



1 907.041(4)(b), F.S., relating to pretrial  
2 detention and release, s. 921.0022(3)(g), (h),  
3 and (i), F.S., relating to the Criminal  
4 Punishment Code offense severity ranking chart,  
5 s. 921.0024(1)(b), F.S., relating to the  
6 Criminal Punishment Code worksheet computations  
7 and scoresheets, s. 921.142(2), F.S., relating  
8 to sentencing for capital drug trafficking  
9 felonies, s. 943.0585, F.S., relating to  
10 court-ordered expunction of criminal history  
11 records, and s. 943.059, F.S., relating to  
12 court-ordered sealing of criminal history  
13 records, to incorporate said amendment in  
14 references; further amending s. 893.135, F.S.,  
15 to incorporate the provisions of chapter  
16 2000-320, Laws of Florida, which revised  
17 certain penalties imposed for trafficking in  
18 controlled substances, deleted certain  
19 provisions requiring that an offender be  
20 sentenced under the Criminal Punishment Code,  
21 prohibited the sale, purchase, manufacture, or  
22 delivery of gamma-hydroxybutyric acid (GHB),  
23 1,4-Butanediol, various drugs known as  
24 "Phenethylamines", and provided penalties;  
25 further amending s. 893.135, F.S., to  
26 incorporate the provisions of chapters 2001-55  
27 and 2001-57, Laws of Florida, which provided  
28 penalties for trafficking in certain mixtures  
29 containing hydrocodone, clarified legislative  
30 intent regarding the weighing of a mixture or  
31 mixtures containing certain controlled

1 substances, created offenses for trafficking in  
2 Gamma-butyrolactone (GBL) and lysergic acid  
3 diethylamide (LSD), provided penalties, and  
4 amended scheduling references for trafficking  
5 in Gamma-hydroxybutyric acid (GHB) and 1,  
6 4-Butanediol; requiring the Governor to place  
7 public service announcements explaining the  
8 provisions of this act; providing for  
9 retroactive application of the reenacted  
10 provisions; providing effective dates.

11  
12 WHEREAS, in 1999 the Legislature adopted chapter  
13 99-188, Laws of Florida, with the primary motivation of  
14 reducing crime in this state and to protect the public from  
15 violent criminals through the adoption of enhanced and  
16 mandatory sentences for violent and repeat offenders, for  
17 persons involved in drug-related crimes, committing aggravated  
18 battery or aggravated assault on law enforcement personnel or  
19 the elderly, and for persons committing criminal acts while in  
20 prison or while having escaped from prison, and

21 WHEREAS, a three-judge panel of the District Court of  
22 Appeal of Florida, Second District, has issued a nonfinal  
23 opinion declaring chapter 99-188, Laws of Florida,  
24 unconstitutional as a violation of the requirement in Section  
25 6, Article III of the Florida Constitution that "every law  
26 shall embrace but one subject and matter properly connected  
27 therewith. . .", finding that the addition of two minor  
28 provisions relating to burglary of railroad vehicles and the  
29 provision of sentencing documents relative to aliens to the  
30 Immigration and Naturalization Service were not matters

31

1 properly connected with the subject of the 1999 act, which was  
2 "sentencing," and

3 WHEREAS, the nonfinal ruling on this matter was issued  
4 while the Legislature was in session, and

5 WHEREAS, the Attorney General, on behalf of the people  
6 of the State of Florida, has indicated a determination to seek  
7 rehearing, en banc, of this matter, and

8 WHEREAS, a final opinion by the District Court of  
9 Appeal of Florida, Second District, declaring chapter 99-188,  
10 Laws of Florida, to have been in violation of Section 6,  
11 Article III of the Florida Constitution would be subject to  
12 appeal by the state to the Florida Supreme Court, and

13 WHEREAS, in its nonfinal ruling, the panel of the  
14 District Court of Appeal of Florida, Second District, has  
15 certified its decision as passing on two questions of great  
16 public importance with respect to chapter 99-188, Laws of  
17 Florida, further invoking the jurisdiction of the Florida  
18 Supreme Court, and

19 WHEREAS, the final resolution as to the  
20 constitutionality of chapter 99-188, Laws of Florida, remains  
21 uncertain, and is unlikely to be finally determined by the  
22 judicial system, while the 2002 legislative session is in  
23 progress, and

24 WHEREAS, the legislative action to correct the effect  
25 of this ruling forthwith is essential to public safety and  
26 cannot await a final resolution by the District Court of  
27 Appeal and the Florida Supreme Court, and

28 WHEREAS, the Legislature, only out of an abundance of  
29 caution due to tentative posture of the law while it awaits  
30 final resolution by the District Court of Appeal and the  
31 Florida Supreme Court, has prepared five separate bills to

1 reenact selected provisions of chapter 99-188, Laws of  
2 Florida, all of which relate to the single general issue of  
3 sentencing in criminal cases, and

4 WHEREAS, the Legislature does not intend the division  
5 of these bills relating to sentencing as any kind of  
6 legislative acknowledgement that said bills could not or  
7 should not be joined together in a single bill in full  
8 compliance with Section 6, Article III of the Florida  
9 Constitution, NOW THEREFORE,

10

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

12

13 Section 1. Sections 9, 10, and 12 of chapter 99-188,  
14 Laws of Florida, are reenacted to read:

15 Section 9. Section 893.135, Florida Statutes, as  
16 amended by section 23 of chapter 97-194, Laws of Florida, is  
17 amended to read:

18 893.135 Trafficking; mandatory sentences; suspension  
19 or reduction of sentences; conspiracy to engage in  
20 trafficking.--

21 (1) Except as authorized in this chapter or in chapter  
22 499 and notwithstanding the provisions of s. 893.13:

23 (a) Any person who knowingly sells, purchases,  
24 manufactures, delivers, or brings into this state, or who is  
25 knowingly in actual or constructive possession of, in excess  
26 of 25 ~~50~~ pounds of cannabis, or 300 or more cannabis plants,  
27 commits a felony of the first degree, which felony shall be  
28 known as "trafficking in cannabis." If the quantity of  
29 cannabis involved:

30 1. Is in excess of 25 ~~50~~ pounds, but less than 2,000  
31 pounds, or is 300 or more cannabis plants, but not more than

1 2,000 cannabis plants, such person shall be sentenced pursuant  
2 to the Criminal Punishment Code and such sentence shall  
3 include a mandatory minimum term of imprisonment of 3 years,  
4 and the defendant shall be ordered to pay a fine of \$25,000.

5           2. Is 2,000 pounds or more, but less than 10,000  
6 pounds, or is 2,000 or more cannabis plants, but not more than  
7 10,000 cannabis plants, such person shall be sentenced  
8 pursuant to the Criminal Punishment Code and such sentence  
9 shall include a mandatory minimum term of imprisonment of 7  
10 years, and the defendant shall be ordered to pay a fine of  
11 \$50,000.

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

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

31

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

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

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

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

22 2. 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, 150  
25 kilograms or more, ~~but less than 300 kilograms,~~ of cocaine, as  
26 described in s. 893.03(2)(a)4., commits the first degree  
27 felony of trafficking in cocaine. A person who has been  
28 convicted of the first degree felony of trafficking in cocaine  
29 under this subparagraph shall be punished by life imprisonment  
30 and is ineligible for any form of discretionary early release  
31 except pardon or executive clemency or conditional medical

1 release under s. 947.149. However, if the court determines  
2 that, in addition to committing any act specified in this  
3 paragraph:

4 a. The person intentionally killed an individual or  
5 counseled, commanded, induced, procured, or caused the  
6 intentional killing of an individual and such killing was the  
7 result; or

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

10

11 such person commits the capital felony of trafficking in  
12 cocaine, punishable as provided in ss. 775.082 and 921.142.

13 Any person sentenced for a capital felony under this paragraph  
14 shall also be sentenced to pay the maximum fine provided under  
15 subparagraph 1.

16 3. Any person who knowingly brings into this state 300  
17 kilograms or more of cocaine, as described in s.  
18 893.03(2)(a)4., and who knows that the probable result of such  
19 importation would be the death of any person, commits capital  
20 importation of cocaine, a capital felony punishable as  
21 provided in ss. 775.082 and 921.142. Any person sentenced for  
22 a capital felony under this paragraph shall also be sentenced  
23 to pay the maximum fine provided under subparagraph 1.

24 (c)1. Any person who knowingly sells, purchases,  
25 manufactures, delivers, or brings into this state, or who is  
26 knowingly in actual or constructive possession of, 4 grams or  
27 more of any morphine, opium, oxycodone, hydrocodone,  
28 hydromorphone, or any salt, derivative, isomer, or salt of an  
29 isomer thereof, including heroin, as described in s.  
30 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture  
31 containing any such substance, but less than 30 kilograms of

1 such substance or mixture, commits a felony of the first  
2 degree, which felony shall be known as "trafficking in illegal  
3 drugs." If the quantity involved:

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

9 b. Is 14 grams or more, but less than 28 grams, such  
10 person shall be sentenced pursuant to the Criminal Punishment  
11 Code and such sentence shall include a mandatory minimum term  
12 of imprisonment of 15 years, and the defendant shall be  
13 ordered to pay a fine of \$100,000.

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

17 2. Any person who knowingly sells, purchases,  
18 manufactures, delivers, or brings into this state, or who is  
19 knowingly in actual or constructive possession of, 30  
20 kilograms or more, ~~but less than 60 kilograms,~~ of any  
21 morphine, opium, oxycodone, hydrocodone, hydromorphone, or any  
22 salt, derivative, isomer, or salt of an isomer thereof,  
23 including heroin, as described in s. 893.03(1)(b) or (2)(a),  
24 or 30 kilograms or more, ~~but less than 60 kilograms,~~ of any  
25 mixture containing any such substance, commits the first  
26 degree felony of trafficking in illegal drugs. A person who  
27 has been convicted of the first degree felony of trafficking  
28 in illegal drugs under this subparagraph shall be punished by  
29 life imprisonment and is ineligible for any form of  
30 discretionary early release except pardon or executive  
31 clemency or conditional medical release under s. 947.149.

1 However, if the court determines that, in addition to  
2 committing any act specified in this paragraph:

3 a. The person intentionally killed an individual or  
4 counseled, commanded, induced, procured, or caused the  
5 intentional killing of an individual and such killing was the  
6 result; or

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

9  
10 such person commits the capital felony of trafficking in  
11 illegal drugs, punishable as provided in ss. 775.082 and  
12 921.142. Any person sentenced for a capital felony under this  
13 paragraph shall also be sentenced to pay the maximum fine  
14 provided under subparagraph 1.

15 3. Any person who knowingly brings into this state 60  
16 kilograms or more of any morphine, opium, oxycodone,  
17 hydrocodone, hydromorphone, or any salt, derivative, isomer,  
18 or salt of an isomer thereof, including heroin, as described  
19 in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any  
20 mixture containing any such substance, and who knows that the  
21 probable result of such importation would be the death of any  
22 person, commits capital importation of illegal drugs, a  
23 capital felony punishable as provided in ss. 775.082 and  
24 921.142. Any person sentenced for a capital felony under this  
25 paragraph shall also be sentenced to pay the maximum fine  
26 provided under subparagraph 1.

27 (d)1. Any person who knowingly sells, purchases,  
28 manufactures, delivers, or brings into this state, or who is  
29 knowingly in actual or constructive possession of, 28 grams or  
30 more of phencyclidine or of any mixture containing  
31 phencyclidine, as described in s. 893.03(2)(b), commits a

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

1           a. Is 200 grams or more, but less than 5 kilograms,  
2 such person shall be sentenced 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 5 kilograms or more, but less than 25 kilograms,  
7 such person shall be sentenced 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 25 kilograms or more, ~~but less than 50~~  
12 ~~kilograms~~, such person shall be sentenced to a mandatory  
13 minimum term of imprisonment of 15 calendar years and pay a  
14 fine of \$250,000.

