, or any mixture containing any such substance. Any
10 person who violates this paragraph commits a felony of the
11 first degree, punishable as provided in s. 775.082, s.
12 775.083, or s. 775.084.

13 (d) Notwithstanding any provision to the contrary of
14 the laws of this state relating to arrest, a law enforcement
15 officer may arrest without warrant any person who the officer
16 has probable cause to believe is violating the provisions of
17 this chapter relating to possession of cannabis.

18 (7)(a) It is unlawful for any person:

19 1. To distribute or dispense a controlled substance in
20 violation of this chapter.

21 2. To refuse or fail to make, keep, or furnish any
22 record, notification, order form, statement, invoice, or
23 information required under this chapter.

24 3. To refuse an entry into any premises for any
25 inspection or to refuse to allow any inspection authorized by
26 this chapter.

27 4. To distribute a controlled substance named or
28 described in s. 893.03(1) or (2) except pursuant to an order
29 form as required by s. 893.06.

30 5. To keep or maintain any store, shop, warehouse,
31 dwelling, building, vehicle, boat, aircraft, or other

1 structure or place which is resorted to by persons using
2 controlled substances in violation of this chapter for the
3 purpose of using these substances, or which is used for
4 keeping or selling them in violation of this chapter.

5 6. To use to his or her own personal advantage, or to
6 reveal, any information obtained in enforcement of this
7 chapter except in a prosecution or administrative hearing for
8 a violation of this chapter.

9 7. To withhold information from a practitioner from
10 whom the person seeks to obtain a controlled substance or a
11 prescription for a controlled substance that the person has
12 received a controlled substance or a prescription for a
13 controlled substance of like therapeutic use from another
14 practitioner within the last 30 days.

15 8. To possess a prescription form which has not been
16 completed and signed by the practitioner whose name appears
17 printed thereon, unless the person is that practitioner, is an
18 agent or employee of that practitioner, is a pharmacist, or is
19 a supplier of prescription forms who is authorized by that
20 practitioner to possess those forms.

21 9. To acquire or obtain, or attempt to acquire or
22 obtain, possession of a controlled substance by
23 misrepresentation, fraud, forgery, deception, or subterfuge.

24 10. To affix any false or forged label to a package or
25 receptacle containing a controlled substance.

26 11. To furnish false or fraudulent material
27 information in, or omit any material information from, any
28 report or other document required to be kept or filed under
29 this chapter or any record required to be kept by this
30 chapter.

31

1 (b) Any person who violates the provisions of
2 subparagraphs (a)1.-8. commits a misdemeanor of the first
3 degree, punishable as provided in s. 775.082 or s. 775.083;
4 except that, upon a second or subsequent violation, the person
5 commits a felony of the third degree, punishable as provided
6 in s. 775.082, s. 775.083, or s. 775.084.

7 (c) Any person who violates the provisions of
8 subparagraphs (a)9.-11. commits a felony of the third degree,
9 punishable as provided in s. 775.082, s. 775.083, or s.
10 775.084.

11 (8) The provisions of subsections (1) through (7) are
12 not applicable to the delivery to, or actual or constructive
13 possession for medical or scientific use or purpose only of
14 controlled substances by, persons included in any of the
15 following classes, or the agents or employees of such persons,
16 for use in the usual course of their business or profession or
17 in the performance of their official duties:

18 (a) Pharmacists.

19 (b) Practitioners.

20 (c) Persons who procure controlled substances in good
21 faith and in the course of professional practice only, by or
22 under the supervision of pharmacists or practitioners employed
23 by them, or for the purpose of lawful research, teaching, or
24 testing, and not for resale.

25 (d) Hospitals that procure controlled substances for
26 lawful administration by practitioners, but only for use by or
27 in the particular hospital.

28 (e) Officers or employees of state, federal, or local
29 governments acting in their official capacity only, or
30 informers acting under their jurisdiction.

31 (f) Common carriers.

1 (g) Manufacturers, wholesalers, and distributors.

2 (h) Law enforcement officers for bona fide law
3 enforcement purposes in the course of an active criminal
4 investigation.

5 (9) Notwithstanding any provision of the sentencing
6 guidelines or the Criminal Punishment Code to the contrary, on
7 or after October 1, 1993, any defendant who:

8 (a) Violates subparagraph (1)(a)1., subparagraph
9 (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or
10 paragraph (5)(a); and

11 (b) Has not previously been convicted, regardless of
12 whether adjudication was withheld, of any felony, other than a
13 violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,
14 subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph
15 (5)(a),

16
17 may be required by the court to successfully complete a term
18 of probation pursuant to the terms and conditions set forth in
19 s. 948.034(1), in lieu of serving a term of imprisonment.

20 (10) Notwithstanding any provision of the sentencing
21 guidelines or the Criminal Punishment Code to the contrary, on
22 or after January 1, 1994, any defendant who:

23 (a) Violates subparagraph (1)(a)2., subparagraph
24 (2)(a)2., paragraph (5)(b), or paragraph (6)(a); and

25 (b) Has not previously been convicted, regardless of
26 whether adjudication was withheld, of any felony, other than a
27 violation of subparagraph (1)(a)2., subparagraph (2)(a)2.,
28 paragraph (5)(b), or paragraph (6)(a),

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1 may be required by the court to successfully complete a term
2 of probation pursuant to the terms and conditions set forth in
3 s. 948.034(2), in lieu of serving a term of imprisonment.

4 Section 4. Section 893.135, Florida Statutes, is
5 amended to read:

6 893.135 Trafficking; mandatory sentences; suspension
7 or reduction of sentences; conspiracy to engage in
8 trafficking.--

9 (1) Except as authorized in this chapter or in chapter
10 499 and notwithstanding the provisions of s. 893.13:

11 (a) Any person who knowingly sells, purchases,
12 manufactures, delivers, or brings into this state, or who is
13 knowingly in actual or constructive possession of, in excess
14 of 25 pounds of cannabis, or 300 or more cannabis plants,
15 commits a felony of the first degree, which felony shall be
16 known as "trafficking in cannabis," punishable as provided in
17 s. 775.082, s. 775.083, or s. 775.084. If the quantity of
18 cannabis involved:

19 1. Is in excess of 25 pounds, but less than 2,000
20 pounds, or is 300 or more cannabis plants, but not more than
21 2,000 cannabis plants, such person shall be sentenced to
22 ~~pursuant to the Criminal Punishment Code and such sentence~~
23 ~~shall include~~ a mandatory minimum term of imprisonment of 3
24 years, and the defendant shall be ordered to pay a fine of
25 \$25,000.

26 2. Is 2,000 pounds or more, but less than 10,000
27 pounds, or is 2,000 or more cannabis plants, but not more than
28 10,000 cannabis plants, such person shall be sentenced to
29 ~~pursuant to the Criminal Punishment Code and such sentence~~
30 ~~shall include~~ a mandatory minimum term of imprisonment of 7
31

1 years, and the defendant shall be ordered to pay a fine of
2 \$50,000.

3 3. Is 10,000 pounds or more, or is 10,000 or more
4 cannabis plants, such person shall be sentenced to a mandatory
5 minimum term of imprisonment of 15 calendar years and pay a
6 fine of \$200,000.

7
8 For the purpose of this paragraph, a plant, including, but not
9 limited to, a seedling or cutting, is a "cannabis plant" if it
10 has some readily observable evidence of root formation, such
11 as root hairs. To determine if a piece or part of a cannabis
12 plant severed from the cannabis plant is itself a cannabis
13 plant, the severed piece or part must have some readily
14 observable evidence of root formation, such as root hairs.
15 Callous tissue is not readily observable evidence of root
16 formation. The viability and sex of a plant and the fact that
17 the plant may or may not be a dead harvested plant are not
18 relevant in determining if the plant is a "cannabis plant" or
19 in the charging of an offense under this paragraph. Upon
20 conviction, the court shall impose the longest term of
21 imprisonment provided for in this paragraph.

22 (b)1. Any person who knowingly sells, purchases,
23 manufactures, delivers, or brings into this state, or who is
24 knowingly in actual or constructive possession of, 28 grams or
25 more of cocaine, as described in s. 893.03(2)(a)4., or of any
26 mixture containing cocaine, but less than 150 kilograms of
27 cocaine or any such mixture, commits a felony of the first
28 degree, which felony shall be known as "trafficking in
29 cocaine," punishable as provided in s. 775.082, s. 775.083, or
30 s. 775.084. If the quantity involved:

31

1 a. Is 28 grams or more, but less than 200 grams, such
2 person shall be sentenced to ~~pursuant to the Criminal~~
3 ~~Punishment Code and such sentence shall include~~ a mandatory
4 minimum term of imprisonment of 3 years, and the defendant
5 shall be ordered to pay a fine of \$50,000.

6 b. Is 200 grams or more, but less than 400 grams, such
7 person shall be sentenced to ~~pursuant to the Criminal~~
8 ~~Punishment Code and such sentence shall include~~ a mandatory
9 minimum term of imprisonment of 7 years, and the defendant
10 shall be ordered to pay a fine of \$100,000.

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

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

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

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

1
2 such person commits the capital felony of trafficking in
3 cocaine, punishable as provided in ss. 775.082 and 921.142.
4 Any person sentenced for a capital felony under this paragraph
5 shall also be sentenced to pay the maximum fine provided under
6 subparagraph 1.

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

15 (c)1. Any person who knowingly sells, purchases,
16 manufactures, delivers, or brings into this state, or who is
17 knowingly in actual or constructive possession of, 4 grams or
18 more of any morphine, opium, oxycodone, hydrocodone,
19 hydromorphone, or any salt, derivative, isomer, or salt of an
20 isomer thereof, including heroin, as described in s.
21 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture
22 containing any such substance, but less than 30 kilograms of
23 such substance or mixture, commits a felony of the first
24 degree, which felony shall be known as "trafficking in illegal
25 drugs," punishable as provided in s. 775.082, s. 775.083, or
26 s. 775.084. If the quantity involved:

27 a. Is 4 grams or more, but less than 14 grams, such
28 person shall be sentenced to ~~pursuant to the Criminal~~
29 ~~Punishment Code and such sentence shall include~~ a mandatory
30 minimum term of imprisonment of 3 years, and the defendant
31 shall be ordered to pay a fine of \$50,000.

1 b. Is 14 grams or more, but less than 28 grams, such
2 person shall be sentenced to ~~pursuant to the Criminal~~
3 ~~Punishment Code and such sentence shall include~~ a mandatory
4 minimum term of imprisonment of 15 years, and the defendant
5 shall be ordered to pay a fine of \$100,000.

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

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

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

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

31

1 such person commits the capital felony of trafficking in
2 illegal drugs, punishable as provided in ss. 775.082 and
3 921.142. Any person sentenced for a capital felony under this
4 paragraph shall also be sentenced to pay the maximum fine
5 provided under subparagraph 1.

6 3. Any person who knowingly brings into this state 60
7 kilograms or more of any morphine, opium, oxycodone,
8 hydrocodone, hydromorphone, or any salt, derivative, isomer,
9 or salt of an isomer thereof, including heroin, as described
10 in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any
11 mixture containing any such substance, and who knows that the
12 probable result of such importation would be the death of any
13 person, commits capital importation of illegal drugs, a
14 capital felony punishable as provided in ss. 775.082 and
15 921.142. Any person sentenced for a capital felony under this
16 paragraph shall also be sentenced to pay the maximum fine
17 provided under subparagraph 1.

18 (d)1. Any person who knowingly sells, purchases,
19 manufactures, delivers, or brings into this state, or who is
20 knowingly in actual or constructive possession of, 28 grams or
21 more of phencyclidine or of any mixture containing
22 phencyclidine, as described in s. 893.03(2)(b), commits a
23 felony of the first degree, which felony shall be known as
24 "trafficking in phencyclidine," punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084. If the quantity involved:

26 a. Is 28 grams or more, but less than 200 grams, such
27 person shall be sentenced to ~~pursuant to the Criminal~~
28 ~~Punishment Code and such sentence shall include~~ a mandatory
29 minimum term of imprisonment of 3 years, and the defendant
30 shall be ordered to pay a fine of \$50,000.

31

1 b. Is 200 grams or more, but less than 400 grams, such
2 person shall be sentenced to ~~pursuant to the Criminal~~
3 ~~Punishment Code and such sentence shall include~~ a mandatory
4 minimum term of imprisonment of 7 years, and the defendant
5 shall be ordered to pay a fine of \$100,000.

6 c. Is 400 grams or more, such person shall be
7 sentenced to a mandatory minimum term of imprisonment of 15
8 calendar years and pay a fine of \$250,000.

9 2. Any person who knowingly brings into this state 800
10 grams or more of phencyclidine or of any mixture containing
11 phencyclidine, as described in s. 893.03(2)(b), and who knows
12 that the probable result of such importation would be the
13 death of any person commits capital importation of
14 phencyclidine, a capital felony punishable as provided in ss.
15 775.082 and 921.142. Any person sentenced for a capital felony
16 under this paragraph shall also be sentenced to pay the
17 maximum fine provided under subparagraph 1.

18 (e)1. Any person who knowingly sells, purchases,
19 manufactures, delivers, or brings into this state, or who is
20 knowingly in actual or constructive possession of, 200 grams
21 or more of methaqualone or of any mixture containing
22 methaqualone, as described in s. 893.03(1)(d), commits a
23 felony of the first degree, which felony shall be known as
24 "trafficking in methaqualone," punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084. If the quantity involved:

26 a. Is 200 grams or more, but less than 5 kilograms,
27 such person shall be sentenced to ~~pursuant to the Criminal~~
28 ~~Punishment Code and such sentence shall include~~ a mandatory
29 minimum term of imprisonment of 3 years, and the defendant
30 shall be ordered to pay a fine of \$50,000.

31

1 b. Is 5 kilograms or more, but less than 25 kilograms,
2 such person shall be sentenced to ~~pursuant to the Criminal~~
3 ~~Punishment Code and such sentence shall include~~ a mandatory
4 minimum term of imprisonment of 7 years, and the defendant
5 shall be ordered to pay a fine of \$100,000.

6 c. Is 25 kilograms or more, such person shall be
7 sentenced to a mandatory minimum term of imprisonment of 15
8 calendar years and pay a fine of \$250,000.

9 2. Any person who knowingly brings into this state 50
10 kilograms or more of methaqualone or of any mixture containing
11 methaqualone, as described in s. 893.03(1)(d), and who knows
12 that the probable result of such importation would be the
13 death of any person commits capital importation of
14 methaqualone, a capital felony punishable as provided in ss.
15 775.082 and 921.142. Any person sentenced for a capital felony
16 under this paragraph shall also be sentenced to pay the
17 maximum fine provided under subparagraph 1.

18 (f)1. Any person who knowingly sells, purchases,
19 manufactures, delivers, or brings into this state, or who is
20 knowingly in actual or constructive possession of, 14 grams or
21 more of amphetamine, as described in s. 893.03(2)(c)2., or
22 methamphetamine, as described in s. 893.03(2)(c)4., or of any
23 mixture containing amphetamine or methamphetamine, or
24 phenylacetone, phenylacetic acid, or ephedrine in conjunction
25 with other chemicals and equipment utilized in the manufacture
26 of amphetamine or methamphetamine, commits a felony of the
27 first degree, which felony shall be known as "trafficking in
28 amphetamine," punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084. If the quantity involved:

30 a. Is 14 grams or more, but less than 28 grams, such
31 person shall be sentenced to ~~pursuant to the Criminal~~

1 ~~Punishment Code and such sentence shall include~~ a mandatory
2 minimum term of imprisonment of 3 years, and the defendant
3 shall be ordered to pay a fine of \$50,000.

