

By Representative Seiler

1 A bill to be entitled
 2 An act relating to criminal justice; amending
 3 s. 782.04, F.S.; making it a capital felony to
 4 commit the unlawful killing of a human being
 5 while perpetrating or attempting to perpetrate
 6 the act of resisting a law enforcement officer
 7 with violence to the officer's person;
 8 providing penalties for specified murders
 9 involving the perpetration of or the attempt to
 10 perpetrate the act of resisting a law
 11 enforcement officer with violence to the
 12 officer's person; reenacting ss. 775.0823(1),
 13 (2), (3), (4), (5), and (6), 782.051, 903.133,
 14 921.0022(3)(h) and (i), and 947.146(3), F.S.,
 15 relating to violent offenses committed against
 16 law enforcement officers, correctional
 17 officers, state attorneys, assistant state
 18 attorneys, justices, or judges, relating to
 19 attempted felony murder, relating to bail on
 20 appeal prohibited for certain felony
 21 convictions, relating to the Criminal
 22 Punishment Code offense severity ranking chart,
 23 and relating to the Control Release Authority;
 24 providing an effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:
 27

28 Section 1. Section 782.04, Florida Statutes, is
 29 amended to read:
 30 782.04 Murder.--
 31 (1)(a) The unlawful killing of a human being:

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

1 is murder in the first degree and constitutes a capital
2 felony, punishable as provided in s. 775.082.

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

6 (2) The unlawful killing of a human being, when
7 perpetrated by any act imminently dangerous to another and
8 evincing a depraved mind regardless of human life, although
9 without any premeditated design to effect the death of any
10 particular individual, is murder in the second degree and
11 constitutes a felony of the first degree, punishable by
12 imprisonment for a term of years not exceeding life or as
13 provided in s. 775.082, s. 775.083, or s. 775.084.

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, or
2 (p) Resisting a law enforcement officer with violence
3 to his or her person,
4
5 by a person other than the person engaged in the perpetration
6 of or in the attempt to perpetrate such felony, the person
7 perpetrating or attempting to perpetrate such felony is guilty
8 of murder in the second degree, which constitutes a felony of
9 the first degree, punishable by imprisonment for a term of
10 years not exceeding life or as provided in s. 775.082, s.
11 775.083, or s. 775.084.

12 (4) The unlawful killing of a human being, when
13 perpetrated without any design to effect death, by a person
14 engaged in the perpetration of, or in the attempt to
15 perpetrate, any felony other than 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) Unlawful distribution of any substance controlled
30 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
31 or opium or any synthetic or natural salt, compound,

1 derivative, or preparation of opium by a person 18 years of
2 age or older, when such drug is proven to be the proximate
3 cause of the death of the user,

4 (m) Carjacking,

5 (n) Home-invasion robbery,

6 (o) Aggravated stalking, ~~or~~

7 (p) Murder of another human being, or

8 (q) Resisting a law enforcement officer with violence
9 to his or her person,

10
11 is murder in the third degree and constitutes a felony of the
12 second degree, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084.

14 Section 2. For the purpose of incorporating the
15 amendments made by this act to section 782.04, Florida
16 Statutes, in references thereto, subsections (1), (2), (3),
17 (4), (5), and (6) of section 775.0823, Florida Statutes, are
18 reenacted to read:

19 775.0823 Violent offenses committed against law
20 enforcement officers, correctional officers, state attorneys,
21 assistant state attorneys, justices, or judges.--Any provision
22 of law to the contrary notwithstanding, the Legislature does
23 hereby provide for an increase and certainty of penalty for
24 any person convicted of a violent offense against any law
25 enforcement or correctional officer, as defined in s.
26 943.10(1), (2), (3), (6), (7), (8), or (9); against any state
27 attorney elected pursuant to s. 27.01 or assistant state
28 attorney appointed under s. 27.181; or against any justice or
29 judge of a court described in Art. V of the State
30 Constitution, which offense arises out of or in the scope of
31 the officer's duty as a law enforcement or correctional

1 officer, the state attorney's or assistant state attorney's
2 duty as a prosecutor or investigator, or the justice's or
3 judge's duty as a judicial officer, as follows:

4 (1) For murder in the first degree as described in s.
5 782.04(1), if the death sentence is not imposed, a sentence of
6 imprisonment for life without eligibility for release.

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

10 (3) For murder in the second degree as described in s.
11 782.04(2) and (3), a sentence pursuant to the Criminal
12 Punishment Code.

13 (4) For attempted murder in the second degree as
14 described in s. 782.04(2) and (3), a sentence pursuant to the
15 Criminal Punishment Code.