15           2. Any person who knowingly brings into this state 50  
16 kilograms or more of methaqualone or of any mixture containing  
17 methaqualone, as described in s. 893.03(1)(d), and who knows  
18 that the probable result of such importation would be the  
19 death of any person commits capital importation of  
20 methaqualone, a capital felony punishable as provided in ss.  
21 775.082 and 921.142. Any person sentenced for a capital felony  
22 under this paragraph shall also be sentenced to pay the  
23 maximum fine provided under subparagraph 1.

24           (f)1. Any person who knowingly sells, purchases,  
25 manufactures, delivers, or brings into this state, or who is  
26 knowingly in actual or constructive possession of, 14 grams or  
27 more of amphetamine, as described in s. 893.03(2)(c)2., or  
28 methamphetamine, as described in s. 893.03(2)(c)4., or of any  
29 mixture containing amphetamine or methamphetamine, or  
30 phenylacetone, phenylacetic acid, or ephedrine in conjunction  
31 with other chemicals and equipment utilized in the manufacture

1 of amphetamine or methamphetamine, commits a felony of the  
2 first degree, which felony shall be known as "trafficking in  
3 amphetamine." If the quantity involved:

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

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

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

17 2. Any person who knowingly brings into this state 400  
18 grams or more of amphetamine, as described in s.  
19 893.03(2)(c)2., or methamphetamine, as described in s.  
20 893.03(2)(c)4., or of any mixture containing amphetamine or  
21 methamphetamine, or phenylacetone, phenylacetic acid, or  
22 ephedrine in conjunction with other chemicals and equipment  
23 utilized in the manufacture of amphetamine or methamphetamine,  
24 and who knows that the probable result of such importation  
25 would be the death of any person commits capital importation  
26 of amphetamine, a capital felony punishable as provided in ss.  
27 775.082 and 921.142. Any person sentenced for a capital felony  
28 under this paragraph shall also be sentenced to pay the  
29 maximum fine provided under subparagraph 1.

30 (g)1. Any person who knowingly sells, purchases,  
31 manufactures, delivers, or brings into this state, or who is

1 knowingly in actual or constructive possession of, 4 grams or  
2 more of flunitrazepam or any mixture containing flunitrazepam  
3 as described in s. 893.03(1)(a) commits a felony of the first  
4 degree, which felony shall be known as "trafficking in  
5 flunitrazepam." If the quantity involved:

6 a. Is 4 grams or more but less than 14 grams, such  
7 person shall be sentenced pursuant to the Criminal Punishment  
8 Code and such sentence shall include a mandatory minimum term  
9 of imprisonment of 3 years and the defendant shall be ordered  
10 to ~~sentencing guidelines~~ and pay a fine of \$50,000.

11 b. Is 14 grams or more but less than 28 grams, such  
12 person shall be sentenced pursuant to the Criminal Punishment  
13 Code and such sentence shall include a mandatory minimum term  
14 of imprisonment of 7 years, and the defendant shall be ordered  
15 to ~~sentencing guidelines~~ and pay a fine of \$100,000.

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

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

1           a. The person intentionally killed an individual or  
2 counseled, commanded, induced, procured, or caused the  
3 intentional killing of an individual and such killing was the  
4 result; or

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

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

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

21           (3) Notwithstanding the provisions of s. 948.01, with  
22 respect to any person who is found to have violated this  
23 section, adjudication of guilt or imposition of sentence shall  
24 not be suspended, deferred, or withheld, nor shall such person  
25 be eligible for parole prior to serving the mandatory minimum  
26 term of imprisonment prescribed by this section. A person  
27 sentenced to a mandatory minimum term of imprisonment under  
28 this section is not eligible for any form of discretionary  
29 early release, except pardon or executive clemency or  
30 conditional medical release under s. 947.149, prior to serving  
31 the mandatory minimum term of imprisonment.

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

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

21           Section 10. For the purpose of incorporating the  
22 amendment to section 893.135, Florida Statutes, in references  
23 thereto, the following sections or subdivisions of Florida  
24 Statutes, or Florida Statutes, 1998 Supplement, are reenacted  
25 to read:

26           397.451 Background checks of service provider  
27 personnel who have direct contact with unmarried minor clients  
28 or clients who are developmentally disabled.--

29           (7) DISQUALIFICATION FROM RECEIVING STATE  
30 FUNDS.--State funds may not be disseminated to any service  
31 provider owned or operated by an owner or director who has

1 | been convicted of, has entered a plea of guilty or nolo  
2 | contendere to, or has had adjudication withheld for, a  
3 | violation of s. 893.135 pertaining to trafficking in  
4 | controlled substances, or a violation of the law of another  
5 | state, the District of Columbia, the United States or any  
6 | possession or territory thereof, or any foreign jurisdiction  
7 | which is substantially similar in elements and penalties to a  
8 | trafficking offense in this state, unless the owner's or  
9 | director's civil rights have been restored.

10 |           782.04 Murder.--

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

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

16 |  
17 | is murder in the third degree and constitutes a felony of the  
18 | second degree, punishable as provided in s. 775.082, s.  
19 | 775.083, or s. 775.084.

20 |           893.1351 Lease or rent for the purpose of trafficking  
21 | in a controlled substance.--

22 |           (1) A person may not lease or rent any place,  
23 | structure, or part thereof, trailer, or other conveyance, with  
24 | the knowledge that such place, structure, trailer, or  
25 | conveyance will be used for the purpose of trafficking in a  
26 | controlled substance, as provided in s. 893.135, or the sale  
27 | of a controlled substance, as provided in s. 893.13.

28 |           903.133 Bail on appeal; prohibited for certain felony  
29 | convictions.--Notwithstanding the provisions of s. 903.132, no  
30 | person adjudged guilty of a felony of the first degree for a  
31 | violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.

1 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
2 violation of s. 794.011(2) or (3), shall be admitted to bail  
3 pending review either by posttrial motion or appeal.

4 907.041 Pretrial detention and release.--

5 (4) PRETRIAL DETENTION.--

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

10 1. The defendant has previously violated conditions of  
11 release and that no further conditions of release are  
12 reasonably likely to assure the defendant's appearance at  
13 subsequent proceedings;

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

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

26 4. The defendant poses the threat of harm to the  
27 community. The court may so conclude if it finds that the  
28 defendant is presently charged with a dangerous crime, that  
29 there is a substantial probability that the defendant  
30 committed such crime, that the factual circumstances of the  
31 crime indicate a disregard for the safety of the community,

1 and that there are no conditions of release reasonably  
2 sufficient to protect the community from the risk of physical  
3 harm to persons. In addition, the court must find that at  
4 least one of the following conditions is present:

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

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

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

13 921.0022 Criminal Punishment Code; offense severity  
14 ranking chart.--

15 (3) OFFENSE SEVERITY RANKING CHART

16  
17

| 18 Florida         | Felony |                                 |
|--------------------|--------|---------------------------------|
| 19 Statute         | Degree | Description                     |
| 20                 |        |                                 |
| 21                 |        |                                 |
| 22                 |        |                                 |
| 23                 |        | (g) LEVEL 7                     |
| 24 316.193(3)(c)2. | 3rd    | DUI resulting in serious bodily |
| 25                 |        | injury.                         |
| 26 327.35(3)(c)2.  | 3rd    | Vessel BUI resulting in serious |
| 27                 |        | bodily injury.                  |
| 28 409.920(2)      | 3rd    | Medicaid provider fraud.        |
| 29                 |        |                                 |
| 30                 |        |                                 |
| 31                 |        |                                 |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 494.0018(2)     | 1st | Conviction of any violation of    |
| 2  |                 |     | ss. 494.001-494.0077 in which the |
| 3  |                 |     | total money and property          |
| 4  |                 |     | unlawfully obtained exceeded      |
| 5  |                 |     | \$50,000 and there were five or   |
| 6  |                 |     | more victims.                     |
| 7  | 782.051(3)      | 2nd | Attempted felony murder of a      |
| 8  |                 |     | person by a person other than the |
| 9  |                 |     | perpetrator or the perpetrator of |
| 10 |                 |     | an attempted felony.              |
| 11 | 782.07(1)       | 2nd | Killing of a human being by the   |
| 12 |                 |     | act, procurement, or culpable     |
| 13 |                 |     | negligence of another             |
| 14 |                 |     | (manslaughter).                   |
| 15 | 782.071         | 3rd | Killing of human being or viable  |
| 16 |                 |     | fetus by the operation of a motor |
| 17 |                 |     | vehicle in a reckless manner      |
| 18 |                 |     | (vehicular homicide).             |
| 19 | 782.072         | 3rd | Killing of a human being by the   |
| 20 |                 |     | operation of a vessel in a        |
| 21 |                 |     | reckless manner (vessel           |
| 22 |                 |     | homicide).                        |
| 23 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally |
| 24 |                 |     | causing great bodily harm or      |
| 25 |                 |     | disfigurement.                    |
| 26 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly  |
| 27 |                 |     | weapon.                           |
| 28 | 784.045(1)(b)   | 2nd | Aggravated battery; perpetrator   |
| 29 |                 |     | aware victim pregnant.            |
| 30 | 784.048(4)      | 3rd | Aggravated stalking; violation of |
| 31 |                 |     | injunction or court order.        |

|    |              |     |                                   |
|----|--------------|-----|-----------------------------------|
| 1  | 784.07(2)(d) | 1st | Aggravated battery on law         |
| 2  |              |     | enforcement officer.              |
| 3  | 784.08(2)(a) | 1st | Aggravated battery on a person 65 |
| 4  |              |     | years of age or older.            |
| 5  | 784.081(1)   | 1st | Aggravated battery on specified   |
| 6  |              |     | official or employee.             |
| 7  | 784.082(1)   | 1st | Aggravated battery by detained    |
| 8  |              |     | person on visitor or other        |
| 9  |              |     | detainee.                         |
| 10 | 784.083(1)   | 1st | Aggravated battery on code        |
| 11 |              |     | inspector.                        |
| 12 | 790.07(4)    | 1st | Specified weapons violation       |
| 13 |              |     | subsequent to previous conviction |
| 14 |              |     | of s. 790.07(1) or (2).           |
| 15 | 790.16(1)    | 1st | Discharge of a machine gun under  |
| 16 |              |     | specified circumstances.          |
| 17 | 796.03       | 2nd | Procuring any person under 16     |
| 18 |              |     | years for prostitution.           |
| 19 | 800.04       | 2nd | Handle, fondle, or assault child  |
| 20 |              |     | under 16 years in lewd,           |
| 21 |              |     | lascivious, or indecent manner.   |
| 22 | 806.01(2)    | 2nd | Maliciously damage structure by   |
| 23 |              |     | fire or explosive.                |
| 24 | 810.02(3)(a) | 2nd | Burglary of occupied dwelling;    |
| 25 |              |     | unarmed; no assault or battery.   |
| 26 | 810.02(3)(b) | 2nd | Burglary of unoccupied dwelling;  |
| 27 |              |     | unarmed; no assault or battery.   |
| 28 | 810.02(3)(d) | 2nd | Burglary of occupied conveyance;  |
| 29 |              |     | unarmed; no assault or battery.   |
| 30 |              |     |                                   |
| 31 |              |     |                                   |

|    |               |     |                                    |
|----|---------------|-----|------------------------------------|
| 1  | 812.014(2)(a) | 1st | Property stolen, valued at         |
| 2  |               |     | \$100,000 or more; property stolen |
| 3  |               |     | while causing other property       |
| 4  |               |     | damage; 1st degree grand theft.    |
| 5  | 812.019(2)    | 1st | Stolen property; initiates,        |
| 6  |               |     | organizes, plans, etc., the theft  |
| 7  |               |     | of property and traffics in        |
| 8  |               |     | stolen property.                   |
| 9  | 812.133(2)(b) | 1st | Carjacking; no firearm, deadly     |
| 10 |               |     | weapon, or other weapon.           |
| 11 | 825.102(3)(b) | 2nd | Neglecting an elderly person or    |
| 12 |               |     | disabled adult causing great       |
| 13 |               |     | bodily harm, disability, or        |
| 14 |               |     | disfigurement.                     |
| 15 | 825.1025(2)   | 2nd | Lewd or lascivious battery upon    |
| 16 |               |     | an elderly person or disabled      |
| 17 |               |     | adult.                             |
| 18 | 825.103(2)(b) | 2nd | Exploiting an elderly person or    |
| 19 |               |     | disabled adult and property is     |
| 20 |               |     | valued at \$20,000 or more, but    |
| 21 |               |     | less than \$100,000.               |
| 22 | 827.03(3)(b)  | 2nd | Neglect of a child causing great   |
| 23 |               |     | bodily harm, disability, or        |
| 24 |               |     | disfigurement.                     |
| 25 | 827.04(4)     | 3rd | Impregnation of a child under 16   |
| 26 |               |     | years of age by person 21 years    |
| 27 |               |     | of age or older.                   |
| 28 | 837.05(2)     | 3rd | Giving false information about     |
| 29 |               |     | alleged capital felony to a law    |
| 30 |               |     | enforcement officer.               |
| 31 | 872.06        | 2nd | Abuse of a dead human body.        |