4 b. Is 28 grams or more, but less than 200 grams, such
5 person shall be sentenced to ~~pursuant to the Criminal~~
6 ~~Punishment Code and such sentence shall include~~ a mandatory
7 minimum term of imprisonment of 7 years and the defendant
8 shall be ordered to pay a fine of \$100,000.

9 c. Is 200 grams or more, such person shall be
10 sentenced to a mandatory minimum term of imprisonment of 15
11 calendar years and pay a fine of \$250,000.

12 2. Any person who knowingly manufactures or brings
13 into this state 400 grams or more of amphetamine, as described
14 in s. 893.03(2)(c)2., or methamphetamine, as described in s.
15 893.03(2)(c)4., or of any mixture containing amphetamine or
16 methamphetamine, or phenylacetone, phenylacetic acid, or
17 ephedrine in conjunction with other chemicals and equipment
18 used ~~utilized~~ in the manufacture of amphetamine or
19 methamphetamine, and who knows that the probable result of
20 such manufacture or importation would be the death of any
21 person commits capital manufacture or importation of
22 amphetamine, a capital felony punishable as provided in ss.
23 775.082 and 921.142. Any person sentenced for a capital felony
24 under this paragraph shall also be sentenced to pay the
25 maximum fine provided under subparagraph 1.

26 (g)1. Any person who knowingly sells, purchases,
27 manufactures, delivers, or brings into this state, or who is
28 knowingly in actual or constructive possession of, 4 grams or
29 more of flunitrazepam or any mixture containing flunitrazepam
30 as described in s. 893.03(1)(a) commits a felony of the first
31 degree, which felony shall be known as "trafficking in

1 flunitrazepam," punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084. If the quantity involved:
3 a. Is 4 grams or more but less than 14 grams, such
4 person shall be sentenced to ~~pursuant to the Criminal~~
5 ~~Punishment Code and such sentence shall include~~ a mandatory
6 minimum term of imprisonment of 3 years and the defendant
7 shall be ordered to pay a fine of \$50,000.
8 b. Is 14 grams or more but less than 28 grams, such
9 person shall be sentenced to ~~pursuant to the Criminal~~
10 ~~Punishment Code and such sentence shall include~~ a mandatory
11 minimum term of imprisonment of 7 years, and the defendant
12 shall be ordered to pay a fine of \$100,000.
13 c. Is 28 grams or more but less than 30 kilograms,
14 such person shall be sentenced to a mandatory minimum term of
15 imprisonment of 25 calendar years and pay a fine of \$500,000.
16 2. Any person who knowingly sells, purchases,
17 manufactures, delivers, or brings into this state or who is
18 knowingly in actual or constructive possession of 30 kilograms
19 or more of flunitrazepam or any mixture containing
20 flunitrazepam as described in s. 893.03(1)(a) commits the
21 first degree felony of trafficking in flunitrazepam. A person
22 who has been convicted of the first degree felony of
23 trafficking in flunitrazepam under this subparagraph shall be
24 punished by life imprisonment and is ineligible for any form
25 of discretionary early release except pardon or executive
26 clemency or conditional medical release under s. 947.149.
27 However, if the court determines that, in addition to
28 committing any act specified in this paragraph:
29 a. The person intentionally killed an individual or
30 counseled, commanded, induced, procured, or caused the
31

1 intentional killing of an individual and such killing was the
2 result; or

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

5
6 such person commits the capital felony of trafficking in
7 flunitrazepam, punishable as provided in ss. 775.082 and
8 921.142. Any person sentenced for a capital felony under this
9 paragraph shall also be sentenced to pay the maximum fine
10 provided under subparagraph 1.

11 (h)1. Any person who knowingly sells, purchases,
12 manufactures, delivers, or brings into this state, or who is
13 knowingly in actual or constructive possession of, 1 kilogram
14 or more of gamma-hydroxybutyric acid (GHB), as described in s.
15 893.03(2)(b), or of any mixture containing
16 gamma-hydroxybutyric acid (GHB), commits a felony of the first
17 degree, which felony shall be known as "trafficking in
18 gamma-hydroxybutyric acid (GHB)", punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084. If the quantity involved:

20 a. Is 1 kilogram or more, but less than 5 kilograms,
21 such person shall be sentenced to a mandatory minimum term of
22 imprisonment of 3 years, and the defendant shall be ordered to
23 pay a fine of \$50,000.

24 b. Is 5 kilograms or more, but less than 10 kilograms,
25 such person shall be sentenced to a mandatory minimum term of
26 imprisonment of 7 years, and the defendant shall be ordered to
27 pay a fine of \$100,000.

28 c. Is 10 kilograms or more, such person shall be
29 sentenced to a mandatory minimum term of imprisonment of 15
30 calendar years and pay a fine of \$250,000.

31

1 2. Any person who knowingly manufactures or brings
2 into this state 150 kilograms or more of gamma-hydroxybutyric
3 acid (GHB), as described in s. 893.03(2)(b), or of any mixture
4 containing gamma-hydroxybutyric acid (GHB), and who knows that
5 the probable result of such manufacture or importation would
6 be the death of any person commits capital manufacture or
7 importation of gamma-hydroxybutyric acid (GHB), a capital
8 felony punishable as provided in ss. 775.082 and 921.142. Any
9 person sentenced for a capital felony under this paragraph
10 shall also be sentenced to pay the maximum fine provided under
11 subparagraph 1.

12 (i)1. Any person who knowingly sells, purchases,
13 manufactures, delivers, or brings into this state, or who is
14 knowingly in actual or constructive possession of, 1 kilogram
15 or more of 1,4-Butanediol, as described in s. 893.03(2)(b), or
16 of any mixture containing 1,4-Butanediol, commits a felony of
17 the first degree, which felony shall be known as "trafficking
18 in 1,4-Butanediol," punishable as provided in s. 775.082, s.
19 775.083, or s. 775.084. If the quantity involved:

20 a. Is 1 kilogram or more, but less than 5 kilograms,
21 such person shall be sentenced to a mandatory minimum term of
22 imprisonment of 3 years, and the defendant shall be ordered to
23 pay a fine of \$50,000.

24 b. Is 5 kilograms or more, but less than 10 kilograms,
25 such person shall be sentenced to a mandatory minimum term of
26 imprisonment of 7 years, and the defendant shall be ordered to
27 pay a fine of \$100,000.

28 c. Is 10 kilograms or more, such person shall be
29 sentenced to a mandatory minimum term of imprisonment of 15
30 calendar years and pay a fine of \$500,000.

31

1 2. Any person who knowingly manufactures or brings
2 into this state 150 kilograms or more of 1,4-Butanediol, as
3 described in s. 893.03(2)(b), or any mixture containing
4 1,4-Butanediol, and who knows that the probable result of such
5 manufacture or importation would be the death of any person
6 commits capital manufacture or importation of 1,4-Butanediol,
7 a capital felony punishable as provided in ss. 775.082 and
8 921.142. Any person sentenced for a capital felony under this
9 paragraph shall also be sentenced to pay the maximum fine
10 provided under subparagraph 1.

11 (j)1. Any person who knowingly sells, purchases,
12 manufactures, delivers, or brings into this state, or who is
13 knowingly in actual or constructive possession of, 10 grams or
14 more of any of the following substances described in s.
15 893.03(1)(a) or (1)(c):

- 16 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 17 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 18 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 19 d. 2,5-Dimethoxyamphetamine;
- 20 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 21 f. N-ethylamphetamine;
- 22 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 23 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 24 i. 4-methoxyamphetamine;
- 25 j. 4-Methyl-2,5-dimethoxyamphetamine;
- 26 k. 3,4-Methylenedioxy-N-ethylamphetamine;
- 27 l. 3,4-Methylenedioxyamphetamine;
- 28 m. N,N-dimethylamphetamine; or
- 29 n. 3,4,5-Trimethoxyamphetamine,

1 individually or in any combination of or any mixture
2 containing any substance listed in sub-subparagraphs a.-n.,
3 commits a felony of the first degree, which felony shall be
4 known as "trafficking in Phenethylamines," punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084.

6 2. If the quantity involved:

7 a. Is 10 grams or more but less than 200 grams, such
8 person shall be sentenced to a mandatory minimum term of
9 imprisonment of 3 years, and the defendant shall be ordered to
10 pay a fine of \$50,000.

11 b. Is 200 grams or more, but less than 400 grams, such
12 person shall be sentenced to a mandatory minimum term of
13 imprisonment of 7 years, and the defendant shall be ordered to
14 pay a fine of \$100,000.

15 c. Is 400 grams or more, such person shall be
16 sentenced to a mandatory minimum term of imprisonment of 15
17 calendar years and pay a fine of \$250,000.

18 3. Any person who knowingly manufactures or brings
19 into this state 30 kilograms or more of any of the following
20 substances described in s. 893.03(1)(a) or (1)(c):

21 a. 3,4-Methylenedioxymethamphetamine (MDMA);

22 b. 4-Bromo-2,5-dimethoxyamphetamine;

23 c. 4-Bromo-2,5-dimethoxyphenethylamine;

24 d. 2,5-Dimethoxyamphetamine;

25 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

26 f. N-ethylamphetamine;

27 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

28 h. 5-Methoxy-3,4-methylenedioxyamphetamine;

29 i. 4-methoxyamphetamine;

30 j. 4-Methyl-2,5-dimethoxyamphetamine;

31 k. 3,4-Methylenedioxy-N-ethylamphetamine;

1 l. 3,4-Methylenedioxyamphetamine;
2 m. N,N-dimethylamphetamine; or
3 n. 3,4,5-Trimethoxyamphetamine,
4
5 individually or in any combination of or any mixture
6 containing any substance listed in sub-subparagraphs a.-n.,
7 and who knows that the probable result of such manufacture or
8 importation would be the death of any person commits capital
9 manufacture or importation of Phenethylamines, a capital
10 felony punishable as provided in ss. 775.082 and 921.142. Any
11 person sentenced for a capital felony under this paragraph
12 shall also be sentenced to pay the maximum fine provided under
13 subparagraph 1.

14 (2) A person acts knowingly under subsection (1) if
15 that person intends to sell, purchase, manufacture, deliver,
16 or bring into this state, or to actually or constructively
17 possess, any of the controlled substances listed in subsection
18 (1), regardless of which controlled substance listed in
19 subsection (1) is in fact sold, purchased, manufactured,
20 delivered, or brought into this state, or actually or
21 constructively possessed.

22 (3) Notwithstanding the provisions of s. 948.01, with
23 respect to any person who is found to have violated this
24 section, adjudication of guilt or imposition of sentence shall
25 not be suspended, deferred, or withheld, nor shall such person
26 be eligible for parole prior to serving the mandatory minimum
27 term of imprisonment prescribed by this section. A person
28 sentenced to a mandatory minimum term of imprisonment under
29 this section is not eligible for any form of discretionary
30 early release, except pardon or executive clemency or
31

1 conditional medical release under s. 947.149, prior to serving
2 the mandatory minimum term of imprisonment.

3 (4) The state attorney may move the sentencing court
4 to reduce or suspend the sentence of any person who is
5 convicted of a violation of this section and who provides
6 substantial assistance in the identification, arrest, or
7 conviction of any of that person's accomplices, accessories,
8 coconspirators, or principals or of any other person engaged
9 in trafficking in controlled substances. The arresting agency
10 shall be given an opportunity to be heard in aggravation or
11 mitigation in reference to any such motion. Upon good cause
12 shown, the motion may be filed and heard in camera. The judge
13 hearing the motion may reduce or suspend the sentence if the
14 judge finds that the defendant rendered such substantial
15 assistance.

16 (5) Any person who agrees, conspires, combines, or
17 confederates with another person to commit any act prohibited
18 by subsection (1) commits a felony of the first degree and is
19 punishable as if he or she had actually committed such
20 prohibited act. Nothing in this subsection shall be construed
21 to prohibit separate convictions and sentences for a violation
22 of this subsection and any violation of subsection (1).

23 Section 5. Subsections (2) and (3) of section 775.087,
24 Florida Statutes, are amended to read:

25 775.087 Possession or use of weapon; aggravated
26 battery; felony reclassification; minimum sentence.--

27 (2)(a)1. Any person who is convicted of a felony or an
28 attempt to commit a felony, regardless of whether the use of a
29 weapon is an element of the felony, and the conviction was
30 for:

31 a. Murder;

- 1 b. Sexual battery;
- 2 c. Robbery;
- 3 d. Burglary;
- 4 e. Arson;
- 5 f. Aggravated assault;
- 6 g. Aggravated battery;
- 7 h. Kidnapping;
- 8 i. Escape;
- 9 j. Aircraft piracy;
- 10 k. Aggravated child abuse;
- 11 l. Aggravated abuse of an elderly person or disabled
- 12 adult;
- 13 m. Unlawful throwing, placing, or discharging of a
- 14 destructive device or bomb;
- 15 n. Carjacking;
- 16 o. Home-invasion robbery;
- 17 p. Aggravated stalking;
- 18 q. Trafficking in cannabis, trafficking in cocaine,
- 19 capital importation of cocaine, trafficking in illegal drugs,
- 20 capital importation of illegal drugs, trafficking in
- 21 phencyclidine, capital importation of phencyclidine,
- 22 trafficking in methaqualone, capital importation of
- 23 methaqualone, trafficking in amphetamine, capital importation
- 24 of amphetamine, trafficking in flunitrazepam, trafficking in
- 25 gamma-hydroxybutyric acid (GHB), trafficking in
- 26 1,4-Butanediol, trafficking in Phenethylamines,or other
- 27 violation of s. 893.135(1); or
- 28 r. Possession of a firearm by a felon
- 29
- 30 and during the commission of the offense, such person actually
- 31 possessed a "firearm" or "destructive device" as those terms

1 are defined in s. 790.001, shall be sentenced to a minimum
2 term of imprisonment of 10 years, except that a person who is
3 convicted for aggravated assault, possession of a firearm by a
4 felon, or burglary of a conveyance shall be sentenced to a
5 minimum term of imprisonment of 3 years if such person
6 possessed a "firearm" or "destructive device" during the
7 commission of the offense.

8 2. Any person who is convicted of a felony or an
9 attempt to commit a felony listed in sub-subparagraphs
10 (a)1.a.-q., regardless of whether the use of a weapon is an
11 element of the felony, and during the course of the commission
12 of the felony such person discharged a "firearm" or
13 "destructive device" as defined in s. 790.001 shall be
14 sentenced to a minimum term of imprisonment of 20 years.

15 3. Any person who is convicted of a felony or an
16 attempt to commit a felony listed in sub-subparagraphs
17 (a)1.a.-q., regardless of whether the use of a weapon is an
18 element of the felony, and during the course of the commission
19 of the felony such person discharged a "firearm" or
20 "destructive device" as defined in s. 790.001 and, as the
21 result of the discharge, death or great bodily harm was
22 inflicted upon any person, the convicted person shall be
23 sentenced to a minimum term of imprisonment of not less than
24 25 years and not more than a term of imprisonment of life in
25 prison.

26 (b) Subparagraph (a)1., subparagraph (a)2., or
27 subparagraph (a)3. does not prevent a court from imposing a
28 longer sentence of incarceration as authorized by law in
29 addition to the minimum mandatory sentence, or from imposing a
30 sentence of death pursuant to other applicable law.

31 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.

1 does not authorize a court to impose a lesser sentence than
2 otherwise required by law.

3

4 Notwithstanding s. 948.01, adjudication of guilt or imposition
5 of sentence shall not be suspended, deferred, or withheld, and
6 the defendant is not eligible for statutory gain-time under s.
7 944.275 or any form of discretionary early release, other than
8 pardon or executive clemency, or conditional medical release
9 under s. 947.149, prior to serving the minimum sentence.