16 (5) For murder in the third degree as described in s.
17 782.04(4), a sentence pursuant to the Criminal Punishment
18 Code.

19 (6) For attempted murder in the third degree as
20 described in s. 782.04(4), a sentence pursuant to the Criminal
21 Punishment Code.

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

27 Section 3. For the purpose of incorporating the
28 amendments made by this act to section 782.04, Florida
29 Statutes, in references thereto, section 782.051, Florida
30 Statutes, is reenacted to read:

31 782.051 Attempted felony murder.--

1 (1) Any person who perpetrates or attempts to
2 perpetrate any felony enumerated in s. 782.04(3) and who
3 commits, aids, or abets an intentional act that is not an
4 essential element of the felony and that could, but does not,
5 cause the death of another commits a felony of the first
6 degree, punishable by imprisonment for a term of years not
7 exceeding life, or as provided in s. 775.082, s. 775.083, or
8 s. 775.084, which is an offense ranked in level 9 of the
9 Criminal Punishment Code. Victim injury points shall be scored
10 under this subsection.

11 (2) Any person who perpetrates or attempts to
12 perpetrate any felony other than a felony enumerated in s.
13 782.04(3) and who commits, aids, or abets an intentional act
14 that is not an essential element of the felony and that could,
15 but does not, cause the death of another commits a felony of
16 the first degree, punishable as provided in s. 775.082, s.
17 775.083, or s. 775.084, which is an offense ranked in level 8
18 of the Criminal Punishment Code. Victim injury points shall be
19 scored under this subsection.

20 (3) When a person is injured during the perpetration
21 of or the attempt to perpetrate any felony enumerated in s.
22 782.04(3) by a person other than the person engaged in the
23 perpetration of or the attempt to perpetrate such felony, the
24 person perpetrating or attempting to perpetrate such felony
25 commits a felony of the second degree, punishable as provided
26 in s. 775.082, s. 775.083, or s. 775.084, which is an offense
27 ranked in level 7 of the Criminal Punishment Code. Victim
28 injury points shall be scored under this subsection.

29 Section 4. For the purpose of incorporating the
30 amendments made by this act to section 782.04, Florida
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1 Statutes, in references thereto, section 903.133, Florida
2 Statutes, is reenacted to read:

3 903.133 Bail on appeal; prohibited for certain felony
4 convictions.--Notwithstanding the provisions of s. 903.132, no
5 person adjudged guilty of a felony of the first degree for a
6 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
7 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
8 violation of s. 794.011(2) or (3), shall be admitted to bail
9 pending review either by posttrial motion or appeal.

10 Section 5. For the purpose of incorporating the
11 amendments made by this act to section 782.04, Florida
12 Statutes, in references thereto, paragraphs (h) and (i) of
13 subsection (3) of section 921.0022, Florida Statutes, are
14 reenacted to read:

15 921.0022 Criminal Punishment Code; offense severity
16 ranking chart.--

17 (3) OFFENSE SEVERITY RANKING CHART

18

| 19 Florida | Felony | |
|--------------------|--------|---|
| 20 Statute | Degree | Description |
| | | (h) LEVEL 8 |
| 24 316.193 | | |
| 25 (3)(c)3.a. | 2nd | DUI manslaughter. |
| 26 327.35(3)(c)3. | 2nd | Vessel BUI manslaughter. |
| 27 560.123(8)(b)2. | 2nd | Failure to report currency or 28 payment instruments totaling or 29 exceeding \$20,000, but less than 30 \$100,000 by money transmitter. |