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

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 893.135(1)(e)1. | 1st | Trafficking in methaqualone, more |
| 2  |                 |     | than 200 grams, less than 5       |
| 3  |                 |     | kilograms.                        |
| 4  | 893.135(1)(f)1. | 1st | Trafficking in amphetamine, more  |
| 5  |                 |     | than 14 grams, less than 28       |
| 6  |                 |     | grams.                            |
| 7  | 893.135         |     |                                   |
| 8  | (1)(g)1.a.      | 1st | Trafficking in flunitrazepam, 4   |
| 9  |                 |     | grams or more, less than 14       |
| 10 |                 |     | grams.                            |
| 11 |                 |     | (h) LEVEL 8                       |
| 12 | 316.193         |     |                                   |
| 13 | (3)(c)3.a.      | 2nd | DUI manslaughter.                 |
| 14 | 327.35(3)(c)3.  | 2nd | Vessel BUI manslaughter.          |
| 15 | 777.03(2)(a)    | 1st | Accessory after the fact, capital |
| 16 |                 |     | felony.                           |
| 17 | 782.04(4)       | 2nd | Killing of human without design   |
| 18 |                 |     | when engaged in act or attempt of |
| 19 |                 |     | any felony other than arson,      |
| 20 |                 |     | sexual battery, robbery,          |
| 21 |                 |     | burglary, kidnapping, aircraft    |
| 22 |                 |     | piracy, or unlawfully discharging |
| 23 |                 |     | bomb.                             |
| 24 | 782.051(2)      | 1st | Attempted felony murder while     |
| 25 |                 |     | perpetrating or attempting to     |
| 26 |                 |     | perpetrate a felony not           |
| 27 |                 |     | enumerated in s. 782.04(3).       |
| 28 | 782.071(2)      | 2nd | Committing vehicular homicide and |
| 29 |                 |     | failing to render aid or give     |
| 30 |                 |     | information.                      |
| 31 |                 |     |                                   |

|    |               |         |                                    |
|----|---------------|---------|------------------------------------|
| 1  | 782.072(2)    | 2nd     | Committing vessel homicide and     |
| 2  |               |         | failing to render aid or give      |
| 3  |               |         | information.                       |
| 4  | 790.161(3)    | 1st     | Discharging a destructive device   |
| 5  |               |         | which results in bodily harm or    |
| 6  |               |         | property damage.                   |
| 7  | 794.011(5)    | 2nd     | Sexual battery, victim 12 years    |
| 8  |               |         | or over, offender does not use     |
| 9  |               |         | physical force likely to cause     |
| 10 |               |         | serious injury.                    |
| 11 | 806.01(1)     | 1st     | Maliciously damage dwelling or     |
| 12 |               |         | structure by fire or explosive,    |
| 13 |               |         | believing person in structure.     |
| 14 | 810.02(2)(a)  | 1st,PBL | Burglary with assault or battery.  |
| 15 | 810.02(2)(b)  | 1st,PBL | Burglary; armed with explosives    |
| 16 |               |         | or dangerous weapon.               |
| 17 | 810.02(2)(c)  | 1st     | Burglary of a dwelling or          |
| 18 |               |         | structure causing structural       |
| 19 |               |         | damage or \$1,000 or more property |
| 20 |               |         | damage.                            |
| 21 | 812.13(2)(b)  | 1st     | Robbery with a weapon.             |
| 22 | 812.135(2)    | 1st     | Home-invasion robbery.             |
| 23 | 825.102(2)    | 2nd     | Aggravated abuse of an elderly     |
| 24 |               |         | person or disabled adult.          |
| 25 | 825.103(2)(a) | 1st     | Exploiting an elderly person or    |
| 26 |               |         | disabled adult and property is     |
| 27 |               |         | valued at \$100,000 or more.       |
| 28 | 827.03(2)     | 2nd     | Aggravated child abuse.            |
| 29 | 837.02(2)     | 2nd     | Perjury in official proceedings    |
| 30 |               |         | relating to prosecution of a       |
| 31 |               |         | capital felony.                    |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 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 |                 |     |                                   |
| 30 |                 |     |                                   |
| 31 |                 |     |                                   |

|    |            |     |                                   |
|----|------------|-----|-----------------------------------|
| 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 | 895.03(1)  | 1st | Use or invest proceeds derived    |
| 18 |            |     | from pattern of racketeering      |
| 19 |            |     | activity.                         |
| 20 | 895.03(2)  | 1st | Acquire or maintain through       |
| 21 |            |     | racketeering activity any         |
| 22 |            |     | interest in or control of any     |
| 23 |            |     | enterprise or real property.      |
| 24 | 895.03(3)  | 1st | Conduct or participate in any     |
| 25 |            |     | enterprise through pattern of     |
| 26 |            |     | racketeering activity.            |
| 27 |            |     | (i) LEVEL 9                       |
| 28 | 316.193    |     |                                   |
| 29 | (3)(c)3.b. | 1st | DUI manslaughter; failing to      |
| 30 |            |     | render aid or give information.   |
| 31 |            |     |                                   |

|    |                |         |                                   |
|----|----------------|---------|-----------------------------------|
| 1  | 782.04(1)      | 1st     | Attempt, conspire, or solicit to  |
| 2  |                |         | commit premeditated murder.       |
| 3  | 782.04(3)      | 1st,PBL | Accomplice to murder in           |
| 4  |                |         | connection with arson, sexual     |
| 5  |                |         | battery, robbery, burglary, and   |
| 6  |                |         | other specified felonies.         |
| 7  | 782.051(1)     | 1st     | Attempted felony murder while     |
| 8  |                |         | perpetrating or attempting to     |
| 9  |                |         | perpetrate a felony enumerated in |
| 10 |                |         | s. 782.04(3).                     |
| 11 | 782.07(2)      | 1st     | Aggravated manslaughter of an     |
| 12 |                |         | elderly person or disabled adult. |
| 13 | 782.07(3)      | 1st     | Aggravated manslaughter of a      |
| 14 |                |         | child.                            |
| 15 | 787.01(1)(a)1. | 1st,PBL | Kidnapping; hold for ransom or    |
| 16 |                |         | reward or as a shield or hostage. |
| 17 | 787.01(1)(a)2. | 1st,PBL | Kidnapping with intent to commit  |
| 18 |                |         | or facilitate commission of any   |
| 19 |                |         | felony.                           |
| 20 | 787.01(1)(a)4. | 1st,PBL | Kidnapping with intent to         |
| 21 |                |         | interfere with performance of any |
| 22 |                |         | governmental or political         |
| 23 |                |         | function.                         |
| 24 | 787.02(3)(a)   | 1st     | False imprisonment; child under   |
| 25 |                |         | age 13; perpetrator also commits  |
| 26 |                |         | child abuse, sexual battery,      |
| 27 |                |         | lewd, or lascivious act, etc.     |
| 28 | 790.161        | 1st     | Attempted capital destructive     |
| 29 |                |         | device offense.                   |
| 30 | 794.011(2)     | 1st     | Attempted sexual battery; victim  |
| 31 |                |         | less than 12 years of age.        |

|    |                 |         |                                   |
|----|-----------------|---------|-----------------------------------|
| 1  | 794.011(2)      | Life    | Sexual battery; offender younger  |
| 2  |                 |         | than 18 years and commits sexual  |
| 3  |                 |         | battery on a person less than 12  |
| 4  |                 |         | years.                            |
| 5  | 794.011(4)      | 1st     | Sexual battery; victim 12 years   |
| 6  |                 |         | or older, certain circumstances.  |
| 7  | 794.011(8)(b)   | 1st     | Sexual battery; engage in sexual  |
| 8  |                 |         | conduct with minor 12 to 18 years |
| 9  |                 |         | by person in familial or          |
| 10 |                 |         | custodial authority.              |
| 11 | 812.13(2)(a)    | 1st,PBL | Robbery with firearm or other     |
| 12 |                 |         | deadly weapon.                    |
| 13 | 812.133(2)(a)   | 1st,PBL | Carjacking; firearm or other      |
| 14 |                 |         | deadly weapon.                    |
| 15 | 847.0145(1)     | 1st     | Selling, or otherwise             |
| 16 |                 |         | transferring custody or control,  |
| 17 |                 |         | of a minor.                       |
| 18 | 847.0145(2)     | 1st     | Purchasing, or otherwise          |
| 19 |                 |         | obtaining custody or control, of  |
| 20 |                 |         | a minor.                          |
| 21 | 859.01          | 1st     | Poisoning food, drink, medicine,  |
| 22 |                 |         | or water with intent to kill or   |
| 23 |                 |         | injure another person.            |
| 24 | 893.135         | 1st     | Attempted capital trafficking     |
| 25 |                 |         | offense.                          |
| 26 | 893.135(1)(a)3. | 1st     | Trafficking in cannabis, more     |
| 27 |                 |         | than 10,000 lbs.                  |
| 28 | 893.135         |         |                                   |
| 29 | (1)(b)1.c.      | 1st     | Trafficking in cocaine, more than |
| 30 |                 |         | 400 grams, less than 150          |
| 31 |                 |         | kilograms.                        |

|    |                              |                                     |                                   |
|----|------------------------------|-------------------------------------|-----------------------------------|
| 1  | 893.135                      |                                     |                                   |
| 2  | (1)(c)1.c.                   | 1st                                 | Trafficking in illegal drugs,     |
| 3  |                              |                                     | more than 28 grams, less than 30  |
| 4  |                              |                                     | kilograms.                        |
| 5  | 893.135                      |                                     |                                   |
| 6  | (1)(d)1.c.                   | 1st                                 | Trafficking in phencyclidine,     |
| 7  |                              |                                     | more than 400 grams.              |
| 8  | 893.135                      |                                     |                                   |
| 9  | (1)(e)1.c.                   | 1st                                 | Trafficking in methaqualone, more |
| 10 |                              |                                     | than 25 kilograms.                |
| 11 | 893.135                      |                                     |                                   |
| 12 | (1)(f)1.c.                   | 1st                                 | Trafficking in amphetamine, more  |
| 13 |                              |                                     | than 200 grams.                   |
| 14 |                              |                                     | (j) LEVEL 10                      |
| 15 | 782.04(2)                    | 1st,PBL                             | Unlawful killing of human; act is |
| 16 |                              |                                     | homicide, unpremeditated.         |
| 17 | 787.01(1)(a)3.               | 1st,PBL                             | Kidnapping; inflict bodily harm   |
| 18 |                              |                                     | upon or terrorize victim.         |
| 19 | 787.01(3)(a)                 | Life                                | Kidnapping; child under age 13,   |
| 20 |                              |                                     | perpetrator also commits child    |
| 21 |                              |                                     | abuse, sexual battery, lewd, or   |
| 22 |                              |                                     | lascivious act, etc.              |
| 23 | 794.011(3)                   | Life                                | Sexual battery; victim 12 years   |
| 24 |                              |                                     | or older, offender uses or        |
| 25 |                              |                                     | threatens to use deadly weapon or |
| 26 |                              |                                     | physical force to cause serious   |
| 27 |                              |                                     | injury.                           |
| 28 | 876.32                       | 1st                                 | Treason against the state.        |
| 29 | 921.0024                     | Criminal Punishment Code; worksheet |                                   |
| 30 | computations; scoresheets.-- |                                     |                                   |
| 31 | (1)                          |                                     |                                   |

(b) WORKSHEET KEY:

1  
2  
3 Legal status points are assessed when any form of legal status  
4 existed at the time the offender committed an offense before  
5 the court for sentencing. Four (4) sentence points are  
6 assessed for an offender's legal status.