10 (c) If the minimum mandatory terms of imprisonment
11 imposed pursuant to this section exceed the maximum sentences
12 authorized by s. 775.082, s. 775.084, or the Criminal
13 Punishment Code under chapter 921, then the mandatory minimum
14 sentence must be imposed. If the mandatory minimum terms of
15 imprisonment pursuant to this section are less than the
16 sentences that could be imposed as authorized by s. 775.082,
17 s. 775.084, or the Criminal Punishment Code under chapter 921,
18 then the sentence imposed by the court must include the
19 mandatory minimum term of imprisonment as required in this
20 section.

21 (d) It is the intent of the Legislature that offenders
22 who actually possess, carry, display, use, threaten to use, or
23 attempt to use firearms or destructive devices be punished to
24 the fullest extent of the law, and the minimum terms of
25 imprisonment imposed pursuant to this subsection shall be
26 imposed for each qualifying felony count for which the person
27 is convicted. The court shall impose any term of imprisonment
28 provided for in this subsection consecutively to any other
29 term of imprisonment imposed for any other felony offense.

30 (3)(a)1. Any person who is convicted of a felony or an
31 attempt to commit a felony, regardless of whether the use of a

1 firearm is an element of the felony, and the conviction was
2 for:
3 a. Murder;
4 b. Sexual battery;
5 c. Robbery;
6 d. Burglary;
7 e. Arson;
8 f. Aggravated assault;
9 g. Aggravated battery;
10 h. Kidnapping;
11 i. Escape;
12 j. Sale, manufacture, delivery, or intent to sell,
13 manufacture, or deliver any controlled substance;
14 k. Aircraft piracy;
15 l. Aggravated child abuse;
16 m. Aggravated abuse of an elderly person or disabled
17 adult;
18 n. Unlawful throwing, placing, or discharging of a
19 destructive device or bomb;
20 o. Carjacking;
21 p. Home-invasion robbery;
22 q. Aggravated stalking; or
23 r. Trafficking in cannabis, trafficking in cocaine,
24 capital importation of cocaine, trafficking in illegal drugs,
25 capital importation of illegal drugs, trafficking in
26 phencyclidine, capital importation of phencyclidine,
27 trafficking in methaqualone, capital importation of
28 methaqualone, trafficking in amphetamine, capital importation
29 of amphetamine, trafficking in
30 gamma-hydroxybutyric acid (GHB), trafficking in
31

1 1,4-Butanediol, trafficking in Phenethylamines, or other
2 violation of s. 893.135(1);
3
4 and during the commission of the offense, such person
5 possessed a semiautomatic firearm and its high-capacity
6 detachable box magazine or a machine gun as defined in s.
7 790.001, shall be sentenced to a minimum term of imprisonment
8 of 15 years.

9 2. Any person who is convicted of a felony or an
10 attempt to commit a felony listed in subparagraph (a)1.,
11 regardless of whether the use of a weapon is an element of the
12 felony, and during the course of the commission of the felony
13 such person discharged a semiautomatic firearm and its
14 high-capacity box magazine or a "machine gun" as defined in s.
15 790.001 shall be sentenced to a minimum term of imprisonment
16 of 20 years.

17 3. Any person who is convicted of a felony or an
18 attempt to commit a felony listed in subparagraph (a)1.,
19 regardless of whether the use of a weapon is an element of the
20 felony, and during the course of the commission of the felony
21 such person discharged a semiautomatic firearm and its
22 high-capacity box magazine or a "machine gun" as defined in s.
23 790.001 and, as the result of the discharge, death or great
24 bodily harm was inflicted upon any person, the convicted
25 person shall be sentenced to a minimum term of imprisonment of
26 not less than 25 years and not more than a term of
27 imprisonment of life in prison.

28 (b) Subparagraph (a)1., subparagraph (a)2., or
29 subparagraph (a)3. does not prevent a court from imposing a
30 longer sentence of incarceration as authorized by law in
31 addition to the minimum mandatory sentence, or from imposing a

1 sentence of death pursuant to other applicable law.
2 Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3.
3 does not authorize a court to impose a lesser sentence than
4 otherwise required by law.

5
6 Notwithstanding s. 948.01, adjudication of guilt or imposition
7 of sentence shall not be suspended, deferred, or withheld, and
8 the defendant is not eligible for statutory gain-time under s.
9 944.275 or any form of discretionary early release, other than
10 pardon or executive clemency, or conditional medical release
11 under s. 947.149, prior to serving the minimum sentence.

12 (c) If the minimum mandatory terms of imprisonment
13 imposed pursuant to this section exceed the maximum sentences
14 authorized by s. 775.082, s. 775.084, or the Criminal
15 Punishment Code under chapter 921, then the mandatory minimum
16 sentence must be imposed. If the mandatory minimum terms of
17 imprisonment pursuant to this section are less than the
18 sentences that could be imposed as authorized by s. 775.082,
19 s. 775.084, or the Criminal Punishment Code under chapter 921,
20 then the sentence imposed by the court must include the
21 mandatory minimum term of imprisonment as required in this
22 section.

23 (d) It is the intent of the Legislature that offenders
24 who possess, carry, display, use, threaten to use, or attempt
25 to use a semiautomatic firearm and its high-capacity
26 detachable box magazine or a machine gun as defined in s.
27 790.001 be punished to the fullest extent of the law, and the
28 minimum terms of imprisonment imposed pursuant to this
29 subsection shall be imposed for each qualifying felony count
30 for which the person is convicted. The court shall impose any
31 term of imprisonment provided for in this subsection

1 consecutively to any other term of imprisonment imposed for
2 any other felony offense.

3 (e) As used in this subsection, the term:

4 1. "High-capacity detachable box magazine" means any
5 detachable box magazine, for use in a semiautomatic firearm,
6 which is capable of being loaded with more than 20 centerfire
7 cartridges.

8 2. "Semiautomatic firearm" means a firearm which is
9 capable of firing a series of rounds by separate successive
10 depressions of the trigger and which uses the energy of
11 discharge to perform a portion of the operating cycle.

12 Section 6. Section 893.145, Florida Statutes, is
13 amended to read:

14 893.145 "Drug paraphernalia" defined.--The term "drug
15 paraphernalia" means all equipment, products, and materials of
16 any kind which are used, intended for use, or designed for use
17 in planting, propagating, cultivating, growing, harvesting,
18 manufacturing, compounding, converting, producing, processing,
19 preparing, testing, analyzing, packaging, repackaging,
20 storing, containing, concealing, injecting, ingesting,
21 inhaling, or otherwise introducing into the human body a
22 controlled substance in violation of this chapter or s.
23 877.111. Drug paraphernalia is deemed to be contraband which
24 shall be subject to civil forfeiture. The term includes, but
25 is not limited to:

26 (1) Kits used, intended for use, or designed for use
27 in the planting, propagating, cultivating, growing, or
28 harvesting of any species of plant which is a controlled
29 substance or from which a controlled substance can be derived.

30
31

1 (2) Kits used, intended for use, or designed for use
2 in manufacturing, compounding, converting, producing,
3 processing, or preparing controlled substances.

4 (3) Isomerization devices used, intended for use, or
5 designed for use in increasing the potency of any species of
6 plant which is a controlled substance.

7 (4) Testing equipment used, intended for use, or
8 designed for use in identifying, or in analyzing the strength,
9 effectiveness, or purity of, controlled substances.

10 (5) Scales and balances used, intended for use, or
11 designed for use in weighing or measuring controlled
12 substances.

13 (6) Diluents and adulterants, such as quinine
14 hydrochloride, mannitol, mannite, dextrose, and lactose, used,
15 intended for use, or designed for use in cutting controlled
16 substances.

17 (7) Separation gins and sifters used, intended for
18 use, or designed for use in removing twigs and seeds from, or
19 in otherwise cleaning or refining, cannabis.

20 (8) Blenders, bowls, containers, spoons, and mixing
21 devices used, intended for use, or designed for use in
22 compounding controlled substances.

23 (9) Capsules, balloons, envelopes, and other
24 containers used, intended for use, or designed for use in
25 packaging small quantities of controlled substances.

26 (10) Containers and other objects used, intended for
27 use, or designed for use in storing or concealing controlled
28 substances.

29 (11) Hypodermic syringes, needles, and other objects
30 used, intended for use, or designed for use in parenterally
31 injecting controlled substances into the human body.

1 (12) Objects used, intended for use, or designed for
2 use in ingesting, inhaling, or otherwise introducing cannabis,
3 cocaine, hashish, ~~or hashish oil~~, or nitrous oxide into the
4 human body, such as:

5 (a) Metal, wooden, acrylic, glass, stone, plastic, or
6 ceramic pipes, with or without screens, permanent screens,
7 hashish heads, or punctured metal bowls.

8 (b) Water pipes.

9 (c) Carburetion tubes and devices.

10 (d) Smoking and carburetion masks.

11 (e) Roach clips: meaning objects used to hold burning
12 material, such as a cannabis cigarette, that has become too
13 small or too short to be held in the hand.

14 (f) Miniature cocaine spoons, and cocaine vials.

15 (g) Chamber pipes.

16 (h) Carburetor pipes.

17 (i) Electric pipes.

18 (j) Air-driven pipes.

19 (k) Chillums.

20 (l) Bongs.

21 (m) Ice pipes or chillers.

22 (n) A cartridge or canister: meaning a small metal
23 device used to contain nitrous oxide.

24 (o) A charger, sometimes referred to as a "cracker:"
25 meaning a small metal or plastic device that contains an
26 interior pin that may be used to expel nitrous oxide from a
27 cartridge or container.

28 (p) A charging bottle: meaning a device that may be
29 used to expel nitrous oxide from a cartridge or canister.

30 (q) A whip-it: meaning a device that may be used to
31 expel nitrous oxide.

- 1 (r) A tank.
- 2 (s) A balloon.
- 3 (t) A hose or tube.
- 4 (u) A 2-liter-type soda bottle.
- 5 (v) Duct tape.

6 Section 7. Paragraphs (b), (c), (d), (e), (g), (h),
7 and (i) of subsection (3) of section 921.0022, Florida
8 Statutes, are amended to 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
		(b) LEVEL 2
18 403.413(5)(c)	3rd	Dumps waste litter exceeding 500 19 lbs. in weight or 100 cubic feet 20 in volume or any quantity for 21 commercial purposes, or hazardous 22 waste.
23 517.07	3rd	Registration of securities and 24 furnishing of prospectus 25 required.
26 590.28(1)	3rd	Willful, malicious, or 27 intentional burning.
28 784.05(3)	3rd	Storing or leaving a loaded 29 firearm within reach of minor who 30 uses it to inflict injury or 31 death.

1	787.04(1)	3rd	In violation of court order,
2			take, entice, etc., minor beyond
3			state limits.
4	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
5			or more to public communication
6			or any other public service.
7	810.09(2)(e)	3rd	Trespassing on posted commerical
8			horticulture property.
9	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
10			more but less than \$5,000.
11	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
12			more but less than \$300, taken
13			from unenclosed curtilage of
14			dwelling.
15	817.234(1)(a)2.	3rd	False statement in support of
16			insurance claim.
17	817.481(3)(a)	3rd	Obtain credit or purchase with
18			false, expired, counterfeit,
19			etc., credit card, value over
20			\$300.
21	817.52(3)	3rd	Failure to redeliver hired
22			vehicle.
23	817.54	3rd	With intent to defraud, obtain
24			mortgage note, etc., by false
25			representation.
26	817.60(5)	3rd	Dealing in credit cards of
27			another.
28	817.60(6)(a)	3rd	Forgery; purchase goods, services
29			with false card.
30			
31			

1	817.61	3rd	Fraudulent use of credit cards
2			over \$100 or more within 6
3			months.
4	826.04	3rd	Knowingly marries or has sexual
5			intercourse with person to whom
6			related.
7	831.01	3rd	Forgery.
8	831.02	3rd	Uttering forged instrument;
9			utters or publishes alteration
10			with intent to defraud.
11	831.07	3rd	Forging bank bills or promissory
12			note.
13	831.08	3rd	Possession of 10 or more forged
14			notes.
15	831.09	3rd	Uttering forged bills; passes as
16			bank bill or promissory note.
17	832.05(3)(a)	3rd	Cashing or depositing item with
18			intent to defraud.
19	843.08	3rd	Falsely impersonating an officer.
20	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
21			<u>(2)(c)1., (2)(c)2., (2)(c)3.,</u>
22			<u>(2)(c)5., (2)(c)6., (2)(c)7.,</u>
23			<u>(2)(c)8., (2)(c)9.</u> (2)(c) , (3),
24			or (4) drugs other than cannabis.
25	893.147(2)	3rd	Manufacture or delivery of drug
26			paraphernalia.
27			(c) LEVEL 3
28	316.1935(2)	3rd	Fleeing or attempting to elude
29			law enforcement officer in marked
30			patrol vehicle with siren and
31			lights activated.

1	319.30(4)	3rd	Possession by junkyard of motor
2			vehicle with identification
3			number plate removed.
4	319.33(1)(a)	3rd	Alter or forge any certificate of
5			title to a motor vehicle or
6			mobile home.
7	319.33(1)(c)	3rd	Procure or pass title on stolen
8			vehicle.
9	319.33(4)	3rd	With intent to defraud, possess,
10			sell, etc., a blank, forged, or
11			unlawfully obtained title or
12			registration.
13	328.05(2)	3rd	Possess, sell, or counterfeit
14			fictitious, stolen, or fraudulent
15			titles or bills of sale of
16			vessels.
17	328.07(4)	3rd	Manufacture, exchange, or possess
18			vessel with counterfeit or wrong
19			ID number.
20	376.302(5)	3rd	Fraud related to reimbursement
21			for cleanup expenses under the
22			Inland Protection Trust Fund.
23	501.001(2)(b)	2nd	Tampers with a consumer product
24			or the container using materially
25			false/misleading information.
26	697.08	3rd	Equity skimming.
27	790.15(3)	3rd	Person directs another to
28			discharge firearm from a vehicle.
29	796.05(1)	3rd	Live on earnings of a prostitute.
30			
31			

1	806.10(1)	3rd	Maliciously injure, destroy, or
2			interfere with vehicles or
3			equipment used in firefighting.
4	806.10(2)	3rd	Interferes with or assaults
5			firefighter in performance of
6			duty.
7	810.09(2)(c)	3rd	Trespass on property other than
8			structure or conveyance armed
9			with firearm or dangerous weapon.
10	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
11			less than \$10,000.
12	815.04(4)(b)	2nd	Computer offense devised to
13			defraud or obtain property.
14	817.034(4)(a)3.	3rd	Engages in scheme to defraud
15			(Florida Communications Fraud
16			Act), property valued at less
17			than \$20,000.
18	817.233	3rd	Burning to defraud insurer.
19	828.12(2)	3rd	Tortures any animal with intent
20			to inflict intense pain, serious
21			physical injury, or death.
22	831.29	2nd	Possession of instruments for
23			counterfeiting drivers' licenses
24			or identification cards.
25	838.021(3)(b)	3rd	Threatens unlawful harm to public
26			servant.
27	843.19	3rd	Injure, disable, or kill police
28			dog or horse.
29	870.01(2)	3rd	Riot; inciting or encouraging.
30			
31			

1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), <u>(2)(c)1., (2)(c)2.,</u>
4			<u>(2)(c)3., (2)(c)5., (2)(c)6.,</u>
5			<u>(2)(c)7., (2)(c)8., (2)(c)9.</u>
6			(2)(c) , (3), or (4) drugs).
7	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), <u>(2)(c)1., (2)(c)2.,</u>
9			<u>(2)(c)3., (2)(c)5., (2)(c)6.,</u>
10			<u>(2)(c)7., (2)(c)8., (2)(c)9.</u>
11			(2)(c) , (3), or (4) drugs within
12			200 feet of university or public
13			park.
14	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
15			893.03(1)(c), <u>(2)(c)1., (2)(c)2.,</u>
16			<u>(2)(c)3., (2)(c)5., (2)(c)6.,</u>
17			<u>(2)(c)7., (2)(c)8., (2)(c)9.</u>
18			(2)(c) , (3), or (4) drugs within
19			200 feet of public housing
20			facility.
21	893.13(6)(a)	3rd	Possession of any controlled
22			substance other than felony
23			possession of cannabis.
24	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
25			controlled substance by fraud,
26			forgery, misrepresentation, etc.
27	893.13(7)(a)11.	3rd	Furnish false or fraudulent
28			material information on any
29			document or record required by
30			chapter 893.
31			