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|----|-----------------|-----|-----------------------------------|
| 1 | 560.125(5)(b) | 2nd | Money transmitter business by |
| 2 | | | unauthorized person, currency or |
| 3 | | | payment instruments totaling or |
| 4 | | | exceeding \$20,000, but less than |
| 5 | | | \$100,000. |
| 6 | 655.50(10)(b)2. | 2nd | Failure to report financial |
| 7 | | | transactions totaling or |
| 8 | | | exceeding \$20,000, but less than |
| 9 | | | \$100,000 by financial |
| 10 | | | institutions. |
| 11 | 777.03(2)(a) | 1st | Accessory after the fact, capital |
| 12 | | | felony. |
| 13 | 782.04(4) | 2nd | Killing of human without design |
| 14 | | | when engaged in act or attempt of |
| 15 | | | any felony other than arson, |
| 16 | | | sexual battery, robbery, |
| 17 | | | burglary, kidnapping, aircraft |
| 18 | | | piracy, or unlawfully discharging |
| 19 | | | bomb. |
| 20 | 782.051(2) | 1st | Attempted felony murder while |
| 21 | | | perpetrating or attempting to |
| 22 | | | perpetrate a felony not |
| 23 | | | enumerated in s. 782.04(3). |
| 24 | 782.071(2) | 1st | Committing vehicular homicide and |
| 25 | | | failing to render aid or give |
| 26 | | | information. |
| 27 | 782.072(2) | 1st | Committing vessel homicide and |
| 28 | | | failing to render aid or give |
| 29 | | | information. |
| 30 | | | |
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| 1 | 790.161(3) | 1st | Discharging a destructive device |
| 2 | | | which results in bodily harm or |
| 3 | | | property damage. |
| 4 | 794.011(5) | 2nd | Sexual battery, victim 12 years |
| 5 | | | or over, offender does not use |
| 6 | | | physical force likely to cause |
| 7 | | | serious injury. |
| 8 | 800.04(4) | 2nd | Lewd or lascivious battery. |
| 9 | 806.01(1) | 1st | Maliciously damage dwelling or |
| 10 | | | structure by fire or explosive, |
| 11 | | | believing person in structure. |
| 12 | 810.02(2)(a) | 1st,PBL | Burglary with assault or battery. |
| 13 | 810.02(2)(b) | 1st,PBL | Burglary; armed with explosives |
| 14 | | | or dangerous weapon. |
| 15 | 810.02(2)(c) | 1st | Burglary of a dwelling or |
| 16 | | | structure causing structural |
| 17 | | | damage or \$1,000 or more property |
| 18 | | | damage. |
| 19 | 812.13(2)(b) | 1st | Robbery with a weapon. |
| 20 | 812.135(2) | 1st | Home-invasion robbery. |
| 21 | 825.102(2) | 2nd | Aggravated abuse of an elderly |
| 22 | | | person or disabled adult. |
| 23 | 825.103(2)(a) | 1st | Exploiting an elderly person or |
| 24 | | | disabled adult and property is |
| 25 | | | valued at \$100,000 or more. |
| 26 | 837.02(2) | 2nd | Perjury in official proceedings |
| 27 | | | relating to prosecution of a |
| 28 | | | capital felony. |
| 29 | | | |
| 30 | | | |
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|----|-----------------|-----|-----------------------------------|
| 1 | 837.021(2) | 2nd | Making contradictory statements |
| 2 | | | in official proceedings relating |
| 3 | | | to prosecution of a capital |
| 4 | | | felony. |
| 5 | 860.121(2)(c) | 1st | Shooting at or throwing any |
| 6 | | | object in path of railroad |
| 7 | | | vehicle resulting in great bodily |
| 8 | | | harm. |
| 9 | 860.16 | 1st | Aircraft piracy. |
| 10 | 893.13(1)(b) | 1st | Sell or deliver in excess of 10 |
| 11 | | | grams of any substance specified |
| 12 | | | in s. 893.03(1)(a) or (b). |
| 13 | 893.13(2)(b) | 1st | Purchase in excess of 10 grams of |
| 14 | | | any substance specified in s. |
| 15 | | | 893.03(1)(a) or (b). |
| 16 | 893.13(6)(c) | 1st | Possess in excess of 10 grams of |
| 17 | | | any substance specified in s. |
| 18 | | | 893.03(1)(a) or (b). |
| 19 | 893.135(1)(a)2. | 1st | Trafficking in cannabis, more |
| 20 | | | than 2,000 lbs., less than 10,000 |
| 21 | | | lbs. |
| 22 | 893.135 | | |
| 23 | (1)(b)1.b. | 1st | Trafficking in cocaine, more than |
| 24 | | | 200 grams, less than 400 grams. |
| 25 | 893.135 | | |
| 26 | (1)(c)1.b. | 1st | Trafficking in illegal drugs, |
| 27 | | | more than 14 grams, less than 28 |
| 28 | | | grams. |
| 29 | | | |
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| 1 | 893.135 | | |
| 2 | (1)(d)1.b. | 1st | Trafficking in phencyclidine, |
| 3 | | | more than 200 grams, less than |
| 4 | | | 400 grams. |
| 5 | 893.135 | | |
| 6 | (1)(e)1.b. | 1st | Trafficking in methaqualone, more |
| 7 | | | than 5 kilograms, less than 25 |
| 8 | | | kilograms. |
| 9 | 893.135 | | |
| 10 | (1)(f)1.b. | 1st | Trafficking in amphetamine, more |
| 11 | | | than 28 grams, less than 200 |
| 12 | | | grams. |
| 13 | 893.135 | | |
| 14 | (1)(g)1.b. | 1st | Trafficking in flunitrazepam, 14 |
| 15 | | | grams or more, less than 28 |
| 16 | | | grams. |
| 17 | 893.135 | | |
| 18 | (1)(h)1.b. | 1st | Trafficking in |
| 19 | | | gamma-hydroxybutyric acid (GHB), |
| 20 | | | 5 kilograms or more, less than 10 |
| 21 | | | kilograms. |
| 22 | 893.135 | | |
| 23 | (1)(i)1.b. | 1st | Trafficking in 1,4-Butanediol, 5 |
| 24 | | | kilograms or more, less than 10 |
| 25 | | | kilograms. |
| 26 | 893.135 | | |
| 27 | (1)(j)2.b. | 1st | Trafficking in Phenethylamines, |
| 28 | | | 200 grams or more, less than 400 |
| 29 | | | grams. |
| 30 | | | |
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|----|-----------------|-----|-----------------------------------|
| 1 | 895.03(1) | 1st | Use or invest proceeds derived |
| 2 | | | from pattern of racketeering |
| 3 | | | activity. |
| 4 | 895.03(2) | 1st | Acquire or maintain through |
| 5 | | | racketeering activity any |
| 6 | | | interest in or control of any |
| 7 | | | enterprise or real property. |
| 8 | 895.03(3) | 1st | Conduct or participate in any |
| 9 | | | enterprise through pattern of |
| 10 | | | racketeering activity. |
| 11 | 896.101(5)(b) | 2nd | Money laundering, financial |
| 12 | | | transactions totaling or |
| 13 | | | exceeding \$20,000, but less than |
| 14 | | | \$100,000. |
| 15 | 896.104(4)(a)2. | 2nd | Structuring transactions to evade |
| 16 | | | reporting or registration |
| 17 | | | requirements, financial |
| 18 | | | transactions totaling or |
| 19 | | | exceeding \$20,000 but less than |
| 20 | | | \$100,000. |
| 21 | | | (i) LEVEL 9 |
| 22 | 316.193 | | |
| 23 | (3)(c)3.b. | 1st | DUI manslaughter; failing to |
| 24 | | | render aid or give information. |
| 25 | 560.123(8)(b)3. | 1st | Failure to report currency or |
| 26 | | | payment instruments totaling or |
| 27 | | | exceeding \$100,000 by money |
| 28 | | | transmitter. |
| 29 | | | |
| 30 | | | |
| 31 | | | |