7  
8 Community sanction violation points are assessed when a  
9 community sanction violation is before the court for  
10 sentencing. Six (6) sentence points are assessed for each  
11 community sanction violation, and each successive community  
12 sanction violation; however, if the community sanction  
13 violation includes a new felony conviction before the  
14 sentencing court, twelve (12) community sanction violation  
15 points are assessed for such violation, and for each  
16 successive community sanction violation involving a new felony  
17 conviction. Multiple counts of community sanction violations  
18 before the sentencing court shall not be a basis for  
19 multiplying the assessment of community sanction violation  
20 points.

21  
22 Prior serious felony points: If the offender has a primary  
23 offense or any additional offense ranked in level 8, level 9,  
24 or level 10, and one or more prior serious felonies, a single  
25 assessment of 30 points shall be added. For purposes of this  
26 section, a prior serious felony is an offense in the  
27 offender's prior record that is ranked in level 8, level 9, or  
28 level 10 under s. 921.0022 or s. 921.0023 and for which the  
29 offender is serving a sentence of confinement, supervision, or  
30 other sanction or for which the offender's date of release  
31 from confinement, supervision, or other sanction, whichever is

1 later, is within 3 years before the date the primary offense  
2 or any additional offense was committed.

3

4 Prior capital felony points: If the offender has one or more  
5 prior capital felonies in the offender's criminal record,  
6 points shall be added to the subtotal sentence points of the  
7 offender equal to twice the number of points the offender  
8 receives for the primary offense and any additional offense.  
9 A prior capital felony in the offender's criminal record is a  
10 previous capital felony offense for which the offender has  
11 entered a plea of nolo contendere or guilty or has been found  
12 guilty; or a felony in another jurisdiction which is a capital  
13 felony in that jurisdiction, or would be a capital felony if  
14 the offense were committed in this state.

15

16 Possession of a firearm, semiautomatic firearm, or machine  
17 gun: If the offender is convicted of committing or attempting  
18 to commit any felony other than those enumerated in s.  
19 775.087(2) while having in his possession: a firearm as  
20 defined in s. 790.001(6), an additional 18 sentence points are  
21 assessed; or if the offender is convicted of committing or  
22 attempting to commit any felony other than those enumerated in  
23 s. 775.087(3) while having in his possession a semiautomatic  
24 firearm as defined in s. 775.087(3) or a machine gun as  
25 defined in s. 790.001(9), an additional 25 sentence points are  
26 assessed.

27

28 Sentencing multipliers:

29

30 Drug trafficking: If the primary offense is drug trafficking  
31 under s. 893.135, the subtotal sentence points are multiplied,

1 at the discretion of the court, for a level 7 or level 8  
2 offense, by 1.5. The state attorney may move the sentencing  
3 court to reduce or suspend the sentence of a person convicted  
4 of a level 7 or level 8 offense, if the offender provides  
5 substantial assistance as described in s. 893.135(4).

6  
7 Law enforcement protection: If the primary offense is a  
8 violation of the Law Enforcement Protection Act under s.  
9 775.0823(2), the subtotal sentence points are multiplied by  
10 2.5. If the primary offense is a violation of s. 775.0823(3),  
11 (4), (5), (6), (7), or (8), the subtotal sentence points are  
12 multiplied by 2.0. If the primary offense is a violation of s.  
13 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
14 Protection Act under s. 775.0823(9) or (10), the subtotal  
15 sentence points are multiplied by 1.5.

16  
17 Grand theft of a motor vehicle: If the primary offense is  
18 grand theft of the third degree involving a motor vehicle and  
19 in the offender's prior record, there are three or more grand  
20 thefts of the third degree involving a motor vehicle, the  
21 subtotal sentence points are multiplied by 1.5.

22  
23 Criminal street gang member: If the offender is convicted of  
24 the primary offense and is found to have been a member of a  
25 criminal street gang at the time of the commission of the  
26 primary offense pursuant to s. 874.04, the subtotal sentence  
27 points are multiplied by 1.5.

28  
29 Domestic violence in the presence of a child: If the offender  
30 is convicted of the primary offense and the primary offense is  
31 a crime of domestic violence, as defined in s. 741.28, which

1 was committed in the presence of a child under 16 years of age  
2 who is a family household member as defined in s. 741.28(2)  
3 with the victim or perpetrator, the subtotal sentence points  
4 are multiplied, at the discretion of the court, by 1.5.

5 921.142 Sentence of death or life imprisonment for  
6 capital drug trafficking felonies; further proceedings to  
7 determine sentence.--

8 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--Upon  
9 conviction or adjudication of guilt of a defendant of a  
10 capital felony under s. 893.135, the court shall conduct a  
11 separate sentencing proceeding to determine whether the  
12 defendant should be sentenced to death or life imprisonment as  
13 authorized by s. 775.082. The proceeding shall be conducted  
14 by the trial judge before the trial jury as soon as  
15 practicable. If, through impossibility or inability, the  
16 trial jury is unable to reconvene for a hearing on the issue  
17 of penalty, having determined the guilt of the accused, the  
18 trial judge may summon a special juror or jurors as provided  
19 in chapter 913 to determine the issue of the imposition of the  
20 penalty. If the trial jury has been waived, or if the  
21 defendant pleaded guilty, the sentencing proceeding shall be  
22 conducted before a jury impaneled for that purpose, unless  
23 waived by the defendant. In the proceeding, evidence may be  
24 presented as to any matter that the court deems relevant to  
25 the nature of the crime and the character of the defendant and  
26 shall include matters relating to any of the aggravating or  
27 mitigating circumstances enumerated in subsections (6) and  
28 (7). Any such evidence which the court deems to have  
29 probative value may be received, regardless of its  
30 admissibility under the exclusionary rules of evidence,  
31 provided the defendant is accorded a fair opportunity to rebut

1 any hearsay statements. However, this subsection shall not be  
2 construed to authorize the introduction of any evidence  
3 secured in violation of the Constitution of the United States  
4 or the Constitution of the State of Florida. The state and the  
5 defendant or the defendant's counsel shall be permitted to  
6 present argument for or against sentence of death.

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

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

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

24 (a) A certificate of eligibility for expunction issued  
25 by the department pursuant to subsection (2).

26 (b) The petitioner's sworn statement attesting that  
27 the petitioner:

28 1. Has never previously been adjudicated guilty of a  
29 criminal offense or comparable ordinance violation or  
30 adjudicated delinquent for committing a felony or a  
31 misdemeanor specified in s. 943.051(3)(b).

1           2. Has not been adjudicated guilty of, or adjudicated  
2 delinquent for committing, any of the acts stemming from the  
3 arrest or alleged criminal activity to which the petition  
4 pertains.

5           3. Has never secured a prior sealing or expunction of  
6 a criminal history record under this section, former s.  
7 893.14, former s. 901.33, or former s. 943.058, or from any  
8 jurisdiction outside the state.

9           4. Is eligible for such an expunction to the best of  
10 his or her knowledge or belief and does not have any other  
11 petition to expunge or any petition to seal pending before any  
12 court.

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

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

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

31

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

3           2. That an indictment, information, or other charging  
4 document, if filed or issued in the case, was dismissed or  
5 nolle prosequi by the state attorney or statewide prosecutor,  
6 or was dismissed by a court of competent jurisdiction.

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

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

19           (c) Has submitted to the department a certified copy  
20 of the disposition of the charge to which the petition to  
21 expunge pertains.

22           (d) Has never previously been adjudicated guilty of a  
23 criminal offense or comparable ordinance violation or  
24 adjudicated delinquent for committing a felony or a  
25 misdemeanor specified in s. 943.051(3)(b).

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

30  
31

1 (f) 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.

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

7 (h) Is not required to wait a minimum of 10 years  
8 prior to being eligible for an expunction of such records  
9 because all charges related to the arrest or criminal activity  
10 to which the petition to expunge pertains were dismissed prior  
11 to trial, adjudication, or the withholding of adjudication.  
12 Otherwise, such criminal history record must be sealed under  
13 this section, former s. 893.14, former s. 901.33, or former s.  
14 943.058 for at least 10 years before such record is eligible  
15 for expunction.

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

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

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

1 expunge to the Federal Bureau of Investigation. The clerk of  
2 the court shall certify a copy of the order to any other  
3 agency which the records of the court reflect has received the  
4 criminal history record from the court.

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

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

31

1 required by this section or such order does not otherwise  
2 comply with the requirements of this section.

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

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

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

1 used by such contractor or licensee in a sensitive position  
2 having direct contact with children, the developmentally  
3 disabled, the aged, or the elderly as provided in s.  
4 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s.  
5 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
6 415.1075(4), s. 985.407, or chapter 400; or

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

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

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

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

8           943.059 Court-ordered sealing of criminal history  
9 records.--The courts of this state shall continue to have  
10 jurisdiction over their own procedures, including the  
11 maintenance, sealing, and correction of judicial records  
12 containing criminal history information to the extent such  
13 procedures are not inconsistent with the conditions,  
14 responsibilities, and duties established by this section. Any  
15 court of competent jurisdiction may order a criminal justice  
16 agency to seal the criminal history record of a minor or an  
17 adult who complies with the requirements of this section. The  
18 court shall not order a criminal justice agency to seal a  
19 criminal history record until the person seeking to seal a  
20 criminal history record has applied for and received a  
21 certificate of eligibility for sealing pursuant to subsection  
22 (2). A criminal history record that relates to a violation of  
23 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,  
24 s. 893.135, or a violation enumerated in s. 907.041 may not be  
25 sealed, without regard to whether adjudication was withheld,  
26 if the defendant was found guilty of or pled guilty or nolo  
27 contendere to the offense, or if the defendant, as a minor,  
28 was found to have committed or pled guilty or nolo contendere  
29 to committing the offense as a delinquent act. The court may  
30 only order sealing of a criminal history record pertaining to  
31 one arrest or one incident of alleged criminal activity,

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

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

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

27 (b) The petitioner's sworn statement attesting that  
28 the petitioner:

29 1. Has never previously been adjudicated guilty of a  
30 criminal offense or comparable ordinance violation or  
31

1 adjudicated delinquent for committing a felony or a  
2 misdemeanor specified in s. 943.051(3)(b).

3 2. Has not been adjudicated guilty of or adjudicated  
4 delinquent for committing any of the acts stemming from the  
5 arrest or alleged criminal activity to which the petition to  
6 seal pertains.

7 3. Has never secured a prior sealing or expunction of  
8 a criminal history record under this section, former s.  
9 893.14, former s. 901.33, former s. 943.058, or from any  
10 jurisdiction outside the state.

11 4. Is eligible for such a sealing to the best of his  
12 or her knowledge or belief and does not have any other  
13 petition to seal or any petition to expunge pending before any  
14 court.