1	918.13(1)(a)	3rd	Alter, destroy, or conceal
2			investigation evidence.
3	944.47		
4	(1)(a)1.-2.	3rd	Introduce contraband to
5			correctional facility.
6	944.47(1)(c)	2nd	Possess contraband while upon the
7			grounds of a correctional
8			institution.
9	985.3141	3rd	Escapes from a juvenile facility
10			(secure detention or residential
11			commitment facility).
12			(d) LEVEL 4
13	316.1935(3)	2nd	Driving at high speed or with
14			wanton disregard for safety while
15			fleeing or attempting to elude
16			law enforcement officer who is in
17			a marked patrol vehicle with
18			siren and lights activated.
19	784.07(2)(b)	3rd	Battery of law enforcement
20			officer, firefighter, intake
21			officer, etc.
22	784.075	3rd	Battery on detention or
23			commitment facility staff.
24	784.08(2)(c)	3rd	Battery on a person 65 years of
25			age or older.
26	784.081(3)	3rd	Battery on specified official or
27			employee.
28	784.082(3)	3rd	Battery by detained person on
29			visitor or other detainee.
30	784.083(3)	3rd	Battery on code inspector.
31			

1	787.03(1)	3rd	Interference with custody;
2			wrongly takes child from
3			appointed guardian.
4	787.04(2)	3rd	Take, entice, or remove child
5			beyond state limits with criminal
6			intent pending custody
7			proceedings.
8	787.04(3)	3rd	Carrying child beyond state lines
9			with criminal intent to avoid
10			producing child at custody
11			hearing or delivering to
12			designated person.
13	790.115(1)	3rd	Exhibiting firearm or weapon
14			within 1,000 feet of a school.
15	790.115(2)(b)	3rd	Possessing electric weapon or
16			device, destructive device, or
17			other weapon on school property.
18	790.115(2)(c)	3rd	Possessing firearm on school
19			property.
20	800.04(7)(c)	3rd	Lewd or lascivious exhibition;
21			offender less than 18 years.
22	810.02(4)(a)	3rd	Burglary, or attempted burglary,
23			of an unoccupied structure;
24			unarmed; no assault or battery.
25	810.02(4)(b)	3rd	Burglary, or attempted burglary,
26			of an unoccupied conveyance;
27			unarmed; no assault or battery.
28	810.06	3rd	Burglary; possession of tools.
29	810.08(2)(c)	3rd	Trespass on property, armed with
30			firearm or dangerous weapon.
31			

1	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
2			or more but less than \$20,000.
3	812.014		
4	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
5			firearm, motor vehicle,
6			livestock, etc.
7	817.563(1)	3rd	Sell or deliver substance other
8			than controlled substance agreed
9			upon, excluding s. 893.03(5)
10			drugs.
11	828.125(1)	2nd	Kill, maim, or cause great bodily
12			harm or permanent breeding
13			disability to any registered
14			horse or cattle.
15	837.02(1)	3rd	Perjury in official proceedings.
16	837.021(1)	3rd	Make contradictory statements in
17			official proceedings.
18	843.025	3rd	Deprive law enforcement,
19			correctional, or correctional
20			probation officer of means of
21			protection or communication.
22	843.15(1)(a)	3rd	Failure to appear while on bail
23			for felony (bond estreature or
24			bond jumping).
25	874.05(1)	3rd	Encouraging or recruiting another
26			to join a criminal street gang.
27	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
28			893.03(1)(a), (b), or (d), or
29			(2)(a) or (b), <u>or 2(c)4.drugs</u>).
30	914.14(2)	3rd	Witnesses accepting bribes.
31			

1	914.22(1)	3rd	Force, threaten, etc., witness,
2			victim, or informant.
3	914.23(2)	3rd	Retaliation against a witness,
4			victim, or informant, no bodily
5			injury.
6	918.12	3rd	Tampering with jurors.
7			(e) LEVEL 5
8	316.027(1)(a)	3rd	Accidents involving personal
9			injuries, failure to stop;
10			leaving scene.
11	316.1935(4)	2nd	Aggravated fleeing or eluding.
12	322.34(6)	3rd	Careless operation of motor
13			vehicle with suspended license,
14			resulting in death or serious
15			bodily injury.
16	327.30(5)	3rd	Vessel accidents involving
17			personal injury; leaving scene.
18	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
19			knowing HIV positive.
20	790.01(2)	3rd	Carrying a concealed firearm.
21	790.162	2nd	Threat to throw or discharge
22			destructive device.
23	790.163	2nd	False report of deadly explosive.
24	790.165(2)	3rd	Manufacture, sell, possess, or
25			deliver hoax bomb.
26	790.221(1)	2nd	Possession of short-barreled
27			shotgun or machine gun.
28	790.23	2nd	Felons in possession of firearms
29			or electronic weapons or devices.
30	800.04(6)(c)	3rd	Lewd or lascivious conduct;
31			offender less than 18 years.

1	800.04(7)(b)	2nd	Lewd or lascivious exhibition;
2			offender 18 years or older.
3	806.111(1)	3rd	Possess, manufacture, or dispense
4			fire bomb with intent to damage
5			any structure or property.
6	812.019(1)	2nd	Stolen property; dealing in or
7			trafficking in.
8	812.131(2)(b)	3rd	Robbery by sudden snatching.
9	812.16(2)	3rd	Owning, operating, or conducting
10			a chop shop.
11	817.034(4)(a)2.	2nd	Communications fraud, value
12			\$20,000 to \$50,000.
13	825.1025(4)	3rd	Lewd or lascivious exhibition in
14			the presence of an elderly person
15			or disabled adult.
16	827.071(4)	2nd	Possess with intent to promote
17			any photographic material, motion
18			picture, etc., which includes
19			sexual conduct by a child.
20	843.01	3rd	Resist officer with violence to
21			person; resist arrest with
22			violence.
23	874.05(2)	2nd	Encouraging or recruiting another
24			to join a criminal street gang;
25			second or subsequent offense.
26	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
27			cocaine (or other s.
28			893.03(1)(a), (1)(b), (1)(d),
29			(2)(a), or (2)(b), <u>or (2)(c)</u> 4.
30			drugs).
31			

1 893.13(1)(c)2. 2nd Sell, manufacture, or deliver
2 cannabis (or other s.
3 893.03(1)(c), (2)(c)1., (2)(c)2.,
4 (2)(c)3., (2)(c)5., (2)(c)6.,
5 (2)(c)7., (2)(c)8., (2)(c)9.
6 ~~(2)(c)~~, (3), or (4) drugs) within
7 1,000 feet of a child care
8 facility or school.
9 893.13(1)(d)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), or (2)(c)4.
13 drugs) within 200 feet of
14 university or public park.
15 893.13(1)(e)2.
16 ~~893.13(1)(e)~~ 2nd Sell, manufacture, or deliver
17 cannabis or other drug prohibited
18 under s. 893.03(1)(c), (2)(c)1.,
19 (2)(c)2., (2)(c)3., (2)(c)5.,
20 (2)(c)6., (2)(c)7., (2)(c)8.,
21 (2)(c)9. ~~(2)(c)~~, (3), or (4)
22 within 1,000 feet of property
23 used for religious services or a
24 specified business site.
25 893.13(1)(f)1. 1st Sell, manufacture, or deliver
26 cocaine (or other s.
27 893.03(1)(a), (1)(b), (1)(d), or
28 (2)(a), ~~or~~ (2)(b), or (2)(c)4.
29 drugs) within 200 feet of public
30 housing facility.
31

1	893.13(4)(b)	2nd	Deliver to minor cannabis (or
2			other s. 893.03(1)(c), <u>(2)(c)1.,</u>
3			<u>(2)(c)2., (2)(c)3., (2)(c)5.,</u>
4			<u>(2)(c)6., (2)(c)7., (2)(c)8.,</u>
5			<u>(2)(c)9.</u> (2)(c) , (3), or (4)
6			drugs).
7			(g) LEVEL 7
8	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
9			injury.
10	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
11			bodily injury.
12	402.319(2)	2nd	Misrepresentation and negligence
13			or intentional act resulting in
14			great bodily harm, permanent
15			disfiguration, permanent
16			disability, or death.
17	409.920(2)	3rd	Medicaid provider fraud.
18	494.0018(2)	1st	Conviction of any violation of
19			ss. 494.001-494.0077 in which the
20			total money and property
21			unlawfully obtained exceeded
22			\$50,000 and there were five or
23			more victims.
24	782.051(3)	2nd	Attempted felony murder of a
25			person by a person other than the
26			perpetrator or the perpetrator of
27			an attempted felony.
28	782.07(1)	2nd	Killing of a human being by the
29			act, procurement, or culpable
30			negligence of another
31			(manslaughter).

1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.08(2)(a)	1st	Aggravated battery on a person 65
21			years of age or older.
22	784.081(1)	1st	Aggravated battery on specified
23			official or employee.
24	784.082(1)	1st	Aggravated battery by detained
25			person on visitor or other
26			detainee.
27	784.083(1)	1st	Aggravated battery on code
28			inspector.
29	790.07(4)	1st	Specified weapons violation
30			subsequent to previous conviction
31			of s. 790.07(1) or (2).

1	790.16(1)	1st	Discharge of a machine gun under
2			specified circumstances.
3	796.03	2nd	Procuring any person under 16
4			years for prostitution.
5	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
6			victim less than 12 years of age;
7			offender less than 18 years.
8	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
9			victim 12 years of age or older
10			but less than 16 years; offender
11			18 years or older.
12	806.01(2)	2nd	Maliciously damage structure by
13			fire or explosive.
14	810.02(3)(a)	2nd	Burglary of occupied dwelling;
15			unarmed; no assault or battery.
16	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
17			unarmed; no assault or battery.
18	810.02(3)(d)	2nd	Burglary of occupied conveyance;
19			unarmed; no assault or battery.
20	812.014(2)(a)	1st	Property stolen, valued at
21			\$100,000 or more; property stolen
22			while causing other property
23			damage; 1st degree grand theft.
24	812.019(2)	1st	Stolen property; initiates,
25			organizes, plans, etc., the theft
26			of property and traffics in
27			stolen property.
28	812.131(2)(a)	2nd	Robbery by sudden snatching.
29	812.133(2)(b)	1st	Carjacking; no firearm, deadly
30			weapon, or other weapon.
31			

1	825.102(3)(b)	2nd	Neglecting an elderly person or
2			disabled adult causing great
3			bodily harm, disability, or
4			disfigurement.
5	825.1025(2)	2nd	Lewd or lascivious battery upon
6			an elderly person or disabled
7			adult.
8	825.103(2)(b)	2nd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$20,000 or more, but
11			less than \$100,000.
12	827.03(3)(b)	2nd	Neglect of a child causing great
13			bodily harm, disability, or
14			disfigurement.
15	827.04(3)	3rd	Impregnation of a child under 16
16			years of age by person 21 years
17			of age or older.
18	837.05(2)	3rd	Giving false information about
19			alleged capital felony to a law
20			enforcement officer.
21	872.06	2nd	Abuse of a dead human body.
22	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
23			cocaine (or other drug prohibited
24			under s. 893.03(1)(a), (1)(b),
25			(1)(d), (2)(a), or (2)(b), <u>or</u>
26			<u>(2)(c)4.</u> within 1,000 feet of a
27			child care facility or school.
28	<u>893.13(1)(e)1.</u>		
29			
30			
31			

1	893.13(1)(e)	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), or (2)(b), <u>or</u>
5			<u>(2)(c)4.</u> , within 1,000 feet of
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), or (2)(b), <u>or</u>
12			<u>(2)(c)4.drugs</u>).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 50 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
30			
31			

1	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
2			than 14 grams, less than 28
3			grams.
4	893.135		
5	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
6			grams or more, less than 14
7			grams.
8	<u>893.135(1)(h)1.a.</u>	<u>1st</u>	<u>Trafficking in</u>
9			<u>gamma-hydroxybutyric acid (GHB),</u>
10			<u>1 kilogram or more, less than 5</u>
11			<u>kilograms.</u>
12	<u>893.135(1)(i)1.a.</u>	<u>1st</u>	<u>Trafficking in 1,4-Butanediol, 1</u>
13			<u>kilogram or more, less than 5</u>
14			<u>kilograms.</u>
15	<u>893.135(1)(j)2.a.</u>	<u>1st</u>	<u>Trafficking in Phenethylamines,</u>
16			<u>10 grams or more, less than 200</u>
17			<u>grams.</u>
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			

1	782.051(2)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony not
4			enumerated in s. 782.04(3).
5	782.071(2)	1st	Committing vehicular homicide and
6			failing to render aid or give
7			information.
8	782.072(2)	1st	Committing vessel homicide and
9			failing to render aid or give
10			information.
11	790.161(3)	1st	Discharging a destructive device
12			which results in bodily harm or
13			property damage.
14	794.011(5)	2nd	Sexual battery, victim 12 years
15			or over, offender does not use
16			physical force likely to cause
17			serious injury.
18	800.04(4)	2nd	Lewd or lascivious battery.
19	806.01(1)	1st	Maliciously damage dwelling or
20			structure by fire or explosive,
21			believing person in structure.
22	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
23	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
24			or dangerous weapon.
25	810.02(2)(c)	1st	Burglary of a dwelling or
26			structure causing structural
27			damage or \$1,000 or more property
28			damage.
29	812.13(2)(b)	1st	Robbery with a weapon.
30	812.135(2)	1st	Home-invasion robbery.
31			

1	825.102(2)	2nd	Aggravated abuse of an elderly
2			person or disabled adult.
3	825.103(2)(a)	1st	Exploiting an elderly person or
4			disabled adult and property is
5			valued at \$100,000 or more.
6	837.02(2)	2nd	Perjury in official proceedings
7			relating to prosecution of a
8			capital felony.
9	837.021(2)	2nd	Making contradictory statements
10			in official proceedings relating
11			to prosecution of a capital
12			felony.
13	860.121(2)(c)	1st	Shooting at or throwing any
14			object in path of railroad
15			vehicle resulting in great bodily
16			harm.
17	860.16	1st	Aircraft piracy.
18	893.13(1)(b)	1st	Sell or deliver in excess of 10
19			grams of any substance specified
20			in s. 893.03(1)(a) or (b).
21	893.13(2)(b)	1st	Purchase in excess of 10 grams of
22			any substance specified in s.
23			893.03(1)(a) or (b).
24	893.13(6)(c)	1st	Possess in excess of 10 grams of
25			any substance specified in s.
26			893.03(1)(a) or (b).
27	893.135(1)(a)2.	1st	Trafficking in cannabis, more
28			than 2,000 lbs., less than 10,000
29			lbs.
30			
31			

1	893.135		
2	(1)(b)1.b.	1st	Trafficking in cocaine, more than
3			200 grams, less than 400 grams.
4	893.135		
5	(1)(c)1.b.	1st	Trafficking in illegal drugs,
6			more than 14 grams, less than 28
7			grams.
8	893.135		
9	(1)(d)1.b.	1st	Trafficking in phencyclidine,
10			more than 200 grams, less than
11			400 grams.
12	893.135		
13	(1)(e)1.b.	1st	Trafficking in methaqualone, more
14			than 5 kilograms, less than 25
15			kilograms.
16	893.135		
17	(1)(f)1.b.	1st	Trafficking in amphetamine, more
18			than 28 grams, less than 200
19			grams.
20	893.135		
21	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
22			grams or more, less than 28
23			grams.
24	<u>893.135(1)(h)1.b.</u>	<u>1st</u>	<u>Trafficking in</u>
25			<u>gamma-hydroxybutyric acid (GHB),</u>
26			<u>5 kilograms or more, less than 10</u>
27			<u>kilograms.</u>
28	<u>893.135(1)(i)1.b.</u>	<u>1st</u>	<u>Trafficking in 1,4-Butanediol, 5</u>
29			<u>kilograms or more, less than 10</u>
30			<u>kilograms.</u>
31			

1	<u>893.135(1)(j)2.b.</u>	<u>1st</u>	<u>Trafficking in Phenethylamines,</u>
2			<u>200 grams or more, less than 400</u>
3			<u>grams.</u>
4	895.03(1)	1st	Use or invest proceeds derived
5			from pattern of racketeering
6			activity.
7	895.03(2)	1st	Acquire or maintain through
8			racketeering activity any
9			interest in or control of any
10			enterprise or real property.
11	895.03(3)	1st	Conduct or participate in any
12			enterprise through pattern of
13			racketeering activity.
14			(i) LEVEL 9
15	316.193		
16	(3)(c)3.b.	1st	DUI manslaughter; failing to
17			render aid or give information.
18	782.04(1)	1st	Attempt, conspire, or solicit to
19			commit premeditated murder.
20	782.04(3)	1st,PBL	Accomplice to murder in
21			connection with arson, sexual
22			battery, robbery, burglary, and
23			other specified felonies.
24	782.051(1)	1st	Attempted felony murder while
25			perpetrating or attempting to
26			perpetrate a felony enumerated in
27			s. 782.04(3).
28	782.07(2)	1st	Aggravated manslaughter of an
29			elderly person or disabled adult.
30	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
31			reward or as a shield or hostage.