| | | | |
|----|-----------------|---------|-----------------------------------|
| 1 | 560.125(5)(c) | 1st | Money transmitter business by |
| 2 | | | unauthorized person, currency, or |
| 3 | | | payment instruments totaling or |
| 4 | | | exceeding \$100,000. |
| 5 | 655.50(10)(b)3. | 1st | Failure to report financial |
| 6 | | | transactions totaling or |
| 7 | | | exceeding \$100,000 by financial |
| 8 | | | institution. |
| 9 | 782.04(1) | 1st | Attempt, conspire, or solicit to |
| 10 | | | commit premeditated murder. |
| 11 | 782.04(3) | 1st,PBL | Accomplice to murder in |
| 12 | | | connection with arson, sexual |
| 13 | | | battery, robbery, burglary, and |
| 14 | | | other specified felonies. |
| 15 | 782.051(1) | 1st | Attempted felony murder while |
| 16 | | | perpetrating or attempting to |
| 17 | | | perpetrate a felony enumerated in |
| 18 | | | s. 782.04(3). |
| 19 | 782.07(2) | 1st | Aggravated manslaughter of an |
| 20 | | | elderly person or disabled adult. |
| 21 | 787.01(1)(a)1. | 1st,PBL | Kidnapping; hold for ransom or |
| 22 | | | reward or as a shield or hostage. |
| 23 | 787.01(1)(a)2. | 1st,PBL | Kidnapping with intent to commit |
| 24 | | | or facilitate commission of any |
| 25 | | | felony. |
| 26 | 787.01(1)(a)4. | 1st,PBL | Kidnapping with intent to |
| 27 | | | interfere with performance of any |
| 28 | | | governmental or political |
| 29 | | | function. |
| 30 | | | |
| 31 | | | |