15  
16 Any person who knowingly provides false information on such  
17 sworn statement to the court commits a felony of the third  
18 degree, punishable as provided in s. 775.082, s. 775.083, or  
19 s. 775.084.

20 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
21 petitioning the court to seal a criminal history record, a  
22 person seeking to seal a criminal history record shall apply  
23 to the department for a certificate of eligibility for  
24 sealing. The department shall, by rule adopted pursuant to  
25 chapter 120, establish procedures pertaining to the  
26 application for and issuance of certificates of eligibility  
27 for sealing. The department shall issue a certificate of  
28 eligibility for sealing to a person who is the subject of a  
29 criminal history record provided that such person:

30  
31

1 (a) Has submitted to the department a certified copy  
2 of the disposition of the charge to which the petition to seal  
3 pertains.

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

7 (c) Has never previously been adjudicated guilty of a  
8 criminal offense or comparable ordinance violation or  
9 adjudicated delinquent for committing a felony or a  
10 misdemeanor specified in s. 943.051(3)(b).

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

15 (e) Has never secured a prior sealing or expunction of  
16 a criminal history record under this section, former s.  
17 893.14, former s. 901.33, or former s. 943.058.

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

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

22 (a) In judicial proceedings under this section, a copy  
23 of the completed petition to seal shall be served upon the  
24 appropriate state attorney or the statewide prosecutor and  
25 upon the arresting agency; however, it is not necessary to  
26 make any agency other than the state a party. The appropriate  
27 state attorney or the statewide prosecutor and the arresting  
28 agency may respond to the court regarding the completed  
29 petition to seal.

30 (b) If relief is granted by the court, the clerk of  
31 the court shall certify copies of the order to the appropriate

1 state attorney or the statewide prosecutor and to the  
2 arresting agency. The arresting agency is responsible for  
3 forwarding the order to any other agency to which the  
4 arresting agency disseminated the criminal history record  
5 information to which the order pertains. The department shall  
6 forward the order to seal to the Federal Bureau of  
7 Investigation. The clerk of the court shall certify a copy of  
8 the order to any other agency which the records of the court  
9 reflect has received the criminal history record from the  
10 court.

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

23 (d) On or after July 1, 1992, the department or any  
24 other criminal justice agency is not required to act on an  
25 order to seal entered by a court when such order does not  
26 comply with the requirements of this section. Upon receipt of  
27 such an order, the department must notify the issuing court,  
28 the appropriate state attorney or statewide prosecutor, the  
29 petitioner or the petitioner's attorney, and the arresting  
30 agency of the reason for noncompliance. The appropriate state  
31 attorney or statewide prosecutor shall take action within 60

1 days to correct the record and petition the court to void the  
2 order. No cause of action, including contempt of court, shall  
3 arise against any criminal justice agency for failure to  
4 comply with an order to seal when the petitioner for such  
5 order failed to obtain the certificate of eligibility as  
6 required by this section or when such order does not comply  
7 with the requirements of this section.

8 (e) An order sealing a criminal history record  
9 pursuant to this section does not require that such record be  
10 surrendered to the court, and such record shall continue to be  
11 maintained by the department and other criminal justice  
12 agencies.

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

23 (a) The subject of a criminal history record sealed  
24 under this section or under other provisions of law, including  
25 former s. 893.14, former s. 901.33, and former s. 943.058, may  
26 lawfully deny or fail to acknowledge the arrests covered by  
27 the sealed record, except when the subject of the record:

- 28 1. Is a candidate for employment with a criminal  
29 justice agency;
- 30 2. Is a defendant in a criminal prosecution;

31

1           3. Concurrently or subsequently petitions for relief  
2 under this section or s. 943.0585;

3           4. Is a candidate for admission to The Florida Bar;

4           5. Is seeking to be employed or licensed by or to  
5 contract with the Department of Children and Family Services  
6 or the Department of Juvenile Justice or to be employed or  
7 used by such contractor or licensee in a sensitive position  
8 having direct contact with children, the developmentally  
9 disabled, the aged, or the elderly as provided in s.  
10 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, s.  
11 402.302(8), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
12 415.103, s. 985.407, or chapter 400; or

13           6. Is seeking to be employed or licensed by the Office  
14 of Teacher Education, Certification, Staff Development, and  
15 Professional Practices of the Department of Education, any  
16 district school board, or any local governmental entity which  
17 licenses child care facilities.

18           (b) Subject to the exceptions in paragraph (a), a  
19 person who has been granted a sealing under this section,  
20 former s. 893.14, former s. 901.33, or former s. 943.058 may  
21 not be held under any provision of law of this state to commit  
22 perjury or to be otherwise liable for giving a false statement  
23 by reason of such person's failure to recite or acknowledge a  
24 sealed criminal history record.

25           (c) Information relating to the existence of a sealed  
26 criminal record provided in accordance with the provisions of  
27 paragraph (a) is confidential and exempt from the provisions  
28 of s. 119.07(1) and s. 24(a), Art. I of the State  
29 Constitution, except that the department shall disclose the  
30 sealed criminal history record to the entities set forth in  
31 subparagraphs (a)1., 4., 5., and 6. for their respective

1 | licensing and employment purposes. It is unlawful for any  
2 | employee of an entity set forth in subparagraph (a)1.,  
3 | subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.  
4 | to disclose information relating to the existence of a sealed  
5 | criminal history record of a person seeking employment or  
6 | licensure with such entity or contractor, except to the person  
7 | to whom the criminal history record relates or to persons  
8 | having direct responsibility for employment or licensure  
9 | decisions. Any person who violates the provisions of this  
10 | paragraph commits a misdemeanor of the first degree,  
11 | punishable as provided in s. 775.082 or s. 775.083.

12 |       Section 12. In order to inform the public and to deter  
13 | and prevent crime in the state, the Executive Office of the  
14 | Governor shall place public service announcements in visible  
15 | local media throughout the state explaining the penalties  
16 | provided in this act.

17 |       Section 2. Effective October 1, 2000, section 893.135,  
18 | Florida Statutes, as amended by section 9 of chapter 99-188,  
19 | Laws of Florida, and as reenacted by section 1 of this act, is  
20 | further amended to read:

21 |       893.135 Trafficking; mandatory sentences; suspension  
22 | or reduction of sentences; conspiracy to engage in  
23 | trafficking.--

24 |       (1) Except as authorized in this chapter or in chapter  
25 | 499 and notwithstanding the provisions of s. 893.13:

26 |       (a) 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, in excess  
29 | of 25 pounds of cannabis, or 300 or more cannabis plants,  
30 | commits a felony of the first degree, which felony shall be  
31 | known as "trafficking in cannabis," punishable as provided in

1 s. 775.082, s. 775.083, or s. 775.084. If the quantity of  
2 cannabis involved:

3 1. Is in excess of 25 pounds, but less than 2,000  
4 pounds, or is 300 or more cannabis plants, but not more than  
5 2,000 cannabis plants, such person shall be sentenced to  
6 ~~pursuant to the Criminal Punishment Code and such sentence~~  
7 ~~shall include~~ a mandatory minimum term of imprisonment of 3  
8 years, and the defendant shall be ordered to pay a fine of  
9 \$25,000.

10 2. Is 2,000 pounds or more, but less than 10,000  
11 pounds, or is 2,000 or more cannabis plants, but not more than  
12 10,000 cannabis plants, such person shall be sentenced to  
13 ~~pursuant to the Criminal Punishment Code and such sentence~~  
14 ~~shall include~~ a mandatory minimum term of imprisonment of 7  
15 years, and the defendant shall be ordered to pay a fine of  
16 \$50,000.

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

21  
22 For the purpose of this paragraph, a plant, including, but not  
23 limited to, a seedling or cutting, is a "cannabis plant" if it  
24 has some readily observable evidence of root formation, such  
25 as root hairs. To determine if a piece or part of a cannabis  
26 plant severed from the cannabis plant is itself a cannabis  
27 plant, the severed piece or part must have some readily  
28 observable evidence of root formation, such as root hairs.  
29 Callous tissue is not readily observable evidence of root  
30 formation. The viability and sex of a plant and the fact that  
31 the plant may or may not be a dead harvested plant are not

1 relevant in determining if the plant is a "cannabis plant" or  
2 in the charging of an offense under this paragraph. Upon  
3 conviction, the court shall impose the longest term of  
4 imprisonment provided for in this paragraph.

5 (b)1. Any person who knowingly sells, purchases,  
6 manufactures, delivers, or brings into this state, or who is  
7 knowingly in actual or constructive possession of, 28 grams or  
8 more of cocaine, as described in s. 893.03(2)(a)4., or of any  
9 mixture containing cocaine, but less than 150 kilograms of  
10 cocaine or any such mixture, commits a felony of the first  
11 degree, which felony shall be known as "trafficking in  
12 cocaine," punishable as provided in s. 775.082, s. 775.083, or  
13 s. 775.084. If the quantity involved:

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

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

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

27 2. Any person who knowingly sells, purchases,  
28 manufactures, delivers, or brings into this state, or who is  
29 knowingly in actual or constructive possession of, 150  
30 kilograms or more of cocaine, as described in s.  
31 893.03(2)(a)4., commits the first degree felony of trafficking

1 | in cocaine. A person who has been convicted of the first  
2 | degree felony of trafficking in cocaine under this  
3 | subparagraph shall be punished by life imprisonment and is  
4 | ineligible for any form of discretionary early release except  
5 | pardon or executive clemency or conditional medical release  
6 | under s. 947.149. However, if the court determines that, in  
7 | addition to committing any act specified in this paragraph:  
8 |       a. The person intentionally killed an individual or  
9 | counseled, commanded, induced, procured, or caused the  
10 | intentional killing of an individual and such killing was the  
11 | result; or  
12 |       b. The person's conduct in committing that act led to  
13 | a natural, though not inevitable, lethal result,  
14 |  
15 | such person commits the capital felony of trafficking in  
16 | cocaine, punishable as provided in ss. 775.082 and 921.142.  
17 | Any person sentenced for a capital felony under this paragraph  
18 | shall also be sentenced to pay the maximum fine provided under  
19 | subparagraph 1.  
20 |       3. Any person who knowingly brings into this state 300  
21 | kilograms or more of cocaine, as described in s.  
22 | 893.03(2)(a)4., and who knows that the probable result of such  
23 | importation would be the death of any person, commits capital  
24 | importation of cocaine, a capital felony punishable as  
25 | provided in ss. 775.082 and 921.142. Any person sentenced for  
26 | a capital felony under this paragraph shall also be sentenced  
27 | to pay the maximum fine provided under subparagraph 1.  
28 |       (c)1. Any person who knowingly sells, purchases,  
29 | manufactures, delivers, or brings into this state, or who is  
30 | knowingly in actual or constructive possession of, 4 grams or  
31 | more of any morphine, opium, oxycodone, hydrocodone,

1 hydromorphone, or any salt, derivative, isomer, or salt of an  
2 isomer thereof, including heroin, as described in s.  
3 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture  
4 containing any such substance, but less than 30 kilograms of  
5 such substance or mixture, commits a felony of the first  
6 degree, which felony shall be known as "trafficking in illegal  
7 drugs," punishable as provided in s. 775.082, s. 775.083, or  
8 s. 775.084.\*If the quantity involved:  
9 a. Is 4 grams or more, but less than 14 grams, such  
10 person shall be sentenced to pursuant to the Criminal  
11 Punishment Code and such sentence shall include a mandatory  
12 minimum term of imprisonment of 3 years, and the defendant  
13 shall be ordered to pay a fine of \$50,000.  
14 b. Is 14 grams or more, but less than 28 grams, such  
15 person shall be sentenced to pursuant to the Criminal  
16 Punishment Code and such sentence shall include a mandatory  
17 minimum term of imprisonment of 15 years, and the defendant  
18 shall be ordered to pay a fine of \$100,000.  
19 c. Is 28 grams or more, but less than 30 kilograms,  
20 such person shall be sentenced to a mandatory minimum term of  
21 imprisonment of 25 calendar years and pay a fine of \$500,000.  
22 2. 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, 30  
25 kilograms or more of any morphine, opium, oxycodone,  
26 hydrocodone, hydromorphone, or any salt, derivative, isomer,  
27 or salt of an isomer thereof, including heroin, as described  
28 in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more of any  
29 mixture containing any such substance, commits the first  
30 degree felony of trafficking in illegal drugs. A person who  
31 has been convicted of the first degree felony of trafficking

1 in illegal drugs under this subparagraph shall be punished by  
2 life imprisonment and is ineligible for any form of  
3 discretionary early release except pardon or executive  
4 clemency or conditional medical release under s. 947.149.