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			aggravated child abuse, sexual
11			battery, or lewd or lascivious
12			battery, molestation, conduct, or
13			exhibition.
14	790.161	1st	Attempted capital destructive
15			device offense.
16	794.011(2)	1st	Attempted sexual battery; victim
17			less than 12 years of age.
18	794.011(2)	Life	Sexual battery; offender younger
19			than 18 years and commits sexual
20			battery on a person less than 12
21			years.
22	794.011(4)	1st	Sexual battery; victim 12 years
23			or older, certain circumstances.
24	794.011(8)(b)	1st	Sexual battery; engage in sexual
25			conduct with minor 12 to 18 years
26			by person in familial or
27			custodial authority.
28	800.04(5)(b)	1st	Lewd or lascivious molestation;
29			victim less than 12 years;
30			offender 18 years or older.
31			

1	812.13(2)(a)	1st,PBL	Robbery with firearm or other
2			deadly weapon.
3	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
4			deadly weapon.
5	827.03(2)	1st	Aggravated child abuse.
6	847.0145(1)	1st	Selling, or otherwise
7			transferring custody or control,
8			of a minor.
9	847.0145(2)	1st	Purchasing, or otherwise
10			obtaining custody or control, of
11			a minor.
12	859.01	1st	Poisoning food, drink, medicine,
13			or water with intent to kill or
14			injure another person.
15	893.135	1st	Attempted capital trafficking
16			offense.
17	893.135(1)(a)3.	1st	Trafficking in cannabis, more
18			than 10,000 lbs.
19	893.135		
20	(1)(b)1.c.	1st	Trafficking in cocaine, more than
21			400 grams, less than 150
22			kilograms.
23	893.135		
24	(1)(c)1.c.	1st	Trafficking in illegal drugs,
25			more than 28 grams, less than 30
26			kilograms.
27	893.135		
28	(1)(d)1.c.	1st	Trafficking in phencyclidine,
29			more than 400 grams.
30			
31			

1 893.135
2 (1)(e)1.c. 1st Trafficking in methaqualone, more
3 than 25 kilograms.
4 893.135
5 (1)(f)1.c. 1st Trafficking in amphetamine, more
6 than 200 grams.
7 893.135(1)(h)1.c. 1st Trafficking in
8 gamma-hydroxybutyric acid (GHB),
9 10 kilograms or more.
10 893.135(1)(i)1.c. 1st Trafficking in 1,4-Butanediol, 10
11 kilograms or more.
12 893.135(1)(j)2.c. 1st Trafficking in Phenethylamines,
13 400 grams or more.

14 Section 8. Paragraph (c) of subsection (1) and
15 paragraphs (c), (d), and (e) of subsection (2) of section
16 948.034, Florida Statutes, are amended to read:

17 948.034 Terms and conditions of probation; community
18 residential drug punishment centers.--

19 (1) On or after October 1, 1993, any person who
20 violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
21 (5)(a) may, in the discretion of the trial court, be required
22 to successfully complete a term of probation in lieu of
23 serving a term of imprisonment as required or authorized by s.
24 775.084, former s. 921.001, or s. 921.002, as follows:

25 (c) If the person has been previously convicted of two
26 felony violations of s. ~~893.13(1)(a)1., (1)(c)2., (1)(d)2.,~~
27 ~~(2)(a)1.~~ or (5)(a), adjudication may not be withheld and the
28 offender may be placed on probation for not less than 36
29 months, as a condition of which the court shall require the
30 offender to reside at a community residential drug punishment
31 center for 360 days. The offender must comply with all rules

1 and regulations of the center and must pay a fee for the costs
2 of room and board and residential supervision. Placement of an
3 offender into a community residential drug punishment center
4 is subject to budgetary considerations and availability of bed
5 space. If the court requires the offender to reside at a
6 community residential drug punishment center, the court shall
7 also require the offender to comply with one or more of the
8 other following terms and conditions:

9 1. Pay a fine of not less than \$1,500 nor more than
10 \$10,000 pursuant to s. 775.083(1)(c).

11 2. Enter, regularly attend, and successfully complete
12 a substance abuse education program of at least 40 hours or a
13 prescribed substance abuse treatment program provided by a
14 treatment resource licensed pursuant to chapter 397 or by a
15 hospital licensed pursuant to chapter 395, as specified by the
16 court. In addition, the court may refer the offender to a
17 licensed agency for substance abuse evaluation and, if
18 appropriate, substance abuse treatment subject to the ability
19 of the offender to pay for such evaluation and treatment. If
20 such referral is made, the offender must comply and must pay
21 for the reasonable cost of the evaluation and treatment.

22 3. Perform at least 300 hours of public service.

23 4. Submit to routine and random drug testing which may
24 be conducted during the probationary period, with the
25 reasonable costs thereof borne by the offender.

26 5. Participate, at his or her own expense, in an
27 appropriate self-help group, such as Narcotics Anonymous,
28 Alcoholics Anonymous, or Cocaine Anonymous, if available.

29 (2) On or after October 1, 1993, any person who
30 violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may,
31 in the discretion of the trial court, be required to

1 successfully complete a term of probation in lieu of serving a
2 term of imprisonment as required or authorized by s. 775.084,
3 former s. 921.001, or s. 921.002, as follows:

4 (c) If the person has been previously convicted of two
5 felony violations of s. 893.13~~(1)(a)2.,~~(2)(a)2., (5)(b), or
6 (6)(a), adjudication may not be withheld and the offender may
7 be placed on probation for not less than 24 months, as a
8 condition of which the court shall require the offender to
9 reside at a community residential drug punishment center for
10 120 days. The offender must comply with all rules and
11 regulations of the center and must pay a fee for the costs of
12 room and board and residential supervision. Placement of an
13 offender into a community residential drug punishment center
14 is subject to budgetary considerations and availability of bed
15 space. If the court requires the offender to reside at a
16 community residential drug punishment center, the court shall
17 also require the offender to comply with one or more of the
18 other following terms and conditions:

19 1. Pay a fine of not less than \$1,000 nor more than
20 \$5,000 pursuant to s. 775.083(1)(c).

21 2. Enter, regularly attend, and successfully complete
22 a prescribed substance abuse treatment program provided by a
23 treatment resource licensed pursuant to chapter 397 or by a
24 hospital licensed pursuant to chapter 395, as specified by the
25 court. In addition, the court may refer the offender to a
26 licensed agency for substance abuse evaluation and, if
27 appropriate, substance abuse treatment subject to the ability
28 of the offender to pay for such evaluation and treatment. If
29 such referral is made, the offender must comply and must pay
30 for the reasonable cost of the evaluation and treatment.

31 3. Perform at least 150 hours of public service.

1 4. Submit to routine and random drug testing which may
2 be conducted during the probationary period, with the
3 reasonable costs thereof borne by the offender.

4 5. Participate, at his or her own expense, in an
5 appropriate self-help group, such as Narcotics Anonymous,
6 Alcoholics Anonymous, or Cocaine Anonymous, if available.

7 (d) If the person has been previously convicted of
8 three felony violations of s. 893.13~~(1)(a)2.~~(2)(a)2.,
9 (5)(b), or (6)(a), adjudication may not be withheld and the
10 offender may be placed on probation for not less than 30
11 months, as a condition of which the court shall require the
12 offender to reside at a community residential drug punishment
13 center for 200 days. The offender must comply with all rules
14 and regulations of the center and must pay a fee for the costs
15 of room and board and residential supervision. Placement of an
16 offender into a community residential drug punishment center
17 is subject to budgetary considerations and availability of bed
18 space. If the court requires the offender to reside at a
19 community residential drug punishment center, the court shall
20 also require the offender to comply with one or more of the
21 other following terms and conditions:

22 1. Pay a fine of not less than \$1,500 nor more than
23 \$5,000 pursuant to s. 775.083(1)(c).

24 2. Enter, regularly attend, and successfully complete
25 a prescribed substance abuse treatment program provided by a
26 treatment resource licensed pursuant to chapter 397 or by a
27 hospital licensed pursuant to chapter 395, as specified by the
28 court. In addition, the court may refer the offender to a
29 licensed agency for substance abuse evaluation and, if
30 appropriate, substance abuse treatment subject to the ability
31 of the offender to pay for such evaluation and treatment. If

1 such referral is made, the offender must comply and must pay
2 for the reasonable cost of the evaluation and treatment.

3 3. Perform at least 200 hours of public service.

4 4. Submit to routine and random drug testing which may
5 be conducted during the probationary period, with the
6 reasonable costs thereof borne by the offender.

7 5. Participate, at his or her own expense, in an
8 appropriate self-help group, such as Narcotics Anonymous,
9 Alcoholics Anonymous, or Cocaine Anonymous, if available.

10 (e) If the person has been previously convicted of
11 four felony violations of s. 893.13~~(1)(a)2.~~(2)(a)2., (5)(b),
12 or (6)(a), adjudication may not be withheld and the offender
13 may be placed on probation for not less than 36 months, as a
14 condition of which the court shall require the offender to
15 reside at a community residential drug punishment center for
16 360 days. The offender must comply with all rules and
17 regulations of the center and must pay a fee for the costs of
18 room and board and residential supervision. Placement of an
19 offender into a community residential drug punishment center
20 is subject to budgetary considerations and availability of bed
21 space. If the court requires the offender to reside at a
22 community residential drug punishment center, the court shall
23 also require the offender to comply with one or more of the
24 other following terms and conditions:

25 1. Pay a fine of not less than \$2,000 nor more than
26 \$5,000 pursuant to s. 775.083(1)(c).

27 2. Enter, regularly attend, and successfully complete
28 a prescribed substance abuse treatment program provided by a
29 treatment resource licensed pursuant to chapter 397 or by a
30 hospital licensed pursuant to chapter 395, as specified by the
31 court. In addition, the court may refer the offender to a

1 licensed agency for substance abuse evaluation and, if
2 appropriate, substance abuse treatment subject to the ability
3 of the offender to pay for such evaluation and treatment. If
4 such referral is made, the offender must comply and must pay
5 for the reasonable cost of the evaluation and treatment.

6 3. Perform at least 250 hours of public service.

7 4. Submit to routine and random drug testing which may
8 be conducted during the probationary period, with the
9 reasonable costs thereof borne by the offender.

10 5. Participate, at his or her own expense, in an
11 appropriate self-help group, such as Narcotics Anonymous,
12 Alcoholics Anonymous, or Cocaine Anonymous, if available.

13 (f) An offender who violates probation imposed
14 pursuant to this section shall be sentenced in accordance with
15 s. 921.002.

16 Section 9. For the purpose of incorporating the
17 amendment to section 893.03, Florida Statutes, in a reference
18 thereto, paragraph (a) of subsection (30) of section 39.01,
19 Florida Statutes, is reenacted to read:

20 39.01 Definitions.--When used in this chapter, unless
21 the context otherwise requires:

22 (30) "Harm" to a child's health or welfare can occur
23 when any person:

24 (a) Inflicts or allows to be inflicted upon the child
25 physical, mental, or emotional injury. In determining whether
26 harm has occurred, the following factors must be considered in
27 evaluating any physical, mental, or emotional injury to a
28 child: the age of the child; any prior history of injuries to
29 the child; the location of the injury on the body of the
30 child; the multiplicity of the injury; and the type of trauma
31 inflicted. Such injury includes, but is not limited to:

- 1 1. Willful acts that produce the following specific
2 injuries:
3 a. Sprains, dislocations, or cartilage damage.
4 b. Bone or skull fractures.
5 c. Brain or spinal cord damage.
6 d. Intracranial hemorrhage or injury to other internal
7 organs.
8 e. Asphyxiation, suffocation, or drowning.
9 f. Injury resulting from the use of a deadly weapon.
10 g. Burns or scalding.
11 h. Cuts, lacerations, punctures, or bites.
12 i. Permanent or temporary disfigurement.
13 j. Permanent or temporary loss or impairment of a body
14 part or function.

15
16 As used in this subparagraph, the term "willful" refers to the
17 intent to perform an action, not to the intent to achieve a
18 result or to cause an injury.

19 2. Purposely giving a child poison, alcohol, drugs, or
20 other substances that substantially affect the child's
21 behavior, motor coordination, or judgment or that result in
22 sickness or internal injury. For the purposes of this
23 subparagraph, the term "drugs" means prescription drugs not
24 prescribed for the child or not administered as prescribed,
25 and controlled substances as outlined in Schedule I or
26 Schedule II of s. 893.03.

27 3. Leaving a child without adult supervision or
28 arrangement appropriate for the child's age or mental or
29 physical condition, so that the child is unable to care for
30 the child's own needs or another's basic needs or is unable to
31

1 exercise good judgment in responding to any kind of physical
2 or emotional crisis.

3 4. Inappropriate or excessively harsh disciplinary
4 action that is likely to result in physical injury, mental
5 injury as defined in this section, or emotional injury. The
6 significance of any injury must be evaluated in light of the
7 following factors: the age of the child; any prior history of
8 injuries to the child; the location of the injury on the body
9 of the child; the multiplicity of the injury; and the type of
10 trauma inflicted. Corporal discipline may be considered
11 excessive or abusive when it results in any of the following
12 or other similar injuries:

- 13 a. Sprains, dislocations, or cartilage damage.
- 14 b. Bone or skull fractures.
- 15 c. Brain or spinal cord damage.
- 16 d. Intracranial hemorrhage or injury to other internal
17 organs.
- 18 e. Asphyxiation, suffocation, or drowning.
- 19 f. Injury resulting from the use of a deadly weapon.
- 20 g. Burns or scalding.
- 21 h. Cuts, lacerations, punctures, or bites.
- 22 i. Permanent or temporary disfigurement.
- 23 j. Permanent or temporary loss or impairment of a body
24 part or function.
- 25 k. Significant bruises or welts.