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|----|---------------|---------|-----------------------------------|
| 1 | 787.02(3)(a) | 1st | False imprisonment; child under |
| 2 | | | age 13; perpetrator also commits |
| 3 | | | aggravated child abuse, sexual |
| 4 | | | battery, or lewd or lascivious |
| 5 | | | battery, molestation, conduct, or |
| 6 | | | exhibition. |
| 7 | 790.161 | 1st | Attempted capital destructive |
| 8 | | | device offense. |
| 9 | 790.166(2) | 1st,PBL | Possessing, selling, using, or |
| 10 | | | attempting to use a weapon of |
| 11 | | | mass destruction. |
| 12 | 794.011(2) | 1st | Attempted sexual battery; victim |
| 13 | | | less than 12 years of age. |
| 14 | 794.011(2) | Life | Sexual battery; offender younger |
| 15 | | | than 18 years and commits sexual |
| 16 | | | battery on a person less than 12 |
| 17 | | | years. |
| 18 | 794.011(4) | 1st | Sexual battery; victim 12 years |
| 19 | | | or older, certain circumstances. |
| 20 | 794.011(8)(b) | 1st | Sexual battery; engage in sexual |
| 21 | | | conduct with minor 12 to 18 years |
| 22 | | | by person in familial or |
| 23 | | | custodial authority. |
| 24 | 800.04(5)(b) | 1st | Lewd or lascivious molestation; |
| 25 | | | victim less than 12 years; |
| 26 | | | offender 18 years or older. |
| 27 | 812.13(2)(a) | 1st,PBL | Robbery with firearm or other |
| 28 | | | deadly weapon. |
| 29 | 812.133(2)(a) | 1st,PBL | Carjacking; firearm or other |
| 30 | | | deadly weapon. |
| 31 | 827.03(2) | 1st | Aggravated child abuse. |

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

1 893.135
2 (1)(h)1.c. 1st Trafficking in
3 gamma-hydroxybutyric acid (GHB),
4 10 kilograms or more.
5 893.135
6 (1)(i)1.c. 1st Trafficking in 1,4-Butanediol, 10
7 kilograms or more.
8 893.135
9 (1)(j)2.c. 1st Trafficking in Phenethylamines,
10 400 grams or more.
11 896.101(5)(c) 1st Money laundering, financial
12 instruments totaling or exceeding
13 \$100,000.
14 896.104(4)(a)3. 1st Structuring transactions to evade
15 reporting or registration
16 requirements, financial
17 transactions totaling or
18 exceeding \$100,000.

19 Section 6. For the purpose of incorporating the
20 amendments made by this act to section 782.04, Florida
21 Statutes, in references thereto, subsection (3) of section
22 947.146, Florida Statutes, is reenacted to read:

23 947.146 Control Release Authority.--

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

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

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

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

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

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- 1 (d) Are convicted, or have been previously convicted,
2 of committing or attempting to commit assault, aggravated
3 assault, battery, or aggravated battery, and a sex act was
4 attempted or completed during commission of such offense;
- 5 (e) Are convicted, or have been previously convicted,
6 of committing or attempting to commit kidnapping, burglary, or
7 murder, and the offense was committed with the intent to
8 commit sexual battery or a sex act was attempted or completed
9 during commission of the offense;
- 10 (f) Are convicted, or have been previously convicted,
11 of committing or attempting to commit false imprisonment upon
12 a child under the age of 13 and, in the course of committing
13 the offense, the inmate committed aggravated child abuse,
14 sexual battery against the child, or a lewd or lascivious
15 offense committed upon or in the presence of a person less
16 than 16 years of age;
- 17 (g) Are sentenced, have previously been sentenced, or
18 have been sentenced at any time under s. 775.084, or have been
19 sentenced at any time in another jurisdiction as a habitual
20 offender;
- 21 (h) Are convicted, or have been previously convicted,
22 of committing or attempting to commit assault, aggravated
23 assault, battery, aggravated battery, kidnapping,
24 manslaughter, or murder against an officer as defined in s.
25 943.10(1), (2), (3), (6), (7), (8), or (9); against a state
26 attorney or assistant state attorney; or against a justice or
27 judge of a court described in Art. V of the State
28 Constitution; or against an officer, judge, or state attorney
29 employed in a comparable position by any other jurisdiction;
30 or
31

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

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

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

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

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

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

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

Section 7. This act shall take effect October 1, 2001.

LEGISLATIVE SUMMARY

Makes it a capital felony to commit the unlawful killing of a human being while perpetrating or attempting to perpetrate the act of resisting a law enforcement officer with violence to the officer's person. Provides penalties for specified murders involving the perpetration of or the attempt to perpetrate the act of resisting a law enforcement officer with violence to the officer's person.