5 However, if the court determines that, in addition to  
6 committing any act specified in this paragraph:

7         a. The person intentionally killed an individual or  
8 counseled, commanded, induced, procured, or caused the  
9 intentional killing of an individual and such killing was the  
10 result; or

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

13  
14 such person commits the capital felony of trafficking in  
15 illegal drugs, punishable as provided in ss. 775.082 and  
16 921.142. Any person sentenced for a capital felony under this  
17 paragraph shall also be sentenced to pay the maximum fine  
18 provided under subparagraph 1.

19         3. Any person who knowingly brings into this state 60  
20 kilograms or more of any morphine, opium, oxycodone,  
21 hydrocodone, hydromorphone, or any salt, derivative, isomer,  
22 or salt of an isomer thereof, including heroin, as described  
23 in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any  
24 mixture containing any such substance, and who knows that the  
25 probable result of such importation would be the death of any  
26 person, commits capital importation of illegal drugs, a  
27 capital felony punishable as provided in ss. 775.082 and  
28 921.142. Any person sentenced for a capital felony under this  
29 paragraph shall also be sentenced to pay the maximum fine  
30 provided under subparagraph 1.

31

1 (d)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 28 grams or  
4 more of phencyclidine or of any mixture containing  
5 phencyclidine, as described in s. 893.03(2)(b), commits a  
6 felony of the first degree, which felony shall be known as  
7 "trafficking in phencyclidine," punishable as provided in s.  
8 775.082, s. 775.083, or s. 775.084.\*If the quantity involved:

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

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

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

22 2. Any person who knowingly brings into this state 800  
23 grams or more of phencyclidine or of any mixture containing  
24 phencyclidine, as described in s. 893.03(2)(b), and who knows  
25 that the probable result of such importation would be the  
26 death of any person commits capital importation of  
27 phencyclidine, a capital felony punishable as provided in ss.  
28 775.082 and 921.142. Any person sentenced for a capital felony  
29 under this paragraph shall also be sentenced to pay the  
30 maximum fine provided under subparagraph 1.

31

1 (e)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 200 grams  
4 or more of methaqualone or of any mixture containing  
5 methaqualone, as described in s. 893.03(1)(d), commits a  
6 felony of the first degree, which felony shall be known as  
7 "trafficking in methaqualone," punishable as provided in s.  
8 775.082, s. 775.083, or s. 775.084.\*If the quantity involved:

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

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

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

22 2. Any person who knowingly brings into this state 50  
23 kilograms or more of methaqualone or of any mixture containing  
24 methaqualone, as described in s. 893.03(1)(d), and who knows  
25 that the probable result of such importation would be the  
26 death of any person commits capital importation of  
27 methaqualone, a capital felony punishable as provided in ss.  
28 775.082 and 921.142. Any person sentenced for a capital felony  
29 under this paragraph shall also be sentenced to pay the  
30 maximum fine provided under subparagraph 1.

31

1 (f)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 14 grams or  
4 more of amphetamine, as described in s. 893.03(2)(c)2., or  
5 methamphetamine, as described in s. 893.03(2)(c)4., or of any  
6 mixture containing amphetamine or methamphetamine, or  
7 phenylacetone, phenylacetic acid, or ephedrine in conjunction  
8 with other chemicals and equipment utilized in the manufacture  
9 of amphetamine or methamphetamine, commits a felony of the  
10 first degree, which felony shall be known as "trafficking in  
11 amphetamine," punishable as provided in s. 775.082, s.  
12 775.083, or s. 775.084."If the quantity involved:

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

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

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

26 2. Any person who knowingly manufactures or brings  
27 into this state 400 grams or more of amphetamine, as described  
28 in s. 893.03(2)(c)2., or methamphetamine, as described in s.  
29 893.03(2)(c)4., or of any mixture containing amphetamine or  
30 methamphetamine, or phenylacetone, phenylacetic acid, or  
31 ephedrine in conjunction with other chemicals and equipment

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

9 (g)1. 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, 4 grams or  
12 more of flunitrazepam or any mixture containing flunitrazepam  
13 as described in s. 893.03(1)(a) commits a felony of the first  
14 degree, which felony shall be known as "trafficking in  
15 flunitrazepam," punishable as provided in s. 775.082, s.  
16 775.083, or s. 775.084.\*If the quantity involved:

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

22 b. Is 14 grams or more but less than 28 grams, such  
23 person shall be sentenced to ~~pursuant to the Criminal~~  
24 ~~Punishment Code and such sentence shall include~~ a mandatory  
25 minimum term of imprisonment of 7 years, and the defendant  
26 shall be ordered to pay a fine of \$100,000.

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

30 2. Any person who knowingly sells, purchases,  
31 manufactures, delivers, or brings into this state or who is

1 knowingly in actual or constructive possession of 30 kilograms  
2 or more of flunitrazepam or any mixture containing  
3 flunitrazepam as described in s. 893.03(1)(a) commits the  
4 first degree felony of trafficking in flunitrazepam. A person  
5 who has been convicted of the first degree felony of  
6 trafficking in flunitrazepam under this subparagraph shall be  
7 punished by life imprisonment and is ineligible for any form  
8 of discretionary early release except pardon or executive  
9 clemency or conditional medical release under s. 947.149.  
10 However, if the court determines that, in addition to  
11 committing any act specified in this paragraph:  
12       a. The person intentionally killed an individual or  
13 counseled, commanded, induced, procured, or caused the  
14 intentional killing of an individual and such killing was the  
15 result; or  
16       b. The person's conduct in committing that act led to  
17 a natural, though not inevitable, lethal result,  
18  
19 such person commits the capital felony of trafficking in  
20 flunitrazepam, punishable as provided in ss. 775.082 and  
21 921.142. Any person sentenced for a capital felony under this  
22 paragraph shall also be sentenced to pay the maximum fine  
23 provided under subparagraph 1.  
24       (h)1. Any person who knowingly sells, purchases,  
25 manufactures, delivers, or brings into this state, or who is  
26 knowingly in actual or constructive possession of, 1 kilogram  
27 or more of gamma-hydroxybutyric acid (GHB), as described in s.  
28 893.03(2)(b), or any mixture containing gamma-hydroxybutyric  
29 acid (GHB), commits a felony of the first degree, which felony  
30 shall be known as "trafficking in gamma-hydroxybutyric acid  
31

1 (GHB)," punishable as provided in s. 775.082, s. 775.083, or  
2 s. 775.084. If the quantity involved:  
3       a. Is 1 kilogram or more but less than 5 kilograms,  
4 such person shall be sentenced to a mandatory minimum term of  
5 imprisonment of 3 years, and the defendant shall be ordered to  
6 pay a fine of \$50,000.  
7       b. Is 5 kilograms or more but less than 10 kilograms,  
8 such person shall be sentenced to a mandatory minimum term of  
9 imprisonment of 7 years, and the defendant shall be ordered to  
10 pay a fine of \$100,000.  
11       c. Is 10 kilograms or more, such person shall be  
12 sentenced to a mandatory minimum term of imprisonment of 15  
13 calendar years and pay a fine of \$250,000.  
14       2. Any person who knowingly manufactures or brings  
15 into this state 150 kilograms or more of gamma-hydroxybutyric  
16 acid (GHB), as described in s. 893.03(2)(b), or any mixture  
17 containing gamma-hydroxybutyric acid (GHB), and who knows that  
18 the probable result of such manufacture or importation would  
19 be the death of any person commits capital manufacture or  
20 importation of gamma-hydroxybutyric acid (GHB), a capital  
21 felony punishable as provided in ss. 775.082 and 921.142. Any  
22 person sentenced for a capital felony under this paragraph  
23 shall also be sentenced to pay the maximum fine provided under  
24 subparagraph 1.  
25       (i)1. Any person who knowingly sells, purchases,  
26 manufactures, delivers, or brings into this state, or who is  
27 knowingly in actual or constructive possession of, 1 kilogram  
28 or more of 1,4-Butanediol as described in s. 893.03(2)(b), or  
29 of any mixture containing 1,4-Butanediol, commits a felony of  
30 the first degree, which felony shall be known as "trafficking  
31

1 in 1,4-Butanediol," punishable as provided in s. 775.082, s.  
2 775.083, or s. 775.084. If the quantity involved:  
3 a. Is 1 kilogram or more, but less than 5 kilograms,  
4 such person shall be sentenced to a mandatory minimum term of  
5 imprisonment of 3 years, and the defendant shall be ordered to  
6 pay a fine of \$50,000.  
7 b. Is 5 kilograms or more, but less than 10 kilograms,  
8 such person shall be sentenced to a mandatory minimum term of  
9 imprisonment of 7 years, and the defendant shall be ordered to  
10 pay a fine of \$100,000.  
11 c. Is 10 kilograms or more, such person shall be  
12 sentenced to a mandatory minimum term of imprisonment of 15  
13 calendar years and pay a fine of \$500,000.  
14 2. Any person who knowingly manufactures or brings  
15 into this state 150 kilograms or more of 1,4-Butanediol as  
16 described in s. 893.03(2)(b), or any mixture containing  
17 1,4-Butanediol, and who knows that the probable result of such  
18 manufacture or importation would be the death of any person  
19 commits capital manufacture or importation of 1,4-Butanediol,  
20 a capital felony punishable as provided in ss. 775.082 and  
21 921.142. Any person sentenced for a capital felony under this  
22 paragraph shall also be sentenced to pay the maximum fine  
23 provided under subparagraph 1.  
24 (j)1. Any person who knowingly sells, purchases,  
25 manufactures, delivers, or brings into this state, or who is  
26 knowingly in actual or constructive possession of, 10 grams or  
27 more of any of the following substances described in s.  
28 893.03(1)(a) or (c):  
29 a. 3,4-Methylenedioxymethamphetamine (MDMA);  
30 b. 4-Bromo-2,5-dimethoxyamphetamine;  
31 c. 4-Bromo-2,5-dimethoxyphenethylamine;

- 1           d. 2,5-Dimethoxyamphetamine;
- 2           e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 3           f. N-ethylamphetamine;
- 4           g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 5           h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 6           i. 4-methoxyamphetamine;
- 7           j. 4-Methyl-2,5-dimethoxyamphetamine;
- 8           k. 3,4-Methylenedioxy-N-ethylamphetamine;
- 9           l. 3,4-Methylenedioxyamphetamine;
- 10          m. N,N-dimethylamphetamine; or
- 11          n. 3,4,5-Trimethoxyamphetamine,
- 12
- 13          individually or in any combination of or any mixture
- 14          containing any substance listed in sub-subparagraphs a.-n.,
- 15          commits a felony of the first degree, which felony shall be
- 16          known as "trafficking in Phenethylamines," punishable as
- 17          provided in s. 775.082, s. 775.083, or s. 775.084.
- 18                 2. If the quantity involved:
- 19                         a. Is 10 grams or more but less than 200 grams, such
- 20                         person shall be sentenced to a mandatory minimum term of
- 21                         imprisonment of 3 years, and the defendant shall be ordered to
- 22                         pay a fine of \$50,000.
- 23                         b. Is 200 grams or more, but less than 400 grams, such
- 24                         person shall be sentenced to a mandatory minimum term of
- 25                         imprisonment of 7 years, and the defendant shall be ordered to
- 26                         pay a fine of \$100,000.
- 27                         c. Is 400 grams or more, such person shall be
- 28                         sentenced to a mandatory minimum term of imprisonment of 15
- 29                         calendar years and pay a fine of \$250,000.
- 30
- 31

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

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

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

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

7           d. 2,5-Dimethoxyamphetamine;

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

9           f. N-ethylamphetamine;

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

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

12          i. 4-methoxyamphetamine;

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

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

15          l. 3,4-Methylenedioxyamphetamine;

16          m. N,N-dimethylamphetamine; or

17          n. 3,4,5-Trimethoxyamphetamine,

18  
19 individually or in any combination of or any mixture  
20 containing any substance listed in sub-subparagraphs a.-n.,  
21 and who knows that the probable result of such manufacture or  
22 importation would be the death of any person commits capital  
23 manufacture or importation of Phenethylamines, a capital  
24 felony punishable as provided in ss. 775.082 and 921.142. Any  
25 person sentenced for a capital felony under this paragraph  
26 shall also be sentenced to pay the maximum fine provided under  
27 subparagraph 1.