26 Section 10. For the purpose of incorporating the
27 amendment to section 893.03, Florida Statutes, in a reference
28 thereto, subsection (5) of section 316.193, Florida Statutes,
29 is reenacted to read:

30 316.193 Driving under the influence; penalties.--

31

1 (5) The court shall place all offenders convicted of
2 violating this section on monthly reporting probation and
3 shall require completion of a substance abuse course conducted
4 by a DUI program licensed by the department under s. 322.292,
5 which must include a psychosocial evaluation of the offender.
6 If the DUI program refers the offender to an authorized
7 substance abuse treatment provider for substance abuse
8 treatment, in addition to any sentence or fine imposed under
9 this section, completion of all such education, evaluation,
10 and treatment is a condition of reporting probation. The
11 offender shall assume reasonable costs for such education,
12 evaluation, and treatment. The referral to treatment resulting
13 from a psychosocial evaluation shall not be waived without a
14 supporting independent psychosocial evaluation conducted by an
15 authorized substance abuse treatment provider appointed by the
16 court, which shall have access to the DUI program's
17 psychosocial evaluation before the independent psychosocial
18 evaluation is conducted. The court shall review the results
19 and recommendations of both evaluations before determining the
20 request for waiver. The offender shall bear the full cost of
21 this procedure. The term "substance abuse" means the abuse of
22 alcohol or any substance named or described in Schedules I
23 through V of s. 893.03. If an offender referred to treatment
24 under this subsection fails to report for or complete such
25 treatment or fails to complete the DUI program substance abuse
26 education course and evaluation, the DUI program shall notify
27 the court and the department of the failure. Upon receipt of
28 the notice, the department shall cancel the offender's driving
29 privilege, notwithstanding the terms of the court order or any
30 suspension or revocation of the driving privilege. The
31 department may temporarily reinstate the driving privilege on

1 a restricted basis upon verification from the DUI program that
2 the offender is currently participating in treatment and the
3 DUI education course and evaluation requirement has been
4 completed. If the DUI program notifies the department of the
5 second failure to complete treatment, the department shall
6 reinstate the driving privilege only after notice of
7 completion of treatment from the DUI program. The
8 organization that conducts the substance abuse education and
9 evaluation may not provide required substance abuse treatment
10 unless a waiver has been granted to that organization by the
11 department. A waiver may be granted only if the department
12 determines, in accordance with its rules, that the service
13 provider that conducts the substance abuse education and
14 evaluation is the most appropriate service provider and is
15 licensed under chapter 397 or is exempt from such licensure. A
16 statistical referral report shall be submitted quarterly to
17 the department by each organization authorized to provide
18 services under this section.

19 Section 11. For the purpose of incorporating the
20 amendment to section 893.03, Florida Statutes, in a reference
21 thereto, subsection (5) of section 327.35, Florida Statutes,
22 is reenacted to read:

23 327.35 Boating under the influence; penalties;
24 "designated drivers".--

25 (5) In addition to any sentence or fine, the court
26 shall place any offender convicted of violating this section
27 on monthly reporting probation and shall require attendance at
28 a substance abuse course specified by the court; and the
29 agency conducting the course may refer the offender to an
30 authorized service provider for substance abuse evaluation and
31 treatment, in addition to any sentence or fine imposed under

1 this section. The offender shall assume reasonable costs for
2 such education, evaluation, and treatment, with completion of
3 all such education, evaluation, and treatment being a
4 condition of reporting probation. Treatment resulting from a
5 psychosocial evaluation may not be waived without a supporting
6 psychosocial evaluation conducted by an agency appointed by
7 the court and with access to the original evaluation. The
8 offender shall bear the cost of this procedure. The term
9 "substance abuse" means the abuse of alcohol or any substance
10 named or described in Schedules I through V of s. 893.03.

11 Section 12. For the purpose of incorporating the
12 amendments to section 893.135, Florida Statutes, in a
13 reference thereto, subsection (7) of section 397.451, Florida
14 Statutes, is reenacted to read:

15 397.451 Background checks of service provider
16 personnel who have direct contact with unmarried minor clients
17 or clients who are developmentally disabled.--

18 (7) DISQUALIFICATION FROM RECEIVING STATE
19 FUNDS.--State funds may not be disseminated to any service
20 provider owned or operated by an owner or director who has
21 been convicted of, has entered a plea of guilty or nolo
22 contendere to, or has had adjudication withheld for, a
23 violation of s. 893.135 pertaining to trafficking in
24 controlled substances, or a violation of the law of another
25 state, the District of Columbia, the United States or any
26 possession or territory thereof, or any foreign jurisdiction
27 which is substantially similar in elements and penalties to a
28 trafficking offense in this state, unless the owner's or
29 director's civil rights have been restored.

30 Section 13. For the purpose of incorporating the
31 amendments to section 893.135, Florida Statutes, in a

1 reference thereto, subsection (1) of section 414.095, Florida
2 Statutes, is reenacted to read:

3 414.095 Determining eligibility for the WAGES
4 Program.--

5 (1) ELIGIBILITY.--An applicant must meet eligibility
6 requirements of this section before receiving services or
7 temporary cash assistance under this chapter, except that an
8 applicant shall be required to engage in work activities in
9 accordance with s. 414.065 and may receive support services or
10 child care assistance in conjunction with such requirement.
11 The department shall make a determination of eligibility based
12 on the criteria listed in this chapter. The department shall
13 monitor continued eligibility for temporary cash assistance
14 through periodic reviews consistent with the food stamp
15 eligibility process. Benefits shall not be denied to an
16 individual solely based on a felony drug conviction, unless
17 the conviction is for trafficking pursuant to s. 893.135. To
18 be eligible under this section, an individual convicted of a
19 drug felony must be satisfactorily meeting the requirements of
20 the WAGES Program, including all substance abuse treatment
21 requirements. Within the limits specified in this chapter, the
22 state opts out of the provision of Pub. L. No. 104-193, s.
23 115, that eliminates eligibility for temporary cash assistance
24 and food stamps for any individual convicted of a controlled
25 substance felony.

26 Section 14. For the purpose of incorporating the
27 amendment to section 893.03, Florida Statutes, in a reference
28 thereto, paragraph (b) of subsection (11) of section 440.102,
29 Florida Statutes, is reenacted to read:

30 440.102 Drug-free workplace program requirements.--The
31 following provisions apply to a drug-free workplace program

1 implemented pursuant to law or to rules adopted by the Agency
2 for Health Care Administration:

3 (11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR
4 SPECIAL-RISK POSITIONS.--

5 (b) An employee who is employed by a public employer
6 in a special-risk position may be discharged or disciplined by
7 a public employer for the first positive confirmed test result
8 if the drug confirmed is an illicit drug under s. 893.03. A
9 special-risk employee who is participating in an employee
10 assistance program or drug rehabilitation program may not be
11 allowed to continue to work in any special-risk or
12 safety-sensitive position of the public employer, but may be
13 assigned to a position other than a safety-sensitive position
14 or placed on leave while the employee is participating in the
15 program. However, the employee shall be permitted to use any
16 accumulated annual leave credits before leave may be ordered
17 without pay.

18 Section 15. For the purpose of incorporating the
19 amendments to section 893.135, Florida Statutes, in a
20 reference thereto, subsection (2) of section 772.12, Florida
21 Statutes, is reenacted to read:

22 772.12 Drug Dealer Liability Act.--

23 (2) A person, including any governmental entity, has a
24 cause of action for threefold the actual damages sustained and
25 is entitled to minimum damages in the amount of \$1,000 and
26 reasonable attorney's fees and court costs in the trial and
27 appellate courts, if the person proves by the greater weight
28 of the evidence that:

29 (a) The person was injured because of the defendant's
30 actions that resulted in the defendant's conviction for:

31

1 1. A violation of s. 893.13, except for a violation of
2 s. 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

3 2. A violation of s. 893.135; and

4 (b) The person was not injured by reason of his or her
5 participation in the same act or transaction that resulted in
6 the defendant's conviction for any offense described in
7 subparagraph (a)1.

8 Section 16. For the purpose of incorporating the
9 amendments to section 893.135, Florida Statutes, in references
10 thereto, paragraph (a) of subsection (1) and subsections (3)
11 and (4) of section 782.04, Florida Statutes, are reenacted to
12 read:

13 782.04 Murder.--

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

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

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

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

20 b. Arson,

21 c. Sexual battery,

22 d. Robbery,

23 e. Burglary,

24 f. Kidnapping,

25 g. Escape,

26 h. Aggravated child abuse,

27 i. Aggravated abuse of an elderly person or disabled
28 adult,

29 j. Aircraft piracy,

30 k. Unlawful throwing, placing, or discharging of a
31 destructive device or bomb,

- 1 1. Carjacking,
2 m. Home-invasion robbery,
3 n. Aggravated stalking,
4 o. Murder of another human being; or
5 3. Which resulted from the unlawful distribution of
6 any substance controlled under s. 893.03(1), cocaine as
7 described in s. 893.03(2)(a)4., or opium or any synthetic or
8 natural salt, compound, derivative, or preparation of opium by
9 a person 18 years of age or older, when such drug is proven to
10 be the proximate cause of the death of the user,
11
12 is murder in the first degree and constitutes a capital
13 felony, punishable as provided in s. 775.082.
14 (3) When a person is killed in the perpetration of, or
15 in the attempt to perpetrate, any:
16 (a) Trafficking offense prohibited by s. 893.135(1),
17 (b) Arson,
18 (c) Sexual battery,
19 (d) Robbery,
20 (e) Burglary,
21 (f) Kidnapping,
22 (g) Escape,
23 (h) Aggravated child abuse,
24 (i) Aggravated abuse of an elderly person or disabled
25 adult,
26 (j) Aircraft piracy,
27 (k) Unlawful throwing, placing, or discharging of a
28 destructive device or bomb,
29 (l) Carjacking,
30 (m) Home-invasion robbery,
31 (n) Aggravated stalking, or

1 (o) Murder of another human being,
2
3 by a person other than the person engaged in the perpetration
4 of or in the attempt to perpetrate such felony, the person
5 perpetrating or attempting to perpetrate such felony is guilty
6 of murder in the second degree, which constitutes a felony of
7 the first degree, punishable by imprisonment for a term of
8 years not exceeding life or as provided in s. 775.082, s.
9 775.083, or s. 775.084.

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

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

15 (b) Arson,

16 (c) Sexual battery,

17 (d) Robbery,

18 (e) Burglary,

19 (f) Kidnapping,

20 (g) Escape,

21 (h) Aggravated child abuse,

22 (i) Aggravated abuse of an elderly person or disabled
23 adult,

24 (j) Aircraft piracy,

25 (k) Unlawful throwing, placing, or discharging of a
26 destructive device or bomb,

27 (l) Unlawful distribution of any substance controlled
28 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
29 or opium or any synthetic or natural salt, compound,
30 derivative, or preparation of opium by a person 18 years of
31

1 age or older, when such drug is proven to be the proximate
2 cause of the death of the user,

3 (m) Carjacking,

4 (n) Home-invasion robbery,

5 (o) Aggravated stalking, or

6 (p) Murder of another human being,

7
8 is murder in the third degree and constitutes a felony of the
9 second degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084.

11 Section 17. For the purpose of incorporating the
12 amendment to section 893.03, Florida Statutes, in references
13 thereto, section 817.563, Florida Statutes, is reenacted to
14 read:

15 817.563 Controlled substance named or described in s.
16 893.03; sale of substance in lieu thereof.--It is unlawful for
17 any person to agree, consent, or in any manner offer to
18 unlawfully sell to any person a controlled substance named or
19 described in s. 893.03 and then sell to such person any other
20 substance in lieu of such controlled substance. Any person who
21 violates this section with respect to:

22 (1) A controlled substance named or described in s.
23 893.03(1), (2), (3), or (4) is guilty of a felony of the third
24 degree, punishable as provided in s. 775.082, s. 775.083, or
25 s. 775.084.

26 (2) A controlled substance named or described in s.
27 893.03(5) is guilty of a misdemeanor of the second degree,
28 punishable as provided in s. 775.082 or s. 775.083.

29 Section 18. For the purpose of incorporating the
30 amendment to section 893.03, Florida Statutes, in references
31

1 thereto, section 831.31, Florida Statutes, is reenacted to
2 read:

3 831.31 Counterfeit controlled substance; sale,
4 manufacture, delivery, or possession with intent to sell,
5 manufacture, or deliver.--

6 (1) It is unlawful for any person to sell,
7 manufacture, or deliver, or to possess with intent to sell,
8 manufacture, or deliver, a counterfeit controlled substance.
9 Any person who violates this subsection with respect to:

10 (a) A controlled substance named or described in s.
11 893.03(1), (2), (3), or (4) is guilty of a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 (b) A controlled substance named or described in s.
15 893.03(5) is guilty of a misdemeanor of the second degree,
16 punishable as provided in s. 775.082 or s. 775.083.

17 (2) For purposes of this section, "counterfeit
18 controlled substance" means:

19 (a) A controlled substance named or described in s.
20 893.03 which, or the container or labeling of which, without
21 authorization bears the trademark, trade name, or other
22 identifying mark, imprint, or number, or any likeness thereof,
23 of a manufacturer other than the person who in fact
24 manufactured the controlled substance; or

25 (b) Any substance which is falsely identified as a
26 controlled substance named or described in s. 893.03.

27 Section 19. For the purpose of incorporating the
28 amendment to section 893.03, Florida Statutes, in a reference
29 thereto, paragraph (d) of subsection (1) of section 856.015,
30 Florida Statutes, is reenacted to read:

31 856.015 Open house parties.--

1 (1) Definitions.--As used in this section:

2 (d) "Drug" means a controlled substance, as that term
3 is defined in ss. 893.02(4) and 893.03.

4 Section 20. For the purpose of incorporating the
5 amendment to section 893.03, Florida Statutes, in a reference
6 thereto, paragraph (a) of subsection (2) of section 893.0356,
7 Florida Statutes, is reenacted to read:

8 893.0356 Control of new substances; findings of fact;
9 "controlled substance analog" defined.--

10 (2)(a) As used in this section, "controlled substance
11 analog" means a substance which, due to its chemical structure
12 and potential for abuse, meets the following criteria:

13 1. Is substantially similar to that of a controlled
14 substance listed in Schedule I or Schedule II of s. 893.03;
15 and

16 2. Has a stimulant, depressant, or hallucinogenic
17 effect on the central nervous system or is represented or
18 intended to have a stimulant, depressant, or hallucinogenic
19 effect on the central nervous system substantially similar to
20 or greater than that of a controlled substance listed in
21 Schedule I or Schedule II of s. 893.03.

22 Section 21. For the purpose of incorporating the
23 amendment to section 893.03, Florida Statutes, in references
24 thereto, paragraphs (b), (c), and (d) of subsection (2) of
25 section 893.12, Florida Statutes, are reenacted to read:

26 893.12 Contraband; seizure, forfeiture, sale.--

27 (2)

28 (b) All real property, including any right, title,
29 leasehold interest, and other interest in the whole of any lot
30 or tract of land and any appurtenances or improvements, which
31 real property is used, or intended to be used, in any manner

1 or part, to commit or to facilitate the commission of, or
2 which real property is acquired with proceeds obtained as a
3 result of, a violation of any provision of this chapter
4 related to a controlled substance described in s. 893.03(1) or
5 (2) may be seized and forfeited as provided by the Florida
6 Contraband Forfeiture Act except that no property shall be
7 forfeited under this paragraph to the extent of an interest of
8 an owner or lienholder by reason of any act or omission
9 established by that owner or lienholder to have been committed
10 or omitted without the knowledge or consent of that owner or
11 lienholder.

12 (c) All moneys, negotiable instruments, securities,
13 and other things of value furnished or intended to be
14 furnished by any person in exchange for a controlled substance
15 described in s. 893.03(1) or (2) or a listed chemical in
16 violation of any provision of this chapter, all proceeds
17 traceable to such an exchange, and all moneys, negotiable
18 instruments, and securities used or intended to be used to
19 facilitate any violation of any provision of this chapter or
20 which are acquired with proceeds obtained in violation of any
21 provision of this chapter may be seized and forfeited as
22 provided by the Florida Contraband Forfeiture Act, except that
23 no property shall be forfeited under this paragraph to the
24 extent of an interest of an owner or lienholder by reason of
25 any act or omission established by that owner or lienholder to
26 have been committed or omitted without the knowledge or
27 consent of that owner or lienholder.

28 (d) All books, records, and research, including
29 formulas, microfilm, tapes, and data which are used, or
30 intended for use, or which are acquired with proceeds
31 obtained, in violation of any provision of this chapter

1 related to a controlled substance described in s. 893.03(1) or
2 (2) or a listed chemical may be seized and forfeited as
3 provided by the Florida Contraband Forfeiture Act.

4 Section 22. For the purpose of incorporating the
5 amendments to section 893.135, Florida Statutes, in a
6 reference thereto, subsection (1) of section 893.1351, Florida
7 Statutes, is reenacted to read:

8 893.1351 Lease or rent for the purpose of trafficking
9 in a controlled substance.--

10 (1) A person may not lease or rent any place,
11 structure, or part thereof, trailer, or other conveyance, with
12 the knowledge that such place, structure, trailer, or
13 conveyance will be used for the purpose of trafficking in a
14 controlled substance, as provided in s. 893.135, or the sale
15 of a controlled substance, as provided in s. 893.13.

16 Section 23. For the purpose of incorporating the
17 amendments to section 893.135, Florida Statutes, in a
18 reference thereto, section 903.133, Florida Statutes, is
19 reenacted to read:

20 903.133 Bail on appeal; prohibited for certain felony
21 convictions.--Notwithstanding the provisions of s. 903.132, no
22 person adjudged guilty of a felony of the first degree for a
23 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
24 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
25 violation of s. 794.011(2) or (3), shall be admitted to bail
26 pending review either by posttrial motion or appeal.

27 Section 24. For the purpose of incorporating the
28 amendments to section 893.135, Florida Statutes, in a
29 reference thereto, paragraph (b) of subsection (4) of section
30 907.041, Florida Statutes, is reenacted to read:

31 907.041 Pretrial detention and release.--

1 (4) PRETRIAL DETENTION.--

2 (b) The court may order pretrial detention if it finds
3 a substantial probability, based on a defendant's past and
4 present patterns of behavior, the criteria in s. 903.046, and
5 any other relevant facts, that:

6 1. The defendant has previously violated conditions of
7 release and that no further conditions of release are
8 reasonably likely to assure the defendant's appearance at
9 subsequent proceedings;

10 2. The defendant, with the intent to obstruct the
11 judicial process, has threatened, intimidated, or injured any
12 victim, potential witness, juror, or judicial officer, or has
13 attempted or conspired to do so, and that no condition of
14 release will reasonably prevent the obstruction of the
15 judicial process;

16 3. The defendant is charged with trafficking in
17 controlled substances as defined by s. 893.135, that there is
18 a substantial probability that the defendant has committed the
19 offense, and that no conditions of release will reasonably
20 assure the defendant's appearance at subsequent criminal
21 proceedings; or

22 4. The defendant poses the threat of harm to the
23 community. The court may so conclude if it finds that the
24 defendant is presently charged with a dangerous crime, that
25 there is a substantial probability that the defendant
26 committed such crime, that the factual circumstances of the
27 crime indicate a disregard for the safety of the community,
28 and that there are no conditions of release reasonably
29 sufficient to protect the community from the risk of physical
30 harm to persons. In addition, the court must find that at
31 least one of the following conditions is present:

1 a. The defendant has previously been convicted of a
2 crime punishable by death or life imprisonment.

3 b. The defendant has been convicted of a dangerous
4 crime within the 10 years immediately preceding the date of
5 his or her arrest for the crime presently charged.

6 c. The defendant is on probation, parole, or other
7 release pending completion of sentence or on pretrial release
8 for a dangerous crime at the time of the current arrest.

9 Section 25. For the purpose of incorporating the
10 amendments to section 893.135, Florida Statutes, in references
11 thereto, paragraph (b) of subsection (1) of section 921.0024,
12 Florida Statutes, is reenacted to read:

13 921.0024 Criminal Punishment Code; worksheet
14 computations; scoresheets.--

15 (1)

16 (b) WORKSHEET KEY:

17
18 Legal status points are assessed when any form of legal status
19 existed at the time the offender committed an offense before
20 the court for sentencing. Four (4) sentence points are
21 assessed for an offender's legal status.

22
23 Community sanction violation points are assessed when a
24 community sanction violation is before the court for
25 sentencing. Six (6) sentence points are assessed for each
26 community sanction violation, and each successive community
27 sanction violation; however, if the community sanction
28 violation includes a new felony conviction before the
29 sentencing court, twelve (12) community sanction violation
30 points are assessed for such violation, and for each
31 successive community sanction violation involving a new felony

1 conviction. Multiple counts of community sanction violations
2 before the sentencing court shall not be a basis for
3 multiplying the assessment of community sanction violation
4 points.

5
6 Prior serious felony points: If the offender has a primary
7 offense or any additional offense ranked in level 8, level 9,
8 or level 10, and one or more prior serious felonies, a single
9 assessment of 30 points shall be added. For purposes of this
10 section, a prior serious felony is an offense in the
11 offender's prior record that is ranked in level 8, level 9, or
12 level 10 under s. 921.0022 or s. 921.0023 and for which the
13 offender is serving a sentence of confinement, supervision, or
14 other sanction or for which the offender's date of release
15 from confinement, supervision, or other sanction, whichever is
16 later, is within 3 years before the date the primary offense
17 or any additional offense was committed.

18
19 Prior capital felony points: If the offender has one or more
20 prior capital felonies in the offender's criminal record,
21 points shall be added to the subtotal sentence points of the
22 offender equal to twice the number of points the offender
23 receives for the primary offense and any additional offense.
24 A prior capital felony in the offender's criminal record is a
25 previous capital felony offense for which the offender has
26 entered a plea of nolo contendere or guilty or has been found
27 guilty; or a felony in another jurisdiction which is a capital
28 felony in that jurisdiction, or would be a capital felony if
29 the offense were committed in this state.

30
31

1 Possession of a firearm, semiautomatic firearm, or machine
2 gun: If the offender is convicted of committing or attempting
3 to commit any felony other than those enumerated in s.
4 775.087(2) while having in his or her possession: a firearm as
5 defined in s. 790.001(6), an additional 18 sentence points are
6 assessed; or if the offender is convicted of committing or
7 attempting to commit any felony other than those enumerated in
8 s. 775.087(3) while having in his or her possession a
9 semiautomatic firearm as defined in s. 775.087(3) or a machine
10 gun as defined in s. 790.001(9), an additional 25 sentence
11 points are assessed.

12

13 Sentencing multipliers:

14

15 Drug trafficking: If the primary offense is drug trafficking
16 under s. 893.135, the subtotal sentence points are multiplied,
17 at the discretion of the court, for a level 7 or level 8
18 offense, by 1.5. The state attorney may move the sentencing
19 court to reduce or suspend the sentence of a person convicted
20 of a level 7 or level 8 offense, if the offender provides
21 substantial assistance as described in s. 893.135(4).

22

23 Law enforcement protection: If the primary offense is a
24 violation of the Law Enforcement Protection Act under s.
25 775.0823(2), the subtotal sentence points are multiplied by
26 2.5. If the primary offense is a violation of s. 775.0823(3),
27 (4), (5), (6), (7), or (8), the subtotal sentence points are
28 multiplied by 2.0. If the primary offense is a violation of s.
29 784.07(3) or s. 775.0875(1), or of the Law Enforcement
30 Protection Act under s. 775.0823(9) or (10), the subtotal
31 sentence points are multiplied by 1.5.

1
2 Grand theft of a motor vehicle: If the primary offense is
3 grand theft of the third degree involving a motor vehicle and
4 in the offender's prior record, there are three or more grand
5 thefts of the third degree involving a motor vehicle, the
6 subtotal sentence points are multiplied by 1.5.

7
8 Criminal street gang member: If the offender is convicted of
9 the primary offense and is found to have been a member of a
10 criminal street gang at the time of the commission of the
11 primary offense pursuant to s. 874.04, the subtotal sentence
12 points are multiplied by 1.5.

13
14 Domestic violence in the presence of a child: If the offender
15 is convicted of the primary offense and the primary offense is
16 a crime of domestic violence, as defined in s. 741.28, which
17 was committed in the presence of a child under 16 years of age
18 who is a family household member as defined in s. 741.28(2)
19 with the victim or perpetrator, the subtotal sentence points
20 are multiplied by 1.5.

21 Section 26. For the purpose of incorporating the
22 amendments to section 893.135, Florida Statutes, in a
23 reference thereto, subsection (2) of section 921.142, Florida
24 Statutes, is reenacted to read:

25 921.142 Sentence of death or life imprisonment for
26 capital drug trafficking felonies; further proceedings to
27 determine sentence.--

28 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--Upon
29 conviction or adjudication of guilt of a defendant of a
30 capital felony under s. 893.135, the court shall conduct a
31 separate sentencing proceeding to determine whether the

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

27 Section 27. For the purpose of incorporating the
28 amendments to section 893.135, Florida Statutes, in references
29 thereto, section 943.0585, Florida Statutes, is reenacted to
30 read:

31

1 943.0585 Court-ordered expunction of criminal history
2 records.--The courts of this state have jurisdiction over
3 their own procedures, including the maintenance, expunction,
4 and correction of judicial records containing criminal history
5 information to the extent such procedures are not inconsistent
6 with the conditions, responsibilities, and duties established
7 by this section. Any court of competent jurisdiction may
8 order a criminal justice agency to expunge the criminal
9 history record of a minor or an adult who complies with the
10 requirements of this section. The court shall not order a
11 criminal justice agency to expunge a criminal history record
12 until the person seeking to expunge a criminal history record
13 has applied for and received a certificate of eligibility for
14 expunction pursuant to subsection (2). A criminal history
15 record that relates to a violation of chapter 794, s. 800.04,
16 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
17 violation enumerated in s. 907.041 may not be expunged,
18 without regard to whether adjudication was withheld, if the
19 defendant was found guilty of or pled guilty or nolo
20 contendere to the offense, or if the defendant, as a minor,
21 was found to have committed, or pled guilty or nolo contendere
22 to committing, the offense as a delinquent act. The court may
23 only order expunction of a criminal history record pertaining
24 to one arrest or one incident of alleged criminal activity,
25 except as provided in this section. The court may, at its sole
26 discretion, order the expunction of a criminal history record
27 pertaining to more than one arrest if the additional arrests
28 directly relate to the original arrest. If the court intends
29 to order the expunction of records pertaining to such
30 additional arrests, such intent must be specified in the
31 order. A criminal justice agency may not expunge any record

1 | pertaining to such additional arrests if the order to expunge
2 | does not articulate the intention of the court to expunge a
3 | record pertaining to more than one arrest. This section does
4 | not prevent the court from ordering the expunction of only a
5 | portion of a criminal history record pertaining to one arrest
6 | or one incident of alleged criminal activity. Notwithstanding
7 | any law to the contrary, a criminal justice agency may comply
8 | with laws, court orders, and official requests of other
9 | jurisdictions relating to expunction, correction, or
10 | confidential handling of criminal history records or
11 | information derived therefrom. This section does not confer
12 | any right to the expunction of any criminal history record,
13 | and any request for expunction of a criminal history record
14 | may be denied at the sole discretion of the court.

15 | (1) PETITION TO EXPUNGE A CRIMINAL HISTORY
16 | RECORD.--Each petition to a court to expunge a criminal
17 | history record is complete only when accompanied by:

18 | (a) A certificate of eligibility for expunction issued
19 | by the department pursuant to subsection (2).

20 | (b) The petitioner's sworn statement attesting that
21 | the petitioner:

22 | 1. Has never, prior to the date on which the petition
23 | is filed, been adjudicated guilty of a criminal offense or
24 | comparable ordinance violation or adjudicated delinquent for
25 | committing a felony or a misdemeanor specified in s.
26 | 943.051(3)(b).

27 | 2. Has not been adjudicated guilty of, or adjudicated
28 | delinquent for committing, any of the acts stemming from the
29 | arrest or alleged criminal activity to which the petition
30 | pertains.

31 |

1 3. Has never secured a prior sealing or expunction of
2 a criminal history record under this section, former s.
3 893.14, former s. 901.33, or former s. 943.058, or from any
4 jurisdiction outside the state.

5 4. Is eligible for such an expunction to the best of
6 his or her knowledge or belief and does not have any other
7 petition to expunge or any petition to seal pending before any
8 court.

9
10 Any person who knowingly provides false information on such
11 sworn statement to the court commits a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
15 to petitioning the court to expunge a criminal history record,
16 a person seeking to expunge a criminal history record shall
17 apply to the department for a certificate of eligibility for
18 expunction. The department shall, by rule adopted pursuant to
19 chapter 120, establish procedures pertaining to the
20 application for and issuance of certificates of eligibility
21 for expunction. The department shall issue a certificate of
22 eligibility for expunction to a person who is the subject of a
23 criminal history record if that person:

24 (a) Has obtained, and submitted to the department, a
25 written, certified statement from the appropriate state
26 attorney or statewide prosecutor which indicates:

27 1. That an indictment, information, or other charging
28 document was not filed or issued in the case.

29 2. That an indictment, information, or other charging
30 document, if filed or issued in the case, was dismissed or
31

1 nolle prosequi by the state attorney or statewide prosecutor,
2 or was dismissed by a court of competent jurisdiction.

3 3. That the criminal history record does not relate to
4 a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071,
5 chapter 839, s. 893.135, or a violation enumerated in s.
6 907.041, where the defendant was found guilty of, or pled
7 guilty or nolo contendere to any such offense, or that the
8 defendant, as a minor, was found to have committed, or pled
9 guilty or nolo contendere to committing, such an offense as a
10 delinquent act, without regard to whether adjudication was
11 withheld.

12 (b) Remits a \$75 processing fee to the department for
13 placement in the Department of Law Enforcement Operating Trust
14 Fund, unless such fee is waived by the executive director.

15 (c) Has submitted to the department a certified copy
16 of the disposition of the charge to which the petition to
17 expunge pertains.

18 (d) Has never, prior to the date on which the
19 application for a certificate of eligibility is filed, been
20 adjudicated guilty of a criminal offense or comparable
21 ordinance violation or adjudicated delinquent for committing a
22 felony or a misdemeanor specified in s. 943.051(3)(b).

23 (e) Has not been adjudicated guilty of, or adjudicated
24 delinquent for committing, any of the acts stemming from the
25 arrest or alleged criminal activity to which the petition to
26 expunge pertains.

27 (f) Has never secured a prior sealing or expunction of
28 a criminal history record under this section, former s.
29 893.14, former s. 901.33, or former s. 943.058.

30
31

1 (g) Is no longer under court supervision applicable to
2 the disposition of the arrest or alleged criminal activity to
3 which the petition to expunge pertains.

4 (h) Is not required to wait a minimum of 10 years
5 prior to being eligible for an expunction of such records
6 because all charges related to the arrest or criminal activity
7 to which the petition to expunge pertains were dismissed prior
8 to trial, adjudication, or the withholding of adjudication.
9 Otherwise, such criminal history record must be sealed under
10 this section, former s. 893.14, former s. 901.33, or former s.
11 943.058 for at least 10 years before such record is eligible
12 for expunction.

13 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

14 (a) In judicial proceedings under this section, a copy
15 of the completed petition to expunge shall be served upon the
16 appropriate state attorney or the statewide prosecutor and
17 upon the arresting agency; however, it is not necessary to
18 make any agency other than the state a party. The appropriate
19 state attorney or the statewide prosecutor and the arresting
20 agency may respond to the court regarding the completed
21 petition to expunge.