28           (2) A person acts knowingly under subsection (1) if  
29 that person intends to sell, purchase, manufacture, deliver,  
30 or bring into this state, or to actually or constructively  
31 possess, any of the controlled substances listed in subsection

1 (1), regardless of which controlled substance listed in  
2 subsection (1) is in fact sold, purchased, manufactured,  
3 delivered, or brought into this state, or actually or  
4 constructively possessed.

5 (3) Notwithstanding the provisions of s. 948.01, with  
6 respect to any person who is found to have violated this  
7 section, adjudication of guilt or imposition of sentence shall  
8 not be suspended, deferred, or withheld, nor shall such person  
9 be eligible for parole prior to serving the mandatory minimum  
10 term of imprisonment prescribed by this section. A person  
11 sentenced to a mandatory minimum term of imprisonment under  
12 this section is not eligible for any form of discretionary  
13 early release, except pardon or executive clemency or  
14 conditional medical release under s. 947.149, prior to serving  
15 the mandatory minimum term of imprisonment.

16 (4) The state attorney may move the sentencing court  
17 to reduce or suspend the sentence of any person who is  
18 convicted of a violation of this section and who provides  
19 substantial assistance in the identification, arrest, or  
20 conviction of any of that person's accomplices, accessories,  
21 coconspirators, or principals or of any other person engaged  
22 in trafficking in controlled substances. The arresting agency  
23 shall be given an opportunity to be heard in aggravation or  
24 mitigation in reference to any such motion. Upon good cause  
25 shown, the motion may be filed and heard in camera. The judge  
26 hearing the motion may reduce or suspend the sentence if the  
27 judge finds that the defendant rendered such substantial  
28 assistance.

29 (5) Any person who agrees, conspires, combines, or  
30 confederates with another person to commit any act prohibited  
31 by subsection (1) commits a felony of the first degree and is

1 punishable as if he or she had actually committed such  
2 prohibited act. Nothing in this subsection shall be construed  
3 to prohibit separate convictions and sentences for a violation  
4 of this subsection and any violation of subsection (1).

5 Section 3. Effective July 1, 2001, section 893.135,  
6 Florida Statutes, as amended by section 9 of chapter 99-188,  
7 Laws of Florida, and as reenacted by section 1 of this act,  
8 and as further amended by section 2 of this act, is further  
9 amended to read:

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

13 (1) Except as authorized in this chapter or in chapter  
14 499 and notwithstanding the provisions of s. 893.13:

15 (a) 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, in excess  
18 of 25 pounds of cannabis, or 300 or more cannabis plants,  
19 commits a felony of the first degree, which felony shall be  
20 known as "trafficking in cannabis," punishable as provided in  
21 s. 775.082, s. 775.083, or s. 775.084. If the quantity of  
22 cannabis involved:

23 1. Is in excess of 25 pounds, but less than 2,000  
24 pounds, or is 300 or more cannabis plants, but not more than  
25 2,000 cannabis plants, such person shall be sentenced to a  
26 mandatory minimum term of imprisonment of 3 years, and the  
27 defendant shall be ordered to pay a fine of \$25,000.

28 2. Is 2,000 pounds or more, but less than 10,000  
29 pounds, or is 2,000 or more cannabis plants, but not more than  
30 10,000 cannabis plants, such person shall be sentenced to a  
31

1 mandatory minimum term of imprisonment of 7 years, and the  
2 defendant shall be ordered to pay a fine of \$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 a mandatory minimum term of  
3 imprisonment of 3 years, and the defendant shall be ordered to  
4 pay a fine of \$50,000.

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

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

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

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

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

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

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

14           (c)1. 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, 4 grams or  
17 more of any morphine, opium, oxycodone, hydrocodone,  
18 hydromorphone, or any salt, derivative, isomer, or salt of an  
19 isomer thereof, including heroin, as described in s.  
20 893.03(1)(b), or (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or  
21 more of any mixture containing any such substance, but less  
22 than 30 kilograms of such substance or mixture, commits a  
23 felony of the first degree, which felony shall be known as  
24 "trafficking in illegal drugs," punishable as provided in s.  
25 775.082, s. 775.083, or s. 775.084. If the quantity involved:

26           a. Is 4 grams or more, but less than 14 grams, such  
27 person shall be sentenced to a mandatory minimum term of  
28 imprisonment of 3 years, and the defendant shall be ordered to  
29 pay a fine of \$50,000.

30           b. Is 14 grams or more, but less than 28 grams, such  
31 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 15 years, and the defendant shall be ordered  
2 to pay a fine of \$100,000.

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

6 2. Any person who knowingly sells, purchases,  
7 manufactures, delivers, or brings into this state, or who is  
8 knowingly in actual or constructive possession of, 30  
9 kilograms or more of any morphine, opium, oxycodone,  
10 hydrocodone, hydromorphone, or any salt, derivative, isomer,  
11 or salt of an isomer thereof, including heroin, as described  
12 in s. 893.03(1)(b), ~~or~~ (2)(a), (3)(c)3., or (3)(c)4., or 30  
13 kilograms or more of any mixture containing any such  
14 substance, commits the first degree felony of trafficking in  
15 illegal drugs. A person who has been convicted of the first  
16 degree felony of trafficking in illegal drugs under this  
17 subparagraph shall be punished by life imprisonment and is  
18 ineligible for any form of discretionary early release except  
19 pardon or executive clemency or conditional medical release  
20 under s. 947.149. However, if the court determines that, in  
21 addition to committing any act specified in this paragraph:

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

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

28  
29 such person commits the capital felony of trafficking in  
30 illegal drugs, punishable as provided in ss. 775.082 and  
31 921.142. Any person sentenced for a capital felony under this

1 paragraph shall also be sentenced to pay the maximum fine  
2 provided under subparagraph 1.

3           3. Any person who knowingly brings into this state 60  
4 kilograms or more of any morphine, opium, oxycodone,  
5 hydrocodone, hydromorphone, or any salt, derivative, isomer,  
6 or salt of an isomer thereof, including heroin, as described  
7 in s. 893.03(1)(b), or (2)(a), (3)(c)3., or (3)(c)4., or 60  
8 kilograms or more of any mixture containing any such  
9 substance, and who knows that the probable result of such  
10 importation would be the death of any person, commits capital  
11 importation of illegal drugs, 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           (d)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, 28 grams or  
18 more of phencyclidine or of any mixture containing  
19 phencyclidine, as described in s. 893.03(2)(b), commits a  
20 felony of the first degree, which felony shall be known as  
21 "trafficking in phencyclidine," punishable as provided in s.  
22 775.082, s. 775.083, or s. 775.084. If the quantity involved:

23           a. Is 28 grams or more, but less than 200 grams, such  
24 person shall be sentenced to a mandatory minimum term of  
25 imprisonment of 3 years, and the defendant shall be ordered to  
26 pay a fine of \$50,000.

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

31

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

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

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

21           a. Is 200 grams or more, but less than 5 kilograms,  
22 such person shall be sentenced to a mandatory minimum term of  
23 imprisonment of 3 years, and the defendant shall be ordered to  
24 pay a fine of \$50,000.

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

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

1           2. Any person who knowingly brings into this state 50  
2 kilograms or more of methaqualone or of any mixture containing  
3 methaqualone, as described in s. 893.03(1)(d), and who knows  
4 that the probable result of such importation would be the  
5 death of any person commits capital importation of  
6 methaqualone, a capital felony punishable as provided in ss.  
7 775.082 and 921.142. Any person sentenced for a capital felony  
8 under this paragraph shall also be sentenced to pay the  
9 maximum fine provided under subparagraph 1.

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

22           a. Is 14 grams or more, but less than 28 grams, such  
23 person shall be sentenced to a mandatory minimum term of  
24 imprisonment of 3 years, and the defendant shall be ordered to  
25 pay a fine of \$50,000.

26           b. Is 28 grams or more, but less than 200 grams, such  
27 person shall be sentenced to a mandatory minimum term of  
28 imprisonment of 7 years, and the defendant shall be ordered to  
29 pay a fine of \$100,000.

30  
31

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

4           2. Any person who knowingly manufactures or brings  
5 into this state 400 grams or more of amphetamine, as described  
6 in s. 893.03(2)(c)2., or methamphetamine, as described in s.  
7 893.03(2)(c)4., or of any mixture containing amphetamine or  
8 methamphetamine, or phenylacetone, phenylacetic acid, or  
9 ephedrine in conjunction with other chemicals and equipment  
10 used in the manufacture of amphetamine or methamphetamine, and  
11 who knows that the probable result of such manufacture or  
12 importation would be the death of any person commits capital  
13 manufacture or importation of amphetamine, a capital felony  
14 punishable as provided in ss. 775.082 and 921.142. Any person  
15 sentenced for a capital felony under this paragraph shall also  
16 be sentenced to pay the maximum fine provided under  
17 subparagraph 1.

18           (g)1. Any person who knowingly sells, purchases,  
19 manufactures, delivers, or brings into this state, or who is  
20 knowingly in actual or constructive possession of, 4 grams or  
21 more of flunitrazepam or any mixture containing flunitrazepam  
22 as described in s. 893.03(1)(a) commits a felony of the first  
23 degree, which felony shall be known as "trafficking in  
24 flunitrazepam," punishable as provided in s. 775.082, s.  
25 775.083, or s. 775.084. If the quantity involved:

26           a. Is 4 grams or more but less than 14 grams, such  
27 person shall be sentenced to a mandatory minimum term of  
28 imprisonment of 3 years, and the defendant shall be ordered to  
29 pay a fine of \$50,000.

30           b. Is 14 grams or more but less than 28 grams, such  
31 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 7 years, and the defendant shall be ordered to  
2 pay a fine of \$100,000.

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

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

19 a. The person intentionally killed an individual or  
20 counseled, commanded, induced, procured, or caused the  
21 intentional killing of an individual and such killing was the  
22 result; or

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

25  
26 such person commits the capital felony of trafficking in  
27 flunitrazepam, punishable as provided in ss. 775.082 and  
28 921.142. Any person sentenced for a capital felony under this  
29 paragraph shall also be sentenced to pay the maximum fine  
30 provided under subparagraph 1.

31

1           (h)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 1 kilogram  
4 or more of gamma-hydroxybutyric acid (GHB), as described in s.  
5 893.03(1)(d)~~s. 893.03(2)(b)~~, or any mixture containing  
6 gamma-hydroxybutyric acid (GHB), commits a felony of the first  
7 degree, which felony shall be known as "trafficking in  
8 gamma-hydroxybutyric acid (GHB)," punishable as provided in s.  
9 775.082, s. 775.083, or s. 775.084. If the quantity involved:  
10           a. Is 1 kilogram or more but less than 5 kilograms,  
11 such person shall be sentenced to a mandatory minimum term of  
12 imprisonment of 3 years, and the defendant shall be ordered to  
13 pay a fine of \$50,000.  
14           b. Is 5 kilograms or more but less than 10 kilograms,  
15 such person shall be sentenced to a mandatory minimum term of  
16 imprisonment of 7 years, and the defendant shall be ordered to  
17 pay a fine of \$100,000.  
18           c. Is 10 kilograms or more, such person shall be  
19 sentenced to a mandatory minimum term of imprisonment of 15  
20 calendar years and pay a fine of \$250,000.  
21           2. Any person who knowingly manufactures or brings  
22 into this state 150 kilograms or more of gamma-hydroxybutyric  
23 acid (GHB), as described in s. 893.03(1)(d)~~s. 893.03(2)(b)~~,  
24 or any mixture containing gamma-hydroxybutyric acid (GHB), and  
25 who knows that the probable result of such manufacture or  
26 importation would be the death of any person commits capital  
27 manufacture or importation of gamma-hydroxybutyric acid (GHB),  
28 a capital felony punishable as provided in ss. 775.082 and  
29 921.142. Any person sentenced for a capital felony under this  
30 paragraph shall also be sentenced to pay the maximum fine  
31 provided under subparagraph 1.

1           (i)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 1 kilogram  
4 or more of gamma-butyrolactone (GBL), as described in s.  
5 893.03(1)(d), or any mixture containing gamma-butyrolactone  
6 (GBL), commits a felony of the first degree, which felony  
7 shall be known as "trafficking in gamma-butyrolactone (GBL),"  
8 punishable as provided in s. 775.082, s. 775.083, or s.  
9 775.084. If the quantity involved:  
10           a. Is 1 kilogram or more but less than 5 kilograms,  
11 such person shall be sentenced to a mandatory minimum term of  
12 imprisonment of 3 years, and the defendant shall be ordered to  
13 pay a fine of \$50,000.  
14           b. Is 5 kilograms or more but less than 10 kilograms,  
15 such person shall be sentenced to a mandatory minimum term of  
16 imprisonment of 7 years, and the defendant shall be ordered to  
17 pay a fine of \$100,000.  
18           c. Is 10 kilograms or more, such person shall be  
19 sentenced to a mandatory minimum term of imprisonment of 15  
20 calendar years and pay a fine of \$250,000.  
21           2. Any person who knowingly manufactures or brings  
22 into the state 150 kilograms or more of gamma-butyrolactone  
23 (GBL), as described in s. 893.03(1)(d), or any mixture  
24 containing gamma-butyrolactone (GBL), and who knows that the  
25 probable result of such manufacture or importation would be  
26 the death of any person commits capital manufacture or  
27 importation of gamma-butyrolactone (GBL), a capital felony  
28 punishable as provided in ss. 775.082 and 921.142. Any person  
29 sentenced for a capital felony under this paragraph shall also  
30 be sentenced to pay the maximum fine provided under  
31 subparagraph 1.

1           (j)(i)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 1 kilogram  
4 or more of 1,4-Butanediol as described in s. 893.03(1)(d)~~s.~~  
5 ~~893.03(2)(b)~~, or of any mixture containing 1,4-Butanediol,  
6 commits a felony of the first degree, which felony shall be  
7 known as "trafficking in 1,4-Butanediol," punishable as  
8 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
9 quantity involved:

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

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

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

21           2. Any person who knowingly manufactures or brings  
22 into this state 150 kilograms or more of 1,4-Butanediol as  
23 described in s. 893.03(1)(d)~~s. 893.03(2)(b)~~, or any mixture  
24 containing 1,4-Butanediol, and who knows that the probable  
25 result of such manufacture or importation would be the death  
26 of any person commits capital manufacture or importation of  
27 1,4-Butanediol, a capital felony punishable as provided in ss.  
28 775.082 and 921.142. Any person sentenced for a capital felony  
29 under this paragraph shall also be sentenced to pay the  
30 maximum fine provided under subparagraph 1.

31

1            ~~(j)~~(k)1. Any person who knowingly sells, purchases,  
2 manufactures, delivers, or brings into this state, or who is  
3 knowingly in actual or constructive possession of, 10 grams or  
4 more of any of the following substances described in s.

5 893.03(1)(a) or (c):

- 6            a. 3,4-Methylenedioxymethamphetamine (MDMA);  
7            b. 4-Bromo-2,5-dimethoxyamphetamine;  
8            c. 4-Bromo-2,5-dimethoxyphenethylamine;  
9            d. 2,5-Dimethoxyamphetamine;  
10           e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);  
11           f. N-ethylamphetamine;  
12           g. N-Hydroxy-3,4-methylenedioxyamphetamine;  
13           h. 5-Methoxy-3,4-methylenedioxyamphetamine;  
14           i. 4-methoxyamphetamine;  
15           j. 4-methoxymethamphetamine;  
16           ~~k.~~j. 4-Methyl-2,5-dimethoxyamphetamine;  
17           ~~l.~~k. 3,4-Methylenedioxy-N-ethylamphetamine;  
18           ~~m.~~l. 3,4-Methylenedioxyamphetamine;  
19           ~~n.~~m. N,N-dimethylamphetamine; or  
20           ~~o.~~n. 3,4,5-Trimethoxyamphetamine,

21  
22 individually or in any combination of or any mixture  
23 containing any substance listed in sub-subparagraphs a.-o.  
24 ~~a.-n.~~, commits a felony of the first degree, which felony  
25 shall be known as "trafficking in Phenethylamines," punishable  
26 as provided in s. 775.082, s. 775.083, or s. 775.084.

27            2. If the quantity involved:

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

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

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

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

11           a. 3,4-Methylenedioxyamphetamine (MDMA);

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

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

14           d. 2,5-Dimethoxyamphetamine;

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

16           f. N-ethylamphetamine;

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

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

19           i. 4-methoxyamphetamine;

20           j. 4-methoxymethamphetamine;

21           k.j. 4-Methyl-2,5-dimethoxyamphetamine;

22           l.k. 3,4-Methylenedioxy-N-ethylamphetamine;

23           m.l. 3,4-Methylenedioxyamphetamine;

24           n.m. N,N-dimethylamphetamine; or

25           o.n. 3,4,5-Trimethoxyamphetamine,

26  
27 individually or in any combination of or any mixture  
28 containing any substance listed in sub-subparagraphs a.-o.  
29 ~~a.-n.~~, and who knows that the probable result of such  
30 manufacture or importation would be the death of any person  
31 commits capital manufacture or importation of Phenethylamines,

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

5 (1)1. Any person who knowingly sells, purchases,  
6 manufactures, delivers, or brings into this state, or who is  
7 knowingly in actual or constructive possession of, 1 gram or  
8 more of lysergic acid diethylamide (LSD) as described in s.  
9 893.03(1)(c), or of any mixture containing lysergic acid  
10 diethylamide (LSD), commits a felony of the first degree,  
11 which felony shall be known as "trafficking in lysergic acid  
12 diethylamide (LSD)," punishable as provided in s. 775.082, s.  
13 775.083, or s. 775.084. If the quantity involved:

14 a. Is 1 gram or more, but less than 5 grams, such  
15 person shall be sentenced to a mandatory minimum term of  
16 imprisonment of 3 years, and the defendant shall be ordered to  
17 pay a fine of \$50,000.

18 b. Is 5 grams or more, but less than 7 grams, such  
19 person shall be sentenced to a mandatory minimum term of  
20 imprisonment of 7 years, and the defendant shall be ordered to  
21 pay a fine of \$100,000.

22 c. Is 7 grams or more, such person shall be sentenced  
23 to a mandatory minimum term of imprisonment of 15 calendar  
24 years and pay a fine of \$500,000.

25 2. Any person who knowingly manufactures or brings  
26 into this state 7 grams or more of lysergic acid diethylamide  
27 (LSD) as described in s. 893.03(1)(c), or any mixture  
28 containing lysergic acid diethylamide (LSD), and who knows  
29 that the probable result of such manufacture or importation  
30 would be the death of any person commits capital manufacture  
31 or importation of lysergic acid diethylamide (LSD), a capital

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

5 (2) A person acts knowingly under subsection (1) if  
6 that person intends to sell, purchase, manufacture, deliver,  
7 or bring into this state, or to actually or constructively  
8 possess, any of the controlled substances listed in subsection  
9 (1), regardless of which controlled substance listed in  
10 subsection (1) is in fact sold, purchased, manufactured,  
11 delivered, or brought into this state, or actually or  
12 constructively possessed.

13 (3) Notwithstanding the provisions of s. 948.01, with  
14 respect to any person who is found to have violated this  
15 section, adjudication of guilt or imposition of sentence shall  
16 not be suspended, deferred, or withheld, nor shall such person  
17 be eligible for parole prior to serving the mandatory minimum  
18 term of imprisonment prescribed by this section. A person  
19 sentenced to a mandatory minimum term of imprisonment under  
20 this section is not eligible for any form of discretionary  
21 early release, except pardon or executive clemency or  
22 conditional medical release under s. 947.149, prior to serving  
23 the mandatory minimum term of imprisonment.

24 (4) The state attorney may move the sentencing court  
25 to reduce or suspend the sentence of any person who is  
26 convicted of a violation of this section and who provides  
27 substantial assistance in the identification, arrest, or  
28 conviction of any of that person's accomplices, accessories,  
29 coconspirators, or principals or of any other person engaged  
30 in trafficking in controlled substances. The arresting agency  
31 shall be given an opportunity to be heard in aggravation or

1 mitigation in reference to any such motion. Upon good cause  
2 shown, the motion may be filed and heard in camera. The judge  
3 hearing the motion may reduce or suspend the sentence if the  
4 judge finds that the defendant rendered such substantial  
5 assistance.

6 (5) Any person who agrees, conspires, combines, or  
7 confederates with another person to commit any act prohibited  
8 by subsection (1) commits a felony of the first degree and is  
9 punishable as if he or she had actually committed such  
10 prohibited act. Nothing in this subsection shall be construed  
11 to prohibit separate convictions and sentences for a violation  
12 of this subsection and any violation of subsection (1).

13 (6) A mixture, as defined in s. 893.02(14), containing  
14 any controlled substance described in this section includes,  
15 but is not limited to, a solution or a dosage unit, including  
16 but not limited to, a pill or tablet, containing a controlled  
17 substance. For the purpose of clarifying legislative intent  
18 regarding the weighing of a mixture containing a controlled  
19 substance described in this section, the weight of the  
20 controlled substance is the total weight of the mixture,  
21 including the controlled substance and any other substance in  
22 the mixture. If there is more than one mixture containing the  
23 same controlled substance, the weight of the controlled  
24 substance is calculated by aggregating the total weight of  
25 each mixture.

26 (7) For the purpose of further clarifying legislative  
27 intent, the Legislature finds that the opinion in Hayes v.  
28 State, 760 So.2d 1 (Fla. 1999) does not correctly construe  
29 legislative intent. The Legislature finds that the opinions in  
30 State v. Hayes, 720 So.2d 1095 (Fla. 4th DCA 1998) and State  
31

1 v. Baxley, 684 So.2d 831 (Fla. 5th DCA 1996) correctly  
2 construe legislative intent.

3           Section 4. Except as specifically provided otherwise  
4 in this act, the provisions reenacted by this act shall be  
5 applied retroactively to July 1, 1999, or as soon thereafter  
6 as the Constitution of the State of Florida and the  
7 Constitution of the United States may permit.

8           Section 5. Except as otherwise provided herein, this  
9 act shall take effect upon becoming a law.

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HOUSE SUMMARY

Reenacts certain provisions of chapter 99-188, Laws of Florida, which provide for minimum mandatory terms for certain drug crimes. See bill for details.