22 (b) If relief is granted by the court, the clerk of
23 the court shall certify copies of the order to the appropriate
24 state attorney or the statewide prosecutor and the arresting
25 agency. The arresting agency is responsible for forwarding the
26 order to any other agency to which the arresting agency
27 disseminated the criminal history record information to which
28 the order pertains. The department shall forward the order to
29 expunge to the Federal Bureau of Investigation. The clerk of
30 the court shall certify a copy of the order to any other
31

1 agency which the records of the court reflect has received the
2 criminal history record from the court.

3 (c) For an order to expunge entered by a court prior
4 to July 1, 1992, the department shall notify the appropriate
5 state attorney or statewide prosecutor of an order to expunge
6 which is contrary to law because the person who is the subject
7 of the record has previously been convicted of a crime or
8 comparable ordinance violation or has had a prior criminal
9 history record sealed or expunged. Upon receipt of such
10 notice, the appropriate state attorney or statewide prosecutor
11 shall take action, within 60 days, to correct the record and
12 petition the court to void the order to expunge. The
13 department shall seal the record until such time as the order
14 is voided by the court.

15 (d) On or after July 1, 1992, the department or any
16 other criminal justice agency is not required to act on an
17 order to expunge entered by a court when such order does not
18 comply with the requirements of this section. Upon receipt of
19 such an order, the department must notify the issuing court,
20 the appropriate state attorney or statewide prosecutor, the
21 petitioner or the petitioner's attorney, and the arresting
22 agency of the reason for noncompliance. The appropriate state
23 attorney or statewide prosecutor shall take action within 60
24 days to correct the record and petition the court to void the
25 order. No cause of action, including contempt of court, shall
26 arise against any criminal justice agency for failure to
27 comply with an order to expunge when the petitioner for such
28 order failed to obtain the certificate of eligibility as
29 required by this section or such order does not otherwise
30 comply with the requirements of this section.

31

1 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
2 criminal history record of a minor or an adult which is
3 ordered expunged by a court of competent jurisdiction pursuant
4 to this section must be physically destroyed or obliterated by
5 any criminal justice agency having custody of such record;
6 except that any criminal history record in the custody of the
7 department must be retained in all cases. A criminal history
8 record ordered expunged that is retained by the department is
9 confidential and exempt from the provisions of s. 119.07(1)
10 and s. 24(a), Art. I of the State Constitution and not
11 available to any person or entity except upon order of a court
12 of competent jurisdiction. A criminal justice agency may
13 retain a notation indicating compliance with an order to
14 expunge.

15 (a) The person who is the subject of a criminal
16 history record that is expunged under this section or under
17 other provisions of law, including former s. 893.14, former s.
18 901.33, and former s. 943.058, may lawfully deny or fail to
19 acknowledge the arrests covered by the expunged record, except
20 when the subject of the record:

- 21 1. Is a candidate for employment with a criminal
22 justice agency;
- 23 2. Is a defendant in a criminal prosecution;
- 24 3. Concurrently or subsequently petitions for relief
25 under this section or s. 943.059;
- 26 4. Is a candidate for admission to The Florida Bar;
- 27 5. Is seeking to be employed or licensed by or to
28 contract with the Department of Children and Family Services
29 or the Department of Juvenile Justice or to be employed or
30 used by such contractor or licensee in a sensitive position
31 having direct contact with children, the developmentally

1 disabled, the aged, or the elderly as provided in s.
2 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
3 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
4 415.1075(4), s. 985.407, or chapter 400; or

5 6. Is seeking to be employed or licensed by the Office
6 of Teacher Education, Certification, Staff Development, and
7 Professional Practices of the Department of Education, any
8 district school board, or any local governmental entity that
9 licenses child care facilities.

10 (b) Subject to the exceptions in paragraph (a), a
11 person who has been granted an expunction under this section,
12 former s. 893.14, former s. 901.33, or former s. 943.058 may
13 not be held under any provision of law of this state to commit
14 perjury or to be otherwise liable for giving a false statement
15 by reason of such person's failure to recite or acknowledge an
16 expunged criminal history record.

17 (c) Information relating to the existence of an
18 expunged criminal history record which is provided in
19 accordance with paragraph (a) is confidential and exempt from
20 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
21 State Constitution, except that the department shall disclose
22 the existence of a criminal history record ordered expunged to
23 the entities set forth in subparagraphs (a)1., 4., 5., and 6.
24 for their respective licensing and employment purposes, and to
25 criminal justice agencies for their respective criminal
26 justice purposes. It is unlawful for any employee of an
27 entity set forth in subparagraph (a)1., subparagraph (a)4.,
28 subparagraph (a)5., or subparagraph (a)6. to disclose
29 information relating to the existence of an expunged criminal
30 history record of a person seeking employment or licensure
31 with such entity or contractor, except to the person to whom

1 the criminal history record relates or to persons having
2 direct responsibility for employment or licensure decisions.
3 Any person who violates this paragraph commits a misdemeanor
4 of the first degree, punishable as provided in s. 775.082 or
5 s. 775.083.

6 (5) STATUTORY REFERENCES.--Any reference to any other
7 chapter, section, or subdivision of the Florida Statutes in
8 this section constitutes a general reference under the
9 doctrine of incorporation by reference.

10 Section 28. For the purpose of incorporating the
11 amendments to section 893.135, Florida Statutes, in a
12 reference thereto, section 943.059, Florida Statutes, is
13 reenacted to read:

14 943.059 Court-ordered sealing of criminal history
15 records.--The courts of this state shall continue to have
16 jurisdiction over their own procedures, including the
17 maintenance, sealing, and correction of judicial records
18 containing criminal history information to the extent such
19 procedures are not inconsistent with the conditions,
20 responsibilities, and duties established by this section. Any
21 court of competent jurisdiction may order a criminal justice
22 agency to seal the criminal history record of a minor or an
23 adult who complies with the requirements of this section. The
24 court shall not order a criminal justice agency to seal a
25 criminal history record until the person seeking to seal a
26 criminal history record has applied for and received a
27 certificate of eligibility for sealing pursuant to subsection
28 (2). A criminal history record that relates to a violation of
29 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,
30 s. 893.135, or a violation enumerated in s. 907.041 may not be
31 sealed, without regard to whether adjudication was withheld,

1 | if the defendant was found guilty of or pled guilty or nolo
2 | contendere to the offense, or if the defendant, as a minor,
3 | was found to have committed or pled guilty or nolo contendere
4 | to committing the offense as a delinquent act. The court may
5 | only order sealing of a criminal history record pertaining to
6 | one arrest or one incident of alleged criminal activity,
7 | except as provided in this section. The court may, at its sole
8 | discretion, order the sealing of a criminal history record
9 | pertaining to more than one arrest if the additional arrests
10 | directly relate to the original arrest. If the court intends
11 | to order the sealing of records pertaining to such additional
12 | arrests, such intent must be specified in the order. A
13 | criminal justice agency may not seal any record pertaining to
14 | such additional arrests if the order to seal does not
15 | articulate the intention of the court to seal records
16 | pertaining to more than one arrest. This section does not
17 | prevent the court from ordering the sealing of only a portion
18 | of a criminal history record pertaining to one arrest or one
19 | incident of alleged criminal activity. Notwithstanding any law
20 | to the contrary, a criminal justice agency may comply with
21 | laws, court orders, and official requests of other
22 | jurisdictions relating to sealing, correction, or confidential
23 | handling of criminal history records or information derived
24 | therefrom. This section does not confer any right to the
25 | sealing of any criminal history record, and any request for
26 | sealing a criminal history record may be denied at the sole
27 | discretion of the court.

28 | (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
29 | petition to a court to seal a criminal history record is
30 | complete only when accompanied by:

31 |

1 (a) A certificate of eligibility for sealing issued by
2 the department pursuant to subsection (2).

3 (b) The petitioner's sworn statement attesting that
4 the petitioner:

5 1. Has never, prior to the date on which the petition
6 is filed, been adjudicated guilty of a criminal offense or
7 comparable ordinance violation or adjudicated delinquent for
8 committing a felony or a misdemeanor specified in s.
9 943.051(3)(b).

10 2. Has not been adjudicated guilty of or adjudicated
11 delinquent for committing any of the acts stemming from the
12 arrest or alleged criminal activity to which the petition to
13 seal pertains.

14 3. Has never secured a prior sealing or expunction of
15 a criminal history record under this section, former s.
16 893.14, former s. 901.33, former s. 943.058, or from any
17 jurisdiction outside the state.

18 4. Is eligible for such a sealing to the best of his
19 or her knowledge or belief and does not have any other
20 petition to seal or any petition to expunge pending before any
21 court.

22
23 Any person who knowingly provides false information on such
24 sworn statement to the court commits a felony of the third
25 degree, punishable as provided in s. 775.082, s. 775.083, or
26 s. 775.084.

27 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
28 petitioning the court to seal a criminal history record, a
29 person seeking to seal a criminal history record shall apply
30 to the department for a certificate of eligibility for
31 sealing. The department shall, by rule adopted pursuant to

1 chapter 120, establish procedures pertaining to the
2 application for and issuance of certificates of eligibility
3 for sealing. The department shall issue a certificate of
4 eligibility for sealing to a person who is the subject of a
5 criminal history record provided that such person:

6 (a) Has submitted to the department a certified copy
7 of the disposition of the charge to which the petition to seal
8 pertains.

9 (b) Remits a \$75 processing fee to the department for
10 placement in the Department of Law Enforcement Operating Trust
11 Fund, unless such fee is waived by the executive director.

12 (c) Has never, prior to the date on which the
13 application for a certificate of eligibility is filed, been
14 adjudicated guilty of a criminal offense or comparable
15 ordinance violation or adjudicated delinquent for committing a
16 felony or a misdemeanor specified in s. 943.051(3)(b).

17 (d) Has not been adjudicated guilty of or adjudicated
18 delinquent for committing any of the acts stemming from the
19 arrest or alleged criminal activity to which the petition to
20 seal pertains.

21 (e) Has never secured a prior sealing or expunction of
22 a criminal history record under this section, former s.
23 893.14, former s. 901.33, or former s. 943.058.

24 (f) Is no longer under court supervision applicable to
25 the disposition of the arrest or alleged criminal activity to
26 which the petition to seal pertains.

27 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

28 (a) In judicial proceedings under this section, a copy
29 of the completed petition to seal shall be served upon the
30 appropriate state attorney or the statewide prosecutor and
31 upon the arresting agency; however, it is not necessary to

1 make any agency other than the state a party. The appropriate
2 state attorney or the statewide prosecutor and the arresting
3 agency may respond to the court regarding the completed
4 petition to seal.

5 (b) If relief is granted by the court, the clerk of
6 the court shall certify copies of the order to the appropriate
7 state attorney or the statewide prosecutor and to the
8 arresting agency. The arresting agency is responsible for
9 forwarding the order to any other agency to which the
10 arresting agency disseminated the criminal history record
11 information to which the order pertains. The department shall
12 forward the order to seal to the Federal Bureau of
13 Investigation. The clerk of the court shall certify a copy of
14 the order to any other agency which the records of the court
15 reflect has received the criminal history record from the
16 court.

17 (c) For an order to seal entered by a court prior to
18 July 1, 1992, the department shall notify the appropriate
19 state attorney or statewide prosecutor of any order to seal
20 which is contrary to law because the person who is the subject
21 of the record has previously been convicted of a crime or
22 comparable ordinance violation or has had a prior criminal
23 history record sealed or expunged. Upon receipt of such
24 notice, the appropriate state attorney or statewide prosecutor
25 shall take action, within 60 days, to correct the record and
26 petition the court to void the order to seal. The department
27 shall seal the record until such time as the order is voided
28 by the court.

29 (d) On or after July 1, 1992, the department or any
30 other criminal justice agency is not required to act on an
31 order to seal entered by a court when such order does not

1 comply with the requirements of this section. Upon receipt of
2 such an order, the department must notify the issuing court,
3 the appropriate state attorney or statewide prosecutor, the
4 petitioner or the petitioner's attorney, and the arresting
5 agency of the reason for noncompliance. The appropriate state
6 attorney or statewide prosecutor shall take action within 60
7 days to correct the record and petition the court to void the
8 order. No cause of action, including contempt of court, shall
9 arise against any criminal justice agency for failure to
10 comply with an order to seal when the petitioner for such
11 order failed to obtain the certificate of eligibility as
12 required by this section or when such order does not comply
13 with the requirements of this section.

14 (e) An order sealing a criminal history record
15 pursuant to this section does not require that such record be
16 surrendered to the court, and such record shall continue to be
17 maintained by the department and other criminal justice
18 agencies.

19 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
20 criminal history record of a minor or an adult which is
21 ordered sealed by a court of competent jurisdiction pursuant
22 to this section is confidential and exempt from the provisions
23 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
24 and is available only to the person who is the subject of the
25 record, to the subject's attorney, to criminal justice
26 agencies for their respective criminal justice purposes, or to
27 those entities set forth in subparagraphs (a)1., 4., 5., and
28 6. for their respective licensing and employment purposes.

29 (a) The subject of a criminal history record sealed
30 under this section or under other provisions of law, including
31 former s. 893.14, former s. 901.33, and former s. 943.058, may

1 lawfully deny or fail to acknowledge the arrests covered by
2 the sealed record, except when the subject of the record:
3 1. Is a candidate for employment with a criminal
4 justice agency;
5 2. Is a defendant in a criminal prosecution;
6 3. Concurrently or subsequently petitions for relief
7 under this section or s. 943.0585;
8 4. Is a candidate for admission to The Florida Bar;
9 5. Is seeking to be employed or licensed by or to
10 contract with the Department of Children and Family Services
11 or the Department of Juvenile Justice or to be employed or
12 used by such contractor or licensee in a sensitive position
13 having direct contact with children, the developmentally
14 disabled, the aged, or the elderly as provided in s.
15 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
16 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
17 415.103, s. 985.407, or chapter 400; or
18 6. Is seeking to be employed or licensed by the Office
19 of Teacher Education, Certification, Staff Development, and
20 Professional Practices of the Department of Education, any
21 district school board, or any local governmental entity which
22 licenses child care facilities.
23 (b) Subject to the exceptions in paragraph (a), a
24 person who has been granted a sealing under this section,
25 former s. 893.14, former s. 901.33, or former s. 943.058 may
26 not be held under any provision of law of this state to commit
27 perjury or to be otherwise liable for giving a false statement
28 by reason of such person's failure to recite or acknowledge a
29 sealed criminal history record.
30 (c) Information relating to the existence of a sealed
31 criminal record provided in accordance with the provisions of

1 paragraph (a) is confidential and exempt from the provisions
2 of s. 119.07(1) and s. 24(a), Art. I of the State
3 Constitution, except that the department shall disclose the
4 sealed criminal history record to the entities set forth in
5 subparagraphs (a)1., 4., 5., and 6. for their respective
6 licensing and employment purposes. It is unlawful for any
7 employee of an entity set forth in subparagraph (a)1.,
8 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.
9 to disclose information relating to the existence of a sealed
10 criminal history record of a person seeking employment or
11 licensure with such entity or contractor, except to the person
12 to whom the criminal history record relates or to persons
13 having direct responsibility for employment or licensure
14 decisions. Any person who violates the provisions of this
15 paragraph commits a misdemeanor of the first degree,
16 punishable as provided in s. 775.082 or s. 775.083.

17 (5) STATUTORY REFERENCES.--Any reference to any other
18 chapter, section, or subdivision of the Florida Statutes in
19 this section constitutes a general reference under the
20 doctrine of incorporation by reference.

21 Section 29. This act shall take effect October 1,
22 2000.

23
24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 CS/SB 2414

27 Changes the title from "An act relating to drug trafficking"
28 to "An act relating to controlled substances"

29 Corrects three incorrect statutory references.
30
31